

2018

# Town of Farmington Maine Ordinances

Farmington, Me.

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**TOWN OF FARMINGTON MORATORIUM ORDINANCE EXTENSION  
FOR ADULT USE AND MEDICAL MARIJUANA STORES, CULTIVATION  
FACILITIES, MANUFACTURING FACILITIES, AND TESTING FACILITIES**

WHEREAS, a ballot initiative to legalize, regulate, and tax marijuana for non-medical purposes known as the "Marijuana Legalization Act" (the "Act"), proposed to be codified in the Maine Revised Statutes in Title 7, Chapter 417, was voted on and approved by a State-wide referendum election on November 8, 2016; and

WHEREAS, the outcome of the State-wide referendum vote is determined and the Town's current ordinances do not include any regulations related to Adult Use marijuana stores, Adult Use marijuana cultivation facilities, Adult Use marijuana manufacturing facilities, and Adult Use marijuana testing facilities under the new Act, nor any regulations related to products or merchandise associated with the use, cultivation, retail sales, manufacturing, testing, or distribution of nonmedical marijuana, and retail stores that specialize in offering such paraphernalia for sale to consumers; and

WHEREAS, the Act authorizes municipalities to regulate the number of Adult Use marijuana stores, Adult Use marijuana cultivation facilities, Adult Use marijuana manufacturing facilities, and Adult Use marijuana testing facilities, as those terms are defined in the Act, as well as the option to prohibit the operation of Adult Use marijuana stores, Adult Use marijuana cultivation facilities, Adult Use marijuana manufacturing facilities, and Adult Use marijuana testing facilities within its jurisdiction; and

WHEREAS, on May 2, 2018, the Maine Legislature enacted PL 2017, c. 409 (LD 1719), *An Act to Implement a Regulatory Structure for Adult Use Marijuana*, which includes express authorization for the operation of adult use marijuana stores, adult use marijuana cultivation facilities, adult use marijuana manufacturing facilities, and adult use marijuana testing facilities; and

WHEREAS, on July 9, 2018, the Maine Legislature enacted PL 2017, c. 452 (LD 1539), *An Act to Amend Maine's Medical Marijuana Law*, which includes express authorization for the operation of retail stores by registered caregivers to sell marijuana to qualifying patients, as well as authorization for the operation of medical marijuana manufacturing facilities, medical marijuana testing facilities, and six additional registered medical marijuana dispensaries; and

WHEREAS, on July 9, 2018 the Maine Legislature enacted as emergency legislation PL 2017, c. 447 (LD 238), *An Act to Amend the Maine Medical Marijuana Law*, which expressly recognizes municipal home rule authority to regulate registered caregivers, registered dispensaries, testing facilities, and manufacturing facilities; and

WHEREAS, areas of the Town are under development pressure from one or more marijuana businesses as defined above; this development pressure has not yet been adequately provided for in the Town's current ordinances regulating land use and site location of development; there is a strong likelihood that all areas of the town will continue to be subjected to this development pressure due to the amount of undeveloped land, the nonexistence of any regulations or restrictions on the locations of said marijuana businesses, and the relatively low land prices of much of the land in the town; development of said marijuana businesses pursuant to existing Town ordinances could pose serious threats to the public health, safety and welfare of the residents of the town through the over-development of parts of town with such businesses without adequate provisions for issues of safety, land use compatibility, and gateway issues; there appears to be strong support among town residents for this Moratorium Ordinance extension; the Town will require an additional one hundred and eighty (180) days to develop, adopt and implement an ordinance and application to regulate marijuana businesses, and to develop, adopt, and implement the necessary amendments to its zoning and land use ordinances and regulations to accommodate these development pressures; ordinance amendments and new ordinances will require public hearings by the Planning Board, Zoning Board, and the Board of Selectmen, and must in any event be reviewed and adopted at a Town Meeting; and in the judgment of the Town, these facts create an emergency within the meaning of 30-A M.R.S. 4356(1)(B) and require this Moratorium Ordinance extension as immediately necessary for the preservation of the public Health, safety and welfare; and

WHEREAS, the unregulated location and operation of Adult Use and Medical marijuana businesses within the Town raises legitimate and substantial questions about the impact of such establishments on the Town, including questions of the compatibility of Adult Use and Medical marijuana businesses with existing uses and development; the potential adverse health and safety effects of Adult Use and Medical marijuana businesses on the community if not properly regulated; the possibility of illicit sales and use of marijuana and marijuana products to minors and misuse of marijuana and marijuana products by those who would abuse the uses authorized under the new law; potential criminal activity associated with the cultivation, manufacturing, sale, and use of marijuana and marijuana products for non-medicinal purposes and the potential increased burden on the public safety agencies serving the Town in responding to the same; and the adequacy of the Town's streets and infrastructure to accommodate the additional traffic and/or population that may result from the presence of Adult Use and Medical marijuana businesses; and

WHEREAS, the possible effect of the location and operation of Adult Use and Medical marijuana businesses within the Town has serious implications for the health, safety and welfare of the Town and its residents; and

WHEREAS, at its regular meeting on January 24, 2017, the Town's Board of Selectmen discussed the Town's options with regards to regulating Adult Use marijuana; and

WHEREAS, at its regular meeting on June 17, 2017, the Town's Board of Selectmen engaged an intern to draft an Adult Use marijuana ordinance; and

WHEREAS; at its regular meetings on March 13, 2017, June 12, 2017, July 10, 2017, September 11, 2017, October 16, 2017, November 13, 2017, December 11, 2017, January 23, 2018, February 12, 2018, May 14, 2018, June 11, 2018, and July 9, 2018 the Town's Planning Board has been reviewing drafts of Town ordinances and regulations for the location, operation, and licensing of Adult Use and Medical marijuana businesses and other uses authorized by changes in State law approved by the November 8, 2016 referendum election, and subsequent legislative enactments and implementation including State laws regarding Adult Use and Medical marijuana dated May 2, 2018 and July 9, 2018; and

WHEREAS, the Town's Code Enforcement Office and Planning Board are still in the process of drafting the Town's Adult Use and Medical Marijuana Stores, Cultivation Facilities, Manufacturing Facilities, and Testing Facilities Ordinance, an application for Adult Use and Medical Marijuana Stores, Cultivation Facilities, Manufacturing Facilities, and Testing Facilities, and proposed Zoning Ordinance Table of Uses amendments regarding Adult Use and Medical Marijuana Stores, Cultivation Facilities, Manufacturing Facilities, and Testing Facilities; and

WHEREAS, at its regular meeting on October 24, 2017, the Town's Board of Selectmen reviewed the Draft Town of Farmington Adult Use Marijuana Stores, Cultivation Facilities, Manufacturing Facilities, and Testing Facilities Ordinance; and

WHEREAS, at its regular meeting on September 25, 2018, the Town's Board of Selectmen reviewed the Draft Town of Farmington Adult Use and Medical Marijuana Stores, Cultivation Facilities, Manufacturing Facilities, and Testing Facilities Ordinance; and

WHEREAS, at its meeting on July 17, 2018, the Town's Zoning Board reviewed the proposed Zoning Ordinance Table of Uses Amendments Regarding Adult Use and Medical Marijuana Stores, Cultivation Facilities, Manufacturing Facilities, and Testing Facilities, and

WHEREAS, the State Legislature is still in the process of implementing the regulatory framework necessary to administer adult use marijuana law and changes in medical marijuana law on a state-wide level; and

WHEREAS, THE Town is still reviewing LD 1719, LD 1539, and LD 238 in preparation for their implementation, and reviewing its Comprehensive Plan and ordinances, to determine the implications of future Adult Use and Medical marijuana businesses and to develop reasonable regulatory measures and ordinances governing the location and operations of such Adult Use and Medical marijuana businesses to address the concerns cited above in light of the State regulatory framework; and

WHEREAS, the Planning and Zoning Boards need additional time to review the regulatory framework emerging from the State Legislature or the State Department of Health and Human Services for compatibility with its own draft ordinances and ordinance amendments prior to submitting the same to the Town's Board of Selectmen for approval as Town Meeting Warrant Articles, and these draft ordinances and ordinance amendments have to be approved by the Town's legislative body at a duly called Town Meeting; and



WHEREAS, the Town, under its home rule authority, its police power generally, and under 30-A M.R.S. Chapter 187, Subchapter 3, ("Land Use Regulation"), as provided by the Act and LD 1719, LD 1539, and LD 238 or as otherwise provided by current law, has the authority to impose reasonable restrictions, conditions, and limitations on Adult Use and Medical marijuana businesses; and

WHEREAS, with the professional advice and assistance of its Police Department and the Maine State Police, the Town, by and through its Selectmen, Planning Board, Zoning Board, and Code Enforcement Office, are studying the Town's current Comprehensive Plan and ordinances, and the body of laws, rules, and regulations adopted by the State to determine the land use and other regulatory implications of Adult Use and Medical marijuana businesses, and other uses authorized by the changes in law approved by the November 8, 2016 referendum election and LD 1719, LD 1539, and LD 238, and considering what locations, if any, and conditions of approval, if any, might be appropriate for such uses; and

WHEREAS, the Town's current ordinances and other applicable local laws are not adequate to prevent serious public harm that could be caused by the unregulated development of Adult Use and Medical marijuana businesses and other uses authorized by the proposed changes in law approved by the November 8, 2016 referendum election and LD 1719, LD 1539, and LD 238, thereby necessitating a moratorium ordinance extension; and

WHEREAS, a moratorium ordinance extension is necessary to allow the Town to analyze and plan properly for any future Adult Use and Medical marijuana businesses and other uses authorized by the changes in law and to prevent an overburdening of public facilities that is reasonably foreseeable as the result of Adult Use and Medical marijuana businesses and other uses authorized by said change in law approved by the November 8, 2016 referendum election and LD 1719, LD 1539, and LD 238 being located in the Town; and

WHEREAS, while it was originally anticipated that the study, review, and development of recommended ordinance, ordinance amendments and/or additions would require one hundred and eighty (180) days, it is now evident that the study, review, and development of recommended ordinance, ordinance amendments and/or additions will take an additional one hundred and eighty (180) days from the date of expiration of the Town's Moratorium Ordinance initially enacted on March 26, 2018, and

WHEREAS, the Town's Board of Selectmen made the statutorily required findings about the need to extend the moratorium under 30-A M.R.S. § 4356(2) on September 25, 2018; and

WHEREAS, the problems giving rise to the need for the moratorium still exist and reasonable progress is being made to alleviate the problems;

NOW THEREFORE, be it ordained by the Town, that the Moratorium Ordinance on Adult Use and Medical Marijuana Businesses, originally enacted on March 26, 2018, be, and hereby is extended for an additional one hundred and eighty (180) days from September 26, 2018 to March 25, 2019, and in furtherance thereof, the Town does hereby declare and extend its Moratorium on the location, operation or licensing of any Adult use or Medical marijuana businesses and other uses authorized by said change in law approved by the November 8, 2016 referendum election and LD 1719, LD 1539, and LD 238, including Adult Use and Medical Marijuana Stores, Adult Use and Medical Marijuana Cultivation Facilities, Adult Use and Medical Marijuana Manufacturing Facilities, and Adult Use and Medical Marijuana Testing Facilities, within the Town.

In addition, the Town does hereby declare a moratorium on the location, operation, or licensing of any new medical marijuana cultivation facilities or dispensaries and the expansion of existing medical marijuana cultivation facilities or dispensaries, as may be permitted or allowed by any Town ordinance or State law, within Town. This Ordinance does not impose a moratorium on the continued cultivation and provision of medical marijuana by licensed caregivers who have been doing so on or before November 15, 2016 and in compliance with State Law existing prior to November 15, 2016.

The one hundred and eighty (180) day extension of the Town's existing Moratorium Ordinance shall take effect when same is approved by the Town's Board of Selectmen. The Moratorium Ordinance extension shall remain in effect for one hundred and eighty days (180) days from the date same is approved by the Town's Board of Selectmen, unless repealed, or modified by the Town or its Selectmen, as provided by law, for the express purpose of completing and finalizing drafts of the Town's opt-in ordinances and ordinance modifications to protect the public from health and safety risks including, but not limited to, the possible incompatibility of Adult Use and Medical Marijuana Stores, Adult Use and Medical Marijuana Cultivation Facilities, Adult Use and Medical Marijuana Manufacturing Facilities, and Adult Use and Medical Marijuana Testing Facilities with existing and permitted land uses in the Town; the distribution and zoning of Adult Use and Medical Marijuana Stores, Adult Use and Medical Marijuana Cultivation Facilities, Adult Use and Medical Marijuana Manufacturing Facilities, and Adult Use and Medical Marijuana Testing Facilities; the potential adverse health and safety effects of Adult Use and Medical Marijuana Stores, Adult Use and Medical Marijuana Cultivation Facilities, Adult Use and Medical Marijuana Manufacturing Facilities, and Adult Use and Medical Marijuana Testing Facilities on the community if not properly regulated; the possibility of illicit sale and use of marijuana and marijuana products to minors and misuse of marijuana and marijuana products by those who would abuse the uses authorized under the new law; and criminal activity associated with the cultivation, manufacturing, sale and use of marijuana and marijuana products for non-medicinal purposes and the potential increased burden on the public safety agencies serving the Town in responding to the same; and the adequacy of the Town's streets and infrastructure to accommodate the additional traffic and/or population that may result from the presence of Adult Use and Medical marijuana businesses.

BE IT FURTHER ORDAINED, that this Ordinance shall apply to Adult Use and Medical Marijuana Stores, Adult Use and Medical Marijuana Cultivation Facilities, Adult Use and Medical Marijuana Manufacturing Facilities, and Adult Use and Medical Marijuana Testing Facilities, as those terms are defined in LD 1719, LD 1539, and LD 238, and other uses authorized by said change in law approved by the November 8, 2016 referendum election and LD 1719, LD 1539, and LD 238, that may be proposed to be located within the Town on or after the applicability date of this Moratorium Ordinance extension; and

BE IT FURTHER ORDAINED, the Town Planning Board and Zoning Board will continue to study Adult Use and Medical marijuana businesses and their effects on public health, safety, and welfare, the laws and experience of other jurisdictions, and LD 1719, LD 1539, and LD 238, and will continue to research, develop, and recommend ordinances and amendments to existing ordinances in order to regulate those businesses in ways that will minimize any deleterious effects on public health, safety, and welfare.

In accomplishing its work, the Planning Board and Zoning Board will continue to consider and recommend zoning districts of the Town in which Adult Use and Medical marijuana businesses may most appropriately be allowed and excluded. The Planning and Zoning Boards will conduct public hearings in the course of their work and will make findings and recommendations to the Board of Selectmen, who will then develop and post a warrant for Town Meeting to consideration of ordinance enactment, ordinance modification and/or other legislative action.

BE IT FURTHER ORDAINED, that notwithstanding the provisions of 1 M.R.S. §302 or any other law to the contrary, this Moratorium Ordinance extension, when approved by the Board of Selectmen, shall govern any proposed Adult Use or Medical marijuana business for which an application for a building permit, site plan, or any other required approval has not been submitted to and granted final approval by the Code Enforcement Officer, Planning Board, or other Town official or board prior to the applicability date of this Moratorium Ordinance extension; and

BE IT FURTHER ORDAINED, that no person or organization shall develop or operate an Adult Use or Medical marijuana business or any other uses authorized by said change in law approved by the November 8, 2016 referendum election and LD 1719, LD 1539, and LD 238 within the Town on or after the applicability date of this Moratorium Ordinance extension without complying with whatever ordinance amendment or amendments the Town may enact as a result of this Moratorium Ordinance extension; and

BE IT FURTHER ORDAINED, that no person or organization shall change the use of any medical marijuana cultivation facility or dispensary that may be currently permitted under the Town's ordinances, or establish any new medical marijuana cultivation facilities or dispensaries within the Town on or after the applicability date of this Moratorium Ordinance extension without complying with whatever ordinance amendment or amendments the Town may enact as a result of the Moratorium Ordinance extension; and

BE IT FURTHER ORDAINED, that no person or organization shall develop or establish a business that engages in the retail or wholesale of products or merchandise for which a substantial portion of its business is to prepare, cultivate, distribute or ingest marijuana for non-medical retail or wholesale sales of such products. This Moratorium Ordinance extension does not impose a moratorium on the continued operation of a business established in the Town on or before November 15, 2016 that has been engaged in the sale or production of merchandise of the kind that is commonly offered for sale at so-called head shops, including, but without limitation, water pipes, hashish pipes, glass pipes, pipe screen, bongs, vaporizers, scales, rolling papers, hydroponic equipment and grow lights and general tobacco products; and

BE IT FURTHER ORDAINED, that during the time this Moratorium Ordinance extension is in effect, no officer, official, employee, office, administrative board or agency of the Town shall accept, process, issue, approve, deny, or in any way act upon any application for a license, approval, building permit, certificate of occupancy, special exception review, site plan review and/or any other permits or licenses related to an Adult Use or Medical marijuana business, or any other use authorized by said change in law approved by the November 8, 2016 referendum election and LD 1719, LD 1539, and LD 238, or a new medical marijuana cultivation facility or dispensary, or change in use of an existing medical marijuana cultivation facility or dispensary; and

BE IT FURTHER ORDAINED, that those provisions of the Town's current ordinances that are inconsistent or conflicting with the provisions of this Moratorium Ordinance extension, are hereby repealed to the extent that they are applicable for the duration of the moratorium extension hereby ordained, and as it may be extended as permitted by law, but not otherwise; and

BE IT FURTHER ORDAINED, that if Adult Use and Medical marijuana businesses or other uses authorized by said change in law approved by the November 8, 2016 referendum election and LD 1719, LD 1539, and LD 238, or new medical marijuana cultivation facilities or dispensaries, or changes in use of existing medical marijuana cultivation facilities or dispensaries are established in violation of this Moratorium Ordinance extension, each day of any continuing violation shall constitute a separate violation of this Moratorium Ordinance extension, and the Town shall be entitled to all rights available to it in law and equity, including those provided in 30-A M.R.S. §4452, and including, but not limited to, fines and penalties, injunctive relief, and its reasonable attorney's fees and costs in prosecuting any such violations; and

BE IT FURTHER ORDAINED, that the provisions of this Moratorium Ordinance extension shall be construed liberally to address the findings and to accomplish the policies established herein, and should any section or provision of this Moratorium Ordinance extension be declared by any court of competent jurisdiction to be invalid, such a declaration shall not invalidate any other section or provision.

Applicability Date: On \_\_\_\_\_, 2018, this Moratorium Ordinance extension was posted for a hearing by the Board of Selectmen to be held at their regularly scheduled meeting on September 25, 2018.

# **TOWN OF FARMINGTON**

## **Animal Control Ordinance**

**Enacted: July 19, 2004**

**Amended: March 20, 2010**

**Certified by: \_\_\_\_\_**

**Name – Leanne Pinkham**

**Town Clerk**

**Affix Seal**

**Town of Farmington  
Chapter 4  
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# **Town of Farmington**

## **Chapter 4. Animal Control Ordinance**

### **Article 1. Dogs**

#### **4-1.1 Title**

This Ordinance shall be known as and may be cited as the Town of Farmington Animal Control Ordinance and will be referred to herein as “this Ordinance”.

#### **4-1.2 Authority**

This Ordinance is enacted pursuant to the Home Rule Authority granted to the Town of Farmington in accordance with the provision of 30-A MRSA §3001.

#### **4-1.3. Administration and Enforcement**

The Municipal Officers, or their duly appointed agents, shall administer and enforce this Ordinance.

#### **4-1.4 Definitions**

- A. “Dog” includes both genders of dogs.
- B. “Owner” means any person or persons, firm, association, corporation or other legal entity amendable to civil process, owning, keeping, harboring, in possession of, or having control of a dog or dogs.
- C. “At large” shall be intended to mean off the premises of the dog owner or a member of his immediate family, either by leash, cord, chain, at “heel”, or under command.

#### **4-1.5 Disturbing the Peace Prohibited**

It shall be unlawful for the owner of a dog to cause or permit such dog to disturb the peace of any person by biting, chasing, or continued barking or howling, or in any other manner, or destroy the property of any person.

#### **4-1.6 Running at Large Prohibited**

No owner shall cause or permit any dog owned or kept by him, or in his possession or under his control, to run at large within the Town. A dog, while in or on any public way or place, or in or on any other place except, as hereafter

provided shall be under restrain, within the meaning of this Ordinance, if it is controlled by a leash, cord, chain, or at “heel”, or under the control of a person and obedient to that person’s command, or on or within a vehicle being driven or parked in the streets, or within the property limits of its owner or keeper. Nothing in this Ordinance shall be held to require the leashing or restraint of any dog while on its owner’s or keeper’s premises.

#### **4-1.7 Duty to Dispose of Feces**

It shall be a violation of this article for any person who owns, possesses, or controls a dog to fail immediately to remove and dispose of any feces left by his or her dog on any street, sidewalk, publicly owned property or private property of another.

#### **4-1.8 Penalty**

Every person convicted of any provisions of this Article shall be punished by a fine of at least thirty dollars (\$30) but not more than one hundred dollars (\$100).

#### **4-1.9 Effective Date**

The effective date of this Article is July 19, 2004.

### **Article 2. Dog Barking**

#### **4-2.1 Purpose**

The purpose of this Article is to regulate dog barking within the Town and to address the problems caused by excessive dog barking.

#### **4-2.2 Nuisance**

Excessive and/or habitual barking, howling, or yelping by any dog or dogs, as described in section 4-2.3 of this Article, is hereby declared to be a public nuisance.

Per 17 M.R.S.A. §2701, “Any person injured in his comfort, property or the enjoyment of his estate by a common and public or a private nuisance may maintain against the offender a civil action for his damages, unless otherwise specially provided”.

This Article shall not be construed as in any way repealing, invalidating, or abrogating 17 M.R.S.A. §2701-2706 or limiting the right of prosecutions under this law.



Violation of this Article is prima facie evidence of a nuisance under 17 M.R.S.A. §2701-2706.

#### **4-2.3 Barking Dogs**

No owner or person having custody of any dog or dogs within the legal limits of the Town shall keep or maintain a dog or dogs which create a nuisance by continued or repeated barking, howling, yelping, or making of other loud or unusual noises.

An owner who keeps or maintains a dog or dogs whose barking, howling, or yelping sustained for one hour or intermittently for three hours, can be heard at or beyond the boundary of the property on which the dog(s) is(are) located, violates this section, and has created a nuisance.

#### **4-2.4 Complaint**

A written complaint from a person or persons disturbed by a barking dog or dogs shall include the date the disturbance began, the description of the disturbance, and the length of time of the disturbance. The complaint must be signed and sworn to the Town's Animal Control Officer and/or any Police Officer representing the Town. Any of the above authorities may investigate and may give written warning to the owner of the violation of this Article, and order that said violation must cease. The written warning shall be made part of the complaint. See attached barking/howling log/statement forms.

#### **4-2.5 Penalties**

Any owner who violates this section after the initial written warning commits a civil violation, as defined by 17 M.R.S.A. §4-B and M.R.Civ.P.80H., for which a civil penalty of not less than \$50.00 nor more than \$250.00 shall be assessed.

In determining the amount to be forfeited, the court shall consider any evidence in mitigation, extenuation, or aggravation it considers pertinent to the offense, including but not limited to the civility and degree of cooperation exhibited by the owner.

Upon a second and any subsequent violation of this Article, the penalty shall increase by a minimum of fifty dollars (\$50.00) above the penalty for the immediately preceding violation. The paying of a waiver fee for violations per section 4-2.6 of this Article does not absolve the payer of a violation count.

Further, upon a finding by the court of more than one (1) violation involving the same dog(s), the court may order the dog(s) forthwith removed beyond Town limits, or in the alternative, order the Town to give away or sell the dog(s), or, some other action the Court may deem appropriate.

If more than six (6) violations by an owner occur within a period of one (1) year, the fine shall be doubled.

An owner who allows a dog or dogs to bark, howl, or yelp in violation of this Article, between the hours of 10:00 P.M. and 7:00 A.M. shall be subject to double penalties.

The Municipal Officers, the Animal Control Officer, a Police Officer, or any other duly appointed agent(s) of the Municipal Officers, at their exclusive discretion, may limit the number of violation citations issued within a twenty-four hour period if they determine that the means to abate the dog barking, howling, and/or yelping is beyond the ability or control of the owner to enable them to voluntarily comply in a timely manner within that period.

All penalties awarded, and all sums recovered, shall accrue to the benefit of the Town. An owner found to have violated this Article shall pay all fees and surcharges assessed or required by the court, and shall pay all court cost and expenses, including attorney's fees, incurred by the Town in the prosecution of said violation.

#### **4-2.6 Waiver Fee**

Any owner who is charged with violating this Article may choose to pay a waiver fee to the Town as an alternative to having the Town proceed with prosecution of the complaint in court. The waiver fee option shall only be available to an owner for a total of three violations. The waiver fee must be received at the Town Office within thirty (30) days following issuance of the summons. Waiver fees that are tendered more than thirty (30) days after issuance of the summons shall only be accepted by the Town upon payment of an additional sum of money equal to any expenses, and fees that have been incurred by the Town in preparation for the court hearing. The waiver fee schedule is as follows:

First violation: \$50.00

Second Violation: \$100.00

Third Violation: \$200.00

#### **4-2.7 Exemptions**

At the exclusive discretion of the Municipal Officers, the Animal Control Officer, a Police Officer, or any other duly appointed agent(s) of the Municipal Officers, the barking of certain dogs may be exempted from this Article, only on an incident by incident basis, including but not limited to: dogs in kennels licensed by the State of Maine under 7 M.R.S.A. §3923-C, livestock guardian dogs, guide dogs,

service dogs, herding dogs, rescue dogs, training dogs, therapy dogs, sled dogs, and hunting dogs, if the complaint was filed by a property owner who was previously duly informed through disclosure per section 4-2.12 of this Article or who obtained through other means that equivalent information prior to purchasing the property. Such discretion is intended to give the above authorities the latitude necessary to determine if and when dog barking associated with kennels and the customary uses and behaviors of specialized dogs is a nuisance.

#### **4-2.8 Severability**

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

#### **4-2.9 Appeals**

Appeal may be made per 17 M.R.S.A. §4-B and M.R.Civ.P.80H.  
(See section 4-2.5 of this Article).

#### **4-2.10 Mediation**

In cases where citation(s) under this Article involve disputes between abutter(s) and/or or neighbor(s) and the cited individual(s) regarding violations, these parties are advised to retain the services of a mediator listed by the Court Alternative Dispute Resolution Service (CADRES) at their expense to avoid the possibility of lengthy and costly litigation.

#### **4-2.11 Kennels**

Any owner(s) who must obtain and maintain licensing by the State of Maine as a kennel under 7 M.R.S.A. §3923-C, must comply with the Town Zoning Ordinance, which regulates where kennels may be located, and the Town Site Review Ordinance, which regulates approvals for such operations. Those who possess kennel licenses and are in compliance with the Town's Zoning Ordinance are not held harmless and are fully subject to this Article.

#### **4-2.12 Disclosure**

A buyer of a property that abuts a lot upon which there is an existing kennel which is licensed by the State of Maine under 7 M.R.S.A. §3923-C, or upon which there are specialized dogs, including but limited to, livestock guardian dogs, guide dogs, service dogs, herding dogs, rescue dogs, training dogs, therapy dogs, sled dogs, or hunting dogs, must be notified by the owner of the property being sold of the existence of the abutting kennel and/or the presence of any specialized dog(s) on abutting property(s). Those who possess kennel

licenses and/or specialized dogs are not held harmless and are fully subject to this Article.

#### **4-2.13 Amendments**

- A. Initiation of Amendments: An amendment to this Article may be initiated by:
1. The Municipal Officers, provided a majority of the Municipal Officers has so voted; and
  2. Written petition of a number of voters equal to at least ten percent (10%) of the number of votes cast in the municipality at the last gubernatorial election.
- B. Public Hearing: The Municipal Officers shall hold a public hearing on the proposed amendment. Notification of the hearing shall be posted and advertised in a newspaper of general circulation in the municipality at least seven (7) days prior to the hearing.

#### **4-2.14 Effective Date**

The effective date of this Article is March 20, 2010.

**EXHIBIT 1: Sustained Barking or Howling for One Hour or More**

[illegible]

## **EXHIBIT 2: Intermittent Barking or Howling for Three Hours or More**

[illegible]

# **TOWN OF FARMINGTON**

## **Automobile Graveyard, Automobile Recycling Business, and Junkyard Ordinance**

**ENACTED:** 9-30-99  
**Date**

**CERTIFIED BY:** Jeanne E. Rinkham  
**Name**

**TOWN CLERK**  
**Title**

**Affix Seal**

**Town of Farmington  
Chapter 11- Land Use  
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**Article 10 - Automobile Graveyard, Automobile Recycling Business,  
Junkyard, and Outdoor Storage Yard Ordinance**

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<b>11 – 10.2</b>	<b>Authority and Applicability</b>	<b>1</b>
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## **Town of Farmington**

### **Automobile Graveyard, Automobile Recycling Business, and Junkyard Ordinance**

#### **Chapter 11**

#### **Land Use**

##### **11-10.1 Title:**

This ordinance shall be known and cited as the “Town of Farmington Automobile Graveyard, Automobile Recycling Business, and Junkyard Ordinance” and will be referred to herein as “this Ordinance”. This Ordinance limits Automobile Graveyards, Automobile Recycling Businesses, and Junkyards to the zoning district(s) specified under the Zoning Ordinance Table of Uses; prescribes definitions of Automobile Graveyards, Automobile Recycling Businesses, and Junkyards; provides for permitting and regulation of Automobile Graveyards, Automobile Recycling Businesses and Junkyards; and provides for additional miscellaneous standards for Automobile Graveyards, Automobile Recycling Businesses, and Junkyards.

##### **11-10.2 Authority and Applicability:**

This Ordinance is adopted pursuant to 30-A MRSA Sec. 3001 and 30-A MRSA Sec. 3751 et.seq. The provisions of the ordinance shall apply to all Automobile Graveyards, Automobile Recycling Businesses, and Junkyards as defined in 30-A MRSA Sec. 3752 within the Town of Farmington.

Persons or entities wishing to establish an Automobile Graveyard, Automobile Recycling Business, or Junkyard within the Town of Farmington shall first obtain a permit from the Farmington Board of Selectmen (hereinafter “the Municipal Officers”) and shall be subject to the provisions of this Ordinance.

From the time of enactment of this Ordinance, owners of properties that meet the criteria as defined in this Ordinance as an automobile graveyard, automobile recycling business or junkyard have one year to come into compliance and be permitted or to remedy all conditions that would subject them to requirements for being permitted under this Ordinance. (See also 11-10.10A)

This Ordinance shall not apply to pre-existing “family farm” dumps that may date back into the 1800’s and which have not had any accretionary activity since 1973, and which consist primarily of household and farm waste products (including but not limited to cans, glass bottles, discarded agricultural and household implements) consistent with daily living activities at the time.

### **11-10.3 Purpose:**

The purpose of this Ordinance is to provide adequate controls to ensure that Automobile Graveyards, Automobile Recycling Businesses, and Junkyards within the Town of Farmington do not have a harmful impact on public health, safety, general welfare, property values and the natural environment.

### **11-10.4 Conflict with Other Ordinances:**

Whenever a provision of this Ordinance conflicts with or is inconsistent with other provisions of this Ordinance, or of any other ordinance, regulation or standard, the more restrictive provision shall apply.

### **11-10.5 Effective Date:**

The effective date of this Ordinance shall be the date this Ordinance is adopted by the voters at Town Meeting.

### **11-10.6 Validity and Severability:**

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

### **11-10.7 Definitions:**

As used in this Ordinance, unless the context otherwise indicates, the following terms have the following meanings:

**Aquifer.** Aquifer means a geological formation composed of rock, sand, gravel or any other permeable bedrock or surficial geological formation that stores and transmits significant quantities of recoverable water.

**Aquifer, Generally Known.** A generally known aquifer means any aquifer which is known to exist by local citizens, geologists, hydrologists, and/or soil scientists but which is not currently mapped as such.

**Aquifer, Mapped.** "Mapped Aquifer, " means a geological formation composed of rock, sand, gravel or any other permeable bedrock or surficial geological formation that stores and transmits significant quantities of recoverable water according to Hydrogeologic Data for Significant Sand and Gravel Aquifers contained in Map 32 compiled and mapped by the Maine and US Geological Surveys and published by the Department of Conservation in cooperation with the Maine Department of Environmental Protection, dated 1982, or any other more recent update.

**Automobile Graveyard.** “Automobile Graveyard” means a yard, field or other area used to store three (3) or more unserviceable vehicles or discarded, worn-out or junked motor vehicles or parts of such motor vehicles.

- A. “Automobile Graveyard” does not include any area used for temporary storage by an establishment or place of business that is primarily engaged in doing auto body repair work or in making repairs to render a motor vehicle serviceable.
- B. “Automobile Graveyard” includes an area used for automobile dismantling, salvage and recycling operations.

**Automobile Recycling Business.** “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 in Article 10, Section 11 (subsection A. 3) is used for automobile recycling operations.

**Classified Water Body.** “Classified Water Body” means freshwater wetlands, floodplain wetlands, great ponds and rivers, streams or brooks as defined in 38 MRSA Sec. 480-B.

**100-Year Floodplain.** “100-Year Floodplain” means those areas depicted as such on the FEMA (Federal Emergency Management Agency) NFIP (National Flood Insurance Program) Flood Insurance Rate Map (FIRM) dated July 3, 1995 or more recently adopted FEMA NFIP/FIRM map.

**Highway.** “Highway” means any public way, road or right-of-way maintained by the State, Town, County or other public entity.

**Junked.** Junked means a state of existence where items are collected or disposed of within a site where there is no reasonable expectation that those items will be used or reused within a reasonable period of time; not temporary storage; collected without demonstrated intent to use or reuse in a timely manner.

**Junkyard.** “Junkyard” means a yard, field or other outdoor area used to store junked items including but not limited to the following:

- A. Discarded/worn-out plumbing, heating supplies, household appliances, furniture, machinery, equipment and trailers;
- B. Discarded /scrap lumber and building materials;

- C. Discarded/scrap copper, brass, rope, rags, batteries, paper trash, rubber debris, waste and all scrap iron, steel and other scrap ferrous or nonferrous metallic material;
- D. Garbage and waste dumps;
- E. Any discarded/scrap conveyance originally designed to operate on land, water or air.

All of the materials in A through E found in the locations listed above are hereinafter referred to as “junk”.

**Liquids and Gasses.** “Liquids and Gasses” means substances including, but not limited to, fuels, engine coolants, transmission fluids, hydraulic fluids, differential fluids, battery acid, refrigerants, engine oils, bearing lubricants, degreasing compounds, and transformer oils.

**Motor Vehicle.** “Motor Vehicle” means any self-propelled vehicle not operated exclusively on tracks.

**Primary System.** “Primary System” means that portion of the State highway system which the Maine Department of Transportation has by official designation incorporated into the Federal-Aid Primary System.

**Recycling or Recycling Operations.** “Recycling or Recycling Operations” means the dismantling of motor vehicles for the purpose of reselling the 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.

**Temporary Storage.** “Temporary Storage” means a period of time not to exceed ninety (90) days.

**Unserviceable Vehicle.** “Unserviceable Vehicle” as used in this Ordinance means any motor vehicle which is wrecked, dismantled, cannot be operated legally on any public Highway, or which is not being used for the purpose for which it was manufactured.

#### **11-10.8 Permit Required:**

No person may establish, operate or maintain an Automobile Graveyard, Automobile Recycling Business, or Junkyard without first obtaining a nontransferable permit from the municipal officers.

Permits issued to an Automobile Graveyard or Junkyard under this section are valid until the first day of the following year.

Permits issued to an Automobile Recycling Business under this section are valid for five (5) years from the date of issuance and are renewable provided that the permit holder furnishes a sworn statement, annually, on the anniversary date of the granting of the permit, that the facility complies with the standards of operation applicable at the time of issuance of the permit, and is accompanied by a current Town of Farmington Abutting Property Owner Release Form if applicable. A person operating a business that involves the recycling of automobiles may operate under a permit for an Automobile Graveyard or a permit for an Automobile Recycling Business.

#### **11-10.9 Hearings:**

The municipal officers shall hold a public hearing before granting a permit to establish, operate or maintain an Automobile Graveyard, Automobile Recycling Business, or Junkyard.

They shall post a notice of the hearing at least seven (7) and not more than fourteen (14) days before the hearing in at least two (2) public places in the municipality and publish a notice in one (1) newspaper having general circulation in Farmington.

If an application is exempt from Planning Board Site Review, abutting property owners shall be notified by certified mail by the Town at least fourteen (14) days prior to consideration by the Municipal Officers. This notice shall indicate the time, date and place of the public hearing. The cost of notification shall be borne by the applicant.

#### **11-10.10 Limitations on Automobile Graveyard, Automobile Recycling Business, and Junkyard Permits:**

- A. **Prohibitions.** No permit shall be granted for a new Automobile Graveyard, Automobile Recycling Business or Junkyard if prohibited in a district or zone in which it is desired unless such Automobile Graveyard, Automobile Recycling Business, and Junkyard, has been duly licensed by the State and is fully compliant with the applicable State statutes on the date this Ordinance is enacted. (See Article 10, Section 11, subsection C).
- B. **Highways; Interstate and Primary Systems.** No permit may be granted for an Automobile Graveyard, Automobile Recycling Business or Junkyard within one thousand (1,000) feet of the right-of-way of any highway incorporated in the primary system or within six hundred (600) feet of the right-of-way of any other highway, except for:
  - 1. Those Automobile Graveyards, Automobile Recycling Businesses, or Junkyards that are kept entirely screened from ordinary view from the highway at all times by natural objects, plantings or fences per the standards in Article 10, Section 11, subsection F.

2. Those Automobile Graveyards, Automobile Recycling Businesses, or Junkyards located within areas that have been zoned for industrial use and located more than six hundred (600) feet but less than one thousand (1,000) feet from the right-of-way of any highway incorporated in the primary system.

No permit may be granted for any automobile graveyard, automobile recycling business or junkyard established after October 3, 1973, and located within one hundred (100) feet of any highway.

- C. **Public facilities.** No permit may be granted for an Automobile Graveyard, Automobile Recycling Business, or Junkyard that is:

1. Located within five hundred (500) feet of any public park, public playground, public recreational area, school or university, governmental building, church or cemetery, or;
2. Within ordinary view from any above public facility.

- D. **Private properties.** No permit may be granted for an Automobile Graveyard, Automobile Recycling Business or Junkyard that is located within three hundred (300) feet of any abutter's residence or within ordinary view from any abutting property. (Note: Exception to this is allowed if and only if a Town of Farmington Abutting Property Owner Release Form is executed by abutter and recorded in the Franklin County Registry of Deeds at the time of application and each renewal.)

- E. **Public and private water supplies.** No permit may be granted for Automobile Graveyard, Automobile Recycling Business or Junkyard operations within one hundred (100) feet of a well that serves as a public or private water supply.

#### **11-10.11 Automobile Graveyard, Automobile Recycling Business, and Junkyard Permits; Operation Standards:**

- A. **Application.** An application for an Automobile Graveyard, Automobile Recycling Business, or Junkyard permit must include the following information:
1. The name and address of the property owner.
  2. The name and address of the person or entity who will operate the site.
  3. Identification of the site by Town Map and Lot designation.
  4. A site plan to scale, including:
    - a. Property boundary lines, dimensions and acreage;

- b. Site contours from USGS maps;
  - c. Soil types as determined from NRCS soil survey maps;
  - d. The location of any generally known and/or mapped aquifer areas within one thousand (1,000) feet;
  - e. The location of any residence, school or other public facility listed in Article 10, Section 10, Subsection C-1, within five hundred (500) feet;
  - f. The location of any classified water body on the property or within two hundred (200) feet of the property lines and wells within 100 feet;
  - g. The boundaries of any 100-Year Floodplain or shoreland zoned areas located on the property;
  - h. The location of all roads within one thousand (1,000) feet of the site including all vehicular entrances and exits serving the site;
  - i. The location within the property boundary lines where any equipment, including motor vehicles, old appliances, or machinery are drained, dismantled or stored; and
  - j. The location and characteristics of all existing and proposed vegetation and/or fencing that is to be maintained for required screening.
- 5. A plan for containment, storage and disposal or recycling of all liquids, batteries, tires or any hazardous materials which are located at the site in accordance with the Town of Farmington's Hazardous Waste & Radioactive Materials Control Ordinance, Chapter 8, Article 2.
  - 6. A statement as to whether any State agency approvals are required under State law.
  - 7. If applicable, a Town of Farmington Abutting Property Owner Release Form.
- B. **Standards for permit.** The municipality may issue a permit to an Automobile Graveyard, Automobile Recycling Business, or Junkyard if the business demonstrates that it meets all the operation standards set forth below:
- 1. The site must be enclosed in accordance with Article 10, Section 11-F, around all sides of the area where vehicles or junk are to be located such that said areas are entirely screened from ordinary view from all abutting properties at all times. (Note: Exception to this is allowed if and only if a Town of Farmington Abutting Property Owner Release Form is executed by abutter and recorded in the Franklin County Registry of Deeds at the time of

application and each renewal. The Abutting Property Owner Release Form does not apply to any physical screening which may be required pursuant to the paragraph below).

2. Where a potential safety hazard to children would be likely to arise, physical screening sufficient to deter small children from entering the premises shall be provided and be maintained in good condition.
3. The site must not be within one hundred (100) feet of any classified water body.
4. The site must not be within five hundred (500) feet of and must not be within ordinary view of any public park, public playground, public recreational area, school or university, municipal building, church or cemetery that existed on the date the permit was issued.
5. The site must not have any slopes exceeding twenty percent (20%).
6. The site must not have any hydric soils present.
7. The site must not be over a mapped aquifer or a generally known aquifer area which contributes to or could potentially contribute to a public or private water supply outside the boundary of the site. In the case where a generally known aquifer is alleged under the proposed site, it will be incumbent upon the applicant to prove to the Planning Board that the proposed site is not over a generally known aquifer which may pollute any water supply outside the boundary of the site.
8. The site must not be within the 100-Year Floodplain.
9. The site must not be within one hundred (100) feet of a well that serves as a public or private water supply.
10. The site must not be within fifty (50) feet of any lot line.
11. The site must not be within three hundred (300) feet of any existing abutters' residence. (Note: Exception to this is allowed if and only if a Town of Farmington Abutting Property Owner Release Form is executed by abutter and recorded in the Franklin County Registry of Deeds at the time of application and each renewal.
12. Dismantling of any equipment, including motor vehicles, old appliances or machinery must be performed in accordance with the following:
  - a. All batteries must be removed and disposed of or recycled in accordance with applicable federal or State laws, rules or regulations.



- b. All liquids and gasses from any equipment must be recycled or disposed of in accordance with applicable federal or State laws, rules or regulations.
  - c. No liquids may be permitted to flow or be discharged into or onto the ground.
  - d. All operations must comply with all applicable Town ordinances and federal or State laws related to hazardous materials.
  - e. No sound, noise, vibration, glare, fumes or odor inconsistent with those generally experienced in the neighborhood shall be emitted which are detectable to the normal senses from any abutting property, nor shall any of these exceed federal or State standards.
- C. **Nonconforming uses.** Any Automobile Graveyard, Automobile Recycling Business or Junkyard in existence and licensed under State law on the effective date of this Ordinance may remain in operation in its present location for a period not to exceed two (2) years pending permit application, approval and issuance or remedy all conditions that would subject them to requirements for being permitted under this Ordinance. Thereafter, said Automobile Graveyard, Automobile Recycling Business or Junkyard shall be required to comply with the provisions of this ordinance. Any expansion of said Automobile Graveyard, Automobile Recycling Business, or Junkyard beyond the size which existed on the effective date of this ordinance shall comply with all provisions of this Ordinance.
- D. **Revocation or suspension of permit.** For purposes of Article 10, Section 14, subsection C, each of the standards set forth in this section are conditions of a permit.
- E. **Relationship to automobile graveyard permit.** A person who recycles automobiles but does not qualify for, or loses, an Automobile Recycling Business permit may apply for an Automobile Graveyard permit.
- F. **Screening Rules.** In the interest of uniformity and to establish guidelines in the matter of adequate screening, the following rules establishing minimum standards for screening of Automobile Graveyards, Automobile Recycling Businesses and Junkyards shall apply:

Screening may be accomplished by natural or man-made objects, plantings or properly constructed fences, any of which must completely screen the site from ordinary view from any portion of any highway or abutting property within the prescribed distances throughout the entire calendar year. The minimum height of any screen is to be six (6) feet, or higher if needed to sufficiently accomplish the complete screening from ordinary view. Where a potential safety hazard to

children would likely arise, screening shall be sufficient to deter small children from entering the premises. All screens shall be well constructed and maintained in keeping with the character of the surrounding neighborhood.

1. If plantings are used they should be of sufficient height, density, depth or growth to completely screen the site from ordinary view from the highway or abutting property within the prescribed distance throughout the entire calendar year.
2. Fences shall be so located and of sufficient height to completely screen the site from ordinary view from any highway and abutting property within the prescribed distances.
3. Fences should not obstruct sight distance for vehicular traffic or create any other hazard or potential hazard.

#### **11-10.12 Permit Fees:**

The municipal officers shall collect all fees, in advance from the applicant for a permit, in accordance with the following schedule:

- A. **Automobile Graveyard or Junkyard more than 100 feet from highway.** Fifty dollars (\$50.00) for a one (1) year permit for an Automobile Graveyard or Junkyard located more than one hundred (100) feet from any highway, plus the cost of posting and publishing the notice under Article 10, Section 8;
- B. **Automobile Graveyard or Junkyard within 100 feet from highway.** Two hundred dollars (\$200.00) for a one (1) year permit for an Automobile Graveyard or Junkyard located within one hundred (100) feet from any highway, plus the cost of posting and publishing the notice under section Article 10, Section 8; and
- C. **Automobile Recycling Business.** Two hundred fifty dollars (\$250.00) for a five (5) year permit for an Automobile Recycling Business plus the cost of posting and publishing the notice under section Article 10, Section 8.

#### **11-10.13 Provisions Regarding Nuisances Unaffected:**

This Ordinance shall not be construed as in any way repealing, invalidating or abrogating 30-A MRSA, Sec. 3751 et. seq. or 17 MRSA, Sec. 2802, or limiting the right of prosecutions under these laws. Violation of this Ordinance in the establishment, maintenance or operation of any Automobile Graveyard, Automobile Recycling Business or Junkyard constitutes prima facie evidence that the business is a nuisance as defined in 17 MRSA, Sec. 2802.

#### **11-10.14 Violation:**

- A. **Enforcement.** The Municipal Officers or their designees shall enforce this Ordinance.
- B. **Penalties.** Whoever violates this ordinance is subject to penalty under 30-A MRSA, Sec. 4452. Each day that the violation continues constitutes a separate offense with maximum fines of two thousand five hundred dollars (\$2,500.00) per offense. There is a twenty-five thousand dollar (\$25,000.00) maximum fine per offense upon the second conviction within two (2) years for violations under this Ordinance.
- C. **Revocation or suspension of permit.** Violation of any condition, restriction or limitation inserted in a permit by the Municipal Officers is cause for revocation or suspension of the permit.

No permit may be revoked or suspended, or fine imposed without a hearing and notice to the owner or the operator of the Automobile Graveyard, Automobile Recycling Business, or Junkyard.

Notice of hearing must be sent to the owner or operator by registered mail at least seven (7) but not more than fourteen (14) days before the hearing. The notice must state the time and the place of hearing and contain a statement describing the alleged violation and the penalties that may be imposed.

#### **11-10.15 Appeals:**

Any person aggrieved by the action of the Code Enforcement Officer or municipal officers may appeal to the Board of Appeals by filing a notice of appeal within thirty (30) days after receipt of the Code Enforcement Officer or municipal officers notification.

Administrative appeals and variance applications submitted under this Ordinance shall be subject to the standards and procedures established by the Town of Farmington Board of Appeals.

#### **11-10.16 Amendments:**

- A. **Initiation of Amendments:** An amendment to this Ordinance may be initiated by
  - 1. The Board of Selectmen, provided a majority of the Board of Selectmen has so voted;

2. Written petition of a number of voters equal to at least 10% of the number of votes cast in the municipality at the last gubernatorial elections.
- B. **Public Hearing:** The Board of Selectmen shall hold a public hearing on the proposed amendment. Notification of the hearing shall be posted and advertised in a newspaper of general circulation in the municipality at least seven (7) days prior to the hearing.
  - C. **Adoption of Amendment:** An amendment of this Ordinance shall be adopted by a majority vote of a Town Meeting.

# TOWN OF FARMINGTON

## Biosolids and other Residuals Management Ordinance

ENACTED: March 9, 1998

CERTIFIED BY: Lesley Duckett  
Name

Town Clerk  
Title

Affix Seal

**Town of Farmington  
Biosolids and Other Residuals Management Ordinance  
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## **TOWN OF FARMINGTON**

### **Biosolids and other Residuals Management Ordinance**

#### **TITLE:**

This Ordinance shall be known and cited as the "Town of Farmington Biosolids and other Residuals Management Ordinance".

#### **ARTICLE I: Authority, Applicability and Availability**

This Ordinance is adopted pursuant to 30-A MRSA Sec. 3001, 38 MRSA Sec. 131-U et seq. and 30-A MRSA Sec. 4354. The provisions of this Ordinance shall govern all land and all structures within the boundaries of the Town of Farmington.

A certified copy of this Ordinance shall be filed with the Town Clerk and shall be accessible to any member of the public during Town Office hours. Copies shall be made available to the public at reasonable cost to be charged to the person making the request. Notice of availability of this Ordinance shall be posted in the Town Office.

Persons or entities wishing to land spread biosolids and other residuals, including the Town of Farmington Wastewater Treatment Facility (WWTF), shall obtain a permit from the Farmington Planning Board (hereinafter "the Board") for land application and storage of biosolids and other residuals as well as commercial composting operations and shall be subject to the provisions of this ordinance.

#### **ARTICLE II: Definitions**

A. APPLICANT: The term "applicant" shall hereinafter refer to any landowner or authorized agent, contractor or consultant who seeks a permit from the Town of Farmington for the purpose of delivery, storage or land application of biosolids or other residuals within the Town of Farmington.

B. AQUIFER: See "significant groundwater aquifer".

C. BOARD: The term "Board" refers to the Farmington Planning Board.

D. BIOSOLIDS: The term "biosolids" refers collectively to sludge and septage.

E. COMPOSTING OPERATION: The term "composting operation" refers to any commercial activity designed for the biological decomposition and stabilization of organic matter under aerobic conditions of high temperature, resulting in a humus-like product that can be used as a soil amendment. Composting activities that are exempt from obtaining a permit from DEP or require a permit under the permit-by-rule standards are exempt from this definition.

F. DEPARTMENT OF ENVIRONMENTAL PROTECTION: The term “Department of Environmental Protection” more commonly referred to as “DEP” refers to the State of Maine Department of Environmental Protection including the Board of Environmental Protection and the Commissioners and/or its successor agencies.

G. EXPANSION AND/OR ENLARGEMENT: The expansion and/or enlargement of an activity shall mean the increase in the size or capacity of an operation regulated under this Ordinance and shall include the following: construction and/or enlargement of any building or structure, new spreading sites, and any increase in the size of the operation.

H. HYDROGEOLOGIC IMPACT STUDY: The term “Hydrogeologic Impact Study” refers to a hydrogeologic impact study prepared by a State of Maine Certified Geologist with confirmed experience in hydrogeology.

I. MINOR CHANGE OR REVISION: A minor change or revision shall mean any change in the activity that does not include an expansion and/or enlargement.

J. NUTRIENT MANAGEMENT PLAN: The Nutrient Management Plan is a plan developed for farming operations which balances crop nutrient needs with the application of soil amendments and includes consideration for residual nutrients within the soil from previous crop residue and application of soil amendments. It is based upon total farm nutrient needs.

K. OPERATOR: The term “operator” refers to any person who has legal control of a site or storage facility subject to this Ordinance. This person may be the owner, an agent, a lessee of the owner or an independent contractor.

L. OWNER: The term “owner” refers to any person who alone or in conjunction with others owns the real property upon which is located a landspreading site or storage facility subject to this ordinance.

M. PRIMARY SAND AND GRAVEL AQUIFER RECHARGE AREAS: The term “primary sand and gravel aquifer recharge areas” refers to the surface directly overlying sand and gravel formations that provide direct replenishment of the ground water in sand and gravel and fractured bedrock aquifers. The term does not include areas overlying formations that have been identified as unsaturated and are not contiguous with saturated formations.

N. RESIDUALS: The term “residuals” refers to those materials included but not limited to pulp and paper mill wastewater treatment sludge, food, and fiber processing wastes, municipal wastewater and sludge, vegetable and fish processing residuals, and ash from wood incinerators generated from municipal, commercial or industrial facilities that are suitable for controlled land application with resulting vegetative assimilation, attenuation of material components and soil condition improvement.



O. SEPTAGE: The term “septage” refers to waste, refuse, effluent, sludge and other materials from septic tanks, cesspools or other similar facilities. For the purpose of this ordinance, septage is defined as a mixture of liquids and solids derived from household (domestic) sanitary wastewater, and shall include holding tank waste and sanitary wastewater and solids from tanks connected to commercial establishments such as restaurants and motels. Pit and vault privy waste, and portable toilet waste, may be included as septage if it is not contaminated with solid waste. Wastes from septic tanks or any other similar facilities which are significantly different in character and origin (e.g. an industrial process) are not septage, and are subject to other applicable standards.

P. SLUDGE: The term “sludge” refers to the semi-solid or liquid residual generated from a municipal, commercial or industrial wastewater treatment plant.

Q. SPECIAL WASTE: Excepting biosolids and other residuals as defined and referred to in this ordinance, “special waste” as defined in 38 M.R.S.A. Section 1303-C (34), means any solid waste generated by sources other than domestic and typical commercial establishments that exists in such an unusual quantity or in such a chemical or physical state, or any combination thereof, that may disrupt or impair effective waste management or threaten the public health, human safety or the environment and requires special handling, transportation and disposal procedures. Special waste includes, but is not limited to:

1. Debris and residuals from non hazardous chemical spills and cleanup of those spills;
2. Contaminated soils and dredge spoils;
3. Asbestos and asbestos-containing waste;
4. Sand blast grit and non liquid paint waste;
5. High and low pH waste;
6. Spent filter media residue;
7. Shredder residue; and
8. Other waste designated by the Board, or rule.

R. SIGNIFICANT GROUNDWATER AQUIFER: The term “significant groundwater aquifer” refers to any formation of soil or fractured bedrock that contains recoverable quantities of water greater than ten gallons per minute from a six-inch well. The

“Hydrogeologic Data for Significant Sand and Gravel Aquifers” map prepared by the Maine Geologic Survey is hereby referenced. In the event that on-site testing required pursuant to this Ordinance identifies additional aquifers or identifies boundaries of aquifers that are different from those mapped, the results of the on-site testing shall take precedence.

S. STANDARD SOIL TEST: The term “Standard Soil Test” refers a measurement of soil pH, cation exchange capacity (CEC), potassium, phosphorous, magnesium, calcium, and organic matter. The correct technique for obtaining a soil sample for the test has been established by the University of Maine at Orono Soil Testing Service.

T. STORAGE FACILITY: The term “storage facility” refers to one which contains biosolids and/or other residuals. There are two basic categories for storage facilities: temporary and permanent. Such facilities in use for less than one hundred eighty (180) days shall be deemed temporary and such facilities in use for more than one hundred eighty (180) days shall be deemed permanent. Examples of temporary storage facilities include field stacking and temporary earthen pits. A field stacking site is a land area consisting of suitable soils and slopes no greater than fifteen percent (15%), located away from wells and surface waters, protected from surface runoff and providing for infiltration of leachate on a crop area in order to facilitate the storage of biosolids and other residuals.

### **ARTICLE III: Purpose**

The purpose of this ordinance is as follows:

- to provide an opportunity for effective notice and public input during the local review process;
- to monitor and enforce biosolids and other residual usage;
- to ensure adequate remedy for any damage that may occur;
- to protect the health and safety of the residents of Farmington;
- to protect the economic interest of the residents of Farmington;
- to enhance and maintain the quality of the environment, and to conserve natural resources through regulation of storage and land application of biosolids and other residuals on all applications for licensing of the land application and/or storage sites of biosolids and other residuals.

The Town of Farmington desires to work in partnership with the Department of Environmental Protection (hereinafter “DEP”) by establishing in this Ordinance a local procedure for the following activities:

- a public hearing process to review all land application sites;
- an inspection process to review all land application activities and storage sites;
- a notification process to keep the Town informed of all land application activities; and identification of local sensitive environmental areas.

This Ordinance also recognizes the value that biosolids and other residuals can provide to the town’s agricultural and forest land. The use of biosolids and other residuals on agricultural land enables local farmers to improve the productivity of their land. The land application of biosolids and other residuals as well as commercial composting activities are cost effective resource management strategies for residential municipal waste. The application of biosolids and other residuals shall be performed in a manner that also recognizes recreational, residential and commercial land use activities that share the town’s rural landscape.

#### **ARTICLE IV: Exemptions**

The Town of Farmington's Wastewater Treatment Facility (WWTF) and its contracted hauler(s) are required to follow the guidelines and regulations of this Ordinance, but shall be exempt from all permitting, renewal and impact fees and all other fees contained in this ordinance relative to testing and standards verification.

Homeowners within the Town of Farmington may dispose of septage from their septic systems on their own property in accordance with Chapter 420 (State of Maine Septage Management Rules) and are hereby exempt from this Ordinance as long as they maintain compliance with Chapter 420. These property owners must notify the Town's Code Enforcement Officer (hereinafter "CEO") before any such disposal shall be done under Chapter 420.

Private/domestic composting shall be exempt from this Ordinance.

#### **ARTICLE V: Materials Prohibited**

Land application of special waste is prohibited in the Town of Farmington.

#### **ARTICLE VI: Application Procedure**

##### **A. Procedure**

1. An applicant wishing to deliver, store or land apply biosolids and other residuals in Farmington shall file an application form with the Board. The application shall be submitted at least one hundred eighty (180) days before the date of first delivery, storage or land application, to ensure adequate time for inspection and review under this Ordinance.
2. The expansion and/or enlargement of any regulated activity shall require a modification permit from the Board and shall be based upon the requirements for permitting a new site. Minor changes or revisions to the original application shall be submitted to the CEO for review and approval. The CEO may request the Board's input prior to making a decision about the proposed change. The applicant shall be responsible for making any permit modifications with DEP as required.
3. The applicant shall submit up to twenty (20) copies (Town will specify number) of the application at least thirty (30) days prior to the Board meeting at which the applicant wishes to be heard.
4. Applications must have DEP approval before submission. All applications for initial permits shall be accompanied by a non-refundable fee of Three Hundred Dollars (\$300.00) and a one time impact fee amount of \$10.00 per acre. Permit renewals and permit modifications shall be accompanied by a non-refundable fee of One Hundred

Fifty Dollars (\$150.00). These fees shall be established in a Town Fee Schedule, reflecting additional costs directly related to administering this Ordinance, revised from time to time by the Farmington Town Selectmen, and payable to the Town of Farmington, Maine.

5. The Board may require that a qualified consultant or consultants review all or part of an application. The consultant(s) shall estimate the cost of review and make recommendations which will result in compliance with this ordinance and DEP regulations. The consultant(s) shall estimate the cost of such review and the applicant shall deposit with the Town the full estimated cost which the Town shall place in an escrow account. The Town shall pay the consultant(s) from the escrow account and reimburse the applicant if funds remain after payments are completed. If escrowed funds are insufficient, the applicant shall deposit additional funds with the Town, based on consultant(s) estimate, sufficient for completion. The consultant(s) shall be mutually acceptable to the Town and the applicant.

6. The Board may require the applicant to undertake any study which it deems reasonable and necessary to insure that the requirements of the Ordinance are met. The costs of all such studies shall be paid by the applicant.

7. Once properly submitted, the Board shall review the application to determine whether it is complete or whether additional information is required. If the application is found to be incomplete the Board shall notify the applicant, in writing, within ten (10) days as to what additional information is necessary to complete the application.

8. The applicant must provide any additional information requested by the Board within thirty (30) days of being notified by the Board that a deficiency exists.

9. A public hearing shall be held within thirty-five (35) days of the Board determination that the application is complete. Notice of the date, time and place of the hearing shall be published in a newspaper of general circulation in the municipality at least seven (7) days prior to the hearing. Abutting property owners, as shown on Town of Farmington tax maps and records, shall be notified by certified mail, by the Town and paid for by the applicant, at least seven days prior to initial Board consideration of an application. This notice shall indicate the time, date and place of Board consideration of the application. Notice shall also be posted in three (3) public places designated by the Board. Failure to receive notice shall not invalidate a public hearing held if the requirements of this subsection have been met.

10. The Board shall decide whether the application should be approved, approved with conditions, or denied within thirty-five (35) days of the issuance of a license from the DEP or within seventy (70) days of the Town's public hearing, whichever date is later, unless additional information is requested by the Board. If additional information is requested then the Board shall make a decision on the application within 35 days of receipt of the requested information.

## B. Submissions

A permit application, filed on forms provided by the Code Enforcement Office to land apply or store biosolids and/or other residuals or for commercial composting operations in the Town of Farmington, good for one year, shall include the following information:

1. A copy of the complete application submitted to DEP for the proposed activity including all the required permit attachments. (See below)
2. Fees as required by Article VI.A.4 of this Ordinance.
3. Property location shown on a 7.5 minute USGS topo map copy.
4. Accurate site plan map drawn to scale 1"= 500', including tax maps and the most recent aerial photograph possible, that clearly indicates property lines, abutters, existing water well locations within three hundred (300) feet, areas suitable for spreading, required setbacks, storage areas, proximity to any primary sand and gravel aquifer recharge area and/or significant groundwater aquifer, waterbody/courses, roads, swales, steep slopes (greater than 15%), buildings and environmentally sensitive areas.
5. Baseline well tests performed on all wells within 300' of application and storage sites. (To be paid for by the applicant)
6. A narrative explaining the reasons for choosing the designated areas and setbacks.
7. A standard soil test performed by a certified lab for each proposed land application field.
8. A medium intensity Natural Resources Conservation Service (NRCS) soil survey map or similar map prepared by a Maine Certified Soil Scientist. If an NRCS map is used, it must be verified by a Maine Certified Soil Scientist.
9. If field stacking or field storage of biosolids and/or other residuals is proposed, an on-site soil investigation performed by a Maine Certified Soil Scientist of the stacking or storage site is required.
10. The Board may require submittal by applicant of a hydrogeologic impact study which would be based on the size, location, surrounding uses, or other characteristics of the proposed site. If required, the impact study shall be prepared by a State of Maine Certified Geologist with experience in hydrogeology at the applicant's expense.
11. The applicant shall submit all biosolids and other residual analysis reports, annual reports and any other data required as per the DEP permit to the CEO at the time of initial application. (See Article 7 - B - 2b)

12. A plan for the submission of the results of soils tests to be performed annually prior to the application of the biosolids and other residuals for the duration of the permit sought, including the proposed sampling schedule, sampling locations, and parameters to be measured.

13. Nutrient Management Plan. A Plan must be submitted to the Board which has been reviewed and approved by the Franklin County Soil and Water Conservation District and said plan must meet the standards and specifications of the District.

14. A signed indemnification agreement containing the language set forth in Article VIII C3.

#### C. Submission Waivers

The Planning Board may modify or waive any of the submission requirements when it determines that because of the size of the project or circumstances of the site such requirements would not be applicable or would be an unnecessary burden upon the applicant and that such modification or waiver would not adversely affect the abutting landowners or the general health, safety and welfare of the Town.

### **ARTICLE VII: Permit Renewals**

A. Applicants that plan to continue operations shall obtain an annual renewal permit from the CEO within fifteen (15) working days of the expiration of their existing permit. Any applicant that does not obtain the annual renewal permit shall submit an application to the Board for a new permit. The renewal permit shall be obtained for any activity that plans to continue operations regardless of any lapse, not to exceed three (3) years, in land application, storage, composting, etc.

B. The applicant shall submit the following information to the Board in writing for permit renewal applications:

1. The names of the applicant and the land owner and the date of the original permit.
2. A copy of the annual biosolids and other residuals utilization report as required by and submitted to DEP.
3. The applicant shall submit a non-refundable annual renewal fee of One Hundred Fifty Dollars (\$150.00).

C. The Nutrient Management Plan shall be revised annually based upon results of an annual soil test and crop needs.

### **ARTICLE VIII: Performance Standards**

#### A. General Standards

1. Storage and land application of biosolids and other residuals is prohibited in

Farmington unless approval has first been obtained from DEP and the Board, except as otherwise provided for by DEP under Chapter 420 or subsequent amendments for homeowner land application of septage from their own septic system.

2. Biosolids and other residuals may be stored on site in Farmington in either an approved permanent or an approved temporary storage facility as provided in the current DEP Regulations. If temporary field stacking is to occur there must be precautions taken to prevent leaching and runoff. No temporary field stacking shall be done on sites with an eight percent (8%) or greater slope. The maximum volume stacked at any site shall be limited to the amount approved for land application on each field. With Board approval, one stacking site serving more than one field may be allowed.

3. Land application shall be allowed only from April 15 to November 15 but shall not occur if the ground is saturated, frozen or snow-covered or on sites with a slope of greater than fifteen percent (15%).

#### B. Testing Requirements

##### 1. Site Testing and Monitoring

At the discretion of the Board, or by written petition to the Board by the owner of an existing well located within three hundred (300) feet of any site proposed for storage or land application of any biosolids or other residuals, the Board may require an annual water analysis of any such well, per State Drinking Water Standards, paid for by the applicant.

##### 2. Characteristics of Biosolids and other Residuals

a. Copies of the results of mandated State tests must be submitted to the Board upon receipt by the applicant. The Board may require random spot checks of biosolids or other residuals taken at the point of delivery. At the discretion of the Board, the cost of one random test per year will be borne by the applicant. All testing shall be in accordance with the most current edition of Standard Methods for Examination of Water and Wastewater published by the American Public Health Association as approved by the EPA. Tests shall be conducted by a State licensed laboratory qualified to test biosolids and the results shall be furnished to the CEO and/or Board on a schedule approved by the Board.

b. No biosolids or other residuals may be delivered to, stored or land applied in Farmington if testing required by this Ordinance indicates that the maximum permissible concentrations and/or loading limits appearing in the DEP Regulations and/or the US EPA 40 CFR part 503 are exceeded.

##### 3. Site Criteria

a. No biosolids or other residuals may be applied to land with a slope of greater than fifteen percent (15%).

b. Where the proposed application site has a slope of fifteen percent (15%) or less, no biosolids or other residuals may be land applied within the following setback areas:

- Residences, classified bodies of water including: lakes, ponds, and streams, water supply wells - three hundred (300) feet
- Intermittent streams - fifty (50) feet
- Public roadways, drainage gullies, property boundaries - twenty-five (25) feet

c. Additional updated site criteria as established by the Department of Environmental Protection Regulations must also be met within the timeframe established by the DEP.

d. Only upon approval by DEP, may biosolids or other residuals be delivered to, stored, or land applied over a significant groundwater aquifer, or over a primary sand and gravel aquifer recharge area.

#### C. Additional Requirements

1. The applicant shall agree to furnish the CEO with copies of all conditions and limitations imposed by the DEP as well as prompt notice of any changes in the composition of the material and further testing required by the DEP and the results of those tests and any annual change in site application or storage plans.

2. The applicant or its agent shall agree to notify the CEO in writing of delivery of any biosolids or other residuals to Farmington, and to inform the CEO of the proposed land application timetable and who is to do the actual land application. The party responsible for land applying biosolids or other residuals shall notify the CEO as soon as possible prior to land application and in any event not later than three (3) working days prior to land application.

3. The applicant shall covenant and agree to indemnify, and hold harmless and defend the Town of Farmington, its agents and employees, from and against any and all claims for injuries or damages to persons or property of whatsoever kind or character, whether real or asserted, arising out of the work to be performed under the permit. The applicant hereby assumes all liability and responsibility for injuries, claims, or suits for damages, to persons or property of whatsoever kind or character, whether real or asserted, occurring during the time that work is being performed under the permit or arising out of the performance of same.

4. The applicant shall procure and maintain during the life of the permit, such Liability and Property Damage Insurance as shall protect the performance of work



covered by the permit from claims damages or personal injury, including accidental death, as well as from claims for property damage which may arise from the operations under permit, whether such operations be by the applicant or by anyone directly or indirectly employed by them. The amounts of such insurance shall be as follows: the applicant shall maintain Liability Insurance and Property Damage Insurance in the amount of no less than \$1,000,000 for Bodily Injury to any one person and no less than \$1,000,000 per occurrence of Property Damage with a \$2,000,000 aggregate liability coverage for both Bodily Injury and Property Damage.

#### **ARTICLE IX: Modification of Conditions and Revocation of Permit**

Any time standards are not met as determined by any observation or any testing required under this ordinance or by the DEP, the Board may require additional testing at the applicant's expense and may modify the conditions applicable to any permit. When the Board, as a result of any required testing or risk assessment, determines that continued storage or spreading of biosolids and or other residuals is not in compliance with the performance standards of this Ordinance, it may issue an order which may include limitation, modification, suspension, or revocation of any permit.

#### **ARTICLE X: Enforcement and Penalty**

- A. The CEO with proper notice shall have the right to enter all land application and storage sites at all reasonable hours for the purpose of inspecting the site for compliance with this Ordinance.
- B. If the CEO finds violations of any permit conditions or of any obligations imposed by this Ordinance or DEP Regulations, the CEO shall issue a written notice to the landowner, the Board, the applicant, the operator (if different from the landowner) and notify DEP.
- C. The applicant and/or operator who violates this Ordinance or the conditions of approval as well as the owner who knowingly permits such violations to occur shall be guilty of a civil violation and shall be subject to a civil penalty of not more than Twenty Five Hundred Dollars (\$2,500.00) for each offense. Each day such a violation is permitted to exist after notification shall constitute a separate offense.
- D. When it is shown that there has been a previous conviction of the same party within the past two years for violation of this ordinance a penalty up to Twenty Five Thousand Dollars (\$25,000.00) may be assessed.

#### **ARTICLE XI: Appeals**

- A. The Board of Appeals shall have the power to hear and decide appeals when it is alleged that the Planning Board disregarded pertinent information when making their decision or did not follow the procedural guidelines of this Ordinance.

## B. Appeals Procedure

### 1. Making an Appeal

- a. An appeal resulting from any decision on the part of the Board may be taken to the Board of Appeals by an aggrieved party. Such appeal shall be taken within thirty (30) days of the date of the decision appealed from, and not otherwise, except that the Board, upon a showing of good cause, may waive the thirty (30) day requirement.
- b. Such appeal shall be made by filing with the Board of Appeals a written notice of appeal which includes:
  - (1) A concise written statement indicating what relief is requested and why it should be granted.
  - (2) 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.
- c. Upon being notified of an appeal, the CEO or the Board, as appropriate, shall transmit to the Board of Appeals all the papers constituting the record of the decision being appealed.
- d. The Board of Appeals shall hold a public hearing on the appeal within thirty-five (35) days of its receipt of an appeal request.

### 2. Decision by Board of Appeals

- a. A majority of the Board of Appeals shall constitute a quorum for the purpose of deciding an appeal. A member who abstains shall not be counted in determining whether a quorum exists.
- b. The concurring vote of a majority of the members of the Board of Appeals present and voting shall be necessary to reverse any decision of the Board, or to decide in favor of the applicant on any matter on which it is required to decide under this Ordinance, finding that such decision was unsupported by substantial evidence in the record. The Board of Appeals may reverse any decision of the Board only upon finding that such decision was contrary to specific provisions of this Ordinance.
- c. The person filing the appeal shall have the burden of proof.
- d. The Board shall decide all appeals within thirty-five (35) days after the close of the hearing, and shall issue a written decision on all appeals.

- e. All decisions shall become a part of the record and shall include a statement of findings and conclusions as well as the reasons or basis therefore, and the appropriate order, relief or denial thereof.

#### C. Appeal to Superior Court

Any aggrieved party who participated as a party during the proceedings before the Board of Appeals may take an appeal to Superior Court pursuant to Rule 80D of the Maine Rules of Civil Procedure within thirty (30) days from the date of any decision of the Board of Appeals.

#### D. Reconsideration

The Board of Appeals may reconsider any decision within thirty (30) days of its original decision.

### **ARTICLE XII: Validity, Severability and Conflict with Other Ordinances**

- A. Should any section or provision of this Ordinance be declared by the courts to be invalid, such decision shall not invalidate any other section of this ordinance.
- B. Whenever the requirements of this Ordinance are inconsistent with the requirements of any other ordinance, code or statute, the more restrictive requirements shall apply.

### **ARTICLE XIII: Amendments**

The Ordinance may be amended by Town Meeting vote. Amendments may be initiated by a request of the Board, the Board of Selectmen, or by petitions bearing the signatures of registered Farmington voters equal to, or in excess of ten percent (10%) of the votes cast in the last gubernatorial election in the Town. The Board of Selectmen shall conduct a public hearing on any proposed amendment.

### **ARTICLE XIV: Impact Fee**

The Town of Farmington has a substantial investment in its WWTF, which has been recently upgraded and expanded, and maintenance of its sludge disposal infrastructure and options for such is of high priority for the Town. Disposal of the Town's WWTF sludge is becoming more difficult and costly due to a declining availability overall of local spread sites, more competition for these local sites with other entities, and the expense of utilizing disposal contractors and other alternatives.

This situation necessitates that the Town have the ability to lock-in capacity for future sludge disposal in part by pursuing options on currently available land spread sites for

anticipated future needs. An impact fee is hereby established under this ordinance to enable the Town to reserve sufficient WWTF sludge spreading sites in light of the above constraint factors and needs. This impact fee is based on the cost to the Town of maintaining lease options on properties for future sludge disposal.

When an optioned site is leased, the Town will then begin spreading WWTF sludge at this location, paying the owner a per yard spreading fee in addition to the lease payment - both of which will be paid for from the WWTF operations budget. The cost of spreading, as well as lease costs, are not included in calculating the impact fee basis - only the option cost.

The Town will initially option 80 acres of sludge spreading sites for its WWTF. These spread sites, coupled with contract disposal and a future proposed composting facility, will provide the Town with the variety of sludge disposal alternatives needed to cope with physical and financial limitations. In the future, the WWTF Superintendent and Town Sewer Commissioners will continue optioning sufficient sludge spreading sites, as they deem reasonable and necessary, as an essential component of the WWTF infrastructure.

These options last for five years and are renewable. The annual cost of maintaining these options is \$10.00 per acre. This is the direct basis for setting of the impact fees to be paid by those seeking permits for land application and storage of biosolids and other residuals within Farmington under this ordinance. The impact fee will be initially set at \$10.00 per acre upon enactment of this ordinance. This fee will be paid by applicants one time for each permitted spread site. Funds received from impact fees will be kept in an account separate from the Town's general fund and shall be expended only for maintaining the spread site lease options for the disposal of the Town's WWTF sludge.

On an annual basis, and more frequently if warranted, the impact fee will be reviewed by the Town Sewer Commissioners. If the Town's per acre cost of maintaining spread site options increases or decreases, the per acre impact fee will be adjusted accordingly by the Town Sewer Commissioners. All impact fees collected in excess of actual lease option costs will be refunded to permit holders on a periodic basis on a prorata basis according to the amount of impact fee paid to the Town.

**TOWN OF FARMINGTON**  
**Board of Appeals Ordinance**

ENACTED: March 8, 1976

AMENDED: September 30, 1999  
July 19, 2004  
March 14, 2005  
March 20, 2010  
August 27, 2013

CERTIFIED BY: *Jeanne Elenthan*  
Name

Town Clerk  
Title

Affix Seal

## **Town of Farmington**

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## **Chapter 3**

### **Article 1. Appeals Board**

#### **3-1.1 AUTHORITY, ESTABLISHMENT & TITLE**

Pursuant to Title 30-A M.R.S.A. Section 3001, Title 30-A M.R.S.A. Section 2691 and Title 30-A M.R.S.A. Section 4353, the Town of Farmington hereby establishes a Board of Appeals by enacting this Ordinance that shall be titled "Board of Appeals Ordinance", (hereinafter referred to as "this Ordinance") which ordinance shall repeal and supercede the "Appeals Board, Farmington, Maine" Ordinance adopted on March 8, 1976 amended March 8, 1982 and the "Hearing Rules, Appeals Board, Town of Farmington, Maine".

#### **3-1.2 JURISDICTION**

The Board of Appeals shall have jurisdiction to hear and act upon appeals by any person, body, company, corporation or other legal entity that has suffered a particularized injury as the result of any decision, order, rule, action or failure to act by any municipal official, agency, board or other body where the Board of Appeals is specifically given jurisdiction by statute or ordinance. Upon finding that an application for appeal is not within the Board's jurisdiction, the Appeals Board shall refuse to hear the appeal. Such refusal shall be in writing, stating the reason or reasons for refusal, and shall be mailed (certified, return receipt) or hand delivered to the applicant, the applicant's representative or agent, the municipal officers, the municipal official, agency, board, or other body from whose decision, order, rule, action or failure to act the appeal was attempted, and to all other parties to the application for appeal within seven (7) days of such decision.

#### **3-1.3 EFFECTIVE DATE**

The effective date of this Ordinance shall be the date this Ordinance is adopted by the voters at Town Meeting.

#### **3-1.4 VALIDITY AND SEVERABILITY**

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

### **3-1.5 APPOINTMENT, TERM AND COMPOSITION**

- A. There shall be a Board of Appeals consisting of seven (7) regular members and two (2) alternate members all of whom shall be residents of the Town. The members of the Board, who shall serve without compensation, shall be appointed by the municipal officers and be sworn into office by the Town Clerk, or other person authorized to administer oaths, before performing any official duties as a Board of Appeals member.
- B. Terms of regular members shall be for three (3) years with staggered terms, and the members shall serve until their successors are appointed. The alternate members shall be appointed for a term of one (1) year and shall act on the Board in place of members who are unable to act due to a conflict of interest, absence or physical incapacity. The Chairman shall designate which alternate member shall serve in the stead of an absent or excused member. Alternate members shall have no voting rights until such time as they are designated by the Chairman to fill a vacancy.
- C. Terms shall run from July 1<sup>st</sup> through June 30<sup>th</sup>.
- D. No person who is a municipal officer, municipal official or municipal employee, general assistance administrator, town manager, code enforcement officer or who is a father, mother, spouse, sister, brother, or child of a member serving on the Board of Selectmen, Board of Appeals or Planning Board may be appointed as a regular or alternate to the Board of Appeals.
- E. A member of the Board of Appeals may be removed for cause after notice and hearing by the municipal officers before the expiration of his or her term. The term "for cause" shall include, but shall not be limited to, failure to attend three (3) consecutive board meetings or hearings without sufficient justification, or voting when the member has a "conflict of interest" as determined by a majority of the remaining members of the Board of Appeals (See 3-1.5 for definition of Conflict of Interest).
- F. When there is a permanent vacancy of either a regular or alternate member, the Secretary shall immediately notify the Town Clerk who shall inform the municipal officers. Within sixty (60) days of the existence of the vacancy, the municipal officers shall appoint a person to serve for the unexpired term.



### **3-1.6 MEETINGS AND PUBLIC HEARINGS**

- A. The annual organizational meeting and election of officers shall be in the month of July. Other meetings shall be held as necessary.
- B. All meetings of the Board of Appeals shall be open to the public, except executive sessions. No votes may be taken by the Board except in public meeting. Executive sessions shall be held only to transact legal consultation, internal disciplinary proceedings and other business acceptable under the Right to Know laws.
- C. Members of the Board shall avoid ex parte communications with any party-in-interest pertaining to any matter which is under consideration or may come under consideration before the Board. If a party-in-interest has such a communication with a Board member outside of a public meeting, the Board member shall make the communication and the contents thereof known to the other members of the Board and public.
- D. The Board shall notify the petitioner, the Planning Board, Code Enforcement Officer and the municipal officers of any meeting or public hearing. The Code Enforcement Officer, Planning Board and municipal officers shall be made parties to the action, regardless of whether they attend or raise any issues at such meetings or public hearings. All interested persons shall be given a reasonable opportunity to have their views expressed at any hearing, subject to the limitations set forth in sections 3-1.6 and 3-1.7.

### **3-1.7 ORGANIZATIONAL STRUCTURE AND VOTING PROCEDURES**

- A. The Board of Appeals shall elect annually a Chairman and Secretary from its membership. An alternate member may serve as Secretary; however, no alternate member shall be a voting member unless designated to take the place of an absent member by the Chairman.
- B. The Chairman shall call meetings of the Board of Appeals as required. The Chairman shall also call meetings of the Board when requested to do so by a majority of the members of the Board of Appeals or by the Board of Selectmen. The Chairman shall preside at all meetings of the Board, and shall be the official speaker for the Board. In the event the Chairman is indisposed or otherwise absent, the Board shall elect a temporary presiding officer who shall preside at all meetings of the Board in the Chairman's absence.

- C. The Secretary shall maintain a permanent record of all Board meetings through transcription or electronic recording and all correspondence of the Board. The Secretary shall be responsible, with the assistance of the Town Manager's Office, for maintaining those records that are required as part of the various proceedings brought before the Board. All records prepared or maintained by the Secretary in reference to any public proceedings are deemed public and shall be filed in the Town Clerk's office and may be inspected at reasonable times. The Secretary shall be responsible for making all notifications and announcements as are required.
- D. Any question of whether a particular issue involves a conflict of interest sufficient to disqualify a member from voting thereon shall be decided by a majority vote of the remaining members present and voting except the member who is being challenged. The term "conflict of interest" shall include but not be limited to bias, family relationship or direct or indirect pecuniary interest, which shall include pecuniary benefit to any member of the person's immediate family (grandfather, father, wife, son, grandson, e.g.) or to his or her employer or the employer of any member of the person's immediate family.
- E. A quorum shall consist of four (4) members. All votes shall be by majority of the Board.
- F. A tie vote or favorable vote by a lesser number than the required majority shall be considered a rejection of the application or appeal under consideration.
- G. The Chairman shall appoint an alternate member, if available, to act for a regular member who is: disqualified from voting, unable to attend the hearing, or absent from any portion of the hearing due to late arrival. The alternate member will act for the regular member until the case is decided.
- H. No regular or alternate member shall vote on the determination of any matter that was the subject of public hearing unless the member has attended the public hearing hereon; however, where such a member has familiarized himself or herself with such matter by reading the record, reviewing tapes of the hearing and reviewed documents, he or she shall be qualified to vote upon preparing and submitting to the Chairman a sworn statement after placing that fact on the record.
- I. The Board of Appeals may adopt rules of administration and procedure for the conduct of its affairs, provided such rules are not contrary to or inconsistent with this Ordinance.

- J. The Board of Appeals may prepare and submit to the Town Manager an annual budget relating to the operation of the Board.
- K. The Chairman may waive any rule for good cause upon vote of a majority of the board members in attendance. The adoption or waiver of any rule shall be entered in the minutes of the Board.

### **3-1.8 POWERS AND DUTIES**

#### **A. General Responsibilities**

It shall be the responsibility of the Board of Appeals to become familiar with all the duly enacted ordinances of the Town or State law which it may be expected to act upon as well as with the applicable State statutes.

- B. Except as jurisdiction to hear other matters is otherwise expressly provided for (or prohibited) by ordinance or statute, the Board of Appeals shall have only the powers and duties listed in Section C “Administrative Appeals: and Section D “Variance Applications”. The Board shall have the power to adjudicate only upon receipt of a written administrative appeal or variance application by an aggrieved party.

#### **C. 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, Planning Board, General Assistance Administrator, Town Manager, or Sewer Commissioners, or any other municipal official or Administrative Board in the administration of any ordinance which designates the Board of Appeals as the appeal authority. The Board of Appeals shall determine from the record of the proceedings below, whether there has been an error of law, misinterpretation of the relevant ordinance, or a misapplication of the law to the facts as found below. If the record of the proceedings below is not adequate to allow the Board of Appeals’ review, the Board may remand the matter back to the municipal official or board from whose decision or failure to act the appeal is taken, for additional fact finding. If the Board of Appeals determines from the record of the proceedings below that there has been an error of law, a misinterpretation of the relevant ordinance, or a misapplication of the law to the facts as found below, the Board shall remand the matter for correction and for those further proceedings that are specified by the Board of Appeals and that are consistent with the Board of Appeals’ decision.

The term “below” in the preceding paragraph refers to the proceedings from which the appeal is being taken.

#### D. Variance Applications

- (1) To hear and decide applications requesting such variance from the terms of ordinances related to dimensional requirements such as setbacks, frontage, lot width, structure height, area, and size of structures, yards, or open spaces where strict application of the provisions of the pertinent ordinance would result in undue hardship.

A use variance establishing a use prohibited by ordinance may not be granted, nor shall a variance be granted because of the presence of non-conformities in the land use district or uses in adjoining land use districts.

Establishment or expansion otherwise prohibited shall not be allowed by variance. A financial hardship shall not constitute grounds for granting a variance.

A variance may include such conditions and safeguards as are appropriate under the pertinent ordinance. Any variance granted shall be the minimum necessary to relieve the hardship. The words “undue hardship” as used in this Ordinance 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 circumstance(s) 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.
  - (e) The Board of Appeals shall also consider any additional standards for variances specified by statute or ordinance.
- (2) If otherwise permitted by law, the Board may permit a variance from its setback requirements only when strict application of those requirements would cause undue hardship. Notwithstanding subsection D (1) above, for the purpose of reviewing requests for

setback variances for single family dwellings, the term “undue hardship” shall have the following meaning:

- (a) The need for a variance is due to the unique circumstances of the property and not to the general conditions in the neighborhood;
- (b) The granting of a variance will not alter the essential character of the locality;
- (c) The hardship is not the result of action taken by the applicant or a prior owner;
- (d) The granting of the variance will not substantially reduce or impair the use of the abutting property; and
- (e) That the granting of a variance is based upon demonstrated need, not convenience, and no other feasible alternative is available. A variance granted under subsection D (2) shall be limited to permitting a variance from a setback requirement for a single family dwelling that is the primary year-round residence of the petitioner. A variance under this subsection may not exceed 20% of a setback requirement and may not be granted if the variance would cause the area of the dwelling to exceed the maximum permissible lot coverage.

### (3) Disability Variance

Notwithstanding subsection D (1) above, the Code Enforcement Officer may grant a variance to the owner of a dwelling for the purpose of making that dwelling accessible to a person with a disability who resides in or regularly uses the dwelling. Code Enforcement Officer 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. For the purpose of this subsection, a disability has the same meaning as a physical or mental handicap under M.R.S. 5 § 4553, and the term “structures necessary for access to or egress from the dwelling” is defined to include railing, wall or roof systems necessary for the safety or effectiveness of the structure.

## **3-1.9 APPELLANT AND VARIANCE APPLICANT REQUIREMENTS**

- A. Any person aggrieved by a municipal decision that is expressly subject to review by the Board of Appeals pursuant to ordinance or statute, shall commence his or her appeal within thirty (30) days after issuance

of a written decision from the Code Enforcement Officer, Planning Board or other municipal official.

- B. Variance applications may be submitted at any time.
- C. All appeals and variance applications shall be filed in duplicate with the Town Clerk on forms to be approved by the Board accompanied by statements and or photographs which shall become part of the record of such application or appeal.
- D. Each variance application shall indicate in writing that it has satisfied the required approval standards, if applicable, and explain the variance sought. Each administrative appellant shall indicate in writing the basis for his or her claim and cite the decision being appealed.
- E. It shall be the variance applicant's burden to present sufficient admissible evidence to enable the Board to make each and every affirmative finding necessary under the applicable ordinance to enable the Board to take the action being sought by the applicant. It shall be the administrative appellant's burden to provide the Board with the complete record of the proceedings below, and to identify any claimed errors of law, misinterpretations of the ordinance in question, or misapplication of law to the facts as found below. Each variance applicant or the appellant shall indicate in writing that he or she understands that it is his or her burden to prove his or her case to the Board.

The term "below" in the preceding paragraph refers to the proceedings from which the appeal is being taken.

- F. Each variance application or appeal shall identify the property involved and list the names and addresses of record, in the most recent tax listing of the Town, of all property owners within five hundred (500) feet of the properties in rural areas and two hundred and fifty (250) feet of properties in urban areas.
- G. After the first public notice of hearing, no amendment of any application or appeal shall be permitted except by order of the Board on motion of the application for good cause shown. If the Board approves an amendment, the Board may reschedule the public hearing, conduct the public hearing as originally scheduled, or conduct the hearing as originally scheduled and direct or authorize other appropriate steps to assure that the public's opportunity to comment on the application as amended is preserved. The Code Enforcement Office shall be responsible for placing a public notice in the same newspaper in which the original public notice appeared identifying the

application in the manner first published and describing the nature of the change.

- H. All applications must be accompanied by the appropriate application fee that shall be set by the Board of Selectmen. All applicable fees including but not limited to postage reimbursement, advertising fees, and/or consultant fees will be the responsibility of the applicant.

### **3-1.10 BOARD OF APPEALS PROCESSING**

- A. The Town Clerk shall record the date of receipt on the copies of any such appeal or application and shall forthwith transmit one copy of the notice of appeal or variance application to the Board of Appeals and keep the other copy available in the Town Clerk's office for public inspection.
- B. Before taking action on any appeal or variance application, the Board may hold a public hearing.
- C. The Board of Appeals, within twenty (20) days from receipt of a filing notice of an appeal or variance application, shall determine a meeting date, and cause to be advertised in a newspaper of general circulation in the Town a notice of the appeal or variance application identifying the property involved, the nature of the appeal or variance application, and the time and place of public meeting on the matter. The public meeting shall not be held earlier than ten (10) days after the date of such publication of notice.
- D. Within three (3) business days after the date of publication of the public hearing notice, the Board of Appeals shall mail by certified mail, return receipt requested, a copy of the notice of appeal or application for variance, to each of the property owners whose property physically abuts the property listed in the appeal or application. In addition, the Board shall mail the same notice, by first class mail, to the other property owners whose property is located within five-hundred (500) feet in rural areas (Tax Maps indicated with an "R") and two-hundred and fifty (250) feet in urban areas (Tax Map indicated with a "U") of the subject property. The owners of property shall be considered to be those against whom taxes are assessed. Failure of any property owner to receive a properly mailed notice of public hearing shall not necessitate another hearing and shall not invalidate any action of the Board.
- E. At any hearing a party may appear in person or by agent or attorney. Hearings shall not be continued to other times except for good cause.

- F. The Code Enforcement Officer or his designated assistant shall be notified of and shall attend all hearings and may present to the Board all plans, photographs, or other material he or she deems appropriate for an understanding of the appeal or variance application.
- G. The appellant's or applicant's case shall be heard first. To maintain orderly procedure, each side shall proceed without interruption. Questions may be asked through the Chairman. All persons at the hearing shall abide by the order of the Chairman.
- H. An appeal or variance granted by the Board under the provisions of this Ordinance shall expire if a Building Notification Form or Building Permit, whichever may apply, is not filed/obtained within six months of the date on which the appeal or variance is granted. The appeal or variance so granted shall state this restriction on its face.
- I. Title 30-A M.R.S.A. 4353(5) states "If the board grants a variance under this section, a certificate indicating the name of the current property owner, identifying the property by reference to the last recorded deed in its chain of title and indicating the fact that a variance, including any conditions on the variance, has been granted and the date of the granting, shall be prepared in a recordable form. This certificate must be recorded in the local registry of deeds within ninety (90) days of the date of the final written approval of the variance or the variance is void. The variance is not valid until recorded as provided in this subsection. For the purpose of this subsection, the date of the final written approval shall be the date stated on the written approval." The Town shall provide to the applicant a certificate appropriate for recording within thirty-five (35) days of the date of approval and it shall be the applicant's responsibility to record the document at the Franklin County Registry of Deeds as required by the statute.
- J. The Board shall render a decision on each appeal and variance application within thirty (30) days following the public hearing on such appeal or application unless the Board and the applicant mutually agree to an extension of time, or unless the Board determines that more time is necessary to make its decision.
- K. The Board shall keep a record of each appeal entertained, noting the date when received from the Town Clerk, the dates of meetings and hearings, and the person by whom such appeal or variance application was formally presented. The Board shall record in writing the reasons for its actions and the final disposition of each and every appeal or variance application.



- L. All of the foregoing shall be a matter of public record. Any plan, drawing or other data on which the Board has based its decision shall be endorsed thereon by the Board.
- M. All testimony in variance applications and argument in administrative appeals shall be transcribed and/or electronically recorded; and such transcripts together with all exhibits, documents, requests, applications, and other records filed in the proceedings shall constitute the record. All decisions shall become a part of the record and shall include a statement of findings and conclusions, including the basis or reasons for such findings and conclusions. Findings and conclusions shall be made on all the material issues of fact, law or discretion presented, and on all orders, approvals, reliefs or denials made on such issues.
- N. The Board may reconsider any decision within thirty (30) days of its prior decision. A vote to reconsider and the action taken on that reconsideration must occur and be completed within thirty (30) days of the date of the vote on the original decision.
- O. Notice of any decision and rights of and procedure for appeal to the Maine Superior Court shall be mailed (certified, return receipt) or hand delivered to the applicant, the applicant's representative or agent, the Board of Selectmen, and all other parties to the appeal within seven (7) days of such decision.
- P. An appeal may be taken, within forty-five (45) days after the decision is rendered (the date of the vote on the original decision), by any party to Superior Court from any order, relief or denial in accordance with Maine law.

### **3-1.11 AMENDMENTS**

- A. Initiation of Amendments: An amendment to this Ordinance may initiated by:
  - 1. The municipal officers, provided a majority of the municipal officers has so voted;
  - 2. Written petition of a number of voters equal to at least 10% of the number of votes cast in the municipality at the last gubernatorial elections.
- B. Public Hearing: The municipal officers shall hold a public hearing on the proposed amendment. Notification of the hearing shall be posted and advertised in a newspaper of general circulation in the

municipality at least seven (7) days prior to the hearing.

- C. Adoption of Amendment: An amendment to this Ordinance shall be adopted by a majority vote of a Town Meeting.

# TOWN OF FARMINGTON

## Board of Assessment Review Ordinance

ENACTED: July 19, 2004

CERTIFIED BY: Jeane E. Pankhan  
Name

Town Clerk  
Title

Affix Seal

# **Town of Farmington**

Adopted 07-19-04

## **Board of Assessment Review Ordinance**

### **Chapter 3. Review**

#### **Article 2. Board of Assessment Review**

##### **3-2.1 Establishment.**

Pursuant to 30-A M.R.S.A. § 2526(6), a Board of Assessment Review is hereby established for the Town of Farmington, Maine.

##### **3-2.2 Administration and Enforcement.**

The Municipal Officers, or their duly appointed agents, shall administer and enforce this Ordinance.

##### **3-2.3 Composition; qualifications; terms; vacancies.**

The Board shall consist of five (5) members who shall be appointed by the Municipal Officers and who shall be residents of the Town. No Municipal Officer or Assessor may be a member. Members shall serve for terms of three (3) years or until their successors are appointed, except that for transition purposes, initial terms shall be staggered so that as nearly an equal member of terms shall expire annually. Vacancies shall be filled within sixty (60) days by appointment by the Municipal Officers for the unexpired term.

##### **3-2.4 Officers; meetings; quorum; procedures.**

The Board shall annually elect from its membership a Chairman and a Secretary. The Chairman shall call meetings as necessary, shall preside at all meetings. The Secretary shall maintain a record of all proceedings including all correspondence of the Board. All meetings and records shall be subject to the Maine Freedom of Access Act, 1 M.R.S.A. § § 401-410, except as otherwise authorized by law. A quorum necessary to conduct business shall consist of at least three (3) members. The decision to grant abatement requires three (3) affirmative votes. The Board's procedure shall be governed by 30-A M.R.S.A. § 2691(3).

##### **3-2.5 Powers and duties.**

The Board shall hear and decide all appeals properly taken from the refusal of the Municipal Officers or Assessor to make such property tax abatements as are asked for. The Board may take such evidence and testimony as it deems necessary and may grant such abatements as it thinks proper. If the Board fails

to give written notice of its decision within sixty (60) days of the date the appeal is filed, unless the appellant agrees in writing to further delay, the appeal shall be deemed denied.

### 3-2.6 Appeals.

The Board's decisions may be appealed in accordance with 36 M.R.S.A. § 843.

### 3-2.7 Effective Date.

The effective date of this Ordinance shall be the date this Ordinance is adopted by the voters at Town Meeting.

### 3-2.8 Amendments and Severability.

a. An amendment to this Ordinance may be initiated by:

1. The Municipal Officers provided a majority of the Board has so voted;
2. Written petition of a number of voters equal to at least ten percent (10%) of the number of votes cast in the municipality at the last gubernatorial election.

b. Public Hearing: The Municipal Officers shall hold a public hearing on the proposed amendment. Notification of the hearing shall be posted and advertised in a newspaper of general circulation in the municipality at least seven (7) days prior to the hearing.

c. Adoption of the Amendment: An amendment to this Ordinance shall be adopted by a majority vote of a Town Meeting.

d. If any provision of this Ordinance is found by a court of competent jurisdiction to be unenforceable, the remaining provisions shall continue in full force and effect. This Ordinance shall become effective when adopted by a majority of the voters at any regular or special Town Meeting.

**Town of Farmington**  
**Budget Committee Ordinance**

Approved 07/22/03

Amended 06/23/09

**Section 1. Establishment.**

Pursuant to 30-A M.R.S.A. Section 3001, a Budget Committee is hereby established for the Town of Farmington, Maine

**Section 2. Composition; appointment; qualifications; terms; vacancies.**

The Committee shall consist of eleven (11) regular members and up to four (4) alternate members who shall be appointed by the municipal officers and who shall be registered voters of the Town. No municipal officer may be a member. No more than two (2) Town employees may be members, but they must abstain from voting on the budgets of the departments in which they are employed. Regular members shall serve for terms of three (3) years, except that they shall continue in office until their successors are appointed. For transition purposes, the initial terms shall be staggered so that as nearly an equal number of terms shall expire annually. Alternate members shall serve for terms of one (1) year, except that they shall continue in office until their successors are appointed. Vacancies shall be filled within sixty (60) days by appointment of the municipal officers for the unexpired term. All terms shall expire on June 30.

**Section 3. Officers; meetings; quorum; procedure.**

The Committee shall annually elect a Chairman, Vice Chairman and a Secretary from among its members. The Chairman shall call meetings as necessary or when so requested by a majority of members or the municipal officers. A quorum necessary to conduct business shall consist of a majority of members. Failure to attend three (3) consecutive Committee meetings without sufficient justification shall be grounds for removal by the municipal officers. Members may be excused by reporting anticipated absences to the Chairman or the Town Manager's office prior to the meeting. The Chairman shall preside at all meetings; the Vice Chairman shall preside if the Chairman is absent. The Secretary shall maintain a record of all proceedings including attendance and all correspondence of the Committee. All meetings and records shall be subject to the Maine Freedom of Access Act, 1 M.R.S.A. Sections 401-410. The Committee may adopt rules of procedure not inconsistent with this Ordinance.

**Section 4. Powers and duties; authority; recommendations; official cooperation.**

The Committee shall have the following powers and duties:


- A. To review and make recommendations on the annual operating budget as proposed by the municipal officers.
- B. To review and make recommendations on annual capital expenditures as proposed by the municipal officers.
- C. To review and make recommendations on supplemental appropriations and expenditures and other budgetary action whenever proposed by the municipal officers.
- D. To make such other recommendations on fiscal matters as it may from time to time deem advisable.

The Committee's authority shall be advisory only. Any recommendations on a matter requiring town meeting action shall be printed with the article in the warrant and on the ballot, if any, along with such other recommendations as may be included by the municipal officers or required by law. The municipal officers shall cooperate with and provide the Committee with such information as may be reasonably necessary and available to enable it to carry out its functions under this Ordinance.

# **TOWN OF FARMINGTON**

## **Emergency Management Ordinance**

Enacted: March 13, 2006

Certified by:   
Leanne Pinkham  
Name

Town Clerk  
Title

Affix Seal

## **TOWN OF FARMINGTON**

### **Chapter 2 - Administration**

#### **Article 8. Emergency Management Ordinance**

##### **2 – 8.1 Title and Authority**

This Ordinance shall be known as the Town of Farmington Emergency Management Ordinance. This Ordinance is enacted pursuant to the Home Rule power granted in the Maine Constitution, and Title 30-A M. R. S. A. Section 3001 et. seq.

##### **2 – 8.2 Purpose**

It is the intent and purpose of this Ordinance to establish an Emergency Management Agency in compliance and in conformity with the provisions of Title 37-B, MRSA, Section 781 et seq., to ensure the complete and efficient utilization of the Town's facilities and resources to combat disaster as defined herein.

##### **2 – 8.3 Definitions**

The following definitions shall apply in the interpretation of this Ordinance:

**Emergency Management Agency** - "Emergency Management Agency" means the agency created under this Ordinance for the preparation for and the carrying out of all emergency functions, other than functions for which military forces are primarily responsible, in order to minimize and repair injury and damage resulting from disasters or catastrophes caused by enemy or terrorist attacks, sabotage, riots or other hostile action, or by fire, flood, earthquake or other natural or man-made causes. These functions include, without limitation, firefighting, police, medical and health, emergency welfare, rescue, engineering, public warning and communications services; evacuation of persons from stricken areas; allocation of critical materials in short supply; emergency transportation; other activities related to civilian protection and other activities necessary to the preparation for the carrying out of these functions.

**Emergency Management Agency Forces** - "Emergency Management Agency Forces" mean the employees, equipment and facilities of all Town Departments, boards, institutions and commissions; and in addition, it shall include all volunteer persons, equipment and facilities contributed by or obtained from volunteer persons or agencies.

**Director** - "Director" means the Director of the Town of Farmington Emergency Management Agency, appointed as prescribed in this Ordinance.

**Disaster** - "Disaster" means the occurrence or imminent threat of widespread or severe damage, injury or loss of life or property resulting from any natural or man-made cause



including, but not limited to, fire, flood, earthquake, wind, storm, wave action, oil spill or other water contamination requiring emergency action to avert danger or damage, epidemic, air contamination, critical material shortage, infestation, explosion or riot.

## **2– 8.4 Organization**

The Town Manager shall be responsible for the agency's organization, administration and operation. The Town Manager may employ such permanent or temporary employees, as he deems necessary and prescribe their duties.

The Board of Selectmen shall review the existing operational organization to ascertain the agency's ability to cope with its responsibilities and shall approve the Town's Emergency Operations Plan.

## **2 – 8.5 Appointment of Director; Duties and Responsibilities**

The Board of Selectmen shall appoint an Emergency Management Director, who shall coordinate the activities of all Town Departments, organizations and agencies for civil emergency preparedness within the town and maintain a liaison with other emergency management agencies, public safety agencies, and have such additional duties as prescribed by the Town Manager.

## **2 – 8.6 Rules and Regulations**

The Emergency Management Director shall prepare, under the direction of the Town Manager, such policies as may be deemed necessary for the administration and operational requirements of the agency, which policies must be approved by the Board of Selectmen prior to becoming effective.

## **2 – 8.7 Emergency Proclamation**

The Town Manager shall have the power and authority, after consultation with the Chairman of the Board of Selectmen, to issue a proclamation that an emergency exists whenever a disaster or civil emergency exists or appears imminent. The proclamation may declare that an emergency exists in any or all sections of the town. If the Town Manager is temporarily absent from the town or otherwise unavailable, the person designated by the Town Manager may issue the proclamation that an emergency exists. If neither the Town Manager nor the person designated to act in the Town Manager's absence is available, then the following persons shall have the power and authority to issue a proclamation that an emergency exists, in the following order of succession: the Emergency Management Director, the Fire Chief, the Police Chief, and the Public Works Director. A copy of such proclamation shall be filed within twenty-four (24) hours in the office of the Town Clerk.

Notwithstanding the above, when consultation with the Chairman of the Board of Selectmen would result in a substantial delay in an effective response in alleviating or

preventing an emergency or disaster, the Town Manager, or his successor as outlined above, is authorized to take whatever actions are necessary to prevent the loss of life and property in the town.

The Town Manager and the Emergency Management Director shall be responsible for submitting a full report to the Board of Selectmen of all actions taken as a result of the declared emergency as soon as the Board of Selectmen can be convened.

## **2 – 8.8 Termination of Emergency**

When the Town Manager or his successor as outlined above is satisfied that a disaster or civil emergency no longer exists, he shall terminate the emergency proclamation by another proclamation affecting the sections of the Town covered by the original proclamation, or any part thereof. Said termination of emergency shall be filed in the office of the Town Clerk.

## **2 – 8.9 Town Manager's Duties and Emergency Powers**

- A. During any period when an emergency proclamation is in effect, the Town Manager may promulgate such regulations, as he deems necessary to protect life and property and to preserve critical resources within the purposes of this Ordinance. Such regulations may include, but are not limited to, the following:
  - 1. Regulations prohibiting or restricting the movement of vehicles in areas within or outside of the town;
  - 2. Regulations facilitating or restricting the movement of persons within the town;
  - 3. Regulations pertaining to the movement of persons from hazardous areas within the town;
  - 4. Such other regulations necessary to preserve public peace, health and safety.
- B. Nothing in this section shall be construed to limit the authority or responsibility of any Department to proceed under powers and authority granted to them by state statute or Town of Farmington Ordinance.
- C. The Town Manager or his designee may order the evacuation of persons from hazardous areas within the town.
- D. The Town Manager or his designee shall be authorized to request aid or assistance from the state or any political subdivision of the state and may render assistance to other political subdivision under the provisions of Title 37-B, M.R.S.A.
- E. The Town Manager may obtain vital supplies, equipment, and other items found lacking and needed for the protection of health, life and property during an emergency without following normal purchasing or formal bid procedures.

- F. The provisions of this section will terminate at the end of the declared emergency.

## **2 – 8.10 Emergency Operational Plans**

The Emergency Management Director shall prepare an all hazard emergency operational plan for the Town, which shall be submitted to the Board of Selectmen for approval.

It shall be the responsibility of all municipal Departments and agencies to perform the functions assigned and to maintain their portions of the plan in a current state of readiness. The Town plan shall be reviewed periodically by the Town Manager in conjunction with all the Town Department Heads and the Emergency Management Director.

## **2 – 8.11 Immunity from Liability**

All Emergency Management Agency Forces, while engaged in Emergency Management Agency activities, shall be immune from liability, as set forth in Title 37-B, Section 822 M.R.S.A.

## **2 – 8.12 Compensation for Injuries**

All Emergency Management Agency Forces will be deemed to be employees of the Town when engaged in training or on duty and shall have all of the rights of town employees under the Workmen's Compensation Act, as set forth in Title 37-B, Section 823 M.R.S.A.

## **2 – 8.13 Violation of Regulations**

It shall be unlawful for any person to violate any provisions of this Ordinance or of the regulations or plans issued pursuant to the authority contained herein, or to obstruct, hinder or delay any Emergency Management Agency Forces as herein defined in the enforcement of the provisions of this Ordinance or any regulation or plan issued hereunder.

## **2 – 8.14 Penalty**

Any person, firm or corporation violating any provision of this Ordinance or any rule or regulation promulgated hereunder, upon conviction thereof, shall be punished by a fine of not less than one hundred dollars (\$100.00) and not more than five hundred dollars (\$500.00) and the costs of prosecution.

## **2 – 8.15 Conflicting Ordinances, Orders, Rules and Regulations Suspended**

At all times when an emergency proclamation is in effect the orders, rules and regulations made and promulgated pursuant to this Ordinance shall supersede all existing Ordinances, orders, rules and regulations, insofar as the latter may be inconsistent herewith.

## **2 – 8.16 Amendments**

- A. An amendment to this Ordinance may be initiated by:
  - 1. The Board of Selectmen, provided a majority of the Board of Selectmen has so voted; or
  - 2. Written petition of a number of voters equal to at least ten percent (10%) of the number of votes cast in the municipality at the last gubernatorial election.
- B. The Board of Selectmen shall hold a public hearing on the proposed amendment. Notification of the hearing shall be posted and advertised in a newspaper of general circulation in the municipality at least seven (7) days prior to the hearing.

## **2 – 8.17 Validity and Severability**

Should any provisions of this Ordinance be declared invalid for any reason, such declaration shall not affect the validity of other provisions or of this Ordinance as a whole, it being the legislative intent that the provisions of this Ordinance shall be severable and remain valid notwithstanding such declaration.

## **2 – 8.18 Effective Date**

The effective date of this Ordinance shall be the date this Ordinance is adopted by the voters at Town Meeting.

# **TOWN OF FARMINGTON**

## **EMERGENCY SERVICES ACCESS TO BUILDINGS AND PROPERTY**

Because of the possibility of the unknown reason for alarms being activated and to avoid unnecessary damage to property, Fire Department Personnel should have normal access to certain buildings protected by Automatic Sprinklers and or Audible Heat and Smoke Sensors (whether connected to an Alarm Company or not). It is the intent of this Document to provide this access while still protecting the integrity of the property.

### **BUILDING/PROPERTY ACCESS:**

All newly constructed buildings except one and two family homes, without 24-hour 7 days a week access shall have a Knox Box building key security system installed on the exterior of said building. Building plans will not be approved by the Fire Chief if this provision is not included in the plans for construction.

The Fire Chief shall have discretion as to the need and placement of a Knox Box on existing buildings (EXAMPLE, if a building/property should have two Alarm Malfunctions/False Alarms or a combination of these in a given year, the Fire Chief and property owner/manager shall discuss the need for a Knox Box System installation). If an arrangement cannot be agreed upon, any additional Malfunction/False Alarms or combination of these will result in a monetary assessment payable to the Town of Farmington for not less than \$400.00. Exceptions are one and two family homes, which do not require Knox Boxes.

Cost of this Knox Box shall be the burden of the building owner/occupant.

Placement of the Knox Box shall be as close to the Main Entrance as practical and will not be obstructed from view.

This container shall contain all keys and or Security Codes necessary for Fire Personnel to gain access to the building and any area deemed a “high risk” area by the Authority Having Jurisdiction.

These keys and codes shall be kept up to date by the owner/occupant and reviewed by the Fire Department yearly.

Only the Fire Department shall have access to the Knox Box to allow for greater security of the property.

Information and application to the Knox Box Company may be obtained from the Fire Chief. The application may only be obtained and signed by the Fire Chief or his/her designee.

The Owner/Manager shall provide the Franklin County Communication Center with a current list of contact names and applicable telephone numbers for Alarm Notification. This list should be kept updated at all times by the above named Owner/Manager.

Adopted January 27, 2003

Amended July 19, 2017

# TOWN OF FARMINGTON

## Fire & Life-Safety Ordinance

ENACTED:

March 23, 2013

CERTIFIED BY:

Reanne Elunkhan

Name

Town Clerk

Title

Affix Seal

**Town of Farmington**  
**Chapter 11 – Land Use**  
**Article 15 – Fire & Life-Safety Ordinance**

**11-15.1 Title:**

This Ordinance shall be known and cited as the Town of Farmington "Fire & Life-Safety Ordinance" and will be referred to herein as "this Ordinance".

**11-15.2 Authority, Purpose, and Administration:**

- A. This Ordinance is established under the authority of Title 30-A M.R.S. §3001 et seq. (State "Home-Rule" law) by the Town of Farmington (hereinafter "Town").
- B. The purpose of this Ordinance is the local adoption and imposition of the NFPA-1 (Fire) and NFPA-101 (Life-Safety) Codes throughout the Town of Farmington to promote fire-safety and life-safety for persons and the structures they occupy.

The editions of NFPA-1 and NFPA-101 adopted and currently in-use by the State Fire Marshal's Office (FMO) at the time of adoption of this Ordinance shall be the versions initially adopted by the Town. Subsequently, at any time the FMO adopts a newer edition of the subject Codes, this will trigger automatic adoption and imposition of same by the Town.

Where applicable, buildings and structures regulated under this Ordinance may also be subject to the following State laws, which also have provisions for local authority and enforcement:

10 M.R.S. §9724	"Maine Uniform Building and Energy Code"
25 M.R.S. §2351 et seq.	"Municipal Inspection of Buildings"
25 M.R.S. §2371 et seq.	"Building Codes & Standards"
32 M.R.S. §3403-B	"Plumbing Code"
14 M.R.S. §6021 et seq.	"Rental Property"
17 M.R.S. §2851 et seq.	"Dangerous Buildings"
30-A M.R.S. §4452	"Enforcement of Land Use Laws & Ordinances"

**C. Administration**

The Farmington Fire Rescue Department shall have primary responsibility for administration of this Ordinance, with enforcement assistance provided by the Town's Code Enforcement Office, both per 30-A M.R.S. §4452(5)A.

Per 30-A M.R.S. §4452(5)A, it shall be the administrative responsibility of the Farmington Fire Rescue Department to determine and make public the sections of NFPA-1 and NFPA-101 to be adopted locally at the time of initial enactment of this Ordinance and at the time of any subsequent adoption of newer editions of these Codes by the FMO.



### **11-15.3 Applicability:**

This Ordinance shall apply to all structures within the Town of Farmington, including: multi-unit residential, commercial, and industrial; new and existing construction; expansions, additions, relocations, and conversions; and manufactured housing installations. Exempted from this Ordinance are owner-occupied single-family and duplex residential structures.

### **11-15.4 Validity and Severability:**

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

### **11-15.5 Conflicts with other Ordinances:**

Whenever a provision of this Ordinance conflicts with or is inconsistent with another provision of this Ordinance or any other ordinance, regulation, or statute, the more restrictive provision shall apply.

### **11-15.6 Effective Date:**

The effective date of this Ordinance shall be the date this Ordinance is adopted by the voters at the Annual Town Meeting.

### **11-15.7 Inspection Required; Entry Allowed:**

Before any construction, addition, alteration, demolition, relocation, or foundation work is commenced on any property and/or structure for which the owner, or an authorized agent for the owner, has filed a Project Registration Form with the Code Enforcement Office and/or a Building Notification Form with the Assessing Office, the owner, or an authorized agent for the owner, shall contact the Farmington Fire Rescue Department so they can determine if the subject property must be inspected per 25 M.R.S. §2353-A and §2354 by personnel from same under the editions and sections of NFPA-1 and NFPA-101 currently in effect in the Town, if these codes are applicable to the subject project. The Code Enforcement Office and the Assessing Office will forward all Project Registration Forms and Building Notification Forms to the Fire Rescue Department to notify them of the need for determining whether said inspections must be done.

Per 25 M.R.S. §2351-A, whenever NFPA-1 and/or NFPA-101 are applicable to a structure, designated personnel from the Fire Rescue Department and/or Code Enforcement Office shall have the right to enter any premises to inspect under the editions and sections of NFPA-1 and NFPA-101 currently in effect in the Town, on the basis of a request to do same: by the owner, by an authorized agent for the owner; by the Code Enforcement Office and/or the Assessing Office; by a tenant; or in response to an emergency call to Fire Rescue.

### **11-15.8 Amendments:**

- A. Initiation of Amendments:** An amendment to this Ordinance may be initiated by:

1. The Municipal Officers, provided a majority of the Municipal Officers has so voted; or
2. Written petition of a number of voters equal to at least 10% of the number of votes cast in the municipality at the last gubernatorial election.

**B. Public Hearing:** The Municipal Officers shall hold a public hearing on the proposed amendment in accordance with 30-A M.R.S. §4352(9). Notification of the hearing shall be posted and advertised twice in a newspaper of general circulation in the municipality. The date of the first publication must be at least seven (7) days prior to the hearing. Notice of the hearing must be posted in the municipal office at least thirteen (13) days before the hearing.

**C. Adoption of the Amendment:** An amendment to this Ordinance shall be adopted by majority vote of the Town Meeting.

### **11- 15.9 Enforcement:**

Any property owner that has received a Citation of Violation(s) and/or Statement of Deficiencies from either the Fire Rescue Department and/or the Code Enforcement Office is required to return a Plan of Correction within 10 days of receipt, stating how and when the violations and/or deficiencies will be corrected. Failure by the property owner to furnish a Plan of Correction within ten (10) days, stating how and when the violations and/or deficiencies will be corrected, shall be a civil violation per 30-A M.R.S. §4452.

Any building project commenced without Fire Rescue Department inspection, when applicable under 11-15.7, as of the enactment date of this Ordinance, shall be considered a violation. The Fire Rescue Department and/or Code Enforcement Office shall order the property owner to obtain the required inspection within ten (10) days. Failure by the property owner to obtain an inspection within ten (10) days of said order shall be a civil violation per 30-A M.R.S. §4452. The Fire Rescue Department and Code Enforcement Office are authorized to commence an action seeking penalties, injunctive relief, and attorney's fees to correct the violation(s) per 30-A M.R.S. §4452.

Any violation of this Ordinance, including failure to comply with any condition, shall be deemed to be a violation of 30-A M.R.S. §4452. Every day a violation exists constitutes a separate offense.

### **11 - 15.10 Appeals:**

Any person aggrieved by the action of the Fire Rescue Department and/or Code Enforcement Office may appeal to the Board of Appeals by filing a notice of appeal within thirty (30) days after receipt of the Fire Rescue Department's and/or Code Enforcement Office's notification. Administrative appeals submitted under this Ordinance shall be subject to the standards and procedures established by the Town of Farmington Board of Appeals Ordinance.

# TOWN OF FARMINGTON

## Floodplain Management Ordinance

ENACTED: August 2, 1995

AMENDED: March 13, 2006

CERTIFIED BY: Jeanne E. Linkhan  
Name

Town Clerk  
Title

Affix Seal

## **PREFACE - STATEMENT OF PURPOSE AND INTENT**

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

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

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

This body has the legal authority to adopt land use and control measures to reduce future flood losses pursuant to MRSA Title 30A, Sections 3001-3007, 4352 4401-4407, and Title 38 M.R.S.A., Section 440.

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60.3 (c & d) Rev. 2/95

**Town of Farmington  
Chapter 11 – Land Use  
Article 2 – Floodplain Management Ordinance**

**11-2.1 ESTABLISHMENT**

The Town of Farmington, Maine elects to comply with the requirements of the National Flood Insurance Act of 1968 (P.L. 90-488, as amended). The National Flood Insurance Program, established in the aforesaid Act, provides that areas of the Town having a special flood hazard be identified by the Federal Emergency Management Agency (FEMA) 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 Farmington, Maine.

The areas of special flood hazard, Zones A, A1-3O, AE, AO, and AH, identified by FEMA in a report entitled "Flood Insurance Study - Town of Farmington, Maine, Franklin County," dated July 3, 1995 with accompanying "Flood Insurance Rate Map" dated July 3, 1995 is hereby adopted by reference and declared to be a part of this Ordinance.

**11-2.2 PERMIT REQUIRED**

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

**11-2.3 APPLICATION FOR PERMIT**

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

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

- E. A statement as to the type of sewage system proposed;
- F. Specification of dimensions of the proposed structure;
- G. The elevation in relation to the National Geodetic Vertical Datum (NGVD) or to a locally established datum in Zone A only, of the:
  - 1. base flood at the proposed site of all new or substantially improved structures, which is determined:
    - a. in Zones A1-30, AE, AO, and AH from data contained in the "Flood Insurance Study - Town of Farmington, Maine," as described in Article I; or,
    - b. in Zone A, to be the elevation of the ground at the intersection of the floodplain boundary and a line perpendicular to the shoreline which passes along the ground through the site of the proposed building;
  - 2. highest and lowest grades at the site adjacent to the walls of the proposed building;
  - 3. lowest floor, including basement; and whether or not such structures contain a basement; and,
  - 4. level, in the case of non-residential structures only, to which the structure will be floodproofed;
- H. A description of a base flood elevation reference point established on the site of developments for which elevation standards apply as required in Article VI;
- I. A written certification by a professional land surveyor, registered professional engineer, or architect, that the base flood elevations and grade elevations shown on the application are accurate;
- J. Certification by a registered professional engineer or architect that floodproofing methods for any non-residential structures will meet the floodproofing criteria of Articles III.G.4; VI.G; and other applicable standards in Article VI.
- K. A description of the extent to which any water course will be altered or relocated as a result of the proposed development; and,
- L. A statement of construction plans describing in detail how each applicable development standard in Article VI will be met.

#### **11-2.4 APPLICATION FEE AND EXPERT'S FEE**

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

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

#### **11-2.5 REVIEW OF STANDARDS FOR FLOOD HAZARD DEVELOPMENT PERMIT APPLICATIONS**

The Planning Board shall:

- A. Review all applications for the Flood Hazard Development Permit to assure that proposed building sites 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, the base flood and floodway data contained in the "Flood Insurance Study - Town of Farmington, Maine," as described in Article I. In special flood hazard areas where base flood elevation and floodway data are not provided, the Planning Board shall obtain, review and reasonably utilize any base flood elevation and floodway data from federal, state, or other sources, including information obtained pursuant to Article III.G.1.b.; Article VI.I; and Article VIII.D, in order to administer Article VI of this Ordinance;
- C. Make interpretations of the location of boundaries of special flood hazard areas shown on the maps described in Article I of this Ordinance;
- D. In the review of Flood Hazard Development Permit applications, determine that all necessary permits have been obtained from those federal, state, and local government agencies from which prior approval is required by federal or state law, including but not limited to Section 404 of the Federal Water Pollution Control Act Amendments of 1972, 33 U.S.C. 1344;



- E. Notify adjacent municipalities, the Department of Environmental Protection, and the Maine Office of Community Development prior to any alteration or relocation of a water course;
- F. Issue a two-part Flood Hazard Development Permit for elevated structures. Part I shall authorize the applicant to build a structure to and including the first horizontal floor only above the base flood level. At that time the applicant shall provide the Code Enforcement Officer with an application for Part II of the Flood Hazard Development Permit and shall include an Elevation Certificate completed by a registered Maine surveyor for compliance with the elevation requirements of Article VI, paragraphs F, G, H, and K. Following review of the application, which review shall take place within 72 hours of receipt of the application, the Code Enforcement Officer shall issue Part II of the Flood Hazard Development Permit. Part II shall authorize the applicant to complete the construction project; and,
- G. Maintain, as a permanent record, copies of all Flood Hazard Development Permits issued and data relevant thereto, including reports of the Board of Appeals on variances granted under the provisions of Article IX of this Ordinance, and copies of Elevation Certificates and Certificates of Compliance required under the provisions of Article VII of this Ordinance.

#### **11-2.6 DEVELOPMENT STANDARDS**

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

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

- C. All new and replacement sanitary sewage systems shall be designed and located to minimize or eliminate infiltration of flood waters into the system and discharges from the system into flood waters.
- D. On-site waste disposal systems shall be located and constructed to avoid impairment to them or contamination from them during floods.
- E. All development shall be constructed and maintained in such a manner that no reduction occurs in the flood carrying capacity of any watercourse.
- F. New construction or substantial improvement of any residential structure located within:
  - 1. Zones A1-30, AE, and AH shall have the lowest floor (including basement) elevated to at least one foot above the base flood elevation.
  - 2. Zones AO and AH shall have adequate drainage paths around structures on slopes, to guide floodwater away from the proposed structures.
  - 3. Zone AO shall have the lowest floor (including basement) elevated above the highest adjacent grade:
    - a. at least one foot higher than the depth specified in feet on the community's Flood Insurance Rate Map; or,
    - b. at least three feet if no depth number is specified.
  - 4. 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.G.1.b.; Article V.B; or Article VIII.D.
- G. New construction or substantial improvement of any non - residential structure located within:
  - 1. Zones A1-30, AE, and AH 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 level so that below that elevation the structure is watertight with walls substantially impermeable to 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 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.J and shall include a record of the elevation above mean sea level of the lowest floor including basement.
- 2. Zones AO and AH shall have adequate drainage paths around structures on slopes, to guide floodwater away from them.
- 3. Zone AO shall have the lowest floor (including basement) elevated above the highest adjacent grade:
  - a. at least one foot higher than the depth specified in feet on the community's Flood Insurance Rate Map; or,
  - b. at least three feet if no depth number is specified; or,
  - c. together with attendant utility and sanitary facilities be floodproofed to meet the elevation requirements of this section and floodproofing standards of Article VI, paragraph G.1.
- 4. 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.G.1.b.; Article V.B; or Article VIII.D.
- H. New or substantially improved manufactured homes located within:
  - 1. Zones A1-30, AE, or AH shall:
    - a. be elevated on a permanent foundation so that the lowest floor is at least one foot above the base flood elevation; and,
    - b. 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 (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 (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 shall be capable of carrying a force of 4,800 pounds.
  - 2. Zones AO and AH shall have adequate drainage paths around structures on slopes, to guide floodwater away from them.
  - 3. Zone AO shall have the lowest floor (including basement) elevated above the highest adjacent grade:
    - a. at least one foot higher than the depth specified in feet on the community's Flood Insurance Rate Map; or,
    - b. at least three feet if no depth number is specified; and,
    - c. meet the requirements of Article VI.H.1.(a)(b).
  - 4. 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.G.1.b.; Article V.B; or Article VIII.D.
- I. Recreational Vehicles located within:
  - 1. Zones A1-A30, AH, and AE shall either:
    - a. Be on the site for fewer than 180 consecutive days,
    - b. Be fully licensed and ready for highway use. A recreational vehicle is ready for highway use if it is on its wheels or jacking system, is attached to the site only by quick disconnect type utilities and security devices, and has no permanently attached additions; or,
    - c. Meet the permit requirements of elevation and anchoring requirements for "manufactured home" in Article VI. H. a & b.
- J. Floodways
  - 1. In Zones A1-30 and AE encroachments, including fill, new construction, substantial improvement, and other development shall not be permitted in riverine areas, for which a regulatory floodway is designated on the community's "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 AE riverine areas, for which no regulatory floodway is designated, encroachments, including fill, new construction, substantial improvement, and other development shall not be permitted 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 will not increase the water surface elevation of the base flood more than one foot at any point within the community; and,
  3. In Zone A riverine areas, in which 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, encroachments, including fill, new construction, substantial improvement, and other development shall not be permitted unless a technical evaluation certified by a registered professional engineer is provided meeting the requirements of Article VI, paragraph J.2.
- K. New construction or substantial improvement of any structure in Zones A1-30, AE, AO, AH, 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 crawlspace less than three feet in height may be enclosed below the elevation requirements provided all the following criteria are met or exceeded:
1. Walls, with the exception of crawlspace less than three feet in height, shall not be part of the structural support of the building; and,
  2. Enclosed areas are not "basements" as defined in Article XIII; and,
  3. Enclosed areas shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwater. Designs for meeting this requirement must either:
    - a. be certified by a registered professional engineer or architect; or,
    - b. meet or exceed the following minimum criteria:
      - (1) a minimum of two openings having a total net area of not less than one square inch for every square foot of the enclosed area;

- (2) the bottom of all openings shall be no higher than one foot above the lowest grade; and,
  - (3) openings may be equipped with screens, louvers, valves, or other coverings or devices provided that they permit the entry and exit of flood waters automatically without any external influence or control such as human intervention, including the use of electrical and other non-automatic mechanical means; and,
- 4. The enclosed area shall not be used for human habitation; and,
- 5. The enclosed area may be used for building maintenance, access, parking vehicles, or storing of articles and equipment used for maintenance of the building.

#### **11-2.7 CERTIFICATE OF COMPLIANCE**

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

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

### **11-2.8 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 elevation, 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, 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 stated on any map, plat, or plan to be signed by the Planning Board or local reviewing authority as part of the approval process.

### **11-2.9 APPEALS AND VARIANCES**

The Board of Appeals of the Town of Farmington, Maine, 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 existence 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 or 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-J 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 reconstruction, rehabilitation, or restoration of structures listed on the National Register of Historic Places or a State Inventory of Historic Places, without regard to the procedures set forth in Article IX, paragraphs A through D.



F. Any applicant who meets the criteria of Article IX, paragraphs A through E shall be notified by the Board of Appeals in writing 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 twenty 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 days after the close of the hearing, and shall issue a written decision on all appeals.
6. The Board of Appeals shall submit to the Planning Board a report of all variance actions, including justification for the granting of the variance and an authorization for the Planning Board to issue a Flood Hazard Development Permit, which includes any conditions to be attached to said permit.
7. Any aggrieved party who participated as a party during the proceedings before the Board of Appeals may take an appeal to Superior Court in

accordance with State laws within forty-five days from the date of any decision of the Board of Appeals.

#### **11-2.10 ENFORCEMENT AND PENALTIES**

- A. It shall be the duty of the Code Enforcement Officer to enforce the provisions of this Ordinance pursuant to 30A MRSA § 4452.
- B. The penalties contained in 30A MRSA § 4452 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, or ordinance;
  - 3. a 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.

### **11-2.11 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.

### **11-2.12 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.

### **11-2.13 DEFINITIONS**

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

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

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

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

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

**Base Flood** - means the flood having a one percent chance of being 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.

**Breakaway Wall** - means a wall that is not part of the structural support of the building and is intended through its design and construction to collapse under specific lateral

loading forces, without causing damage to the elevated portion of the building or supporting foundation system.

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

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

**Code Enforcement Officer** - A person certified under Title 30-A M.R.S.A., Section 4451 (including exceptions in Section 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, AE, A, A99, AO, or AH, to have the top of the elevated floor, elevated above the ground level by means of pilings, columns, post, piers, or "stilts;" and
- (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, AE, A, A99, AO, or AH, Elevated Building also includes a building elevated by means of fill or solid foundation perimeter walls less than three feet in height with openings sufficient to facilitate the unimpeded movement of flood waters, as required in Article VI.K.

**Elevation Certificate** - An official form (FEMA Form 81-31, 01/03, 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 a 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 .K. 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.

**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) in riverine areas is considered to be the channel of a river or other water course and the adjacent land areas to a distance of one-half the width of the floodplain, as measured from the normal high water mark to the upland limit of the floodplain.

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

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

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

**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.

#### **11-2.14 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 (c & d).

# **GENERAL ASSISTANCE ORDINANCE**



**Prepared by Maine Municipal Association  
September 2013**

GENERAL ASSISTANCE ORDINANCE

The Municipality of \_\_\_\_\_ enacts the following General Assistance Ordinance. This Ordinance is filed with the Department of Health & Human Services (DHHS) in compliance with Title 22 M.R.S.A. §4305(4).

Signed the \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_, by the municipal officers:  
(day) (month) (year)

_____	_____
(Print Name)	(Signature)

_____	_____
(Print Name)	(Signature)

_____	_____
(Print Name)	(Signature)

_____	_____
(Print Name)	(Signature)

_____	_____
(Print Name)	(Signature)

_____	_____
(Print Name)	(Signature)

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## ARTICLE I

### Statement of Policy

The Municipality of \_\_\_\_\_ administers a program of general assistance (GA) available to all persons who are eligible to receive assistance in accordance with the standards of eligibility as provided within this ordinance, Department of Health and Human Services (DHHS) GA policy and in 22 M.R.S.A. § 4301 et seq.

Every effort will be made to recognize the dignity of the applicant while encouraging self-reliance. The program will strive to help eligible persons achieve self-maintenance by promoting the work incentive. When possible, it will seek to alleviate needs other than financial through rehabilitative, preventive and protective services. The general assistance program will place no unreasonable restrictions on the personal rights of the applicant or recipient, nor will there be any unlawful discrimination based on sex, age, race, nationality, religion, sexual orientation or disability. The municipality is committed to including qualified individuals with disabilities, in municipal services, programs, and activities. As a result, the municipality will promote a GA program that when viewed in its entirety, is readily accessible to and usable by individuals with disabilities. GA applicants with physical or mental disabilities that require a reasonable accommodation in order to access and/or utilize the municipal GA program are encouraged to provide the municipality with advance notice regarding the accommodation request.

The general assistance administrator will act promptly on all applications for assistance and requests for fair hearings. GA applicants will be provided information regarding their rights and responsibilities under the GA program. Within 24 hours of receiving an application, the administrator will provide the applicant a written decision, whether or not assistance is granted, that will state the specific reasons for the decision. The administrator will also provide the applicant written notice that the applicant may appeal to the municipal fair hearing authority if dissatisfied with the decision. When an

applicant is determined to be eligible, assistance appropriate to the need will be furnished within 24 hours after the completed application is submitted except when the administrator issues non-emergency assistance conditionally on the successful completion of a workfare assignment (*see section 5.6 of this ordinance*).

The administrator will maintain complete and accurate records pertaining to each applicant and recipient. These records are confidential as a matter of law (*see 22 MRSA §4306*).

The administrator will post notice stating the day(s) and hours the administrator will be available. The administrator, or other designated person/entity, will be available to take applications in the event of an emergency at all other times. A copy of this ordinance and Maine General Assistance law will be readily available to any member of the public upon request. Notice to this effect will be posted.

## ARTICLE II

### Definitions

#### Section 2.1—Common Meaning of Words

Unless otherwise apparent or defined, all words in this ordinance will have their common meaning.

#### Section 2.2—Special Definitions

**Applicant.** A person who has submitted, either directly or through an authorized representative, an application for general assistance or who has, in an emergency, requested assistance without first completing an application. In addition, all persons on whose behalf an authorized application has been submitted or on whose behalf benefits have been granted shall be considered applicants.

**Application Form.** A standardized form used by the general assistance administrator for the purpose of allowing a person to apply for general assistance and confirming the fact that a person has made application. The application form must be signed by the applicant to be considered complete.

**Basic Necessities.** Food, clothing, shelter, fuel, electricity, non-elective essential medical services as prescribed by a physician, nonprescription drugs, basic telephone service where it is necessary for medical reasons, property taxes when a tax lien placed on the property threatens the loss of the applicant's place of residence, and any other commodity or service determined essential by the municipality.

"Basic necessities" do not include:

- Phone bills
- Cable or satellite dish television
- Mail orders
- Vehicle payments
- Credit card debt\*\*
- Furniture
- Loan re-payments\*\*

- |  |  |
|--|--|
| <ul style="list-style-type: none"> <li>• Cigarettes</li> <li>• Alcohol</li> <li>• Pet care costs</li> <li>• Vacation costs</li> <li>• Legal fees</li> <li>• Late fees</li> <li>• Key deposits</li> <li>• Security deposits for rental property(except for those situations where no other</li> </ul> | <p>permanent lodging is available unless a security deposit is paid, and a waiver, deferral or installment arrangement cannot be made between the landlord and tenant to satisfy the need for the immediate payment of the security deposit or payment in full) (22 M.R.S.A. § 4301(1)).</p> |
|--|--|

**\*\*Repayments of loans or credit will be treated as having been spent on basic necessities when the applicant can provide verification of this fact.**

**Case Record.** An official file containing application forms; correspondence; narrative records and all other communications pertaining to an applicant or recipient; written decisions regarding eligibility including reasons for those decisions as well as the types and amounts of assistance provided; and all records concerning an applicant's request for fair hearing and those fair hearing decisions.

**Categorical Assistance.** All state and federal income maintenance programs.

**Claimant.** A person who has requested a fair hearing.

**Deficit.** An applicant's deficit is the appropriate overall maximum level of assistance for the household as provided in section 6.8 of this ordinance less the household income as calculated pursuant to section 6.7 of this ordinance, provided such a calculation yields a positive number. If the household income is greater than the appropriate overall maximum level of assistance, the household has no deficit.

**Disabled Person.** A person who is presently unable to work or maintain a home due to a physical or mental disability that is verified by a physician or qualified mental health provider.

**Dwelling Unit.** A building or part thereof used for separate living quarters for one or more persons living as a single housekeeping unit (22 M.R.S.A. § 4301(2)).

**Eligible Person.** A person who is qualified to receive general assistance from the municipality according to the standards of eligibility set forth in this ordinance (22 M.R.S.A. § 4301(3)). “Eligible Person” does not include a fugitive from justice as defined in 15 M.R.S.A. § 201(4).

**Emergency.** Any life threatening situation or a situation beyond the control of the individual which, if not alleviated immediately, could reasonably be expected to pose a threat to the health or safety of a person. At the municipality’s option, a situation which is imminent and which may result in undue hardship or unnecessary cost to the individual or municipality if not resolved immediately. (22 M.R.S.A. §§ 4301(4), 4308(2), 4310).

**General Assistance Program.** A service administered by a municipality for the immediate aid of persons who are unable to provide the basic necessities essential to maintain themselves or their families. A general assistance program provides a specific amount and type of aid for defined needs during a limited period of time and is not intended to be a continuing “grant-in-aid” or “categorical” welfare program. This definition shall not in any way lessen the responsibility of each municipality to provide general assistance to a person each time that the person is in need and is found to be otherwise eligible to receive general assistance (22 M.R.S.A. § 4301(5)).

**General Assistance Administrator.** A municipal official designated to receive applications, make decisions concerning an applicant’s right to receive assistance, and prepare records and communications concerning assistance. He or she may be an elected overseer or an authorized agent such as a town manager, welfare director, or caseworker (22 M.R.S.A. § 4301(12)).



**Household.** “Household” means an individual or a group of individuals who share a dwelling unit. When an applicant shares a dwelling unit with one or more individuals, even when a landlord-tenant relationship may exist between individuals residing in the dwelling unit, eligible applicants may receive assistance for no more than their pro rata share of the actual costs of the shared basic needs of that household according to the maximum levels of assistance established in the municipal ordinance. The pro rata share is calculated by dividing the maximum level of assistance available to the entire household by the total number of household members. The income of household members not legally liable shall be considered as available to the applicant only when there is a pooling of income (22 M.R.S.A. § 4301(6)).

**Income.** “Income” means any form of income in cash or in kind received by the household including:

- Net remuneration for services performed
- Cash received on either secured or unsecured credit
- Payments received as an annuity, retirement or disability benefits
- Veterans’ pensions and/or benefits
- Retirement accounts or benefits
- Workers’ compensation
- Unemployment benefits
- Federal and/or state tax returns
- Benefits under any state or federal categorical assistance
- program such as, TANF, Supplemental Security Income, Social Security and any other payments from governmental sources (unless specifically prohibited by any law or regulation)
- Court ordered support payments, e.g., child support
- Income from pension or trust funds
- Household income from any other source, including relatives or unrelated household members
- Student loans
- Rental income

The following items shall not be considered as income or assets that must be liquidated for the purposes of deriving income:

- 1) Real or personal income-producing property, tools of trade, governmental entitlement specifically treated as exempt assets by state or federal law;
- 2) Actual work-related expenses, whether itemized or by standard deduction, such as taxes, retirement fund contributions, union dues, transportation costs to and from work, special equipment costs and child care expenses; or
- 3) Earned income of children below the age of 18 years who are full-time students and who are not working full time.

In determining need, the period of time used as a basis for the calculation shall be a 30-day period commencing on the date of the application. This prospective calculation shall not disqualify an applicant who has exhausted income to purchase basic necessities, provided that the income does not exceed the income standards established by the municipality (22 M.R.S.A. § 4301(7)).

- 4) Certain public benefit programs are specifically exempt from being counted as income for purposes of GA. These programs include:
  - Food Stamps (7 USCS § 2017(b))
  - Li-Heap (42 USCS § 8624)
  - Family Development Accounts (22 M.R.S. § 3762)
  - Americorp VISTA program benefits (42 USCS § 5044 (f))
  - Property tax rebates issued under the Maine Property Tax Fairness Credit program, only so long as the money is spent on basic necessities. (22 M.R.S.A. § 4301(7))
  - Aspire Support Service Payments (10-144 CMR Chapter 323)

**Initial Applicant.** A person who has not applied for assistance in this or any other municipality is considered an initial applicant.

**Just Cause.** A valid, verifiable reason that hinders an individual from complying with one or more conditions of eligibility or from attending a scheduled fair hearing (22 M.R.S.A. § § 4301(8), 4316-A(5)).

**Lump Sum Payment.** A one-time or typically nonrecurring sum of money issued to an applicant or recipient. Lump sum payment includes, but is not limited to, retroactive or settlement portions of social security benefits, workers' compensation payments, unemployment benefits, disability income, veterans' benefits, severance pay benefits, or money received from inheritances, lottery winnings, personal injury awards, property damage claims or divorce settlements. A lump sum payment includes only the amount of money available to the applicant after payment of required deductions has been made from the gross lump sum payment. A lump sum payment does not include conversion of a non-liquid resource to a liquid resource if the liquid resource has been used or is intended to be used to replace the converted resource or for other necessary expenses. (22 MRSA § 4301 (8-A)).

**Material Fact.** A material fact is a fact that necessarily has some bearing on the determination of an applicant's general assistance eligibility, and which would, if disclosed to the administrator, have some determinable effect on the calculation of eligibility or the issuance of a grant of assistance.

**Maximum Levels of Assistance.** The amount of financial assistance for a commodity or service as established in section 6.8 of this ordinance or the actual cost of any such basic necessity, whichever is less.

**Misconduct.** For purposes of the GA work requirement (*see 22 MRSA §4316-A*) misconduct shall have the same meaning as misconduct defined in 26 MRSA §1043 (23). (*See Appendix I of this ordinance for the official definition of misconduct.*) Generally, employees are guilty of misconduct when the employee violates his or her

duties or obligations to the employer. Employees who engage in a pattern of irresponsible behavior to the detriment of the employer's interest may also be found guilty of misconduct.

**Municipality.** Any city, town or plantation administering a general assistance program.

**Municipality of Responsibility.** The municipality which is financially liable for the support of an eligible person at the time of application (22 M.R.S.A. § § 4301(9), 4307).

**Need.** The condition whereby a person's income, money, property, credit, assets or other resources available to provide basic necessities for the individual and the individual's family are less than the maximum levels of assistance (22 M.R.S.A. § § 4301(10), 4308).

**Net General Assistance Costs.** Those direct costs incurred by a municipality in providing assistance to eligible persons according to standards established by the municipal officers. These do not include the administrative expenses of the general assistance program (22 M.R.S.A. §§ 4301(11), 4311).

**Period of Eligibility.** The time for which a person has been granted assistance. The period of eligibility may vary depending on the type of assistance provided, however, in no event shall this period extend beyond one month (22 M.R.S.A. § 4309(1)).

**Pooling of Income.** "Pooling of income" means the financial relationship among household members who are not legally liable for mutual support in which there occurs any commingling of funds or sharing of income or expenses. Municipalities may by ordinance establish as a rebuttable presumption that persons sharing the same dwelling unit are pooling their income. Applicants who are requesting that the determination of eligibility be calculated as though one or more household members are not pooling their income have the burden of rebutting the presumed pooling of income.

**Real Estate.** Any land, buildings, homes, mobile homes and any other things affixed to the land (22 M.R.S.A. § 4301(13)).

**Recipient.** A person who has applied for and is currently receiving general assistance.

**Repeat Applicants.** All applicants for general assistance that are not initial applicants are repeat applicants. For purposes of this ordinance repeat and subsequent shall have the same meaning.

**Resident.** A person who is physically present in a municipality with the intention of remaining in that municipality in order to maintain or establish a home and who has no other residence. A person who applies for assistance in a municipality who is not a resident of that municipality or any other municipality is the responsibility of the municipality where the person first applies. That municipality must take an application and grant assistance to the applicant if he/she is eligible, until he/she establishes a new residence in another municipality (22 M.R.S.A. § 4307).

**Resources.** Resources include any program, service, or other sources of support which are an alternative to or supplement for general assistance. There are two kinds of resources: “available” and “potential”. Potential resources are programs, services, non-liquid assets, or trusts that typically require people to apply in writing and/or wait a period of time before eligibility is determined or the potential income is released.

Potential resources include but are not limited to any state or federal assistance program, employment benefits, governmental or private pension program, available trust funds, support from legally liable relatives, child support payments, and jointly held resources where the applicant or recipient share may be available to the individual (22 M.R.S.A. § 4317). Potential resources include the TANF (previously known as AFDC) program, Food Stamps, fuel assistance (HEAP), subsidized housing, and similar programs.

Available resources include resources which are immediately available to the applicant or which can be conveniently secured by the applicant without delay, such as cash on hand or in bank accounts, assets for which there is an immediate and available market, or support from relatives which is being made available at the time of application and for

which the applicant does not have to take any unreasonable steps to secure (e.g., relocation beyond the immediate region). At the discretion of the GA administrator a necessary minimum balance required by a financial institution in order to obtain free checking or in order to maintain the account shall not be considered an available resource.

The municipal GA administrator reserves the right to inform GA clients of services, commodities or facilities made available by private organizations or charities. Although GA applicants/recipients may be informed of the existence of a charitable resource and/or organization, GA eligibility shall not be based or conditioned on the use of a private charitable resource(s).

**30-Day Need.** An applicant's 30-day need is the sum of the household's prospective 30-day costs, from the date of application, for the various basic necessities. For the purpose of this calculation, the 30-day cost for any basic need shall be the household's actual 30-day cost for the basic necessity or the maximum 30-day cost for the basic necessity as established by this ordinance, whichever is less.

**Unforeseen Repeat Applicants.** Are repeat applicants who have not applied for assistance within the last twelve months and who have been regularly employed or receiving support from a public benefit or private source and who have unexpectedly become unemployed through no fault of their own or whose benefits (e.g., through an available resource) have ceased through no fault of their own.

**Unmet Need.** An applicant's unmet need is the household's 30-day need as established by section 6.6 of the ordinance less the household income as calculated pursuant to section 6.7 of this ordinance, provided such a calculation yields a positive number. If the household income is greater than the household's 30-day need, the household does not have an unmet need.

**Work Requirements.** Work requirements are those obligations the municipal administrator places on applicants for general assistance as directed and/or authorized

by 22 M.R.S.A. § 4316-A to the extent such obligations ensure a continuing potential eligibility for general assistance when complied with, result in ineligibility when violated, and are not merely optional, discretionary, or advisory. Work requirements include registering for work, looking for work in good faith, accepting all suitable job offers, maintaining employment, performing workfare, and participating in training, educational, or rehabilitation programs that will assist the participant in securing employment.

## ARTICLE III

### Administrative Rules and Regulations

The following are rules and regulations for the administration of general assistance.

#### Section 3.1—Confidentiality of Information

Case records and all other information relating to an applicant or recipient of general assistance are confidential and will not be disclosed to the general public, unless the applicant or recipient states in writing what information is to be released (22 M.R.S.A. § 4306).

**Release of Information.** Applicants, recipients and their legal representatives have the right to review their case records. No record will be released to a third party, however, unless the administrator receives a consent form signed by the applicant expressly authorizing the release of his or her records to the specified parties. Whenever the administrator releases any information, he/she will make a notation in the applicant's file stating to whom the record was released and the date. The administrator may charge a reasonable fee for the reproduction of any records when appropriate.

**Information from Other Sources; Penalty.** Information furnished to the municipality by the Department of Health and Human Services or any other agency or institution pursuant to 22 M.R.S.A. § 4314, is confidential. The general assistance administrator will also comply with laws relating to the confidentiality of vital statistic records such as those concerning birth, marriage and death. (22 M.R.S.A. § 2706).

Any representative of a financial institution (except national banks) or any employer of a general assistance applicant who refuses to provide necessary information to the administrator in order to verify an applicant's eligibility must state in writing the reason for the refusal. Any such person who refuses to provide information, without just cause, may be subject to a civil penalty of not less than \$25 nor more than \$100. Any person, including the applicant, who knowingly and willfully makes a false representation of a



material fact to the administrator is committing a Class E crime (22 M.R.S.A. § § 4314, 4315).

**Misuse of Information.** Misuse of any information relating to an applicant or recipient is a punishable offense (22 M.R.S.A. § 42(2)).

### Section 3.2—Maintenance of Records

The general assistance administrator will keep complete and accurate general assistance records (22 M.R.S.A. § 4306). These records are necessary to:

- a) provide a valid basis of accounting for municipal expenditures;
- b) document and support decisions concerning an applicant or recipient; and
- c) ensure the availability of all relevant information in the event of a fair hearing or judicial review of a decision by the general assistance administrator.

**Case Records.** The administrator will establish and maintain a separate case record, either in paper format or digital format for each applicant or recipient. Each case record will include at least:

- |                                 |                                  |
|---------------------------------|----------------------------------|
| • household applications        | deficit or unmet need,           |
| • budget sheets                 | whichever is less)               |
| • information concerning the    | • written decisions              |
| types and amounts of            | • requests for fair hearings and |
| assistance provided             | the fair hearing authority       |
| • narrative statements          | decisions                        |
| describing the nature of the    | • workfare participation records |
| emergency situation             | • repayments to the              |
| whenever general assistance     | municipality                     |
| is granted in amounts greater   | • narrative writings             |
| than the applicant's            | documenting the need for         |
| mathematical eligibility (i.e., | general assistance, the          |

- results of home visits,
  - collateral information,
  - referrals, changes in status
- client authorization(s) for the release of GA information and/or reason(s) for the release of confidential information
- adjustments in aid, and suspension or termination of eligibility
- physician's documentation
- Supplemental Security Income (SSI) interim assistance reimbursement authorization forms
- vendor forms

Case records will not include information or material that is irrelevant to either the applicant's or recipient's application or the administrator's decisions.

**Retention of Records.** General assistance records shall be retained for a minimum of three full years. The three year period shall coincide with the State's fiscal year which begins July 1 and ends on the following June 30. Records may be destroyed after three years by one of the two preferred methods of destruction for confidential records, i.e., supervised shredding, burning or appropriate digital deletion/destruction process. In the event a client's records contain SSI reimbursement forms, the client's records should be maintained so that the municipality may seek reimbursement.

## ARTICLE IV

### Application Procedure

#### Section 4.1—Right to Apply

**Who May Apply.** Anyone may apply for general assistance. The head of the family, any other responsible household member, or an authorized representative must apply in person, except in special emergency situations as provided in section 4.9 of this ordinance or except when the applicant is a resident of an emergency shelter and the municipality has made an agreement with that emergency shelter to presume shelter residents to be eligible for general assistance (22 M.R.S.A. §4304(3)). In such cases, the administrator may require a representative to present a signed statement documenting that he/she is in fact authorized to apply for general assistance on behalf of the named applicant. The applicant or representative must complete a written application and any other required forms so that the administrator can determine eligibility (22 M.R.S.A. § § 4305, 4308). With notice, all members of the household receiving general assistance may be required to physically present themselves to the administrator. Note that fugitives from justice are ineligible for general assistance.

**Application Via Telephone.** When a person has an emergency but is unable to apply in person due to illness, disability, lack of child care, lack of transportation or other good cause, and he/she cannot send an authorized representative, the administrator will accept an application by telephone. The telephone application process will include the administrator receiving written verification by mail and visiting the applicant's home with his or her permission (22 M.R.S.A. § 4304).

**Written Application Upon Each Request.** Each request for assistance will be administered in accordance with these guidelines. The administrator will make an independent determination of eligibility for general assistance each time a person applies (22 M.R.S.A. § § 4308, 4309).

**Applications Accepted; Posted Notice.** Application forms will be available during regular business hours at the municipal office and when the general assistance administrator is conducting interviews with applicants. Notice will be posted stating when and where people may apply for assistance and the name of the administrator available to take emergency applications at all other times. In addition, the posted notice shall include the fact that the municipality must issue a written decision on all applications within 24 hours, and the DHHS toll-free telephone numbers for reporting alleged violations or complaints. Completed applications will be accepted and interviews given only during the regular hours established and posted by the administrator. In an emergency, however, the administrator or his or her designee will be available to accept applications for assistance whenever necessary (22 M.R.S.A. § 4304).

#### Section 4.2—Application Interview

Except when it is impractical, the general assistance administrator will interview each applicant personally before making a decision. The interview will be conducted in private, although the applicant may be accompanied by a legal representative, friend or family member.

#### Section 4.3—Contents of the Application

At a minimum, the application will contain the following mandatory information:

- |  |   |
|--|---|
| a) applicant's name, address, date of birth, Social Security number or appropriate United States Customs and Immigration Services (USCIS) documentation, and phone number; | household members for whom the applicant is seeking assistance; |
| b) names, date(s) of birth, and Social Security number(s) or appropriate USCIS documentation of other  | c) total number of individuals living with the applicant;       |
|  | d) employment and employability information;                    |

- e) all household income, resources, assets, and property;
- f) household expenses;
- g) types of assistance being requested;
- h) penalty for false representation;
- i) applicant's permission to verify information;
- j) signature of applicant and date.

In the event an initial applicant is unable to provide identification records (e.g., Social Security card/number) because the record may have been lost, stolen or misplaced, the initial applicant may be provided a reasonable amount of time, e.g., five working days, in order to obtain copies of identification records. Provided the initial applicant makes a good faith effort to obtain the item/record sought, GA required to cure an immediate and/or emergency need shall not be withheld. In such cases the municipality may elect to provide only a prorated amount of GA, e.g., five day's worth, while the applicant proceeds to obtain the required information.

#### Section 4.4—General Assistance Administrator's Responsibilities at the Time of the Application

The administrator will make every effort to inform all applicants of their rights and responsibilities as well as the general program requirements associated with applying for and receiving general assistance, including application requirements, eligibility guidelines, applicant rights, and applicant reimbursement obligations.

**Application Requirements.** The administrator will help the applicant fill out the application form as described in the preceding section. The administrator will inform the applicant of any other information or documentation that the applicant will have to provide in order for the administrator to evaluate the applicant's eligibility for assistance. The administrator will fully explain the purpose of any release of information form or reimbursement agreement before seeking to obtain the applicant's signature or written authorization.

**Eligibility Requirements.** The administrator will inform, either verbally or in writing, the applicant of the eligibility requirements of the program, including:

- the income standard of need;
- the applicant's ongoing use-of-income, work-related, and resource-related responsibilities, as described in the section immediately below;
- the financial reduction in assistance that is the consequence of spending household income on non-basic necessities; and
- the disqualification penalties associated with committing fraud, failing to perform work-related assignments without just cause, or failing to make a good faith effort to secure potential resources when the requirement to attempt to obtain those resources has been explained to the applicant in writing.

**Applicant Rights.** The administrator will inform all applicants of their rights to:

- review the municipal General Assistance ordinance and Maine General Assistance law;
- apply for assistance;
- receive a written decision concerning eligibility within 24 hours of applying for assistance;
- confidentiality;
- contact the DHHS;
- challenge the administrator's decision by requesting a fair hearing.

**Reimbursement/Recovery.** The administrator will inform the applicant that he/she must reimburse the municipality for the amount of general assistance he/she has been granted in the event of a subsequent ability to pay. The municipality may also, as appropriate, contact the client's legal representative to inform him or her of the client's obligation to repay the municipality under the GA program. In addition to seeking repayment from a recipient, the municipality also may recover the amount of assistance granted to a recipient during the previous 12 months from any relative legally liable for

the applicant's support (spouses, parents of persons under the age of 25, see Article VIII, "Recovery of Expenses") (22 M.R.S.A. § § 4318, 4319). Whenever applicable, the administrator will explain the various liens a municipality may place against a recipient's real or personal property, such as the mortgage or capital improvement lien, the Workers' Compensation lump sum payment lien, or the SSI "interim assistance agreement" lien, as these liens are described in Article VIII, "Recovery of Expenses".

#### Section 4.5—Responsibilities of the Applicant at the Time of Application

The applicant has the responsibility at the time of each application to provide accurate, complete and current household information and verifiable documentation concerning:

- Income
- Resources
- Assets
- Employment
- Use of income
- Names and addresses of any relatives legally liable for the applicant's support
- Any change in this information from a previous application that would affect household eligibility (22 M.R.S.A. §4309).

In addition, the applicant must accurately report and provide verifiable documentation that shows the applicant:

- a) has remained employed, if previously employed, and not quit work without just cause or been discharged from employment for misconduct;
- b) has been seeking employment, if previously unemployed or employed on a part-time basis, has accepted any suitable offer of employment, and has satisfactorily performed all workfare assignments or had just cause not to perform those assignments;

- c) has made use of all available and potential resources when directed in writing to such a program by the administrator, including, but not limited to, other government benefit programs or the assistance of liable relatives of sufficient means; and
- d) has participated in any training, retraining, educational or rehabilitative program when appropriate and when directed in writing to such a program by the administrator, in order to diminish the applicant's need for general assistance (22 M.R.S.A. § §4316-A, 4317).

#### Section 4.6—Action on Applications

**Written Decision.** The general assistance administrator will give a written decision to the applicant concerning his or her eligibility within 24 hours after the applicant submits a written application. Assistance will be furnished to eligible applicants within that period except when the municipality is permitted by law (and pursuant to section 5.6 of this ordinance) to issue assistance conditionally on the successful completion of a workfare assignment (22 M.R.S.A. § § 4305, 4316-A, 4321). A written decision will be given each time a person applies, whether assistance is granted, denied, reduced or terminated.

**Content.** The written decision will contain the following information:

- a) the type and amount of aid the applicant is being granted or the applicant's ineligibility;
- b) the period of eligibility if the applicant is eligible for assistance;
- c) the specific reasons for the decision;
- d) the applicant's right to a fair hearing; and



- e) the applicant's right to notify the DHHS if he/she believes the municipality has acted illegally (22 M.R.S.A. § 4321).

#### Section 4.7—Withdrawal of an Application

An application is considered withdrawn if:

- a) the applicant requests in writing that his or her application be withdrawn; or
- b) the applicant refuses to complete or sign the application or any other form needed by the general assistance administrator.

#### Section 4.8—Temporary Refusal to Accept Application

Under special circumstances, the general assistance administrator may temporarily refuse to accept applications. Such circumstances may include, but are not limited to, the following:

- a) When the applicant's conduct is abusive, disruptive, or harassing, or when the applicant is under the influence of drugs or alcohol. In these situations, the applicant will be asked to leave, and if the applicant refuses to leave, the police may be summoned. The applicant will be informed that an application will only be accepted when his or her conduct is under control.
- b) If the administrator believes that an applicant's behavior presents a threat to the health or safety of the public or to a municipal employee, or if such behavior is violent, or if an applicant has engaged in abusive, disruptive or harassing behavior and has been required to leave on more than one occasion, then the applicant may be required to designate a third party to apply for assistance on his or her behalf and the applicant may be prohibited from entering the municipal building;

- c) When a third person applies for assistance on behalf of the applicant that person may be required to provide written verification that he/she has been duly authorized to act as a representative for the applicant (22 M.R.S.A. § 4308).

#### Section 4.9—Emergencies

An emergency is considered to be any life threatening situation or a situation beyond the control of the applicant which if not alleviated immediately could reasonably be expected to pose a threat to the health or safety of the applicant or a member of the household (22 M.R.S.A. § 4301(4)). Although they may be considered otherwise ineligible to receive general assistance, persons who apply for assistance to alleviate an emergency may be granted assistance, except as provided below, if they do not have sufficient income and resources to meet an actual emergency need and have not had sufficient income and resources to avert the emergency (22 M.R.S.A. § 4308).

A municipality may provide emergency assistance when the municipality determines that an emergency is imminent and that failure to provide assistance may result in undue hardship and unnecessary costs to either the client or the municipality.

**Disqualification.** A person who is currently disqualified from receiving General Assistance due to a violation of sections 5.5, 5.6, 5.7, 5.8, 5.9 or 6.4 of this ordinance is ineligible to receive emergency assistance (22 M.R.S.A. § 4308(2)(A)). However, dependents of a disqualified person may be eligible for assistance. For the purposes of this section, “dependents” are defined as: 1) a dependent minor child; 2) an elderly, ill or disabled person; or 3) a person whose presence is required to provide care for any child under the age of 6 years or any ill or disabled member of the household (22 M.R.S.A. § 4309(3)).

In the event one or more members of a household are disqualified and assistance is requested for the remaining dependents, the eligibility of those dependents will be calculated by dividing the maximum level of assistance available to the entire household by the total number of household members.

**Assistance Prior to Verification.** Whenever an applicant informs the administrator that he/she needs assistance immediately, the administrator will grant, pending verification, the assistance within 24 hours, provided that:

- a) after interviewing the applicant the administrator has determined that the applicant will probably be eligible for assistance after a verification of information is completed; and
- b) the applicant submits documentation when possible, to verify his or her need. The administrator may contact at least one other person to confirm the applicant's statements about needing emergency assistance. No further assistance will be authorized until the applicant's eligibility is confirmed (22 M.R.S.A. § 4310).

**Telephone Applications.** If a person has an emergency need and cannot apply in person due to illness, disability, lack of transportation, or other good cause, and if there is no authorized representative who can apply on behalf of the applicant, the administrator shall accept an application over the telephone (22 M.R.S.A. § 4304).

The administrator will not grant any assistance as the result of a telephone application if the applicant refuses to allow the administrator to verify the information either by visiting his or her home or by mail and the administrator cannot determine his or her eligibility through any other means.

**Limitation on Emergency Assistance.** Applicants are not automatically eligible for emergency assistance. If applicants had income which could have been used to prevent all or part of an emergency, but they spent that income on items which are not basic necessities, they will not be eligible to receive general assistance to replace the misspent money (22 MRSA § § 4308(2) & 4315-A).

All applicants have the responsibility to provide the administrator with verifiable documentation demonstrating that the applicant did not have sufficient income to avert

the emergency situation. According to the following criteria, the administrator may limit emergency assistance to cover only the difference between the amount of money necessary for the household to avoid the emergency and the amount of income available to the household during the applicable time period.

- a) The applicable time period shall be the 30 days preceding the application for emergency assistance, except in those cases where the emergency was created by a negative account balance for a commodity or service (such as rent, mortgage or utility payments), and the negative account balance was created over a longer period of time. In such cases, the applicable time period shall be the consecutive length of time the account balance has been in the negative.
- b) The administrator shall seek from the applicant all information pertinent to the applicant's ability to provide for his or her basic necessities for the applicable time period, including evidence of all income and resources received over that period of time.
- c) The administrator shall calculate all costs for the household's basic necessities during the applicable time period, per month, in accordance with the maximum levels established by this ordinance for the specific basic necessity or the actual monthly cost, whichever is less, including all costs associated with averting the particular emergency situation for which the applicant is seeking assistance.
- d) From the total household costs for basic necessities during the applicable time period, the administrator shall subtract the total income and lump sum payments available to the household for the applicable time period as well as the total general assistance actually received during the applicable time period.
- e) The administrator may restrict the issuance of emergency assistance to the difference yielded by the computation in subsection (d), even when such a grant will not totally alleviate the emergency situation.

- f) The administrator may waive this limitation on emergency assistance in life threatening situations or for initial applicants; that is, persons who have never before applied for general assistance.
- g) Nothing in these criteria may be construed as prohibiting a municipality from electing to alleviate an emergency situation in the most cost-effective manner available, provided such a determination of eligibility for emergency assistance is in conformance with general assistance law.

#### Section 4.10—Residence

The administrator shall provide general assistance to all eligible persons applying for assistance who are residents of this municipality. A resident is a person who has no other residence and is physically present in this municipality and who intends to remain here and establish a household.

The municipality also recognizes its responsibility to provide assistance to eligible persons who apply here and who are not residents of this municipality or any other municipality. If a person who is not a resident of any municipality applies in this municipality first, the administrator will determine his or her eligibility and, if eligible, will grant assistance until he/she establishes a residence in another municipality (22 M.R.S.A. § 4307).

**Moving/Relocating.** The municipality will not consider moving or transporting an applicant or recipient into another municipality unless the person requests assistance to relocate to another municipality. If the administrator determines the applicant is eligible and grants financial assistance to help with the requested relocation, this municipality will be responsible for providing assistance to the applicant for 30 days after he/she moves provided the recipient remains eligible.

**Institutions.** If a resident of this municipality enters an institution located in another municipality (such as a group home, shelter, rehabilitation center, nursing home, or

hospital) and requests assistance while at the institution, he/she will be the responsibility of this municipality for up to 6 months after he/she enters the institution if the conditions of 22 M.R.S.A. § 4307 and §4313 are met. The municipality thereafter retains responsibility for an applicant in an institution only if the applicant has maintained a home in this municipality to which he/she intends to return. The municipality also recognizes its responsibility for applicants residing in an institution in this municipality if such an applicant had no residence prior to entering the institution (22 M.R.S.A. § 4307(4)).

**Temporary Housing.** Hotels/motels and similar places of temporary lodging are considered institutions if the municipality grants financial assistance for, makes arrangements for, or advises or encourages an applicant to stay in temporary lodging.

**Note:** Municipalities which illegally deny housing assistance and, as a result of the denial, the applicant stays in temporary lodging are responsible for the applicant for up to 6 months and may be subject to other penalties (22 M.R.S.A. § 4307(4)).

**Disputes.** When the administrator believes that an applicant is a resident of another municipality but that municipality disputes its responsibility the administrator will notify the DHHS in Augusta (287-3654 or 1-800-442-6003). If the applicant applies in this municipality first, the administrator will determine his or her eligibility and, if eligible, will grant assistance until the DHHS has concluded which municipality is responsible for providing assistance. If another municipality was responsible, the DHHS will recover the amount due from the other municipality. (22 M.R.S.A. § § 4307(5), 4307(6)).

## ARTICLE V

### Eligibility Factors

A person will be eligible for general assistance if he/she is in need and has complied with the eligibility requirements set forth below.

#### Section 5.1—Initial Application

**Initial Application.** For initial applicants, except as provided immediately below, need will be the sole condition of eligibility. The exception to this general rule, as provided by law, applies to all applicants, including initial applicants, who are disqualified for a defined period for quitting employment without just cause or for being discharged from employment for misconduct (22 M.R.S.A. § 1043 (23)) (*see section 5.5 of this ordinance*) and to fugitives from justice as defined in 15 M.R.S.A. § 201(4) (22 M.R.S.A. § 4301(3)). An initial applicant is a person who has never before applied for general assistance in any municipality in Maine (22 M.R.S.A. § 4308(1)).

“Need” means that the applicant’s income (including prorated income, where applicable), property, credit, assets or other resources are less than the overall maximum level of assistance contained in section 6.8 of this ordinance or the applicant’s 30-day need, whichever is less, and he/she does not have adequate income or other resources available to provide basic necessities.

**Subsequent Applicants.** Persons who are not initial applicants are repeat applicants. Repeat applicants are people who have applied for general assistance at any time in the past. Repeat applicants are also people on whose behalf a general assistance application was made at any time in the past, provided that at such a time the applicant was not a dependent minor in the household. For repeat applicants to be eligible for general assistance, they must be in need and meet all other eligibility requirements. The eligibility of repeat applicants may also be adversely affected to the extent they have not used their income and resources to secure basic necessities.

## Section 5.2—Eligibility for Categorical Assistance

Receipt of categorical assistance will not disqualify a person from receiving general assistance if the applicant is otherwise eligible. Benefits received from other assistance programs will be considered as income when determining need, with the exception of Food Stamps, which will not be counted as income or resources or otherwise taken into consideration when determining need (7 U.S.C. § 2017 (b)).

In addition, any fuel assistance (HEAP/ECIP) received by an applicant will not be considered as income; that is, the administrator will always compute the heating needs of an applicant who has received HEAP or ECIP as if that applicant paid all costs associated with his or her fuel needs (42 U.S.C. §8624(f)). The calculation of general assistance for heating energy needs when an applicant has received HEAP or ECIP shall be accomplished in accordance with subsection (c) under “Types of Income” at section 6.7 of this ordinance. For several additional exceptions please refer to the definition of “Income” in this ordinance (see page 7, subsection 4).

Applicants or recipients must apply for other program benefits within 7 days after being advised in writing to do so by the general assistance administrator. Persons who, without just cause, make no good faith effort to obtain a potential resource will be disqualified from receiving assistance until they make a good faith effort to obtain the benefit (22 M.R.S.A. § 4317).

## Section 5.3—Personal Property

- a) **Liquid Assets.** No person owning assets easily convertible into cash, including but not limited to, bank deposits, stocks, bonds, certificates of deposit, retirement accounts, life insurance policies and other marketable security, will be eligible for general assistance unless and until he or she uses these assets to meet his or her basic needs, and thereby exhausts them. At the discretion of the GA administrator, liquid assets do not mean a reasonable minimum balance necessary for obtaining free checking. Although one checking account per



household may be allowed, any monies over the minimum required to obtain free checking are to be considered available liquid assets.

- b) **Tangible Assets.** No person owning or possessing personal property, such as but not limited to: a motor vehicle (except as provided immediately below in subsection c), or a boat, trailer, recreation vehicle or other assets that are convertible into cash and are non-essential to the maintenance of the applicant's household, will be eligible for general assistance. Exceptions may be made when a person is making an initial application or is an unforeseeable repeat applicant as defined in Section 2.2 or when reasonable efforts to convert assets to cash at fair market value are unsuccessful. Tools of a trade, livestock, farm equipment and other equipment used for the production of income are exempt from the above category and are not considered available assets.
- c) **Automobile Ownership.** Ownership of one automobile per household will not make a person ineligible for assistance if such vehicle is essential for transportation to employment or for seeking employment, obtaining medical care, rehabilitation or training facilities, or for any other reason the GA administrator determines reasonable for the maintenance of the applicant's household. Recipients of general assistance who own an automobile with a market value greater than \$8000 may be required, with written, 7-day notice, to make a good faith effort to trade that automobile for an automobile with a market value of less than \$8000. Any income received by the applicant by virtue of such a trade down must be used for his or her basic necessities. Failure to liquidate or trade down the excess value of any automobile asset can result in disqualification (22 M.R.S.A. § 4317).

The municipality will neither pay nor consider as necessary any car payment or vehicle maintenance cost including insurance for which the applicant is responsible. However, provided the vehicle value is \$8000 or less and the applicant is utilizing the vehicle for any of the above mentioned "essential"

reasons, the municipality in its discretion may choose to not consider reasonable car payments, reasonable car insurance and reasonable associated costs of maintenance as “misspent” income. General assistance for travel-related needs shall be computed in accordance with section 6.8(F)(7), (8) “Work Related/Travel Expenses.”

- d) **Insurance.** Insurance that is available to an applicant on a non-contributory basis or that is required as a condition of employment will not be a factor in determining eligibility for general assistance. Life insurance with a cash surrender value may, at the discretion of the GA administrator, be considered as a tangible asset.
- e) **Transfer of Property.** Applicants who transfer assets for less than fair market value to someone else solely for the purpose of establishing eligibility for general assistance will not be granted general assistance to replace the uncompensated value of the transferred asset. Assistance will be denied within a 120-day limit up to the uncompensated value of the asset which was transferred unless the transfer of asset is fraudulently misrepresented, in which case a 120-day disqualification will be issued. There will be a presumption that the applicant transferred his or her assets in order to be eligible for general assistance whenever property is sold for less than the fair market value or when the transfer occurred within 30 days prior to applying for general assistance unless the applicant can demonstrate the existence of a good faith transaction.

#### Section 5.4—Ownership of Real Estate

- a) **Principal Residence.** For purposes of General Assistance solely, the applicant’s principal residence, including any adjoining land, is considered an exempt resource, even if temporarily unoccupied because of employment, job training, education, illness or disaster, provided there is demonstrated an intent to return. If the applicant owns land in excess of the minimum lot size for the zone or district in which the home is located, then that land may be considered a potential resource if:

1. The applicant has received General Assistance for the last 120 consecutive days; and
2. The applicant has the legal right to sell the land (e.g., any mortgagee will release any mortgage, any co-owners agree to the sale, zoning or other land use laws do not render the sale illegal or impracticable); and
3. The applicant has the financial capability to put the land into a marketable condition (e.g., the applicant can pay for any necessary surveys); and
4. The land is not utilized for the maintenance and/or support of the household; and
5. A knowledgeable source (e.g., a realtor) indicates that the land in question can be sold at fair market value, for an amount which will aid the applicant's financial rehabilitation; and
6. No other circumstances exist which cause any sale to be unduly burdensome or inequitable.

If the above conditions are met, then the administrator may condition the receipt of future assistance on the applicant's good faith efforts to sell, or render saleable, land which could be used to provide necessary support for the applicant (e.g., the applicant owns 100 "excess" acres. Sale of 10 of the acres would provide for the necessary support and therefore not all the land need be sold at the present time.) Assistance shall not be denied during the time that the applicant is making a good faith effort to sell or render saleable the land in question.

Once the applicant ceases to receive assistance the obligations under this section shall also cease.

b) **Other Property.** If the applicant or dependents own real property other than that occupied as the principal residence, continued eligibility will depend on the applicant making a reasonable effort to:

1. Dispose of the property at fair market value in order to convert the property into cash which can be applied toward meeting present need; or
2. Obtain a loan against such property which may be used to meet present need. Applicants who transfer their excess property to a third party in order to become eligible for general assistance will be ineligible.

If an applicant is granted assistance in the form of a mortgage payment or capital improvement payment, the municipality may claim a lien against the property. The lien shall not be enforceable until the time of sale of the property or upon the death of the recipient (*see also section 6.8 of this ordinance*) (22 M.R.S.A. § 4320).

#### Section 5.5—Work Requirement

All general assistance recipients are required to register for work, look for work, work to the extent of available employment, and otherwise fulfill the work requirements, unless the applicant is exempt from such requirements as provided below.

**Employment; Rehabilitation.** All unemployed applicants and members of their households who are 16 years of age or older and who are not attending a full-time primary or secondary school intended to lead to a high school diploma will be required to accept any suitable job offer and/or meet with job counselors, attend employment workshops and rehabilitative services, except as provided below (*see “Exemptions”*). Applicants must demonstrate to the administrator that they are available for work and are actively seeking employment.

A “suitable job” means any job, which the applicant is mentally and physically able to perform. “Available for work” means that applicants must make themselves available for

work during normal business hours prevailing in the area, and show that no circumstance exists which would prevent them from complying with the work requirement.

**Verification.** Unemployed applicants or applicants employed on a part-time basis will be required to provide verifiable documentation of their pursuit of employment at the time of each application. At a minimum, such documentation shall consist of a list of the employers contacted, the date and time of the application contact, and the name of the employer representative contacted. "Pursuit of employment" means actually submitting a written application or applying for a job in person when reasonable, or submitting a written application or letter of inquiry to employers.

For the duration of any repeat applicant's period of unemployment or partial employment, the administrator will establish the number of employers per week to whom each non-exempt applicant shall be required to apply in order to fulfill his or her work search requirements. The number of weekly employer contacts required by the administrator shall be reasonably related to the number of potential employers in the region and the number of hours in the week the applicant has available for work search activities after considering all time the applicant must devote to existing employment obligations, workfare obligations, and required classroom or on-site participation in job training, educational, or rehabilitation programs. Fulfillment of these requirements will not be expected at the time of the initial application, but will be a condition of eligibility for subsequent assistance.

**Ineligibility.** After being granted assistance at the time of initial application, applicants will be considered ineligible for further assistance for 120 days if they, without just cause:

- a) refuse to register for employment with the Maine Job Service;
- b) refuse to search diligently for employment when the search is reasonable and appropriate; recipients who unreasonably seek work at the same places

repeatedly will not be considered to be performing a diligent worksearch and will be disqualified;

- c) refuse to accept a suitable job offer;
- d) refuse to participate in an assigned training, education or rehabilitation program that would assist the applicant in securing employment;
- e) fail to be available for work; or
- f) refuse to participate or participate in a substandard manner in the municipal work program (*see section 5.6*).

**Ineligibility Due to Job Quit or Discharge for Misconduct.** No applicant, whether an initial or repeat applicant, who has quit his or her full-time or part-time job without just cause or who has been discharged from employment for misconduct (*see Appendix I, 26 M.R.S.A. § 1043 (23) for the definition*) will be eligible to receive general assistance of any kind for a 120-day period from the date of separation from employment (22 M.R.S.A. § § 4301(8), 4316-A (1-A)).

**Just Cause.** Applicants will be ineligible for assistance for 120 days if they refuse to comply with the work requirements of this section without just cause. With respect to any work requirement, just cause will be considered to exist when there is reasonable and verifiable evidence that:

- a) the applicant has a physical or mental illness or disability which prevents him/her from working;
- b) the work assignment pays below minimum wages;
- c) the applicant was subject to sexual harassment;
- d) the applicant is physically or mentally unable to perform required job tasks, or to meet piece work standards;

- e) the applicant has no means of transportation to or from work or a training or rehabilitation program;
- f) the applicant is unable to arrange for necessary child care or care of ill or disabled family members; or
- g) any reason found to be good cause by the Maine Department of Labor, or any other verifiable reason the administrator considers reasonable and appropriate will be accepted as just cause. (22 M.R.S.A. § 4316-A(5)).

**Applicant's Burden of Establishing Just Cause.** If the administrator finds that the applicant has violated a work-related rule without just cause, it shall be the responsibility of the applicant to establish the presence of just cause (22 M.R.S.A. § 4316-A).

**Eligibility Regained.** Persons who are disqualified for 120 days because they violated a work requirement may regain their eligibility if and only when they become employed or otherwise satisfy the administrator that they are complying with the work requirement by fulfilling the work requirement or requirements they violated.

For the purpose of regaining eligibility by becoming employed, "employment" shall mean employment by an employer as defined in 26 M.R.S.A. § § 1043 et seq., or the performance of a service for an employer who withholds from the employee a social security tax pursuant to federal law.

The special provisions regarding the opportunity to regain eligibility after a disqualification for workfare violations are detailed in section 5.6 of this ordinance, under "Eligibility Regained".

**Dependents.** Failure of an otherwise eligible person to comply with the work requirements shall not affect the eligibility of any member of the person's household who is not capable of working, including:

- a) a dependent minor child;
- b) an elderly, ill, or disabled person; and

- c) a person whose presence is required in order to provide care for any child under 6 years of age or for any ill or disabled member of the household (22 M.R.S.A. § 4309(3)).

In the event one (or more) member(s) of a household is disqualified and assistance is requested for those remaining members of the household who are dependents, the eligibility of those dependents will be calculated by dividing the maximum level of assistance available to the entire household by the total number of household members.

**Exemptions.** The above work requirements do not apply to any person who is elderly, physically or mentally ill or disabled. Any person whose presence is required to care for any pre-school age child or for any ill or disabled member of the household is also exempt from these requirements.

The requirements of this section will not be imposed so as to interfere with an applicant's existing employment, ability to pursue a bona fide job offer, ability to attend an interview for possible employment, classroom participation in a primary or secondary educational program intended to lead to a high school diploma, classroom or on site participation in a training program which is either approved by the Department of Labor or determined by the Department of Labor to be expected to assist the applicant in securing employment, or classroom participation in a degree-granting program operated under the control of the Department of Labor.

#### Section 5.6—Municipal Work Program

Each applicant and any member of the household who is capable of working may be required to perform work for the municipality, including work for a non-profit organization, as a condition of receiving assistance (22 M.R.S.A. § 4316-A(2)).

As part of the municipal work program, the municipality can require recipients to participate in training, education, or rehabilitative programs that will assist the recipient



in securing employment. The work requirement provisions found in section 5.5 regarding just cause, dependents, and exemptions also apply to the municipal workfare program.

**Consent.** Persons assigned to the work program are required to sign a form stating that they understand the requirements of general assistance and the work program. Prior to signing the form, the administrator will read it to the applicants or the applicants will read it themselves. The form will also state the number of hours the applicants must work and the hourly rate by means of which the duration of the work assignment is calculated. In addition, the consent form shall describe the consequences of failing to adequately perform part or all of the workfare or workfare-first assignment.

**Subtracting Value of Workfare Performed from Client's GA Debt.** Pursuant to 22 MRSA § 4318 individuals owing the municipality funds for general assistance provided to them are obligated to repay the municipality when and if they become able (*see Article VIII*). However, persons performing workfare shall have the value of the workfare performed deducted from any and all GA debt including GA liens (e.g., Workers' Compensation Settlement, SSI Retroactive Payment, Capital Improvement, Home Mortgage) that might exist against their settlements, payments or other such property.

**Limitations.** The work requirement is subject to the following limitations (22 M.R.S.A. § 4316-A(3)).

- 1) No person shall, as a condition of eligibility, be required to do any amount of work that exceeds the value of the net general assistance that the person receives under municipal general assistance standards. Any person performing work under this subsection shall be provided with net general assistance, the value of which is calculated at a rate of at least the prevailing minimum wage under state or federal law at the time the workfare was performed.
- 2) No workfare participant shall be required to work for a nonprofit organization if that work would violate the participant's basic religious beliefs.

- 3) In no case shall eligible persons performing work under this subsection replace regular municipal employees.
- 4) In no case will work performed under this subsection interfere with an eligible person's:
  - a) existing employment;
  - b) ability to follow up on a bona fide job offer;
  - c) attendance at an interview for possible employment;
  - d) classroom participation in a primary or secondary educational program intended to lead to a high school diploma; or
  - e) classroom or on site participation in a training program which is approved by the Department of Labor or determined by the Department of Labor to be reasonably expected to assist the person in securing employment, or classroom participation in a degree-granting program administered by the DHHS or the Department of Labor.
- 5) In no case may an eligible person be required to work more than 40 hours per week. An eligible person who has full or part-time employment shall be exempt from the work requirement to the extent that the work requirement in combination with his or her regular employment would result in the person working more than 40 hours per week.
- 6) In no case will an eligible person be required to perform work beyond his or her capabilities. However, when an illness or disability is claimed, an eligible person may be required as a condition of receiving assistance to present a doctor's statement detailing the extent of the disability or illness (22 M.R.S.A. § 4309).

If the administrator requires a doctor's statement to verify an applicant's illness or disability and the applicant is not currently under the care of a provider, the municipality may pay for the doctor's evaluation if the applicant has no means to pay for the exam. However in such a case the administrator will choose the doctor. If there is a no-cost or low-cost health care option, the municipality may elect to refer the client to such a resource. The administrator will not require

verification of medical conditions which are apparent or which are of such short duration that a reasonable person would not ordinarily seek medical attention (22 M.R.S.A. § 4316(5)).

- 7) In no case may an eligible person with an immediate need (i.e., a person in an emergency situation who has not been disqualified from receiving assistance for committing a program violation) be required to perform work under this subsection prior to receiving general assistance. The administrator shall meet immediate needs upon receiving written assurance from the eligible person that he/she is willing to work to maintain eligibility for general assistance. When the recipient has no immediate need, workfare participation may be required prior to receiving general assistance in accordance with the following “workfare first” policy.

**“Workfare First” Policy.** Under the authority of 22 M.R.S.A. § 4316-A(2)(D), the administrator may, in accordance with the following guidelines, require a recipient of general assistance to perform a workfare assignment prior to the actual issuance of the general assistance benefit conditionally granted.

- 1) In no circumstance will emergency general assistance for which an applicant is eligible be withheld pending the satisfactory performance of workfare.
- 2) All workfare participants under this policy will be provided a written decision, as otherwise required by law, within 24 hours of submitting an application for general assistance and prior to performing any workfare for the municipality associated with that request for assistance. That written decision must include:
  - a) a specific description of the amount of general assistance being conditionally granted to the household, and for which basic needs;
  - b) the period of eligibility for which the general assistance grant is being issued (in days or weeks, but not to exceed 30 days);

- c) the rate, at a dollar-per-hour basis (but not less than the prevailing minimum wage), upon which the duration of the workfare assignment is calculated;
  - d) the actual duration of the workfare assignment that must be performed, in hours, before the general assistance grant will be actually issued;
  - e) the specifics of the workfare assignment(s), including the general nature of the type of work being assigned, location(s) of work-site, date(s) and time(s) of assigned workfare, workfare supervisors' names and contact telephone numbers; and
  - f) any other pertinent information related to the workfare assignment(s) the recipient will be expected to perform.
- 3) As previously provided in this section, all workfare participants under this policy must sign a consent form that informs the participant of his or her workfare-related rights and responsibilities, including the consequences of failing to perform all or part of the workfare assigned without just cause.
- 4) If a portion of the workfare-first assignment is satisfactorily performed but there has been a failure to perform the remainder of the assignment, without just cause, the administrator shall issue a grant of general assistance in the amount of the number of workfare hours satisfactorily performed times the hourly rate used to calculate the duration of the workfare assignment. In addition to any disqualification penalty that may apply, the remaining value of the conditionally issued general assistance grant shall be terminated, and notice of the partial termination, and the reasons therefore, will be issued to the workfare participant in accordance with section 6.10 of this ordinance.
- 5) Any amount of the workfare assignment that is not performed because the workfare participant was temporarily unable to perform the assignment for just

cause reasons shall be reassigned or excused at the discretion of the GA administrator.

**Work-Related Expenses.** A participant's expenses related to work performed under this section will be added to the amount of net general assistance to be provided to the person (22 M.R.S.A. § 4316-A(2)(E)). The municipality will provide any special clothes or equipment the recipient needs to perform his or her work assignment.

**Disqualification.** Any person who either willfully fails to perform or willfully performs below average standards the work assigned by the municipality, will be ineligible for assistance for 120 days (22 M.R.S.A. § 4316-A(1)). As soon as the administrator knows that a recipient failed to fulfill the work assignment, the administrator will notify the recipient in writing that he/she is disqualified for 120 days starting from the last date of authorized assistance unless the recipient can show just cause. The burden of demonstrating a just cause failure to perform a workfare assignment falls on the workfare participant.

**Eligibility Regained.** Recipients who are disqualified from receiving assistance because they have violated the requirements of the municipal work program may regain their eligibility under the following conditions.

Recipients who fail to complete the first municipal work assignment they have been given will be disqualified from receiving assistance during the next 120 days, although dependents in the household may be eligible (*see section. 5.5, "Dependents"*).

If during the 120-day disqualification period the recipient requests an opportunity to perform the work assignment which he or she, without just cause failed to perform, the disqualified recipient will be given one opportunity to regain eligibility. The administrator will give the recipient a work assignment as soon as possible.

If under such a set of circumstances the recipient has an emergency need and the administrator is unable to schedule a work assignment in time to alleviate the emergency, the administrator will provide sufficient assistance to the recipient to avert the emergency. However, the provision of such emergency assistance will not bar the administrator from subsequently enforcing the previously issued 120-day disqualification if the recipient fails to regain eligibility by satisfactorily performing the work assignment. The amount of emergency assistance granted will be considered in the computation of the total number of hours the recipient must work.

Recipients who have asked for the opportunity to regain their eligibility during a 120 day disqualification period and who agreed to fulfill the assignment which they previously failed to perform and who, without just cause, fail to fulfill their municipal work assignment will be considered to have acted in bad faith. In such a circumstance, the administrator will enforce the 120-day disqualification for the term of its initial duration.

If a workfare participant regains eligibility under this section but is subsequently disqualified within the initial 120-day period of ineligibility for failing to comply with the municipal work program, that participant will be ineligible for a new 120-day period beginning with the new disqualification date, but will be provided no opportunity to requalify.

Any recipient who intentionally causes damage to property, harasses or harms other employees or who otherwise conducts themselves in a disruptive manner and is discharged by the work supervisor will not be entitled to regain eligibility by returning to the work program. Eligibility may be regained by otherwise becoming employed and meeting the definition of need.

**Reports.** The administrator will itemize the assistance that has been provided to persons who work for the municipality in reports to the DHHS (22 M.R.S.A. § 4316-A(2)).

## Section 5.7—Use of Resources

Each applicant has the responsibility to make a good faith effort to utilize every available or potential resource that may reduce his or her need for general assistance (*see section 2.2 for definition of “Resources”*). People who refuse or fail to make a good faith effort to secure a potential resource after receiving written notice to do so are disqualified from receiving assistance until they make an effort to secure the resource. Applicants are required to prove that they have made a good faith effort to secure the resource (22 M.R.S.A. § 4317).

**Minors.** A minor under the age of 18 who has never married and is applying independently for general assistance and who is pregnant or has a dependent child or children will be eligible to receive general assistance only if the minor is residing in the home of his or her parent, legal guardian or other adult relative, in which case the entire household will be evaluated for eligibility. Exceptions to this limitation on eligibility will be made when:

- 1) the minor is residing in a foster home, maternity home, or other adult-supervised supportive living arrangement; or
- 2) the minor has no living parent or the whereabouts of the both parents are unknown; or
- 3) no parent will permit the minor to live in the parent’s home; or
- 4) the minor has lived apart from both parents for at least one year before the birth of any dependent child; or
- 5) the DHHS determines that the physical or emotional health or safety of the minor or the minor’s dependent child or children would be jeopardized if the minor and his or her child or children lived with a parent; or
- 6) the DHHS determines, in accordance with its regulation, that there is good cause to waive this limitation on eligibility (22 M.R.S.A. § 4309(4)).

Any person under the age of 25 who is applying independently from his or her parents for general assistance will be informed that until he or she reaches the age of 25, the applicant's parents are still legally liable for his or her support and the municipality has the right to seek recovery from the parents of the cost of all assistance granted to such a recipient to the extent his or her parents are financially capable of repaying the municipality (22 M.R.S.A. § 4319).

With regard to such application, the municipality may seek verification of the applicant's need for general assistance by contacting his or her parents. If the applicant's parents declare a willingness to provide the applicant with his or her basic needs directly, and there is no convincing evidence that the applicant would be jeopardized by relying on his or her parents for basic needs, the administrator may find the applicant not to be in need of general assistance for the reason that his or her needs can be provided by a legally liable relative.

**Mental or Physical Disability.** Any applicant who has a mental or physical disability must make a good faith effort to utilize any medical or rehabilitative services which have been recommended by a physician, psychologist or other professional retraining or rehabilitation specialist when the services are available to the applicant and would not constitute a financial burden or create a physical risk to the individual.

**Written Notice; Disqualification.** The administrator will give each applicant written notice whenever the applicant is required to utilize any specific potential resource(s). Any applicant who refuses to utilize potential resources, without just cause, after receiving written 7-day notice will be ineligible for further assistance until he/she has made a good faith effort to utilize or obtain the resources. General assistance will not be withheld from the applicant pending receipt of a resource if the applicant has made, or is in the process of making, a good faith effort to obtain the resource.



**Forfeiture of Benefits.** Any applicant who forfeits receipt of or causes a reduction in benefits from another public assistance program due to fraud, misrepresentation, a knowing or intentional violation of program rules or a refusal to comply with that program's rules without just cause will be ineligible to receive general assistance to replace the forfeited benefits. To the extent the forfeited benefits can be considered income under general assistance law, the worth of the forfeited benefits will be considered income that is available to the applicant for the duration of the forfeiture.

To the extent the forfeited benefits were provided not in the form of income but, rather, in the form of a specific, regularly issued resource of a calculable value, that resource, up to its forfeited value, need not be replaced with general assistance for a period of 120 days from the date of the forfeiture—unless the municipality is prohibited by federal or state law from considering the forfeited resource as available with respect to local public assistance programs (22 M.R.S.A. § 4317).

#### Section 5.8—Period of Ineligibility

No one will have his or her assistance terminated, reduced, or suspended prior to being given written notice and an opportunity for a fair hearing (22 M.R.S.A. § § 4321-4322). Each person will be notified in writing of the reasons for his or her ineligibility, and any person disqualified for not complying with the ordinance will be informed in writing of the period of ineligibility.

**Work Requirement.** Applicants/recipients who do not comply with a work requirement are disqualified from receiving assistance for a period of 120 days (unless they regain their eligibility) (*see sections 5.5, 5.6*). If an applicant/recipient is provided assistance and does not comply with the work requirement, the applicant/recipient shall be disqualified for 120 days following the end of the period covered by the grant of assistance. The administrator shall give recipients written notice that they are disqualified as soon as the administrator has sufficient knowledge and information to render a decision of ineligibility.

**Fraud.** People who commit fraud are disqualified from receiving assistance for a period of 120 days (*see section 6.4, "Fraud"*). The administrator shall give recipients written notice that they are ineligible as soon as the administrator has sufficient knowledge and information to render a decision. If the disqualification for fraud is issued before the expiration of a grant of assistance, the period of ineligibility shall commence on the day following the end of the period covered by the grant of assistance. If fraud is discovered after the period covered by the grant of assistance has expired, the period of ineligibility will commence on the day of the written notice of ineligibility.

#### Section 5.9 – Unemployment Fraud

An applicant who is found ineligible for unemployment compensation benefits because of a finding of fraud by the Department of Labor pursuant to 26 M.R.S.A. § 1051(1) is ineligible to receive general assistance to replace the forfeited unemployment compensation benefits for the duration of the forfeiture established by the Department of Labor. 22 M.R.S.A. § 4317.

## ARTICLE VI

### Determination of Eligibility

#### Section 6.1—Recognition of Dignity and Rights

Any determination or investigation into an applicant's eligibility will be conducted in a manner that will not violate the applicant's privacy or personal dignity or violate his or her individual rights.

#### Section 6.2—Determination; Redetermination

The administrator will make an individual, factual determination of eligibility each time a person applies or reapplies for general assistance. The administrator will make a redetermination of eligibility at least monthly but may do so as often as necessary to administer the program efficiently and meet the needs of the applicants. Upon any application, the administrator will determine the applicant's eligibility on the basis of a 30-day prospective analysis, but may elect to disburse that applicant's assistance periodically, e.g., weekly, throughout a 30-day period of eligibility pursuant to that initial eligibility determination.

The administrator may redetermine a person's eligibility at any time during the period he or she is receiving assistance if the administrator is notified of any change in the recipient's circumstances that may alter the amount of assistance the recipient may receive. Once a recipient has been granted assistance, the administrator may not reduce or rescind the grant without giving prior written notice to the recipient explaining the reasons for the decision and offering the recipient an opportunity to appeal the decision to the fair hearing authority (22 M.R.S.A. § 4309).

### Section 6.3—Verification

**Eligibility of applicant; duration of eligibility.** The overseer shall determine eligibility each time a person applies or reapplies for general assistance. The period of eligibility will not exceed one month. At the expiration of this period applicants/recipients may reapply for assistance and the person's eligibility will be redetermined.

**Applicant's responsibilities.** Applicants and recipients for general assistance are responsible for providing to the overseer all information necessary to determine eligibility. If further information or documentation is necessary to demonstrate eligibility, the applicant must have the first opportunity to provide the specific information or documentation required by the overseer. When information required by the overseer is unavailable, the overseer must accept alternative available information, which is subject to verification.

Each applicant and recipient has the responsibility at the time of application and continuing thereafter to provide complete, accurate and current information and documentation concerning his/her:

- Need
- Income
- Employment
- Use of income
- Expenses
- Assets & liabilities
- Use of available resources
- Household composition

**Initial Applicants.** Persons who have not applied for assistance in this or any other municipality are considered initial applicants and must have their eligibility determined solely on the basis of need. Initial applicants are not subject to eligibility conditions placed on repeat applicants (*see below*). However, such applicants are still responsible for providing the GA administrator with reasonably obtainable documentation adequate

to verify that there is a need for assistance. In addition, initial applicants must also comply with both lump sum and relevant work rules (i.e. job quit).

**Repeat Applicants.** All applicants for general assistance that are not initial applicants are repeat applicants. The eligibility of repeat applicants must be determined on the basis of need and all other conditions of eligibility established by law and this municipal ordinance.

The administrator will require documentation of a repeat applicant's income, use of income, assets and resources plus actual bills and receipts for rent, utilities, fuel, telephone, medical services and other basic necessities. In addition, repeat applicants instructed to seek employment shall verify their work search results, e.g., provide a list of the employers contacted, the date and time of the application contact, and the name of the employer representative contacted, as required by the GA administrator.

Repeat applicants are also responsible for providing any changes of information reported on previous applications including changes in his/her household or income that may affect his/her eligibility.

**Unforeseen Repeat Applicants.** Unforeseen repeat applicants are applicants who have not applied for assistance within the last twelve months and who have been regularly employed or receiving support from a public benefit or private source who have unexpectedly become unemployed through no fault of their own or whose income and/or benefits (e.g., through an available resource) have ceased through no fault of their own. Such unforeseen repeat applicants may be considered initial applicants for purposes of verification requirements and misspent income if the administrator finds that imposing the general verification requirements and misspent income rules imposed on repeat applicants would be unreasonable or inappropriate.

**Overseer's responsibilities.** In order to determine an applicant's eligibility for general assistance, the overseer first must seek information and documentation from the applicant. Once the applicant has presented the necessary information, the overseer is

responsible for determining eligibility. The overseer will seek verification necessary to determine eligibility. In order to determine eligibility, the overseer may contact sources other than the applicant for verification only with the specific knowledge and consent of the applicant, except that the overseer may examine public records without the applicant's knowledge and consent.

Appropriate sources, which the overseers may contact, include, but are not limited to:

- DHHS and any other department/agency of the state or non-profit organizations
- financial institutions
- creditors
- utility companies
- employers
- landlords
- physicians
- persons with whom the applicant/recipient is a cohabitant
- legally and non-legally liable relatives

Assistance will be denied or terminated if the applicant is unwilling to supply the overseer with necessary information, documentation, or permission to make collateral contacts, or if the overseer cannot determine that eligibility exists based on information supplied by the applicant or others.

**Redetermination of eligibility.** The overseer may redetermine a person's eligibility at any time during the period that person is receiving assistance if the overseer is informed of any change in the recipient's circumstances that may affect the amount of assistance to which the recipient is entitled or that may make the recipient ineligible, provided that once a determination of eligibility has been made for a specific time period, a reduction in assistance for that time period may not be made without prior written notice to the recipient with the reasons for the action and an opportunity for the recipient to receive a fair hearing upon the proposed change.

**Penalty for Refusing to Release Information.** Any person governed by 22 M.R.S.A. § 4314 who refuses to provide necessary information to the administrator after it has been requested must state in writing the reasons for the refusal within 3 days of receiving the request. Any such person who refuses to provide the information, without just cause, commits a civil violation and may be subject to a fine of not less than \$25 nor more than \$100 which may be adjudged in any court of competent jurisdiction. Any person who willfully renders false information to the administrator is guilty of a Class E crime (22 M.R.S.A. § § 4314(5), 4314(6), 4315).

#### Section 6.4—Fraud

It is unlawful for a person to make knowingly and willfully a false representation of a material fact to the administrator in order to receive general assistance or cause someone else to receive general assistance (22 M.R.S.A. § 4315). False representation shall consist of any individual knowingly and willfully:

- a) making a false statement to the general assistance administrator, either orally or in writing, in order to obtain assistance to which the applicant or the applicant's household is not entitled;
- b) concealing information from the general assistance administrator in order to obtain assistance to which the applicant or applicant's household is not entitled; or
- c) using general assistance benefits for a purpose other than that for which they were intended.

No person may be denied assistance solely for making a false representation prior to being given an opportunity for a fair hearing.

**Period of Ineligibility.** When the general assistance administrator finds that a person has knowingly and willfully misrepresented material facts for the purpose of making

himself or herself eligible for general assistance, the administrator shall notify that applicant in writing that he or she has been disqualified from receiving assistance for 120 days. For the purpose of this section, a material misrepresentation is a false statement about eligibility factor in the absence of which some or all of the assistance would not be or would not have been granted.

The notification of ineligibility issued by the administrator shall inform the applicant of his or her right to appeal the administrator's decision to the fair hearing authority (FHA) within 5 working days of receipt. The period of ineligibility shall commence on the day following the end of the period covered by the grant of assistance fraudulently received or upon the date of notification of ineligibility, whichever is later.

**Right to a Fair Hearing.** Any applicant who is denied assistance for making a false representation will be afforded the opportunity to appeal the decision to the fair hearing authority (FHA) in accordance with Article VII of this ordinance. No recipient shall have his or her assistance reduced or revoked during the period of eligibility before being notified and given the opportunity to appeal the decision. Any person who is dissatisfied with the decision of the FHA may appeal that decision to the Superior Court pursuant to Rule 80-B of the Maine Rules of Civil Procedure (22 M.R.S.A. § 4309(3)).

**Reimbursement.** If a recipient does not appeal the decision or if the fair hearing authority determines that a recipient did make a false representation, the recipient will be required to reimburse the municipality for any assistance received to which he/she was not entitled.

**Dependents.** In no event will the ineligibility of a person under this section serve to disqualify any eligible dependent in that household (22 M.R.S.A. § 4309(3)). In the event one or more members of a household are disqualified and assistance is requested for the remaining dependents, the eligibility of those dependents will be



calculated by dividing the maximum level of assistance available to the entire household by the total number of household members.

#### Section 6.5—Period of Eligibility

The administrator will grant assistance to all eligible persons for a period that is sufficient to meet their need but in no event may a grant of assistance cover a period in excess of one month (22 M.R.S.A. § 4309). Upon receiving a completed and signed application the administrator will determine the applicant's eligibility on the basis of a 30-day prospective analysis.

When an applicant submits an incomplete or unsigned application, due to the 24-hour decision requirement placed on the GA administrator, the GA administrator shall render a notice of "ineligibility" and advise the applicant that he or she has a right to reapply as soon as he or she has the necessary information and/or as soon as is practicable for the applicant.

Although eligibility is determined on a 30-day basis, for reasons of administrative efficiency the administrator may elect to disburse an applicant's assistance for shorter periods of time, such as weekly, throughout the 30-day period of eligibility. When the administrator elects to disburse general assistance for a period of time less than 30 days, subsequent grants of assistance during that 30-day period may be issued pursuant to the initial determination of need unless the applicant's financial situation changes substantially enough to warrant a redetermination of eligibility.

#### Section 6.6—Determination of Need

The period of time used to calculate need will be the next 30-day period from the date of application (22 M.R.S.A. § 4301(7)). The administrator will calculate applicants' expenses according to the actual expense of the basic necessity or the maximum levels for the specific necessities allowed in section 6.8, whichever is less. The sum of these

expenses, as calculated for a prospective 30-day period, is the applicant's 30-day need. Applicants will not be considered eligible if their income and other resources exceed this calculation except in an emergency (22 M.R.S.A. § 4308(2)) (*see section 4.9 of this ordinance*).

Applicants will also not be considered in need of general assistance if their income, property, credit, assets or other resources available to provide basic necessities for their household are greater than the applicable overall maximum level of assistance set forth in the beginning of section 6.8 (22 M.R.S.A. § § 4301(10), 4305(3-B)). The difference between the applicant's income and the overall maximum levels of assistance established by this ordinance is the applicant's deficit.

Once an applicant's deficit has been determined, the specific maximum levels of assistance for each basic necessity (*see Appendixes A-H of this ordinance*) shall be used by the administrator to guide the distribution of assistance for which the applicant is eligible. The specific maximum levels of assistance for each basic necessity are intended to be reasonable and sufficient to help recipients maintain a standard of health and decency (22 M.R.S.A. § 4305(3-A)).

**Income for Basic Necessities.** Applicants are required to use their income for basic necessities. Except for initial applicants, no applicant is eligible to receive assistance to replace income that was spent within the 30-day period prior to an application for assistance on goods and services that are not basic necessities. All income spent on goods and services that are not basic necessities will be considered available to the applicant and combined with the applicant's prospective 30-day income for the purposes of computing eligibility (22 M.R.S.A. § 4315-A). Applicants who have sufficient income to provide their basic necessities but who use that income to purchase goods or services which are not basic necessities will not be considered eligible for assistance. Persons who exhaust their income on basic necessities and who still need

assistance with other basic necessities will be eligible, provided that their income does not exceed the overall maximum level of assistance.

**Use-of-Income Requirements.** The administrator may require that anyone applying for general assistance provide documentation of his or her use of income. This documentation can take the form of cancelled checks and/or receipts which demonstrate that the applicant has exhausted all household income received over the last 30-day period. Except as is deemed appropriate by the GA administrator for “unforeseen” repeat applicants (*See Section 6.3 of this ordinance*), repeat applicants may be required to verify that expenditure of income was for basic necessities. Income expended that cannot be verified will generally be considered available and in such case will be added to the 30-day prospective income.

Allowable expenditures include reasonable shelter costs (rent/mortgage); the cost of heating fuel, electricity, and food up to the ordinance maximums; telephone costs at the base rate if the household needs a telephone for medical reasons, the cost of nonelective medical services as recommended by a physician which are not otherwise covered by medical entitlement, Hospital Free Care or insurance; the reasonable cost of essential clothing and non-prescription drugs, and the costs of any other commodity or service determined essential by the administrator.

Items not considered to be basic necessities and thus will not be allowed in the budget computation include:

- Internet services
- Cable or satellite television
- Cellular phones
- Cigarettes/alcohol
- Gifts purchased
- Pet care costs
- Costs of trips or vacations
- Paid court fines
- Repayments of unsecured loans
- Legal fees
- Late fees
- Credit card debt.

The municipality reserves the right to apply specific use-of-income requirements to any applicant, other than an initial applicant, who fails to use his or her income for basic necessities or fails to reasonably document his or her use of income (22 M.R.S.A. § 4315-A). Those additional requirements will be applied in the following manner:

- 1) The administrator may require the applicant to use some or all of his or her income, at the time it becomes available, toward specific basic necessities. The administrator may prioritize such required expenditures so that most or all of the applicant's income is applied to housing (i.e., rent/mortgage), energy (i.e., heating fuel, electricity), or other specified basic necessities;
- 2) The administrator will notify applicants in writing of the specific use-of-income requirements placed on them;
- 3) If upon subsequent application it cannot be determined how the applicant's income was spent, or it is determined that some or all of the applicant's income was not spent as directed and was also not spent on basic necessities, the applicant will not be eligible to receive either regular or emergency general assistance to replace that income; and
- 4) If the applicant does not spend his or her income as directed, but can show with verifiable documentation that all income was spent on basic necessities up to allowed amounts, the applicant will remain eligible to the extent of the applicant's eligibility and need.

**Calculation of Income and Expenses.** When determining eligibility, the administrator will subtract the applicant's net income from the overall maximum level of assistance found at the beginning of section 6.8. If income is greater than the overall maximum level of assistance, the applicant will not be eligible except in an emergency (*see section 4.9*). If income is less than the overall maximum level of assistance, the applicant has a deficit.

The municipality will provide assistance in an amount up to the deficit to the extent the applicant also has an unmet need and is in need of basic necessities. The municipality will not grant assistance in excess of the maximum amounts allowed in section 6.8 of this ordinance for specific basic necessities except in an emergency or when the administrator elects to consolidate the applicant's deficit, as provided immediately below.

**Consolidation of Deficit.** As a general rule and to the extent of their deficit, applicants will be eligible for assistance for any basic necessity up to, but not exceeding, the maximum amount allowed for that necessity in this ordinance or the actual 30-day cost of the necessity, whichever is less. Under certain circumstances, however, and in accordance with the following conditions, the administrator may consolidate the applicant's deficit and apply it toward a basic necessity in an amount greater than the ordinance maximum for that necessity.

- 1) The practice of consolidating the deficit and applying it toward a basic necessity in amounts greater than the ordinance maximum shall be the exception rather than the rule;
- 2) The total general assistance grant cannot exceed the total deficit unless the applicant is in an emergency situation; and
- 3) The need for the application of the recipient's consolidated deficit toward a basic necessity was not created by the recipient mispending his or her income or resources in violation of the use-of-income requirements of this ordinance.

#### Section 6.7—Income

**Income Standards.** Applicants whose income exceeds the overall maximum level of assistance provided in section 6.8 shall not be eligible for general assistance except in an emergency. The administrator will conduct an individual factual inquiry into the applicant's income and expenses each time an applicant applies.

**Calculation of Income.** To determine whether applicants are in need, the administrator will calculate the income they will receive during the next 30-day period commencing on the date of application, and identify any assets or resources that would alleviate their need. For all applicants other than initial applicants, the administrator will also consider as available income any income that was not spent during the previous 30-day period on basic necessities, as well as any income that was spent on basic necessities in unreasonable excess of the ordinance maximums for specific basic necessities. If a household's income exceeds the amount of the household's need for basic necessities, up to the maximum levels contained in section 6.8, applicants will not be considered in need.

Exceptions will be made in emergency situations, which may necessitate that the maximum levels be exceeded (22 M.R.S.A. § 4308) (*see section 4.9 of this ordinance*). To calculate weekly income and expenses, the administrator will use actual income received or actual anticipated income.

**Types of Income.** Income that will be considered in determining an applicant's need includes:

- a) **Earned income.** Income in cash or in kind earned by the applicant through wages, salary, commissions, or profit, whether self-employed or as an employee, is considered earned income. If a person is self-employed, total income will be computed by subtracting reasonable and actual business expenses from gross income. When income consists of wages, the amount computed will be the income available after taxes, social security and other payroll deductions required by state, federal, and local law. Rental income and profit from produce that is sold is considered earned income. Income that is held in trust and unavailable to the applicant or the applicant's dependents will not be considered as earned income.

Note: Actual work-related expenses such as union dues, transportation to and from work, special equipment or work clothes, and child care costs will be deducted from an applicant's income (22 M.R.S.A. § 4301(7)).

- b) **Income from Other Assistance or Social Services Programs.** State/federal categorical assistance benefits, SSI payments, Social Security payments, VA benefits, unemployment insurance benefits, and payments from other government sources will be considered as income, unless expressly prohibited by federal law or regulation. Federal law prohibits Food Stamps and fuel assistance payments made by the Home Energy Assistance Program (HEAP and EPIC) from being considered income. The value of the food stamps or fuel assistance will not be used to reduce the amount of general assistance the applicant is eligible to receive. Although applicants may have only a limited or reduced need for general assistance for heating fuel or electricity if a recently received HEAP/ECIP benefit has sufficiently credited their account or otherwise prevented the fuel-related costs for the prospective 30-day period.

The administrator's obligation is to always compute the heating needs of an applicant who has received HEAP or ECIP as if that applicant paid for his or her total fuel costs. Accordingly, in such cases, the administrator will budget for the household's heating energy needs according to actual usage, up to the ordinance maximums, but the administrator may, with written notice to the applicant, hold in reserve the heating energy portion of the applicant's deficit until such a time during the period of eligibility that the applicant has a demonstrable need for the disbursement of heating energy assistance; that is, the applicant's fuel tank can accept a minimum fuel delivery or the applicant no longer has a positive credit balance with his or her utility company. The municipality is not obligated to divert any recipient's heating energy allowance toward non-heating purposes solely on the basis of the recipient's receipt of HEAP/ECIP.

Other programs whose income cannot be counted for purposes of GA eligibility include:

- Family Development Accounts (22 M.R.S. § 3762)
- Americorp VISTA program benefits (42 USCS § 5044 (f))
- Property tax rebates issued under the Maine Property Tax Fairness Credit program, only so long as the money is spent on basic necessities. (22 M.R.S.A. § 4301(7))

- c) **Court-Ordered Support Payments.** Alimony and child support payments will be considered income only if actually received by the applicant. The general assistance administrator will refer cases where support payments are not actually received to the State Department of Health and Human Services' Child Support Enforcement Unit. In order to be eligible for future GA, applicants being referred to DHHS for such enforcement services shall be required to follow-through with such services. Because child support payments are considered a resource, applicants must make a good faith effort to secure such payments.
- d) **Income from Other Sources.** Payments from pensions and trust funds will be considered income. Payments from boarders or lodgers will be considered income as will cash or in-kind contributions provided to the household from any other source, including relatives (22 M.R.S.A. § 4301(7)).
- e) **Earnings of a Son or Daughter.** Earned income received by sons and daughters below the age of 18 who are full-time students and who are not working full-time will not be considered income. The unearned income of a minor in the household will be considered available to the household.
- f) **Income from Household Members.** Income from household members will be considered available to the applicant, whether or not the household member is legally obligated for the support of the applicant, if the household members pool



or share their income and expenses as a family or intermingle their funds so as to provide support to one another.

- g) **The Pooling or Non-Pooling of Income.** When two or more individuals share the same dwelling unit but not all members of the household are applying for general assistance, the administrator shall make a finding under a rebuttable presumption that the entire household is pooling income (22 M.R.S.A. § 4301(12-A)).

One or more applicants for assistance can successfully rebut the presumption that all household income is being pooled by providing the administrator with verifiable documentation affirmatively demonstrating a pattern of non-pooling for the duration of the shared living arrangement. Such documentation would include evidence of the entire household expenses as well as bank statements, cancelled checks, receipts, landlord statements or other vendor accounts clearly supporting a claim that the applicant has been and is presently solely and entirely responsible for his or her pro-rata share of household costs.

If the applicant is unable to successfully rebut the municipality's presumption that all household income is being pooled, eligibility of the entire household will be determined based on total household income. If the applicant successfully rebuts the municipality's presumption that all household income is being pooled, the applicant's eligibility will be determined on the basis of his or her income and his or her pro-rata share of actual household expenses.

- h) **Lump Sum Income.** A lump sum payment received by any GA applicant or recipient prior or subsequent to the date of application for general assistance will be considered as income available to the household. However, verified required payments (i.e., any third party payment which is required as a condition of receiving the lump sum payment, or any payments of bills earmarked for the

purpose for which the lump sum payment was made) and any amount of the lump sum payment which the applicant can document was spent on basic necessities, as described below, will not be considered available income.

Where a household receives a lump sum payment at any time prior or subsequent to the date of application for general assistance, the administrator will assess the need for prorating an applicant's eligibility for general assistance according to the following criteria (22 M.R.S.A. § 4301(7), (8-A)):

- 1) identify the date the lump sum payment was received;
- 2) subtract from the lump sum payment all required payments;
- 3) subtract from the lump sum any amount the applicant can demonstrate was spent on basic necessities, including all basic necessities as defined by the general assistance program such as: reasonable payment of funeral or burial expenses for a family member; any reasonable travel costs related to the illness or death of a family member; repair or replacement of essentials lost due to fire, flood or other natural disaster; repair or purchase of a motor vehicle essential for employment, education, training or other day-to-day living necessities. Repayments of loans or credit, the proceeds of which can be verified as having been spent on basic necessities; and payment of bills earmarked for the purpose for which the lump sum is paid must also be subtracted. (22 M.R.S.A. § 4301(7), (8-A));
- 4) add to the remainder all income received by the household between the date of receipt of the lump sum payment and the date of application for general assistance; and
- 5) divide the sum created in subsection (4) by the verified actual monthly amounts for all of the household's basic necessities. 22 M.R.S.A. § 4305(3-B)

This dividend represents the period of proration determined by the administrator to commence on the date of receipt of the lump sum payment. The prorated sum for each month must be considered available to the household for 12 months from the date of application or during the period of proration, whichever is less.

The household of an initial applicant that is otherwise eligible for emergency assistance may not be denied emergency assistance to meet an immediate need solely on the basis of the proration of a lump sum payment. (22 MRSA § 4308)

#### Section 6.8—Basic Necessities; Maximum Levels of Assistance

**Overall Maximum Levels of Assistance.** Notwithstanding any of the maximum levels of assistance for specific basic necessities listed in Appendices B-H of this ordinance, an applicant's eligibility for general assistance will be first determined by subtracting his or her income from the overall maximum level of assistance designated in Appendix A for the applicable household size (22 M.R.S.A. § 4305 (3-B)). The difference yielded by this calculation shall be the applicant's deficit.

Applicants will be eligible for general assistance up to the calculated deficit to the extent the applicant is unable to otherwise provide the basic necessities essential to maintain themselves or their families. Applicants with no deficit shall be found ineligible for general assistance unless they are in an emergency, in which case eligibility for emergency general assistance will be determined according to section 4.9 of this ordinance.

**Maximum Levels of Assistance for Specific Basic Necessities.** The municipality will grant assistance to eligible applicants for basic necessities according to the maximum levels for specific types of assistance set forth below. The administrator, in consultation with the applicant, may apply the amount of the applicant's deficit toward assistance

with any one or combination of necessities not to exceed the total deficit. These maximum levels will be strictly adhered to unless the administrator determines that there are exceptional circumstances and an emergency is shown to exist, in which case these absolute levels will be waived in order to meet immediate needs. In all cases either the actual expenses the applicant incurs for basic necessities or the maximum amount allowed in each category, whichever is less, will be used in determining need.

In roommate situations, the applicant's need for common living expenses for rent, fuel, electricity, etc., will be presumed to be reduced by an amount equal to the other household members' proportionate fair share of the common living expenses. No applicant will be allowed to claim a need for any expense which has been or will be paid by another person. In addition, as a general rule the municipality will not provide a benefit toward a basic need by paying a bill that is issued to a person not living with the applicant's household or that has otherwise been incurred by a person who has not been found eligible to receive assistance.

Temporary exceptions to this general rule may be made by the administrator in the following circumstances: (1) a recent, unplanned separation has occurred in the household resulting in the sustained or permanent absence of a former household member in whose name the bill was customarily issued; (2) the applicant and members of the applicant's household were or will be the sole recipients of the commodities or services covered by any bill to be paid or partially paid with general assistance; and (3) the applicant will make a good faith effort to direct the vendor to issue future bills in the name of the applicant or other responsible person residing in the household.

A) **Food**. The administrator will provide food assistance to eligible persons up to the allowed maximum amounts designated by the U.S.D.A. Thrifty Food Plan for the appropriate household size.

For this purpose, the municipality hereby incorporates by reference the U.S.D.A. Thrifty Food Plan, as distributed by the Maine Department of Health and Human

Services on or about October of each year. See Appendix B of this ordinance for the current year's food maximums.

In determining need for food the administrator will not consider the value of the food stamps an applicant receives as income (22 M.R.S.A. § 4301.7(A); 7 U.S.C. §2017(b)). The municipality will authorize vouchers to be used solely for approved food products.

The administrator will exceed the maximums when necessary for households having members with special dietary needs. The administrator may require a doctor's statement verifying there is a special dietary need requiring an expenditure for food that is greater than the ordinance maximums.

- B) **Housing**. The administrator will provide assistance with rent or mortgage payments that are reasonable and/or within the allowed maximum levels. See Appendix C of this ordinance for the current year's housing maximums. It is the applicant's responsibility to find suitable housing, although the administrator may help the applicant find housing when appropriate. The administrator will inform the applicant of the allowed housing maximums to assist the applicant in his or her search for housing. The allowed maximum for any applicant will be the categorical housing maximum representing the minimum dwelling unit space necessary to adequately shelter the applicant household. Applicants requesting assistance for housing that contains more bedrooms than are necessary for the number of household members will be provided assistance according to the maximum level for the number of rooms actually needed.

**Rental Payments to Relatives.** The municipality may elect to not issue any rental payment to an applicant's relatives unless the rental relationship has existed for at least three months and the applicant's relative(s) rely on the rental payment for their basic needs. For the purpose of this section, a "relative" is defined as the applicant's

parents, grandparents, children, grandchildren, siblings, parent's siblings, or any of those relative's children (22 M.R.S.A. § 4319(2)).

**Rental Payments to Non-Relatives.** When applicants are living in private homes with the owner or sharing dwelling units with people who are not pooling income or who are not legally liable relatives, the amount allowed as the applicant's shelter expense will be the applicant's pro rata share of the actual, total shelter cost, up to the ordinance maximum (22 M.R.S.A. § 4301(6)).

Any housing assistance issued to a recipient in such a circumstance will be issued, whenever reasonably possible, to the landlord or property owner with the most superior interest in the property; i.e., to a landlord before a tenant, or to a mortgagee before a mortgagor.

When the municipality issues in aggregate more than \$600 in rental payments to any landlord in any calendar year, a 1099 form declaring the total amount of rental payments issued during the calendar year will be forwarded to the Internal Revenue Service (IRS) pursuant to IRS regulation (see section 6041(a) of Internal Revenue Code).

Any landlord wishing to regularly receive rental payments from the municipality on behalf of applicants renting rooms from the landlord's own residence must, at a minimum, make a good faith effort to obtain a lodging license from the Department of Health and Human Services, Division of Health Engineering, pursuant to 10-144A Code of Maine Regulations, Chapter 201, as a condition of that landlord receiving future general assistance payments on behalf of his or her tenants.

**Mortgage Payments.** In the case of a request for assistance with a mortgage payment, the general assistance administrator will make an individual factual determination of whether the applicant has an immediate need for such aid. In

making this determination, the administrator will consider the extent and liquidity of the applicant's proprietary interest in the housing. Factors to consider in making this determination include:

- (1) the marketability of the shelter's equity;
- (2) the amount of equity;
- (3) the availability of the equity interest in the shelter to provide the applicant an opportunity to secure a short-term loan in order to meet immediate needs;
- (4) the extent to which liquidation may aid the applicant's financial rehabilitation;
- (5) a comparison between the amount of mortgage obligations and the anticipated rental charges the applicant would be responsible for if he/she were to be dislocated to rental housing;
- (6) the imminence of the applicant's dislocation from owned housing because of his or her inability to meet the mortgage payments;
- (7) the likelihood that the provision of housing assistance will prevent such dislocation; and
- (8) the applicant's age, health, and social situation.

These factors shall be considered when determining whether the equity in the shelter is an available asset which may be substituted for the assistance the municipality would otherwise be required to provide.

The administrator shall consider issuing a benefit in response to the applicant's request for mortgage assistance to the extent the applicant is otherwise eligible for general assistance if after reviewing the above criteria the administrator determines that:

- (1) the monthly mortgage obligation is in accordance with the maximum levels of assistance available for housing appropriate to the applicant's household size;
- (2) there is no capacity in the accumulated equity in the property, when considered in the context of the applicant's borrowing capacity with the mortgagee or the general lending community, to suspend the mortgage obligation temporarily or reamortize the mortgage in such a way as to suspend or reduce the mortgage obligation; and
- (3) the failure to provide a mortgage payment in a timely manner could jeopardize the applicant's continued right of possession of the property.

If a mortgage payment is necessary, the administrator will pay the actual amount due, up to the amount allowed according to the maximum levels listed below. After an initial application, assistance with such payments will be given only after the applicant has made all reasonable efforts to borrow against the equity of his or her home. If there is not sufficient equity in the home with which to secure a loan, and if the monthly mortgage payments are not realistically in line with the rental rates for similar housing in the area that could meet the applicant's needs, the administrator will inform the applicant that he/she is responsible for finding alternative housing within his or her ability to pay and will be obligated to make all reasonable efforts to secure such housing.

**Liens.** The municipality may place a lien on the property in order to recover its costs of granting assistance with mortgage payments. In addition, a municipality may claim a lien against the owner of real estate for the amount of money spent by it to make capital improvements to the real estate (22 M.R.S.A. § 4320). No lien may be enforced against a recipient except upon his or her death or the transfer of the property. Further, no lien may be enforced against a person who is currently receiving any form of public assistance, or who would again become eligible for general assistance if the lien were enforced.



If the municipality determines that it is appropriate to place a lien on a person's property to recover its costs of providing general assistance for a mortgage payment or capital improvement it must file a notice of the lien with the county registry of deeds where the property is located within 30 days of making the mortgage payment. That filing shall secure the municipality's or the state's interest in an amount equal to the sum of that mortgage or capital improvement payment and all subsequent mortgage or capital improvement payments made on behalf of the same eligible person, plus interest and costs.

Not less than 10 days prior to filing the lien in the registry, the municipal officers must send notice to the owner of the real estate, the general assistance recipient, and any record holder of the mortgage by certified mail, return receipt requested, that a lien on the property is going to be filed with the registry. This notice must clearly inform the recipient of the limitations upon enforcement plus the name, title, address and telephone number of the person who granted the assistance. The municipal officers must also give written notice to the recipient each time the amount secured by the lien is increased because of an additional mortgage payment. This notice must include the same information that appeared on the original intent-to-file notice sent to the recipient.

The municipality may charge interest on the amount of money secured by the lien. The municipal officers will establish the interest rate not to exceed the maximum rate of interest allowed by the State Treasurer to be charged against delinquent taxes. The interest will accrue from the date the lien is filed.

**Property Taxes.** In the event an applicant requests assistance with his or her property taxes, the administrator will inform the applicant that there are two procedures on the local level to request that relief: the poverty abatement process (36 M.S.R.A. § 841(2)) and General Assistance. If the applicant chooses to seek

property tax assistance through General Assistance, or if the applicant is denied a poverty tax abatement, the administrator may consider using general assistance to meet this need only if:

- a) the property tax in question is for the applicant's place of residence;
- b) there is a tax lien on the property which is due to mature within 60 days of the date of application;
- c) as a matter of municipal policy or practice, or on the basis of information obtained from the applicant's mortgagee, if any, it is reasonably certain that a tax lien foreclosure will result in subsequent eviction from the residential property; and
- d) the applicant, with sufficient notice, applies for property tax relief through the Maine Property Tax Fairness Credit program, when available.

**Housing Maximums.** The maximum levels of housing assistance contained in this ordinance have been derived either from a locally accomplished fair market rental survey or the fair market rental values developed by the United States Department of Housing and Urban Development (HUD). If the maximum levels of housing are derived from the HUD values made effective as of every October 1, and adjusted to disregard the current and averaged utility allowances as developed by the Maine State Housing Authority, those levels are hereby incorporated by reference. See Appendix C of this ordinance for the current year's housing maximums.

If and when the maximum levels of housing contained in this ordinance are derived from a locally developed fair market rental survey, a record of that survey will be submitted to the DHHS, General Assistance Unit, and the maximum levels of housing assistance will be incorporated into this ordinance pursuant to the ordinance adoption and amendment procedures found at 22 M.R.S.A. § 4305.

- C) **Utilities**. Expenses for lights, cooking, and hot water will be budgeted separately if they are not included in the rent. Applicants are responsible for making arrangements with the utility company regarding service, including entering into a special payment arrangement if necessary.

Assistance will be granted to eligible applicants on the basis of their most recent bill. The municipality is not obligated to pay back bills or utility security deposits. Exceptions may be made in emergency situations pursuant to section 4.9.

Disconnection of utility service will not be considered an emergency in all cases. The administrator will make an individual, factual analysis to determine if the termination of utility service constitutes an emergency. The administrator will consider the household composition, the time of year, the age and health of the household members, and other appropriate factors in reaching a decision.

Applicants who had sufficient income, money, assets or other resources to pay their utility bill when it was received, but who spent all or part of their income on items which were not basic necessities, will not be eligible to receive general assistance to replace those funds.

Applicants have the burden of providing evidence of their income and use of income for the applicable time period (22 M.R.S.A. § 4308(2)) (*see section 4.9 and 6.3*).

The administrator will notify applicants in writing that they must give the administrator prompt notice if their utility service is to be terminated or if their fuel supply is low. It is the applicant's responsibility to attempt to make arrangements with the utility company to maintain their service and to notify the administrator if assistance is needed with a utility bill prior to service being terminated.

**Electricity Maximums for Households Without Electric Hot Water.** See Appendix D of this ordinance for the current year's electricity maximums.

**Electricity Maximums for Households that Use Electrically Heated Hot Water.** See Appendix D of this ordinance for the current year's electricity maximums.

**Non-Electric Utilities.** The allowed amount for water and sewer utility service will be budgeted at a 30-day reasonable usage rate.

- D) **Fuel.** Expenses for home heating will be budgeted according to the actual need for fuel during the heating season (September through May) provided such expenses are reasonable, and at other times during the year when the administrator determines the request for fuel assistance is reasonable and appropriate.

Assistance will be granted to eligible applicants on the basis of their most recent bill. The municipality is not responsible for back bills except in an emergency as provided in section 4.9. Applicants are responsible for monitoring their fuel supply and requesting assistance prior to depleting their fuel supply. When applicants who have been informed of this responsibility run out of fuel nonetheless, and can show no just cause for failing to give the administrator timely notice of their need for fuel, the administrator shall find that the emergency was not beyond the applicants' control, and process the emergency request accordingly, pursuant to section 4.9 of this ordinance.

See Appendix E of this ordinance for the current year's fuel maximums.

- E) **Personal Care and Household Supplies.** Expenses for ordinary personal and household supplies will be budgeted and allowed according to the applicant's actual need for these items. Personal and household supplies include: hand soap, toothpaste, shampoo, shaving cream, deodorant, dish detergent, laundry supplies and costs, household cleaning supplies, razors, paper products such as toilet paper, tissues, paper towels, garbage/trash bags light bulbs and supplies for children under

5 years of age. See Appendix F of this ordinance for the current year's personal care and household supplies maximums.

F) **Other Basic Necessities.** Expenses falling under this section will be granted when they are deemed essential to an applicant's or recipient's health and safety by the general assistance administrator and, in some cases, upon verification by a physician. Assistance will be granted only when these necessities cannot be obtained through the utilization of available resources.

- 1) **Clothing.** The municipality may assist a household with the purchase of adequate clothing. Before assistance will be granted for clothing, the general assistance administrator must be satisfied that the applicant has utilized all available resources to secure the necessary clothing. In some circumstances, clothing will be a postponable item. Exceptions to this would be, for example, if fire, flood or unusually cold weather makes extra clothing an immediate necessity, special clothing is necessary for the applicant's employment, or a household member is without adequate clothing.
- 2) **Medical.** The municipality will pay for essential medical expenses, other than hospital bills (*see below*), provided that the municipality is notified and approves the expenses and services prior to their being made or delivered. Medical expenses include prescriptions, devices, treatments, or services that are determined to be 'medically necessary' by a licensed physician. The municipality will grant assistance for medical services only when assistance cannot be obtained from any other source and the applicant would not be able to receive necessary medical care without the municipality's assistance. The applicant is required to utilize any resource, including any federal or state program, that will diminish his or her need to seek general assistance for medical expenses. The municipality will grant assistance for non-emergency medical services only if a physician verifies that the services are essential.

Provided there is no cost to the applicant, the administrator may require a second medical opinion from a physician designated by the municipality to verify the necessity of the services.

Generally, the municipality will issue general assistance at the established Medicaid rates for all medical services, prescriptions, or other medical commodities. Before authorizing general assistance for any medical expenses, the administrator will inform the pharmacy or medical service provider of the municipality's intention to pay for the medical service at the Medicaid rate, and ask to be billed accordingly.

Ordinary medical supplies/non-prescription drugs will be budgeted at the actual amount when the applicant can demonstrate a need for such items. Allowable supplies include bandages, aspirin, cough syrup, and other generic brand, non-prescription medicines. In addition, the basic monthly rate for telephone service will be budgeted when a telephone is essential to the health and safety of the household. In order for telephone service to be considered an allowable expense the applicant must provide a written statement from a physician certifying that the telephone is essential.

- 3) **Hospital Bills.** In the event of an emergency admission to the hospital, the hospital must notify the administrator within 5 business days of the admission. Notification must be by telephone, confirmed by certified mail, or by certified mail only. If a hospital fails to give timely notice to the administrator, the municipality will have no obligation to pay the bill.

Any person who cannot pay his or her hospital bill must apply to the hospital for consideration under the Hospital's Free Care Program as provided in Title 22 M.R.S.A. § 1716. Anyone who is not eligible for the hospital's free care program may apply for general assistance. Applicants must apply for

assistance within 30 days of being discharged from the hospital and provide a notice from the hospital certifying that they are not eligible for the hospital's free care program.

Before the administrator will consider whether to allow a hospital bill as a necessary expense, the applicant must enter into a reasonable payment arrangement with the hospital. The payment arrangement will be based upon the Medicaid rate. In determining an applicant's eligibility, the municipality will budget the monthly payment to the hospital the applicant has agreed to pay. The applicant's need for assistance with a hospital bill will be considered each time he/she applies by including the amount of the bill in the applicant's monthly budget, but the recipient will be responsible for making any necessary payments to the hospital pursuant to the use-of-income requirements found at section 6.6 of this ordinance.

- 4) **Dental.** The municipality will pay for medically necessary dental services only. As is the case with medical services generally, the municipality will issue general assistance for dental services at the established Medicaid rates for those services, and before authorizing the general assistance benefit for dental services, the administrator will inform the dentist or dental surgeon of the municipality's intention to pay at the Medicaid rate. If full mouth extractions are necessary, the municipality will pay for dentures provided the applicant has no other resources to pay for the dentures. The applicant will be referred to a dental clinic in the area whenever possible. The administrator will expect the applicant to bear a reasonable part of the cost for dental services, including extractions and dentures, taking into account the applicant's ability to pay.
- 5) **Eye Care.** In order to be eligible to receive general assistance for eyeglasses, an applicant must have his or her medical need certified by a person licensed to practice optometry. The general assistance administrator will provide

assistance for eyeglasses to eligible persons only after the applicant has exhausted all other available resources and generally only at the Medicaid rate.

- 6) **Telephone Charge.** A payment for basic telephone will only be allowed if a telephone is necessary for medical reasons as verified by a physician. At the discretion of the GA administrator, minimum/basic telephone services may be allowed for households with children, for households where job search or job related reasons exist and/or for any other reasons the administrator deems necessary.
- 7) **Work-Related Expenses.** In determining need, reasonable and actual work-related expenses will be deducted from earned income. These expenses include childcare costs, work clothes, supplies and transportation at the actual costs not to exceed the ordinance maximum (*see Appendix G for this year's maximum mileage allotment*). The applicant is required to provide documentation substantiating the costs and that the expenses were necessary.
- 8) **Travel Expenses.** In determining need, necessary travel which is not work-related will be budgeted if the applicant can satisfy the administrator that the prospective need for travel is necessary. For applicants in rural areas, weekly transportation to a supermarket will be considered, as will any medically necessary travel. See Appendix G for the current rate at which such necessary travel will be budgeted. This rate shall be construed to subsidize all costs associated with automobile ownership and operation, including gas/oil, tires, maintenance, insurance, financing, licensing/registration, excise tax, etc.
- 9) **Burials, Cremations.** Under the circumstances and in accordance with the procedures and limitations described below (*see section 6.9*), the municipality recognizes its responsibility to pay for the burial or cremation of eligible persons. See Appendix H for the current maximums.



10) **Capital Improvements.** The costs associated with capital improvements/repairs (e.g., heating/water/septic system repair) will generally not be budgeted as a basic necessity. Exceptions can be made only when the capital improvement/repair has been pre-approved by the administrator as a necessary expense and the monthly cost of the capital improvement/repair has been reduced as far as reasonably possible; for example, by means of the applicant entering into an installment payment arrangement with the contractor. The administrator may grant general assistance for capital improvements when:

- 1) the failure to do so would place the applicant(s) in emergency circumstances;
- 2) there are no other resources available to effect the capital repair; and
- 3) there is no more cost-effective alternative available to the applicant or municipality to alleviate an emergency situation.

In some cases, the entire immediate cost of the capital improvement can be mitigated by the applicant entering into an installment payment arrangement with a contractor. The municipality reserves the right to place a lien on any property pursuant to 22 M.R.S.A. § 4320 when general assistance has been used to effect a capital improvement. The lien process shall be accomplished in the same manner as for mortgage payments, as described in subsection (B) “Liens”, above.

#### Section 6.9—Burials; Cremations

**Funeral Director Must Give Timely Notice.** In order for the municipality to be liable for a burial or cremation expense, the funeral director must notify the administrator prior to the burial or cremation or by the end of three business days following the funeral director’ receipt of the body, whichever is earlier (22 M.R.S.A. §4313(2)). This contact by the funeral director shall begin the process of developing an application for

burial/cremation assistance on behalf of the deceased. It is the funeral director's responsibility to make a good-faith effort to determine if the family or any other persons are going to pay all or part of the burial expenses. If family members or others are unable to pay the expenses, and the funeral director wants the municipality to pay all or part of the expenses, the funeral director must make timely contact to the municipal administrator. In addition, the funeral director may refer legally liable relatives to the administrator so that a timely determination of financial capacity may be accomplished.

**Application for Assistance Shall be Calculated on Behalf of the Deceased.** For the purposes of determining residency, calculating eligibility and issuing general assistance for burial or cremation purposes, an application for assistance shall be completed by the administrator on behalf of the deceased.

With regard to residency, the municipality of responsibility for burial expenses shall be the municipality in which the eligible deceased person was a resident at the time of death as residency is determined under section 4.10 of this ordinance.

Although legally liable relatives may be asked to provide information regarding their income, assets, and basic living expenses, that information will not be construed as an application for general assistance inasmuch as living persons are not eligible for burial assistance. To clarify this point of law, although legally liable relatives have a financial responsibility to pay for the burial or cremation of their relatives, that financial responsibility only exists to the extent the legally liable relatives have a financial capacity to do so. Therefore, legally liable relatives who are eligible for general assistance, by virtue of their eligibility, have no legal obligation to pay for the burial or cremation of their relatives. For these reasons, all general assistance issued for burial or cremation purposes shall be issued on behalf of, and in the name of, the deceased.

**The Financial Responsibility of Certain Family Members.** Grandparents, parents, children and grandchildren of the deceased, who live in Maine or own property in Maine,

are financially responsible for the burial or cremation of the deceased to the extent those relatives, individually or as a group, have a financial capacity to pay for the burial or cremation either in lump sum or by means of a budgeted payment arrangement with the funeral home. Accordingly, at the request of the administrator, all legally liable relatives must provide the municipal administrator with any reasonably requested information regarding their income, assets, and basic living expenses.

**Consideration of the Financial Responsibility of Family Members.** Generally, when the administrator can make a finding that one or more of the deceased's legally liable relatives have an obvious and demonstrable financial capacity to pay for the burial or cremation, by lump sum payment or by means of a reasonable payment arrangement, the municipality will not grant the requested burial or cremation assistance. When the administrator is unable to make such a finding, the following proration of familial responsibility will be implemented.

**Proration of Familial Responsibility.** A proration of familial financial responsibility will be used when no legally liable relative possesses an obvious and demonstrable capacity to pay for the burial or cremation, but one or more of the financially liable relatives is found to have a financial capacity to make a partial financial contribution, or the administrator is unable to determine the financial capacity of one or more of said relatives.

Under these circumstances, each legally liable relative is considered to be responsible for his or her pro rata share of the total municipal contribution that would exist if no legally liable relatives had a financial capacity to contribute. Furthermore, and as long as all other eligibility factors have been satisfied, the municipality will provide as a burial or cremation benefit the aggregate of all pro rata shares less the share of any legally liable relative who refuses to cooperate with the administrator by providing information or documentation reasonably necessary to determine that relative's financial capacity, and less any share or part of a share attributable to a legally liable relative who can

financially contribute or partially contribute toward the burial or cremation to the extent of that relative's share.

**Eight Days to Determine Eligibility.** The administrator may take up to 8 days from the date of contact by the funeral director to issue a written decision regarding the amount of the municipal contribution toward the burial or cremation. The 8-day eligibility determination period from the date of contact by the funeral director shall be used as necessary to make third-party collateral contacts, verify the listing of legally liable family members and determine their respective financial capacities to contribute to the burial or cremation, contact the personal representative of the deceased's estate, if any, and other related administrative tasks. The administrator shall not use this 8-day period allowed by law to unreasonably delay the municipality's decision.

**The Municipal Obligation to Pay When Legally Liable Relatives or Others Can Contribute.** The figures provided in this section are the maximum benefits provided by the municipality when no contributions toward the burial or cremation are available from any other source. To the extent any legally liable relatives of the deceased have a financial capacity to pay for the burial or cremation, that financial capacity shall be deducted from the maximum burial costs allowed by this section. In addition, any other benefits or resources that are available, such as Social Security burial benefits, veterans' burial benefits, or contributions from other persons, will be deducted from the maximum amount the municipality will pay, except there will be no deduction from the municipal benefit level with respect to any contribution provided for the purpose of publishing an obituary notice up to an aggregate contribution limit for this purpose of \$75 when a paid receipt demonstrating the purchase of an obituary notice is provided to the administrator.

**Burial Expenses.** The administrator will respect the wishes of family members with regard to whether the deceased is interred by means of burial or cremated. See Appendix H for the maximum levels of assistance granted for the purpose of burials.

**Cremation Expenses.** In the absence of any objection by any family members of the deceased, or when neither the administrator nor the funeral director can locate any family members, the administrator may issue general assistance for cremation services. See Appendix H for the maximum levels of assistance granted for the purpose of cremations.

#### Section 6.10—Notice of Decision

**Written Decision.** The administrator will give a written decision to each applicant after making a determination of eligibility each time a person applies. The decision will be given to the applicant within 24 hours of receiving a completed and signed application (22 M.R.S.A. § 4305(3)) (*see Article IV, section 4.6*).

When an applicant submits an incomplete or unsigned application, due to the 24-hour decision requirement placed on the GA administrator, the GA administrator may decide to render a notice of “ineligibility” and provide the applicant with another application to submit as soon as is practicable for the applicant.

In order to ensure that applicants understand their rights, it is the responsibility of the general assistance administrator to explain the applicants’ right to a fair hearing in the written notice of decision.

**Contents.** After an application has been completed, applicants will be given written notice of any decision concerning their eligibility for assistance. In addition to the contents of a written decision listed in section 4.6 of this ordinance, the notice will state that applicants:

- a) have the right to a fair hearing and the method by which they may obtain a fair hearing and;

- b) have the right to contact the DHHS if they believe the municipality has violated the law. The decision will state the method for notifying the department.

**Disbursement of General Assistance.** Except when determined impractical by the administrator, all general assistance will be provided in the form of a voucher or purchase order payable to a vendor or through direct municipal payment to a provider of goods or services. General assistance will not be issued in the form of a cash payment to an applicant unless there is no alternative to making such a cash payment, in which case the administrator shall document the circumstances for issuing general assistance in the form of cash (22 M.R.S.A. § 4305(6)).

## ARTICLE VII

### The Fair Hearing

#### Section 7.1—Right to a Fair Hearing

Within 5 working days of receiving a written notice of denial, reduction or termination of assistance, or within 10 working days after any other act or failure to act, the applicant or his or her authorized representative has the right to request a fair hearing (22 M.R.S.A. § 4322). The right to review a decision of the general assistance administrator is a basic right of the applicant to a full evidentiary hearing and is not limited solely to a review of the decision.

#### Section 7.2—Method of Obtaining a Fair Hearing

Upon receiving notification of the decision of the general assistance administrator, all claimants will be informed of the method of obtaining a fair hearing. All complaints that are not clear requests for a fair hearing will be answered by a personal interview or in writing by the general assistance administrator. If the client is satisfied with the adjustment or explanation, the administrator will make an entry in the case record and file any correspondence involved.

**Written Request.** To obtain a fair hearing, the claimant, or his or her authorized representative, must make a written request within 5 working days of receiving the administrator's decision to grant, deny, reduce or terminate assistance, or within 10 working days after any other act or failure to act. The administrator will make available a printed form for requesting a fair hearing and will assist the claimant in completing it if necessary. On the printed form, the claimant will give the following information:

- a) the decision on which review is sought;
- b) the reason(s) for the claimant's dissatisfaction and why the claimant believes he/she is eligible to receive assistance; and

- c) the relief sought by the claimant.

The administrator cannot deny or dismiss a request for a hearing unless it has been withdrawn (in writing) by the claimant.

**Scheduling the Fair Hearing.** Upon receipt of the completed written request the fair hearing authority must meet and hold the hearing within 5 working days. The administrator will notify the claimant in writing when and where the hearing will be held (22 M.R.S.A. § 4322). In addition to the date, time and place of the hearing, the notice of fair hearing sent to the claimant shall include, at a minimum, the claimant's rights to:

- a) be his or her own spokesperson at the fair hearing, or be represented by legal counsel or other spokesperson at the hearing, at the claimant's own expense;
- b) confront and cross-examine any witnesses presented at the hearing against the claimant; and
- c) present witnesses on his or her own behalf.

Arrangements for the date, time, and place of the hearing will take into consideration the convenience of the claimant and hearing authority. The claimant will be given timely notice to allow for preparation and will also be given adequate preliminary information about the hearing procedure to allow for effective preparation of his or her case.

### Section 7.3—The Fair Hearing Authority

The municipal officers will appoint a fair hearing authority (FHA) that will determine, based on all the evidence presented at the fair hearing, whether the claimant(s) were eligible to receive assistance at the time they applied for GA. The FHA is charged with the responsibility of ensuring that general assistance is administered in accordance with the state law and local ordinance.



The fair hearing authority may consist of the municipal officers, one or more persons appointed by the municipal officers to act as the FHA , or, if designated, the board of appeals created under 30-A M.R.S.A. § 2691 (22 M.R.S.A. § 4322). In determining the organization of the fair hearing authority, the municipal officers will use the following criteria. The person(s) serving as FHA must:

- a) not have participated in the decision which is the subject of the appeal;
- b) be impartial;
- c) be sufficiently skilled in interviewing techniques to be able to obtain evidence and the facts necessary to make a fair determination; and
- d) be capable of evaluating all evidence fairly and realistically, explaining to the claimant the laws and regulations under which the administrator operated, and interpreting to the administrator any evidence of unsound, unclear, or inadequate policies, practices or actions.

#### Section 7.4—Fair Hearing Procedure

When a claimant requesting a fair hearing is notified of the date, time, and place of the hearing in writing, he/she will also be given adequate preliminary information about the hearing procedure to allow for effective preparation of his or her case. The claimant shall be permitted to review his or her file prior to the hearing. At a minimum, the claimant will be told the following information, which will govern all fair hearings. All fair hearings will:

- a) be conducted privately, and will be open only to the claimant, witnesses, legal counsel, or others whom the claimant wants present, and the general assistance administrator, his or her agents, counsel and witnesses;
- b) be opened with a presentation of the issue by the fair hearing authority;
- c) be conducted informally, without technical rules of evidence, but subject to the requirements of due process;

- d) allow the claimant and the administrator the option to present their positions for themselves or with the aid of others, including legal counsel;
- e) give all participants an opportunity to present oral or written testimony or documentary evidence, offer rebuttal; question witnesses presented at the hearing; and examine all evidence presented at the hearing;
- f) result in a decision, based exclusively on evidence or testimony presented at the hearing; and
- g) be tape recorded, and result in a written decision that is given to the claimant and filed with evidence introduced at the hearing. The fair hearing authority will allow the claimant to establish all pertinent facts and circumstances, and to advance any arguments without undue interference. Information that the claimant does not have an opportunity to hear or see will not be used in the fair hearing decision or made part of the hearing record. Any material reviewed by the fair hearing authority must be made available to the claimant or his or her representative. The claimant will be responsible for preparing a written transcript if he/she wishes to pursue court action.

The fair hearing authority shall admit all evidence if it is the kind of evidence upon which reasonable persons are accustomed to rely in the conduct of serious affairs (22 M.R.S.A. § 4322).

**Claimant's Failure to Appear.** In the event the claimant fails to appear, the FHA will send a written notice to the claimant that the GA administrator's decision was not altered due to the claimant's failure to appear. Furthermore, the notice shall indicate that the claimant has 5 working days from receipt of the notice to submit to the GA administrator information demonstrating "just cause," for failing to appear. For the purposes of a claimant's failure to appear at a fair hearing, examples of "just cause" include:

- a) a death or serious illness in the family;

- b) a personal illness which reasonably prevents the party from attending the hearing;
- c) an emergency or unforeseen event which reasonably prevents the party from attending the hearing;
- d) an obligation or responsibility which a reasonable person in the conduct of his or her affairs could reasonably conclude takes precedence over the attendance at the hearing; or
- e) lack of receipt of adequate or timely notice; excusable neglect, excusable inadvertence, or excusable mistake.

If the claimant (or their attorney) establishes just cause, the request for the hearing will be reinstated and a hearing rescheduled.

In the event a claimant who is represented by legal counsel fails to appear at a fair hearing, legal counsel shall not testify in place of the claimant on matters of 'fact' but may cross examine witnesses and make 'legal' arguments on behalf of the claimant.

#### Section 7.5—The Fair Hearing Decision

The decision of the fair hearing authority will be binding on the general assistance administrator, and will be communicated in writing to the claimant within 5 working days after completion of the hearing. Written notice of the decision will contain the following:

- a) a statement of the issue;
- b) relevant facts brought out at the hearing;
- c) pertinent provisions in the law or general assistance ordinance related to the decision; and
- d) the decision and the reasons for it.

A copy of the notice of the decision will be given to the claimant. The hearing record and the case record will be maintained by the general assistance administrator.

The written notice of the decision will state that if the claimant is dissatisfied with the fair hearing decision, he/she has a further legal right to appeal the decision pursuant to the Maine Rules of Civil Procedure, Rule 80B. To take advantage of this right, the claimant must file a petition for review with the Superior Court within 30 days of receipt of the fair hearing decision.

When the decision by the fair hearing authority or court authorizes assistance to the claimant, the assistance will be provided within 24 hours.

## ARTICLE VIII

### Recovery of Expenses

**Recipients.** The municipality may recover the full amount of assistance granted to a person from either the recipient or from any person liable for the recipient, or his or her executors or administrators in a civil action. However, prior to recovering assistance granted, the municipality shall “offset” the value of any workfare performed by a GA recipient, at a rate not less than minimum wage.

Prior to taking a recipient to court to recover the amount of assistance, the municipality will seek voluntary repayment from the recipient by notifying him/her in writing and discussing it with the recipient. The municipality shall not attempt to recover such costs if, as a result of the repayment, the person would again become eligible for general assistance (22 M.R.S.A. § 4318).

**Recipients Anticipating Workers’ Compensation Benefits.** The municipality shall claim a lien for the value of all general assistance payments made to a recipient on any lump sum payment made to that recipient under the Workers’ Compensation Act or similar law of any other state (22 M.R.S.A. § 4318, 39-A M.R.S.A. § 106). After issuing any general assistance on behalf of a recipient who has applied for or is receiving Workers’ Compensation, the municipality shall file a notice of the municipal lien with the general assistance recipient and the Office of Secretary of State, Uniform Commercial Code division.

The notice of lien shall be filed on a UCC-1 form which must be signed by the recipient of general assistance who has applied for or is receiving Workers’ Compensation. Any general assistance applicant who has applied for or who is receiving Workers’ Compensation benefits and who refuses to sign a properly prepared UCC-1 form will be found ineligible to receive general assistance until he or she provides the required

signature. The municipality shall also send a photocopy of that filing to the recipient's Worker's Compensation attorney, if known, the applicant's employer or the employer's insurance company, and, at the administrator's discretion, to the Workers' Compensation Board. The lien shall be enforced at the time any lump sum Workers' Compensation benefit is issued.

**Recipients of SSI.** All applicants who receive general assistance while receipt of their Supplemental Security Income (SSI) assistance is pending or suspended, and which therefore may be retroactively issued to the applicant at a later date, will be required to sign a statement on an Interim Assistance Agreement form distributed by the DHHS that authorizes the Social Security Administration to direct a portion of any retroactive SSI payment to the municipality and/or the state in repayment for the general assistance granted. Any general assistance applicant who has applied for or who may be applying for SSI, or who may be required to apply for SSI pursuant to 22 M.R.S.A. § 4317, and who refuses to sign the Interim Agreement SSI authorization form will be found ineligible to receive general assistance until he or she provides the required signature (22 M.R.S.A. § 4318).

**Relatives.** The spouse of an applicant, and the parents of any applicant under the age of 25, are liable for the support of the applicant (22 M.R.S.A. § 4319). In addition, grandchildren, children, parents and grandparents are liable for the burial costs of each other. The municipality considers these relatives to be available resources and liable for the support of their relatives in proportion to their respective ability. The municipality may complain to any court of competent jurisdiction to recover any expenses made on the behalf of a recipient if the relatives fail to fulfill their responsibility (22 M.R.S.A. § 4319).

## **ARTICLE IX**

### **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.

## GA Overall Maximums

### Metropolitan Areas

#### Persons in Household

COUNTY	1	2	3	4	5*
<b>Bangor HMFA:</b> Bangor, Brewer, Eddington, Glenburn, Hampden, Hermon, Holden, Kenduskeag, Milford, Old Town, Orono, Orrington, Penobscot Indian Island Reservation, Veazie	579	669	845	1,061	1,223
<b>Penobscot County HMFA:</b> Alton, Argyle UT, Bradford, Bradley, Burlington, Carmel, Carroll plantation, Charleston, Chester, Clifton, Corinna, Corinth, Dexter, Dixmont, Drew plantation, East Central Penobscot UT, East Millinocket, Edinburg, Enfield, Etna, Exeter, Garland, Greenbush, Howland, Hudson, Kingman UT, Lagrange, Lakeville, Lee, Levant, Lincoln, Lowell town, Mattawamkeag, Maxfield, Medway, Millinocket, Mount Chase, Newburgh Newport, North Penobscot UT, Passadumkeag, Patten, Plymouth, Prentiss UT, Seboeis plantation, Springfield, Stacyville, Stetson, Twombly UT, Webster plantation, Whitney UT, Winn, Woodville	576	576	690	874	1,056
<b>Lewiston/Auburn MSA:</b> Auburn, Durham, Greene, Leeds, Lewiston, Lisbon, Livermore, Livermore Falls, Mechanic Falls, Minot, Poland, Sabattus, Turner, Wales	529	626	818	1,031	1,094
<b>Portland HMFA:</b> Cape Elizabeth, Casco, Chebeague Island, Cumberland, Falmouth, Freeport, Frye Island, Gorham, Gray, Long Island, North Yarmouth, Portland, Raymond, Scarborough, South Portland, Standish, Westbrook, Windham, Yarmouth; Buxton, Hollis, Limington, Old Orchard Beach	750	888	1,148	1,444	1,546
<b>York/Kittery/S.Berwick HMFA:</b> Berwick, Eliot, Kittery, South Berwick, York	936	939	1,123	1,635	1,779
<b>Cumberland County HMFA:</b> Baldwin, Bridgton, Brunswick, Harpswell, Harrison, Naples, New Gloucester, Pownal, Sebago	623	731	941	1,244	1,483



COUNTY	1	2	3	4	5*
<b>Sagadahoc HMFA:</b> Arrowsic, Bath, Bowdoin, Bowdoinham, Georgetown, Perkins UT, Phippsburg, Richmond, Topsham, West Bath, Woolwich	742	742	887	1,117	1,533
<b>York County HMFA:</b> Acton, Alfred, Arundel, Biddeford, Cornish, Dayton, Kennebunk, Kennebunkport, Lebanon, Limerick, Lyman, Newfield, North Berwick, Ogunquit, Parsonsfield, Saco, Sanford, Shapleigh, Waterboro, Wells	678	704	891	1,191	1,233

**\*Note: Add \$68 for each additional person.**

### **Non-Metropolitan Areas**

#### **Persons in Household**

COUNTY	1	2	3	4	5*
<b>Aroostook County</b>	506	539	644	840	929
<b>Franklin County</b>	555	585	711	856	1,217
<b>Hancock County</b>	594	683	842	1,116	1,146
<b>Kennebec County</b>	507	587	750	952	1,015
<b>Knox County</b>	698	709	865	1,110	1,259
<b>Lincoln County</b>	649	717	904	1,126	1,208
<b>Oxford County</b>	543	602	726	979	1,268
<b>Piscataquis County</b>	564	641	791	1,004	1,073
<b>Somerset County</b>	573	600	715	972	988
<b>Waldo County</b>	633	677	815	1,014	1,078
<b>Washington County</b>	544	585	697	863	1,045

**\* Please Note: Add \$68 for each additional person.**

**Appendix B**  
**Effective: 10/01/13 to 09/30/14**

## **Food Maximums**

Please Note: The maximum amounts allowed for food are established in accordance with the U.S.D.A. Thrifty Food Plan. Through September 30, 2014, those amounts are:

<b>Number in Household</b>	<b>Weekly Maximum</b>	<b>Monthly Maximum</b>
1	46.51	200
2	85.35	367
3	122.33	526
4	155.35	668
5	184.42	793
6	221.40	952
7	244.65	1,052
8	279.53	1,202

**Note: For each additional person add \$150 per month.**

## **Appendix C**

**Effective: 10/01/13 to 09/30/14**

### **GA Housing Maximums (Heated & Unheated Rents)**

**NOTE: NOT ALL MUNICIPALITIES SHOULD ADOPT THESE SUGGESTED HOUSING MAXIMUMS!** Municipalities should ONLY **consider** adopting the following numbers, if these figures are consistent with local rent values. If not, a market survey should be conducted and the figures should be altered accordingly. The results of any such survey must be presented to DHHS prior to adoption. **Or**, no housing maximums should be adopted and eligibility should be analyzed in terms of the Overall Maximum—Appendix A. (*See Instruction Memo for further guidance.*)

## **Non-Metropolitan FMR Areas**

<b><u>Aroostook County</u></b>		<b><u>Unheated</u></b>		<b><u>Heated</u></b>	
Bedrooms		Weekly	Monthly	Weekly	Monthly
0		82	353	106	455
1		82	353	107	460
2		93	401	130	558
3		120	514	166	714
4		124	535	181	777
<b><u>Franklin County</u></b>		<b><u>Unheated</u></b>		<b><u>Heated</u></b>	
Bedrooms		Weekly	Monthly	Weekly	Monthly
0		95	408	117	505
1		97	418	121	520
2		114	491	144	620
3		135	579	181	779
4		206	887	263	1,129
<b><u>Hancock County</u></b>		<b><u>Unheated</u></b>		<b><u>Heated</u></b>	
Bedrooms		Weekly	Monthly	Weekly	Monthly
0		105	451	124	533
1		117	503	140	602
2		145	622	180	775
3		197	845	240	1,031
4		197	845	241	1,035
<b><u>Kennebec County</u></b>		<b><u>Unheated</u></b>		<b><u>Heated</u></b>	
Bedrooms		Weekly	Monthly	Weekly	Monthly
0		83	359	106	454
1		94	404	123	527
2		123	529	159	682
3		159	685	200	862
4		159	685	212	911

## **Non-Metropolitan FMR Areas**

<b><u>Knox County</u></b>	<b><u>Unheated</u></b>	<b><u>Heated</u></b>
Bedrooms	Weekly Monthly	Weekly Monthly
0	128 552	150 647
1	128 552	150 643
2	150 645	186 798
3	197 846	240 1,032
4	209 899	252 1,083
<b><u>Lincoln County</u></b>	<b><u>Unheated</u></b>	<b><u>Heated</u></b>
Bedrooms	Weekly Monthly	Weekly Monthly
0	119 513	132 568
1	124 535	145 622
2	159 684	195 837
3	200 862	244 1,048
4	207 889	260 1,118
<b><u>Oxford County</u></b>	<b><u>Unheated</u></b>	<b><u>Heated</u></b>
Bedrooms	Weekly Monthly	Weekly Monthly
0	89 382	114 490
1	101 434	120 516
2	113 487	153 657
3	161 693	209 900
4	216 928	274 1,179
<b><u>Piscataquis County</u></b>	<b><u>Unheated</u></b>	<b><u>Heated</u></b>
Bedrooms	Weekly Monthly	Weekly Monthly
0	96 413	111 479
1	103 441	125 539
2	123 527	154 663
3	157 675	196 844
4	157 675	205 881
<b><u>Somerset County</u></b>	<b><u>Unheated</u></b>	<b><u>Heated</u></b>
Bedrooms	Weekly Monthly	Weekly Monthly
0	94 405	122 523
1	94 405	126 542
2	107 459	151 650
3	164 703	209 899
4	164 703	209 899

### **Non-Metropolitan FMR Areas**

<b><u>Waldo County</u></b>	<b><u>Unheated</u></b>		<b><u>Heated</u></b>		
Bedrooms	Weekly	Monthly	Weekly	Monthly	
0	116	497	128	552	
1	119	510	136	583	
2	139	597	162	698	
3	174	749	217	935	
4	176	758	230	987	
<b><u>Washington County</u></b>	<b><u>Unheated</u></b>		<b><u>Heated</u></b>		
Bedrooms	Weekly	Monthly	Weekly	Monthly	
0	93	402	108	463	
1	95	410	118	507	
2	108	465	141	607	
3	134	575	182	782	
4	163	703	222	954	

### **Metropolitan FMR Areas**

<b><u>Bangor HMFA</u></b>	<b><u>Unheated</u></b>		<b><u>Heated</u></b>		
Bedrooms	Weekly	Monthly	Weekly	Monthly	
0	100	432	123	527	
1	113	487	142	610	
2	145	625	181	778	
3	183	789	227	975	
4	210	904	263	1,133	
<b><u>Penobscot County HMFA</u></b>	<b><u>Unheated</u></b>		<b><u>Heated</u></b>		
Bedrooms	Weekly	Monthly	Weekly	Monthly	
0	99	424	114	491	
1	99	424	114	491	
2	100	429	131	565	
3	136	587	172	741	
4	155	668	214	919	
<b><u>Lewiston/Auburn MSA</u></b>	<b><u>Unheated</u></b>		<b><u>Heated</u></b>		
Bedrooms	Weekly	Monthly	Weekly	Monthly	
0	89	381	111	476	
1	103	445	132	566	
2	139	597	174	750	
3	178	766	221	952	
4	180	774	233	1,003	

## Metropolitan FMR Areas

<b><u>Portland HMFA</u></b>	<b><u>Unheated</u></b>	<b><u>Heated</u></b>
Bedrooms	Weekly Monthly	Weekly Monthly
0	142 611	154 666
1	166 715	183 788
2	214 922	238 1023
3	271 1165	300 1292
4	274 1180	318 1367
<b><u>York/Kittery/S. Berwick HMFA</u></b>	<b><u>Unheated</u></b>	<b><u>Heated</u></b>
Bedrooms	Weekly Monthly	Weekly Monthly
0	170 729	182 784
1	170 729	182 784
2	191 823	221 949
3	289 1241	318 1368
4	300 1289	343 1473
<b><u>Cumberland County HMFA</u></b>	<b><u>Unheated</u></b>	<b><u>Heated</u></b>
Bedrooms	Weekly Monthly	Weekly Monthly
0	111 479	124 534
1	131 563	148 636
2	167 720	119 821
3	228 982	259 1115
4	271 1167	308 1326
<b><u>Sagadahoc County HMFA</u></b>	<b><u>Unheated</u></b>	<b><u>Heated</u></b>
Bedrooms	Weekly Monthly	Weekly Monthly
0	140 603	153 658
1	140 603	153 658
2	155 667	179 768
3	186 798	228 976
4	271 1167	314 1351
<b><u>York County HMFA</u></b>	<b><u>Unheated</u></b>	<b><u>Heated</u></b>
Bedrooms	Weekly Monthly	Weekly Monthly
0	126 541	139 596
1	126 541	147 633
2	156 672	188 810
3	216 928	259 1,114
4	216 928	266 1,143

## Appendix D

Effective: 10/01/13 to 09/30/14

### APPENDIX D - UTILITIES

#### ELECTRIC

**NOTE:** For an electrically heated dwelling also see “Heating Fuel” maximums below. But remember, an applicant is *not automatically* entitled to the “maximums” established—applicants must demonstrate need.

**1) Electricity Maximums for Households Without Electric Hot Water:** The maximum amounts allowed for utilities, for lights, cooking and other electric uses *excluding* electric hot water and heat:

<u>Number in Household</u>	<u>Weekly</u>	Monthly
1	\$14.00	\$60.00
2	\$15.70	\$67.50
3	\$17.45	\$75.00
4	\$19.20	\$86.00
5	\$23.10	\$99.00
6	\$25.00	\$107.00

**NOTE:** For each additional person add \$7.50 per month.

**2) Electricity Maximums for Households With Electrically Heated Hot Water:** The maximum amounts allowed for utilities, hot water, for lights, cooking and other electric uses *excluding* heat:

Number in Household	Weekly	Monthly
1	\$19.10	\$82.00
2	\$23.75	\$102.00
3	\$27.70	\$119.00
4	\$32.25	\$139.00
5	\$37.30	\$160.00
6	\$41.00	\$176.00

**NOTE:** For each additional person add \$10.00 per month.

**NOTE:** For electrically heated households, the maximum amount allowed for electrical utilities per month shall be the sum of the appropriate maximum amount under this subsection and the appropriate maximum for heating fuel as provided below.



## Appendix E

Effective: 10/01/13 to 09/30/14

### APPENDIX E - HEATING FUEL

<u>Month</u>	<u>Gallons</u>	<u>Month</u>	<u>Gallons</u>
September	50	January	225
October	100	February	225
November	200	March	125
December	200	April	125
		May	50

**NOTE:** When the dwelling unit is heated electrically, the maximum amount allowed for heating purposes will be calculated by multiplying the number of gallons of fuel allowed for that month by the current price per gallon. When fuels such as wood, coal and/or natural gas are used for heating purposes, they will be budgeted at actual rates, if they are reasonable. No eligible applicant shall be considered to need more than 7 tons of coal per year, 8 cords of wood per year, 126,000 cubic feet of natural gas per year, or 1000 gallons of propane.

**APPENDIX F - PERSONAL CARE & HOUSEHOLD SUPPLIES**

<b><u>Number in Household</u></b>	<b><u>Weekly Amount</u></b>	<b><u>Monthly Amount</u></b>
1-2	\$10.50	\$45.00
3-4	\$11.60	\$50.00
5-6	\$12.80	\$55.00
7-8	\$14.00	\$60.00

**NOTE:** For each additional person add \$1.25 per week or \$5.00 per month.

**SUPPLEMENT FOR HOUSEHOLDS WITH CHILDREN UNDER 5**

When an applicant can verify expenditures for the following items, a special supplement will be budgeted as necessary for households with children under 5 years of age for items such as cloth or disposable diapers, laundry powder, oil, shampoo, and ointment up to the following amounts:

<b><u>Number of Children</u></b>	<b><u>Weekly Amount</u></b>	<b><u>Monthly Amount</u></b>
1	\$12.80	\$55.00
2	\$17.40	\$75.00
3	\$23.30	\$100.00
4	\$27.90	\$120.00

## **Appendix G**

### **Mileage Rate**

This municipality adopts the State of Maine travel expense reimbursement rate as set by the Office of the State Controller. The current rate for approved employment and necessary medical travel etc. is 44 cents (44¢) per mile.

Please refer to the Office of State Controller for changes to this rate: Telephone: 626-8420 or visit: <http://www.state.me.us/osc/>

## **Funeral Maximums**

### **Burial Maximums**

The maximum amount of general assistance granted for the purpose of burial is **\$1,125**. Additional costs may be allowed by the GA administrator, where there is an actual cost, for:

- the wholesale cost of a cement liner if the cemetery by-laws require one;
- the opening and closing of the grave site; and
- a lot in the least expensive section of the cemetery. If the municipality is able to provide a cemetery lot in a municipally owned cemetery or in a cemetery under municipal control, the cost of the cemetery lot in any other cemetery will not be paid by the municipality.

The municipality's obligation to provide funds for burial purposes is limited to a reasonable calculation of the funeral director's direct costs, not to exceed the maximum amounts of assistance described in this section. Allowable burial expenses are limited to:

- removal of the body from a local residence or institution
- a secured death certificate or obituary
- embalming
- a minimum casket
- a reasonable cost for necessary transportation
- other reasonable and necessary specified direct costs, as itemized by the funeral director and approved by the municipal administrator.

### **Cremation Maximums**

The maximum amount of assistance granted for a cremation shall be **\$785**. Additional costs may be allowed by the GA administrator where there is an actual cost, for:

- a cremation lot in the least expensive section of the cemetery
- a reasonable cost for a burial urn not to exceed \$50
- transportation costs borne by the funeral director at a reasonable rate per mile for transporting the remains to and from the cremation facility.

### 26 MRSA §1043 (23)

**Misconduct.** “Misconduct” means a culpable breach of the employee’s duties or obligations to the employer or a pattern of irresponsible behavior, which in either case manifests a disregard for a material interest of the employer. This definition relates only to an employee’s entitlement to benefits and does not preclude an employer from discharging an employee for actions that are not included in this definition of misconduct. A finding that an employee has not engaged in misconduct for purposes of this chapter may not be used as evidence that the employer lacked justification for discharge. [1999, c. 464, §2 (rpr).]

A. The following acts or omissions are presumed to manifest a disregard for a material interest of the employer. If a culpable breach or a pattern of irresponsible behavior is shown, these actions or omissions constitute “misconduct” as defined in this subsection. This does not preclude other acts or omissions from being considered to manifest a disregard for a material interest of the employer. The acts or omissions included in the presumption are the following:

- (1) Refusal, knowing failure or recurring neglect to perform reasonable and proper duties assigned by the employer;
- (2) Unreasonable violation of rules that are reasonably imposed and communicated and equitably enforced;
- (3) Unreasonable violation of rules that should be inferred to exist from common knowledge or from the nature of the employment;
- (4) Failure to exercise due care for punctuality or attendance after warnings;
- (5) Providing false information on material issues relating to the employee’s eligibility to do the work or false information or dishonesty that may substantially jeopardize a material interest of the employer;
- (6) Intoxication while on duty or when reporting to work or unauthorized use of alcohol while on duty;
- (7) Using illegal drugs or being under the influence of such drugs while on duty or when reporting to work;
- (8) Unauthorized sleeping while on duty;
- (9) Insubordination or refusal without good cause to follow reasonable and proper instructions from the employer;
- (10) Abusive or assaultive behavior while on duty, except as necessary for self-defense;
- (11) Destruction or theft of things valuable to the employer or another employee;
- (12) Substantially endangering the safety of the employee, coworkers, customers or members of the public while on duty;
- (13) Conviction of a crime in connection with the employment or a crime that reflects adversely on the employee’s qualifications to perform the work; or
- (14) Absence for more than 2 work days due to incarceration for conviction of a crime.

## Appendix I

[1999, c. 464, §2 (new).]

B. “Misconduct” may not be found solely on:

- (1) An isolated error in judgment or a failure to perform satisfactorily when the employee has made a good faith effort to perform the duties assigned;
- (2) Absenteeism caused by illness of the employee or an immediate family member if the employee made reasonable efforts to give notice of the absence and to comply with the employer’s notification rules and policies; or
- (3) Actions taken by the employee that were necessary to protect the employee or an immediate family member from domestic violence if the employee made all reasonable efforts to preserve the employment.

[1999, c. 464, §2 (new).]

# TOWN OF FARMINGTON

## Mass Gatherings Ordinance

ENACTED: August 5, 2002

CERTIFIED BY: Leanne Pinkham  
Name

Town Clerk  
Title

Affix Seal

# TOWN OF FARMINGTON

## Chapter 17 – Mass Gatherings

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**TOWN OF FARMINGTON**  
**MASS GATHERINGS ORDINANCE**

**17-1.1 Title**

This Ordinance shall be known as and may be cited as the Town of Farmington Mass Gatherings Ordinance and will be referred to herein as “this Ordinance”.

**17-1.2 Authority**

This Ordinance is enacted pursuant to the Home Rule Authority granted to the Town of Farmington in accordance with the provisions of 30-A MRSA §3001.

**17-1.3 Statement Of Purpose**

**WHEREAS**, the inhabitants of the Town of Farmington, recognizing a concern about the potential public health and safety issues that may arise when crowds assemble for any organized event, desire to provide a balance between the right of assembly and the legitimate rights of privacy of residents of the Town; and

**WHEREAS**, there is a recognized need to address matters relating to waste disposal, potable water, first aid, capacity of roads and highways, enforcement of alcohol and controlled substance laws, and the protection of both public and private property;

**THEREFORE**, this Ordinance is hereby adopted in the interest of addressing concerns as they may affect public health, safety and welfare.

**17-1.4 Definitions**

In general, words and terms used in this Ordinance shall have their customary dictionary meanings. More specifically, certain words and terms used herein are defined below.

**Mass Gathering.** For the purpose of this Ordinance, a Mass Gathering shall be deemed to mean any meeting, festival, social gathering, political rally, or other event held with the continued attendance of one thousand (1,000) or more persons for six (6) or more hours.

**Mass Gathering Area.** Mass Gathering Area means any place, public or private, maintained, operated or used for a group gathering or assemblage, except an established permanent stadium, athletic field, arena, auditorium, coliseum, fairground, or other similar permanent places of assembly. Mass Gathering Area also includes all camping areas used primarily or exclusively in connection with the Mass Gathering and those camping areas need not be contiguous.

**Operator.** Operator shall mean the person responsible for the managing of the Mass Gathering Area. In the event that no operator exists, the owner, or in the event of his or her non-availability, the lessee, or the person in possession of the property encompassing the Mass Gathering Area, shall be deemed the operator under this Ordinance.

**Person.** An individual, group of individuals, association, partnership or corporation, firm or company.

**Selectmen.** Selectmen shall mean the duly elected Board of Selectmen of the Town of Farmington.

**DHS.** Shall mean the State of Maine Department of Human Services.

**Water District(s).** Shall mean the Farmington Village Corporation and the Farmington Falls Standard Water District.

**Town.** Shall mean the Town of Farmington, Maine.

**M.R.S.A.** Shall mean the Maine Revised Statutes Annotated.

**Refuse.** Shall mean all combustible or non-combustible putrescible or non-putrescible solid or liquid wastes.

**Sanitary Facilities.** Shall mean toilets, privies, lavatories, urinals, drinking fountains, and service buildings or rooms provided for installation and use of these units.

**Nuisance.** The following shall be defined as nuisances:

1. Any public nuisance known at common law or in equity jurisprudence;
2. Any attractive nuisance known at common law or in equity jurisprudence; or
3. Any condition which violates federal, state or local health or environmental laws or regulations.

**Ticket.** A “ticket” shall mean any receipt, stamp, or token of eligibility to attend the Mass Gathering whether or not a piece of paper or other physical evidence of payment is issued to the patron.

#### **17-1.5 Permits Required**

No person, corporation, partnership, association, or group of any kind shall sponsor, promote, or conduct a Mass Gathering until a permit from the Town of Farmington Board of Selectman, pursuant to this Ordinance, has been obtained, and all other necessary municipal and state permits are obtained. The necessary permits may include, but not be limited to, the following:

- A. A permit from the Maine State Department of Human Services, pursuant to Title 22 M.R.S.A Chapter 265, and regulations promulgated thereunder.
- B. A "B.Y.O.B." or other appropriate permit from the Maine State Bureau of Liquor Enforcement, pursuant to Title 28-A M.R.S.A. Chapter 163, is required if the Mass Gathering allows the consumption of alcoholic beverages on the premises.
- C. A permit for a campground from the Maine Department of Human Services, pursuant to Title 22 M.R.S.A. Sections 2491 to 2501, and regulations promulgated thereunder.
- D. A permit from the Town of Farmington, pursuant to this Ordinance.

## **17 - 1.6 Exemptions**

Pursuant to Title 22 M.R.S.A., Chapter 265, Mass Gatherings, and regulations promulgated thereunder, this Ordinance does not apply to the following:

- A. Fairs, exhibitions, and similar events held by agricultural societies and associations, pomological societies, or poultry associations as defined and regulated under Title 7, Chapter 3, provided that the operator of such events furnishes to the Board of Selectmen a copy of his or her current license from the Commissioner of the Maine Department of Agriculture, Food and Rural Resources;
- B. Military activities; or
- C. Activities, persons, corporations, trusts, or partnerships licensed under Title 8, Chapter 11 (harness racing) and Chapter 19 (circuses and similar expositions) provided that the operator of such events furnishes to the Board of Selectmen a copy of his or her current license from the Commissioner of the Maine Department of Public Safety.

## **17-1.7 Permit Process**

### **A. Written Application**

An application for a permit to hold a Mass Gathering shall be filed with the Chairman of the Board of Selectmen not less than forty-five (45) days before the date of the Mass Gathering. The application shall be accompanied by cash, or a non-refundable check or money order made payable to the Town of Farmington, according to the following schedule:

<u>Expected Attendees</u>	<u>Application Fee</u>
1,000 – 5,000	\$250.00
more than 5,000	\$500.00

**B. Public Hearing**

Within thirty (30) days of the filing of a complete application the Board of Selectmen shall hold a public hearing to consider the issuance of the permit. All abutting property owners of the proposed Mass Gathering Area shall be notified in writing of the public hearing. Notice of the hearing shall be given by publishing the same twice in a newspaper having general circulation in the Town, the date of the first publication must be at least fourteen (14) days before the hearing and the second notification must be at least seven (7) days before the hearing. This notice of the public hearing shall contain the date, location, number of expected Mass Gathering attendees, and a general description of the Mass Gathering event, as well as the date, time, and location of the public hearing. A copy of the notice shall also be mailed to or served upon the operator. The date of the public hearing may be, but need not be, the same date as the meeting of the Board of Selectmen to consider the issuance of the permit.

**C. Issuance of Permit**

The Board of Selectmen shall issue a permit for a Mass Gathering when satisfied that all requirements and conditions of this Ordinance have been met. Upon issuance of the permit, all assurances made and obligations assumed by the operator in the completed application shall be deemed to be conditions of said permit. In issuing the permit, the Board of Selectmen may impose such additional conditions, as may be reasonably required to assure compliance with the provisions of this Ordinance. The Board of Selectmen shall issue or deny the permit not more than thirty-five (35) days after the application is filed. If the permit is denied, the Board of Selectmen shall, within seven (7) days, give the operator written reasons for the denial.

**D. Plans; Cooperation**

In its review of applications for permits for the holding or promoting of Mass Gatherings, the Board of Selectmen may require such plans, specifications and reports as it shall deem necessary for a proper review. In its review of such applications, and in carrying out its other duties and functions in connection with such a gathering, the Board of Selectmen may request, and shall receive from all public officers, departments and agencies of the Town such cooperation and assistance as may be necessary and proper.

The Board of Selectmen shall work with the Department of Human Services, the Maine State Police, the Farmington Police Department, the Franklin County Sheriff's Department, the Bureau of Liquor Enforcement, the Farmington Fire Rescue Department, the Department of Transportation, and local officials to insure that Town concerns regarding fire protection, police protection, traffic control, and any other matters as may affect the public health, safety and welfare are adequately addressed.

#### **E. Permit Denied; Appeal**

An applicant who has been aggrieved by the Town's decision to deny a permit under this Ordinance may appeal to Superior Court under Rule 80B of the Maine Rules of Civil Procedure.

### **17-1.8 Permit Application**

#### **A. PERFORMANCE STANDARDS**

##### **1. Contents Of Application**

The permit application submitted pursuant to Section 17-1.5 shall be on the application form prescribed by the Board of Selectmen and shall include the following information:

##### **a. Description**

The application must include a description of the proposed event, including dates and hours which mass gathering will be held. The description shall include a statement of the number of persons expected to attend the event together with the maximum number of tickets which will be made available, if tickets are issued. **Persons not holding valid tickets for an event for which tickets have been issued shall not be permitted to attend.**

##### **b. Requirements**

The application must also provide a site map of the area, at a scale of no more than one hundred (100) feet to the inch, showing the following:

- 1) The location and number of all proposed toilets,
- 2) The location and number of all lavatory and bathing facilities,
- 3) The location and number of water supply sources,
- 4) The location and size of the assemblage area(s),
- 5) The location of the food service area(s),
- 6) The location and size of the camping area(s), and number of campsites,
- 7) The onsite ingress and egress of pedestrian and vehicular traffic,
- 8) The offsite ingress and egress roads,
- 9) The location of refuse disposal facilities and collection facilities,
- 10) The location and size of the parking area(s), and number of parking spaces,
- 11) The location of all traffic control personnel, and
- 12) The location of the first aid facilities.

All facilities required by this Ordinance shall comply with the regulations promulgated by the DHS pertaining to Mass Gatherings. When off-site facilities are to be utilized in order to meet the requirements of this Ordinance, they shall be described and a notarized affidavit signed by the landowner(s) providing the facilities shall be submitted with the application

indicating that they have read the application, understand the scope and nature of the Mass Gathering, and give permission to use such private property.

#### **c. Access**

Evidence shall be provided to show that provisions for access for the ingress and egress of pedestrians and vehicular traffic shall be maintained, and that all public roadways in the proximity of the Mass Gathering will be adequately staffed with trained traffic control personnel to insure safety to all the public for the duration of the Mass Gathering.

Evidence shall be provided that sufficient safeguards have been incorporated into Mass Gathering plans in order to insure that Town maintained streets and roads will remain accessible to public safety vehicles (Police, Fire and Ambulance) during the proposed Mass Gathering.

A detailed plan for controlling traffic must be submitted, which shall include:

- 1) A description of the routes which persons attending the event are likely to take.
- 2) The number, and assigned location of persons who will be present to direct traffic at the site both before and after the event. **Under no circumstances, shall private citizens be assigned the duty of directing traffic on public roads.**
- 3) A description of what means will be available to remove disabled vehicles from location where their presence will obstruct the free flow of traffic, including a written statement by any private towing agency(ies) that their towing services will be available.
- 4) A description of parking shall be provided, specifying the location of all roads and parking lots.
  - (a) Width of service roads shall be at least twelve (12) feet for one (1) traffic lane, twenty four (24) feet for two (2) traffic lanes, and seven (7) feet for parallel parking lanes.
  - (b) There shall be at least one (1) parking space for every four (4) persons and the density shall not exceed one hundred (100) passenger cars or thirty (30) buses per usable acre.
  - (c) Parking shall comply with federal regulations regarding the Americans With Disabilities Act (28 CFR Part 36 Revised July 1994 Section 4.1.2(5)(a)(b)).

#### **d. Medical**

The applicant must demonstrate how emergency medical services will be provided, and further demonstrate coordination with the manager of the ambulance facility serving the Town of Farmington. All necessary personnel must be licensed by the State of Maine, as either Physician Assistant,

Registered Nurse, or Emergency Medical Technician and/or Paramedic. A First Aid building, tent, or ambulance duly licensed by the State of Maine shall be available on the site during the entire time of the Mass Gathering. Telephone and radio communications shall be provided and kept available for emergency purposes. The operator of the Mass Gathering shall contact area hospitals, advise them that a Mass Gathering will be held, and inform them of the expected attendance of the event.

**e. Law Enforcement**

Evidence must be provided in writing that a sufficient number of certified law enforcement personnel will be on duty near and within the assembly site area and that the Town authorized officials have approved the same. **A minimum of at least one (1) such certified security person, (not including persons concerned solely with traffic control) shall be available for each one thousand (1,000) persons in attendance.**

If they deem it necessary in the interest of public safety, the Board of Selectmen shall have the authority to require that all security personnel be certified graduates of the Maine Criminal Justice Academy.

**f. Fire Protection**

Evidence must be provided in writing that the Farmington Fire Chief has inspected and accepted Mass Gathering plans as meeting fire protection concerns. If, in his judgment, the conditions which exist at the Mass Gathering Area constitute an unsafe environment, the Fire Chief shall have the authority to deny the issuance of a Mass Gathering permit. If conditions warrant, the Fire Chief shall also have the authority to impose a ban on any and all fires during the Mass Gathering.

**g. Water Supply**

Evidence must be provided in writing from the operator concerning the source(s) of potable water. Where water is distributed under pressure and flush toilets are used, the water system shall deliver water at normal operating pressure (twenty (20) lbs. per square inch minimum to all fixtures at the rate of at least thirty (30) gallons per person per day).

Where water under pressure is not available, and non-water toilets are used, at least three (3) gallons of water per person per day shall be provided for drinking and lavatory purposes.

If the Farmington Village Corporation or Farmington Falls Standard Water District is/are to be utilized as a source/sources of potable water, a written statement from the assessors/trustees of said water district(s) must be submitted to affirm that the water district(s) has/have the capacity to provide the necessary quantity of water without adversely affecting the supply to their normal customers.

Transported water shall be obtained from an approved source, and stored and dispensed in an approved manner. Approval as used in this paragraph means in compliance with standards adopted by the Department of Human Services Division of Health Engineering.

#### **h. Sanitary Facilities**

Evidence must be provided that the sanitary facilities meet the following requirements:

- 1) Toilets shall be provided at a rate of one (1) for each one hundred fifty (150) persons attending the Mass Gathering event.
- 2) Sanitary facilities shall be conveniently accessible and well identified.
- 3) Water points or drinking fountains shall be conveniently accessible and well identified.
- 4) Sanitary facilities shall comply with the federal regulations regarding the Americans With Disabilities Act (28 CFR Part 36 Revised July 1994 Section 4.1.2(6)).

#### **i. Refuse Disposal**

Evidence must be provided that all refuse will be disposed of in accordance with the Town of Farmington Solid Waste and Recycling Ordinance enacted August 1, 1992 and revised April 9, 2002.

A description of the number, type, and location of refuse facilities including a statement as to when and how the accumulated refuse will be picked up, by whom, and to what facility it will be taken shall be provided. The operator will provide proof that refuse containers will be readily accessible throughout the Mass Gathering Area, and at least one (1) 50-gallon refuse container or equivalent will be provided for each one hundred (100) persons expected to attend the Mass Gathering. **The operator shall be responsible for all fees associated with the cleanup and disposal of refuse resulting from the Mass Gathering.**

#### **j. Containment**

The operator of the Mass Gathering must have the means to discourage the presence of persons not holding tickets from trespassing on private property in the vicinity of the event. In conformance with the DHS requirements, the operator must provide provisions for preventing people in excess of the maximum permitted number from gaining access to the Mass Gathering Area.

These provisions shall include the following:

- 1) A statement that persons not holding valid tickets will not be permitted to remain on property under the operator's control in the vicinity of the event.



- 2) Written authorization to police to arrest persons not holding valid tickets who are trespassing on property owned or under the control of the operator in the vicinity of the event. By filing the application, the operator authorizes police officers to enter upon any property under his control in order to enforce compliance.
- 3) A description of the means which will be used to publicize the fact that the event has been sold out or canceled, if this occurs, and that persons not holding tickets who are trespassing on private property near the scene of the event will be subject to arrest.

**k. Promotion**

A detailed description shall be provided of the methods being used to publicize the event.

**l. Illumination**

A detailed description of location and light level intensities shall be provided.

**m. Noise**

The operator shall provide evidence that the noise levels will comply with the following standards:

Maximum permissible sound pressure level of any continuous, regular or frequent, or intermittent source of sound produced by any on site activity shall be as follows, as measured on any abutting property or other offsite property:

9 a.m. to 10 p.m.	70 dB(a)
10 p.m. to 9 a.m.	45 dB(a)

Sound pressure level limits using the sound equivalent level of one minute (leq)(measured in dB(a) scale). Noise shall be measured by a meter set on the A-weighted response scale, fast response. The meter shall meet the American National Standards Institute (ANSI S1 4-1961) American standards Specification for General Purpose Sound Level Meters.

**2. Facilities Subject to Inspection**

The operator of any Mass Gathering with an expected attendance of more than three thousand (3,000) persons shall have all facilities in place and subject to inspection by the Board of Selectmen or their appointed agent a minimum of seventy-two (72) hours prior to the scheduled commencement of the event.

**B. REVIEW STANDARDS**

**1. Board's Determination**

In determining whether to grant or deny the permit, the Board of Selectmen shall consider the nature of the gathering and the availability of the following:

- a. An adequate and satisfactory water supply and facilities.
- b. Adequate refuse storage and disposal facilities.
- c. Adequate sleeping areas and facilities.
- d. Adequate medical supplies and care.
- e. Adequate fire protection.
- f. Adequate police protection.
- g. Adequate traffic control.
- h. Adequate liability insurance.
- i. Adequate protection for public water supply, if deemed necessary by the assessors/trustees of the Farmington Village Corporation and/or the Farmington Falls Standard Water District.
- j. Any additional matters as may affect the public health, safety or welfare.

## **2. Medical**

The numbers and schedules of Emergency Medical Technician personnel and ambulances required will be determined by the manager of the ambulance facility serving the Town of Farmington.

## **3. State And Local Requirements**

The operator of the Mass Gathering must comply with all laws and regulations of the State of Maine and the Town of Farmington that pertain to the event in question, as stipulated in 17-1.5. Copies of all such licenses and permits shall be filed with the Board of Selectmen when received by the operator. The Board of Selectmen shall have the authority to issue requirements more stringent than the requirements of Title 22 M.R.S.A., Chapter 265.

### **17-1.9 Liability Insurance And Public Costs**

#### **A. Liability Insurance**

Prior to receiving a valid permit from the Board of Selectmen and, in any event, no later than forty five (45) days prior to the scheduled date of the Mass Gathering, the operator shall furnish to the Board of Selectmen a Certificate of Insurance issued by a licensed insurance company licensed by the State of Maine with the Town of Farmington as co-insured providing coverage of at least \$1,000,000 with respect to the death or injury of one or more persons in connection with the event. Such insurance policy shall also provide coverage for property damage in the amount of at least \$1,000,000. The insurance policies in question shall contain a provision requiring at least ten (10) days notice be given to Town prior to cancellation of all or part of the policy. If such cancellation occurs prior to the event, the permit issued by the Town is void.

#### **B. Indemnification**

Prior to receiving a valid permit from the Board of Selectmen and, in any event, no later than forty-five (45) days prior to the scheduled date of the Mass Gathering, the operator shall furnish to the Board of Selectmen a notarized statement that the operator agrees to defend, indemnify and hold harmless the

Town, its agents, officers, and employees for any and all losses, liabilities, or expenses (including attorney's fees) arising as a result of the Mass Gathering.

**C. Security Bond**

Prior to receiving a valid permit from the Board of Selectmen, the applicant shall file with the Board of Selectmen a surety bond issued by a company licensed by the State of Maine in an amount equal to \$50,000. Cash or negotiable securities acceptable to the Town Treasurer may be pledged to satisfy the provisions of this Section. The bond shall be used to satisfy any valid claims for damage to real or personal property caused by the permittee, his/her agents and/or employees or by persons attending the event and to reimburse expenses incurred in cleaning up or otherwise incurred as a direct result of the mass gathering for which the permit was issued. The permittee shall make an irrevocable designation of an agent within the State of Maine to receive notices in connection filing of claims against the security bond or to receive notices of permit issuance or revocation. Any person, including the Town, having such a claim shall file notice of a claim upon the bond with the applicant or his/her agent within ninety (90) days after the claim arose.

**D. Deposit For Town Costs**

The operator of the Mass Gathering shall provide a cash deposit to the Town, which amount shall be determined by the Board of Selectmen, but in no event shall be less than two thousand (\$2,000) dollars. A permit shall not be issued until receipt of said deposit.

**E. Liability For Town Costs**

Town costs shall be those incurred by the Town in connection with the Mass Gathering which relates to any adverse consequences due to the Mass Gathering, and which would not have been incurred by the Town if such Mass Gathering were not held. Such costs shall include but not be restricted to: road signs, damage to Town roads or ditches, or any other adverse consequences to any Public facilities or Works, such as the Municipal Water Supply.

Town costs shall also include the cost of hiring police personnel and equipment to oversee the Town's interests in ensuring the public safety and enforcing the conditions of this Ordinance.

Within thirty (30) days after the Mass Gathering, the Town costs shall be calculated, and the deposit shall be refunded to the operator to the extent it exceeds the actual Town costs. If the actual Town costs exceed the amount deposited, the operator shall pay the excess to the Town within ten (10) days after being so notified.

#### **17-1.10 Inspection**

The Board of Selectmen or its appointed agent shall have the right to enter upon the Mass Gathering Area, by appointment, at least seventy two (72) hours prior to the scheduled event for the purpose of ascertaining that all facilities (water, toilet, parking spots, signs, etc.) are in place and that all conditions of the Mass Gathering permit have been met.

The Board of Selectmen shall convene a meeting upon completion of the inspection for the purpose of determining if the Mass Gathering is in compliance with all conditions of the Mass Gatherings Ordinance.

#### **17-1.11 Revocation Of Permit**

The Board of Selectmen may revoke the permit at any time prior to the date of the scheduled event if the operator has failed to comply with any of the commitments made in the application, or the requirements of this Ordinance, or if the operator has failed to secure any other license or permit required by the Town of Farmington or any other government agency in order to hold the Mass Gathering on the proposed site. Except in cases of emergency, the Board of Selectmen shall revoke a permit only after giving notice to the operator of the reasons for the proposed revocation and providing an opportunity to be heard with respect thereto. Written notice of the reasons for the revocation shall be delivered to the operator or his agent, personally or by expedited mail service.

#### **17-1.12 Limitations Of Frequency Of Events**

No more than one (1) permit shall be issued pursuant to this Ordinance to any single operator or group, within any sixty (60) day period, for an event for which more than three thousand (3,000) persons are reasonably expected to attend.

#### **17-1.13 Penalties**

Any person who violates any provision of this Ordinance or any term of a permit issued pursuant to this Ordinance shall be subject to a civil penalty payable to the Town of Farmington in an amount not to exceed fifty thousand (\$50,000) dollars. In addition, the Town may seek an injunction where necessary to prevent the applicant from publicizing, promoting or conducting the Mass Gathering. If found liable, the violator shall also be held responsible for court costs and reasonable attorneys fees incurred by the Town. The Selectmen or their designated agents may enforce this Ordinance.

#### **17-1.14 Severability**

Each part of this Ordinance is severable and, if any phrase, clause, sentence, or provision is declared to be contrary to law, the validity of the remainder shall not be affected thereby unless the application of any remaining portion of the Ordinance would result in action being taken which is inconsistent with the objectives of this Ordinance.

**17-1.15 Effective Date**

This Ordinance shall take effect immediately upon adoption of the same by the Town of Farmington.

# TOWN OF FARMINGTON

## Property Assessed Clean Energy (PACE) Ordinance

ENACTED: August 28, 2012

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

Town Clerk  
Title

Affix Seal

## **Chapter 18**

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**Town of Farmington  
Property Assessed Clean Energy (PACE) Ordinance**

**Chapter 18**

**18-1.1 Preamble**

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

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

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

NOW THEREFORE, the Municipality hereby enacts the following Ordinance:

**18-1.2 Purpose and Enabling Legislation**

**A. Purpose**

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

**B. Enabling Legislation**

The Town enacts this Ordinance pursuant to 35-A M.R.S.A. §10151, *et seq.*

**18-1.3 Title and Definitions**

**A. Title**

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



## **B. Definitions**

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

**1. Energy saving improvement.** “Energy saving improvement” means an improvement to qualifying property that is new and permanently affixed to qualifying property and that:

A. Will result in increased energy efficiency and substantially reduced energy use and:

(1) Meets or exceeds applicable United States Environmental Protection Agency and United States Department of Energy (DOE) Energy Star program or similar energy efficiency standards established or approved by the Trust; or

(2) Involves air sealing, insulating, and other energy efficiency improvements of residential, commercial or industrial property in a manner approved by the Trust; or

B. Involves a renewable energy installation or an electric thermal storage system that meets or exceeds standards established or approved by the trust.

**2. Municipality.** “Municipality” shall mean Town of Farmington.

**3. PACE agreement.** “Pace agreement” means an agreement between the owner of qualifying property and the Municipality that authorizes the creation of a PACE mortgage on qualifying property and that is approved in writing by all owners of the qualifying property at the time of the agreement, other than mortgage holders.

**4. PACE assessment.** “PACE assessment” means an assessment made against qualifying property to repay a PACE loan.

**5. PACE district.** “Pace district” means the area within which the Municipality establishes a PACE program hereunder, which is all that area within the Municipality’s boundaries.

**6. PACE loan.** “PACE loan” means a loan, secured by a PACE mortgage, made to the owner(s) of a qualifying property pursuant to a PACE program to fund energy saving improvements.

**7. PACE mortgage.** “PACE mortgage” means a mortgage securing a loan made pursuant to a PACE program to fund energy saving improvements on qualifying property.

**8. PACE program.** “PACE program” means a program established under State statute by the Trust or a municipality under which property owners can finance energy savings improvements on qualifying property.

**9. Qualifying property.** “Qualifying property” means real property located in the PACE

district of the Municipality.

**10. Renewable energy installation.** “Renewable energy installation” means a fixture, product, system, device or interacting group of devices installed behind the meter at a qualifying property, or on contiguous property under common ownership, that produces energy or heat from renewable sources, including, but not limited to, photovoltaic systems, solar thermal systems, biomass systems, landfill gas to energy systems, geothermal systems, wind systems, wood pellet systems and any other systems eligible for funding under federal Qualified Energy Conservation Bonds or federal Clean Renewable Energy Bonds.

**11. Trust.** “Trust” means the Efficiency Maine Trust established in 35-A M.R.S.A. §10103 and/or its agent(s), if any.

#### **18-1.4 Pace Program**

##### **A. Establishment and Funding**

The Municipality hereby establishes a PACE program allowing owners of qualifying property located in the PACE district who so choose to access financing for energy saving improvements to their property through PACE loans. PACE loan funds may come from a variety of sources. To the extent that PACE loan funds are made available from the Trust, these are made available in municipalities that: 1) adopt a PACE Ordinance; 2) adopt and implement a local public outreach and education plan; 3) administer the functions of a PACE program including, but not limited to, entering into PACE agreements with owners of qualifying property and collecting PACE assessments, all in accordance with the PACE Act and the Trust’s rules and regulations; and 4) require that participants in the PACE program comply with requirements for the Home Energy Savings Program administered by the Trust.

##### **B. Amendment to PACE Program**

In addition, the Municipality may from time to time amend this Ordinance to use any other funding sources made available to it or appropriated by it for the express purpose of its PACE program, and the Municipality shall be responsible for administration of loans made from those other funding sources.

#### **18-1.5 Conformity with the Requirements of the Trust**

##### **A. Standards Adopted, Rules Promulgated, Model Documents**

If the Trust or other State or federal agency adopts standards, promulgates rules, or establishes model documents subsequent to the Municipality’s adoption of this Ordinance, and those standards, rules or model documents substantially conflict with this Ordinance and/or with the Municipality’s manner of participation in the PACE program, the Municipality shall take necessary steps to conform this Ordinance and/or its manner of participation in the PACE program to those standards, rules, or model documents.

## **18-1.6 Program Administration and Municipal Liability**

### **A. Program Administration**

**1. PACE Administration.** The Municipality will administer its PACE program pursuant to and consistent with the PACE Act, 35-A M.R.S.A. §10151, *et seq.* The Municipality's administration of its PACE program shall include the following:

- A. The Municipality will enter into PACE agreements with owners of qualifying property in the Municipality's PACE district;
- B. The Municipality, or its agent, will create and record a Notice of the PACE agreement in the appropriate County Registry of Deeds to create a PACE mortgage;
- C. The Municipality, or its agent, will disburse the PACE loan to the property owner;
- D. The Municipality, or its agent, will send PACE assessment statements with payment deadlines to the property owner;
- E. The Municipality, or its agent, will be responsible for collection of the PACE assessments;
- F. The Municipality, or its agent, will record any lien, if needed, due to nonpayment of the PACE assessment;
- G. The Municipality, or its agent on behalf of the Municipality, promptly shall record the discharges of PACE mortgages upon full payment of the PACE loan.

### **2. PACE Program**

- A. The Municipality's PACE program shall be consistent with any terms and conditions the Trust may establish by rule under 35-A M.R.S.A. §10154(4).
- B. As required by 35-A M.R.S.A. §10155(3), federal laws and regulations regarding the privacy of consumer information apply to all consumer financial information obtained by the Trust or Municipality in implementing its PACE program.

### **3. PACE Agreement**

- A. As required by 35-A M.R.S.A. §10155(1), a PACE agreement entered into by the Municipality pursuant to its PACE program must comply with underwriting requirements established by rule by the Trust.
- B. As required by 35-A M.R.S.A. §10155(2), a PACE agreement entered into by the Municipality pursuant to its PACE program must provide consumer disclosure consistent with the principles of truth in lending as specified in rules adopted by the

Trust.

C. As required by 35-A M.R.S.A. §10157(2), a PACE agreement entered into by the Municipality pursuant to its PACE program shall provide that all rights related to carbon emissions reductions resulting from those improvements are deemed to be assigned by the property owner to the Trust and are held by the Trust.

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

**5. Assessments Not a Tax.** PACE assessments do not constitute a tax but may be assessed and collected by the Municipality in any manner allowed under the PACE program and consistent with applicable law.

**6. PACE mortgages and PACE Assessments.** PACE mortgages shall be recorded and PACE Assessments shall be assessed and collected as provided in 35-A M.R.S.A. §10156.

## **B. Liability of Municipal Officials and Liability of Municipality**

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

**2. Municipal Liability.** Other than the fulfillment of its obligations specified in a PACE administration contract with the Trust entered into under 18-1.6.A.1 above, a municipality has no liability to a property owner for or related to energy savings improvements financed under a PACE program.

# **TOWN OF FARMINGTON**

## **Planning Board Ordinance**

**ENACTED: September 12, 2001**

**Certified By: Leanne Pinkham  
TOWN CLERK**

## **Chapter 2 - Administration**

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## **Chapter 2**

### **Administration**

#### **Article 7. Planning Board Ordinance**

##### **7-1.1 AUTHORITY, ESTABLISHMENT & TITLE**

Pursuant to Title 30-A M.R.S.A. Section 3001 et. seq. (Home Rule) and Section 4312 et. seq. (Planning and Land Use Regulations), the Town of Farmington hereby adopts this Ordinance that shall be titled "Planning Board Ordinance", hereinafter referred to as "this Ordinance". This Ordinance shall repeal and supercede the Planning Board Ordinance adopted March 13, 1978 and any subsequent amendments thereto.

##### **7-1.2 PURPOSE AND INTENT**

The purpose of this Ordinance is to define the organizational structure and procedural requirements which shall apply to the Planning Board.

##### **7-1.3 JURISDICTION, POWERS AND DUTIES**

- A. The Planning Board shall have jurisdiction to review and make determinations upon applications as required under the Town of Farmington's Land Use Ordinances including but not limited to the Zoning Ordinance, Site Review Ordinance, Shoreland Zoning, Floodplain Management Ordinance, Telecommunication Facility Siting Ordinance, Sexually Oriented Business Ordinance, Soil Erosion Control and Storm Water Runoff Management Ordinance, Bio Solids and other Residuals Management Ordinance, Sign Ordinance and Wellhead Protection Ordinance, and State Subdivision Laws. The Board shall perform such duties and exercise such powers as are provided by Farmington ordinances and laws of the State of Maine.
- B. The Board shall maintain, review, and update a Comprehensive Plan as defined by 30A MRSA § 4301-4457. Said review shall be accomplished at least once every five years in a special Planning Board meeting to be held in January of the fifth year

following the establishment of the Plan and every five years there after or sooner if the Board deems necessary.

- C. The Board may obtain goods and services necessary to perform its proper function within the limits of Town Meeting appropriations made for such purpose.

#### **7-1.4 EFFECTIVE DATE**

The effective date of this Ordinance shall be the date this Ordinance is adopted by the voters at Town Meeting.

#### **7-1.5 VALIDITY AND SEVERABILITY**

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

#### **7-1.6 APPOINTMENT, TERM AND COMPOSITION**

- A. There shall be a Planning Board consisting of seven (7) regular members and two (2) alternate members, one (1) first alternate and one (1) second alternate, all of whom shall be residents of the Town. The members of the Board, who shall serve without compensation, shall be appointed by the municipal officers and sworn into office by the Town Clerk, or other person authorized to administer oaths, before performing any official duties as a Planning Board member.
- B. The term of each member shall be three (3) years, except the initial appointment which shall be two (2) members for one (1) year, two (2) members for two (2) years, and three (3) members for three (3) years.
- C. The enactment of this Ordinance shall not affect the terms of the members of the existing Planning Board. The members shall serve until their successors are appointed and sworn. The alternate members shall be appointed for a term of one (1) year and shall act on the Planning Board in place of members who are unable to act due to a conflict of interest, absence or physical incapacity. The first alternate would serve in the stead of an absent or excused member; the second alternate shall serve similarly in the place of the first alternate if absent, or in the



stead of a regular member who is absent or excused. Alternate members shall have no voting rights until such time as they are designated by the Chairman to fill the vacancy.

- C. Terms shall run from July 1<sup>st</sup> through June 30<sup>th</sup>.
- D. No person who is a Municipal Officer, Town Manager, Code Enforcement Officer, Town Planner, member of the Zoning Board or Board of Appeals or who is a father, mother, spouse, sister, brother or child of one of the above may be appointed as a regular or alternate to the Planning Board.
- E. A member of the Planning Board may be removed for cause after notice and hearing by the municipal officers before the expiration of his or her term. The term "for cause" shall include, but shall not be limited to, failure to attend three (3) consecutive board meetings or hearings without sufficient justification, or voting when the member has a "conflict of interest" as determined by a majority of the remaining members of the Planning Board (See 7-1.8D for definition of Conflict of Interest).
- F. When there is a permanent vacancy of either a regular or alternate member, the Code Enforcement Office shall immediately notify the Town Clerk who shall inform the municipal officers. Within sixty (60) days of the existence of the vacancy, the municipal officers shall appoint a person to serve for the unexpired term.

### **7-1.7 MEETINGS AND PUBLIC HEARINGS**

- A. The Board shall conduct regular monthly meetings to be held on the second Monday of each month unless a legal holiday falls on that date, in which case, the meeting shall be held on the third Monday. Notice of these meetings shall be posted in the Municipal building seven (7) days prior to the meeting.

The annual organizational meeting and election of officers shall be in the month of July or as soon as possible, thereafter.

- B. All meetings of the Planning Board shall be open to the public except executive sessions. No votes may be taken by the Planning Board except in public meeting. Executive sessions shall be held only to transact legal consultation, internal

disciplinary proceedings and other business acceptable under the "Right to Know" laws (1 M.R.S.A. Section 401-410).

- C. Members of the Planning Board shall avoid ex parte communications with any party-in-interest pertaining to any matter that is under consideration or may come under consideration before the Planning Board. If a party-in-interest has such a communication with a Planning Board member outside of a public meeting, the Planning Board member shall make the communication and the contents thereof known to the other members of the Planning Board and public at the next Planning Board meeting regarding that matter.
- D. If the Board decides to hold a public hearing it shall publish notice of the day, time and place of the hearing in a newspaper of general circulation in the municipality at least twice, the date of the first publication to be at least fifteen (15) days prior to the hearing. Notice of the public hearing shall be sent to all abutters of the proposed development fifteen (15) days prior to the hearing by the Town Of Farmington.

#### **7-1.8 ORGANIZATIONAL STRUCTURE AND VOTING PROCEDURES**

- A. The Planning Board shall elect annually a Chairman and a Vice Chairmen from its membership and shall create and fill other offices as it may determine appropriate. The term of all offices shall be one year with eligibility for re-election. No alternate member shall be a voting member unless designated to take the place of an absent member by the acting Chairman.
- B. The Chairman shall call at least one regular meeting of the Board each month, the Chairman shall also call meetings of the Planning Board when requested to do so by a majority of the members of the Planning Board or by the Board of Selectmen. The Chairman shall preside at all meetings of the Planning Board. In the event the Chairman is indisposed or otherwise absent, the Vice Chairman shall preside. The Chairman or his/her designee shall be the official speaker for the Planning Board.
- C. The Code Enforcement Office shall maintain a permanent record of all Planning Board meetings through transcription or electronic recording and all correspondence of the Planning Board. The

Code Enforcement Office shall also be responsible for maintaining those records that are required as part of the various proceedings brought before the Planning Board. All records prepared or maintained by the Code Enforcement Office in reference to any public proceedings are deemed public and shall be filed in the Town Clerk's office and may be inspected at reasonable times. The Code Enforcement Office shall be responsible for making all notifications and announcements as are required.

- D. Any question of whether a Board member has a "conflict of interest" sufficient to disqualify that member from participating in a matter shall be decided by a majority vote of the remaining members present and voting. If the Board votes that a member is disqualified because of a conflict of interest, that member shall not participate in any Board discussion or deliberation and shall not vote on the matter. In the case of a tie vote on the conflict of interest question, the member may continue to participate. As used in this section, the term "conflict of interest" includes, but is not limited to, bias, family relationship and financial interest. "Bias" means the inability of a Board member to decide fairly and impartially because of a predisposition to decide the matter for reasons not related to the merits, such as, but not limited to, prior or present personal involvement of the Board member in the matter, a personal relationship between the Board member and the applicant or a party-in-interest, the Board member's prior public expressions of opinion on the subject matter of an application, or intentional ex parte communication between the Board member and the applicant or a party-in-interest. "Family relationship" means that the Board member is a spouse, parent, grandparent, child, grandchild or sibling of the applicant or a party-in-interest, whether by blood, marriage or adoption. "Financial interest" means that the outcome of the proceeding is likely to result in financial gain or loss to the Board member, the Board member's employer, the Board member's spouse, parent, grandparent, child, grandchild or sibling, or the employer of the Board member's spouse, parent, grandparent, child, grandchild, or sibling.
- E. A quorum shall consist of four (4) members. A decision to support an application requires four (4) affirmative votes.
- F. A tie vote or favorable vote by a lesser number than the required

majority shall be considered a rejection of an application under consideration.

- G. No regular or alternate member shall vote on the determination of any matter that was the subject of public hearing unless the member has attended the public hearing thereon; however, where such a member has familiarized himself or herself with such matter by reading the record, reviewing tapes of the hearing and reviewing documents, he or she shall be qualified to vote.
- H. The Planning Board may adopt rules of administration and procedure for the conduct of its affairs, provided such rules are not contrary to or inconsistent with this Ordinance.
- I. The Planning Board may prepare and submit to the Town Manager an annual budget relating to the operation of the Planning Board.

#### **7-1.9. AMENDMENTS**

- A. Initiation of Amendments: An amendment to this Ordinance may be initiated by:
  - 1. The municipal officers, provided a majority of the municipal officers has so voted; and
  - 2. Written petition of a number of voters equal to at least 10% of the number of votes cast in the municipality at the last gubernatorial election.
- B. Public Hearing: The municipal officers shall hold a public hearing on the proposed amendment in accordance with 30-A M.R.S.A Section 4352 (9). Notification of the hearing shall be posted and advertised twice in a newspaper of general circulation in the municipality. The date of the first publication must be at least at least seven (7) days prior to the hearing. Notice of the hearing must be posted in the municipal office at least thirteen (13) days before the hearing.
- C. Adoption of Amendment: An amendment to this Ordinance shall be adopted by majority vote of the Town Meeting.

### **7-1.10 APPEALS**

Administrative appeals and variance applications submitted under this Ordinance shall be subject to the standards and procedures established by the Town of the Farmington Board of Appeals Ordinance.

Any person aggrieved by the action of the Code Enforcement Officer or Planning Board may appeal to the Board of Appeals by filing a notice of appeal within thirty (30) days after receipt of the Code Enforcement Officer or Planning Board's notification.

### **7-1.11 DEFINITIONS**

1. Bias: "Bias" means the inability of a Board member to decide fairly and impartially because of a predisposition to decide the matter for reasons not related to the merits, such as, but not limited to, prior or present personal involvement of the Board member in the matter, a personal relationship between the Board member and the applicant or a party-in-interest, the Board member's prior public expressions of opinion on the subject matter of an application, or intentional ex parte communication between the Board member and the applicant or a party-in-interest.
2. For Cause: "Cause" implies a reasonable ground of demotion or removal as distinguished from a frivolous or incompetent ground.
3. Party-in-interest: "Party-in-interest" means any individual who has a vested interest in any issue before the Planning Board.

# TOWN OF FARMINGTON

## Solid Waste and Recycling Ordinance

ENACTED: August 1, 1992

AMENDED: April 9, 2002  
March 28, 2016

CERTIFIED BY:

Jeannine E. Wickey  
Name

Town Clerk  
Title

Affix Seal

**Town of Farmington**  
**Chapter 7 — Solid Waste and Recycling Ordinance**  
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## **Chapter 7**

### **Solid Waste and Recycling Ordinance**

#### **Article 1. General**

**WHEREAS**, the Town of Farmington desires to reduce the volume of solid waste generated within its borders which requires disposal and to dispose of solid waste in an environmentally acceptable manner; and

**WHEREAS**, the Town of Farmington has a goal of recycling eighty percent (80%) of the municipal solid waste;

**NOW, THEREFORE**, Be it ordained by the Town Meeting, that the following regulations for the disposal and recycling of certain wastes generated in the Town of Farmington are hereby established.

#### **7-1.1 Title and Purpose:**

This ordinance shall be known as the "Town of Farmington Solid Waste and Recycling Ordinance" hereinafter referred to as "this Ordinance". This Ordinance has several purposes: to preserve and protect environmental resources, to protect the health, safety and welfare of the public, to enhance the quality and character of life in the Town, to provide for licensing and regulation of commercial haulers, to improve efforts to recover and reuse valuable resources currently being wasted, and to regulate the operation of the Town of Farmington Bulky Waste and Recycling Facility.

#### **7-1.2 Authority:**

This Ordinance is adopted pursuant to the Home Rule powers granted in the Maine Constitution, 30-A M.R.S.A. §3001 et seq., and 38 M.R.S.A. §1301 et seq.

#### **7-1.3 Applicability:**

This Ordinance applies to all domestic, residential, public, commercial and industrial producers of solid waste and commercial waste collectors/haulers doing business in the Town of Farmington.

#### **7-1.4 Definitions:**

The definitions set forth in 38 M.R.S.A. §1303 and Chapter 400 of the Maine Solid Waste Management Regulations apply to this Ordinance and are incorporated herein. Any word not otherwise defined shall have its ordinary meaning.

- a. **Bulky Wastes** are items that are not considered Municipal Solid Waste (garbage), including, but not limited to, furnishings and/or construction/demolition debris.
- b. **Commercial Waste Collector/Hauler** means any person engaged in the

collection and transportation of solid waste and/or recyclable materials for a fee or other compensation within the limits of the Town of Farmington.

- c. **Load** as used in this Ordinance shall include but not be limited to garbage, trash, refuse, scrap, metal, glass, sawdust, and shavings.
- d. **Motor vehicle** shall include trucks and passenger cars transporting any of the items named in this Ordinance.
- e. **Person** means any individual, firm, corporation, partnership, association or any other legal entity or agents of any of the above. The term shall include the singular and plural as appropriate.
- f. **Recyclable Materials** means those materials, or categories of materials identified by the Town, by regulation, or the hauler as having a viable secondary use.
- g. **Resident** means any individual residing in or conducting business in the Town of Farmington part or all of the year.
- h. **Solid Waste** means useless, unwanted or discarded solid material with insufficient liquid content to be free-flowing, including, but not limited to, rubbish, garbage, refuse-derived fuel, scrap materials, junk, refuse, inert fill material and landscape refuse, but not including hazardous waste, biomedical waste, septic tank sludge or agricultural wastes. The fact that a solid waste or constituent of the waste may have value or other use or may be sold or exchanged does not exclude it from this definition.
- i. **Universal Wastes** are wastes that may contain hazardous amounts of toxic materials such as mercury, lead, and PCBs. They include, but are not limited to, cathode ray tubes (computer monitors, televisions), fluorescent light bulbs, mercury-containing thermostats, non-leaking PCB lighting ballasts, mercury thermometers and certain batteries.
- j. **White Goods** include appliances, refrigerators (with Freon removed) and water heaters.

## **Article 2. Town of Farmington Bulky Waste and Recycling Facility**

### **7-2.1 Fires:**

No fires shall be set at the Town of Farmington Bulky Waste and Recycling Facility.

### **7-2.2 Authorized Use:**

Use of the Facility is restricted to persons authorized by the Town. Each authorized person shall obtain a permit from his/her Municipal Office, which shall be affixed to the

vehicle or displayed to the attendant.

### **7-2.3 Motor Vehicle:**

No motor vehicle or parts thereof shall be deposited at the Facility unless any such vehicle has been cut into pieces weighing less than fifty (50) pounds and in such manner that it will not take up an excessive amount of space. Gasoline tanks that are gas free can be accepted,

### **7-2.4 Salvage Rights:**

The Municipal Officers may contract with any individual or corporation to grant salvage rights as partial compensation for supervision and/or maintenance of the Facility. Residents may take any items left in the swap shop.

### **7-2.5 Firearms:**

No firearms shall be discharged within the limits of the Facility except for law enforcement officer training, which shall be allowed.

### **7-2.6 Hours:**

The Municipal Officers may regulate the hours that the Facility is open for operation.

### **7-2.7 Fees:**

The Municipal Officers shall set fees for the deposit of bulky materials at the facility and the fees collected shall be used to offset the cost of Solid Waste Management Services. There shall be no charge for the deposit of properly separated recyclable materials, metals or useable items left at the swap shop.

### **7-2.8 Unacceptable Waste:**

Unacceptable waste includes the following wastes:

- a. Hazardous waste of any kind including, but not limited to, pathological wastes, chemicals, explosives, radioactive materials, other special wastes, toxic wastes and other wastes defined by the Department of Environmental Protection as hazardous.
- b. Septic tank residues.
- c. Animal and agricultural wastes such as manure and crop residues.
- d. Dead animals or portions thereof.
- e. Asbestos.

- f. Pesticides.
- g. Liquid or viscous wastes with the exception of biosolids generated by the Farmington Wastewater Treatment Facility.
- h. Universal wastes from non-residential sources.

If any such waste is deposited at the Town of Farmington Bulky Waste and Recycling Facility, or a contracted site, the cleanup and all costs associated with proper disposal shall be borne by the person responsible for the disposition.

### **Article 3. Covered Loads and Illegal Dumping**

#### **7-3.1 Loaded Vehicles:**

No person shall operate or cause or permit to be operated upon a public way a motor vehicle with a load, unless such load is fastened, secured, or confined so as to prevent any danger of any portion of the load from falling to the ground.

#### **7-3.2 Illegal Dumping:**

Dumping of trash at locations or sites within the municipality, which have not been designated as an acceptable facility or site by the Town, is a violation of this Ordinance.

### **Article 4. Mandatory Recycling**

#### **7-4.1 Recycling Requirements:**

- a. All solid waste shall have the following commodities (recyclable materials) separated out in a readily manageable form when delivered to the Town of Farmington Bulky Waste and Recycling Center and/or when delivered to any waste management facility under the Town's contract.
 

1. Corrugated cardboard	12. Tires
2. Newsprint	13. Wood
3. HDPE #2 Plastic	14. Inert fill
4. Tin & steel cans	15. White goods
5. Glass (clear, green, brown)	16. Steel, copper, brass
6. Aluminum	17. Waste oil
7. High grade paper	18. Demolition debris
8. Yard & leaf waste	19. <u>Empty</u> paint cans
9. Furniture & mattresses	20. Ash
10. Mixed household paper	21. Batteries (rechargeable, mercury button & auto)
11. Fluorescent lights from residences	22. Universal wastes from residential sources
	23. Antifreeze

- b. Collection and separation priorities reflect short-term needs of our recycling goals, and will be changed as markets evolve. The Municipal Officers can change the list of items that must be separated from the solid waste following a public hearing.
- c. To ensure that residents comply with the mandatory recycling requirement, solid waste for disposal should be placed in clear plastic bags or in suitable containers where contents are clearly visible.
- d. Owners of multi-family residential buildings shall provide a convenient means for tenants to separate the above commodities for recycling.

## **Article 5, Licensing Requirements for Commercial Waste Collectors/Haulers**

### **7-5.1 Commercial Hauler Vehicles:**

Commercial haulers shall transport solid waste in completely enclosed vehicles that shall prevent waste from blowing or falling from the vehicle.

### **7-5.2 Licensing:**

Each commercial hauler shall obtain a license from the Town Manager in order to operate within the municipality. The license shall be valid from July 1 to June 30 of the following year. Possession of a commercial hauler's license does not make the hauler an agent, employee, or contractor of the Town. In order to obtain a license, an applicant must:

- a. Obtain the approval of the Town Manager that the applicant's price structure encourages or requires recycling, reuse and reduction of solid waste.
- b. Agree to provide curbside collection of recyclables at least once per month and in accordance with a. above.
- c. Provide evidence of general liability insurance, minimum of \$100,000; provide evidence of vehicle insurance. Insurance certificates shall name the Town of Farmington as an additional insured and provide the Town with a thirty (30) day notice of policy cancellation.
- d. Provide vehicle registration information for each vehicle to be used for collecting solid waste within the municipal borders. Notify the Town Manager or his/her designee, of any changes in vehicle registrations during the license year. Allow the Town Manager, or his/her designee, access to inspect each vehicle annually.
- e. Pay any fees established by the Municipal Officers.
- f. Provide evidence of possession of a valid non-hazardous waste transporter license issued by the Department of Environmental Protection.

- g. Certify that he/she shall not mix waste from any other town with loads from Farmington.

### **7-5.3 Renewal:**

All commercial haulers must submit an annual reporting form at least thirty (30) days prior to license expiration. Such form shall indicate the amount (in pounds) of solid waste and recyclable materials (by category) collected by the hauler within the limits of the municipality during the previous year as well as the disposition of those items. No renewal license will be issued to an applicant who does not submit an annual reporting form.

### **7-5.4 Hauler Responsibilities:**

- a. Payment of Tipping Fees, Collection and Transportation Fees. The municipality has an agreement with a licensed solid waste facility to accept solid waste generated within the town. Only haulers who have a license with the Town can bring waste to the facility under this agreement and at the contract rate. The Town does not pay the tipping fee. The commercial hauler is responsible for the tipping fee as well as the costs of collection and transportation to the disposal site. Fees charged to customers shall encourage or require recycling, reuse and reduction of solid waste.
- b. Marketing Recyclables. The municipality contracts with a commercial hauler for handling recyclable materials. The commercial hauler provides containers for residential recycling at the Bulky Waste and Recycling Facility. The commercial hauler is responsible for the costs of collection and transportation of recyclable materials to end facilities of his/her choice. The commercial hauler shall provide his/her customers with detailed information on which materials are recyclable and in preparing materials for recycling.

### **7-5.5 Curbside Collection:**

Any person using curbside collection of solid waste and recyclables shall contract with a commercial hauler who is licensed by the Town. Materials shall be placed in containers acceptable to the hauler and in such a manner as to prevent waste from falling or blowing to the street. Recyclable materials must be clean and prepared in accordance with the haulers instructions. No materials shall be placed curbside more than twenty-four (24) hours before scheduled pick-up.

## **Article 6. Administration, Enforcement and Penalties**

### **7-6.1 Administration and Enforcement:**

The Municipal Officers, or their duly appointed agents, shall administer and enforce this Ordinance.

### **7-6.2 Penalties:**

Violations of this Ordinance shall be enforced within the provisions of 30-A MRSA § 4452 as land use violations. The penalties set forth in 30-A MRSA § 4452 shall apply to violations of this Ordinance. In addition to the foregoing penalty provisions, any person violating any provision of this Ordinance shall be liable to reimburse the Town for costs of enforcement, including reasonable attorney fees and court costs.

- a. In addition, any Licensed Commercial Hauler who violates any provision of this Ordinance may, in addition to the fine above, have his/her license revoked for up to two (2) years and forfeit all license and permit fees. The Municipal Officers may revoke a license after notifying an operator of a violation and conducting a hearing on the matter. Public notice of the hearing will be posted in the normal posting places within the town.
- b. In instances of illegal dumping upon the land of another, the landowner shall notify the Town of Farmington Police Department in order to pursue identification and prosecution.

### **7-6.3 Amendments and Severability:**

- a. An amendment to this Ordinance may be initiated by:
  1. The Municipal Officers provided a majority of the Board has so voted;
  2. Written petition of a number of voters equal to at least ten percent (10%) of the number of votes cast in the municipality at the last gubernatorial election.
- b. Public Hearing: The Municipal Officers shall hold a public hearing on the proposed amendment. Notification of the hearing shall be posted and advertised in a newspaper of general circulation in the municipality at least seven (7) days prior to the hearing.
- c. Adoption of the Amendment: An amendment to this Ordinance shall be adopted by a majority vote of a Town Meeting.
- d. If any provision of this Ordinance is found by a court of competent jurisdiction to be unenforceable, the remaining provisions shall continue in full force and effect. This Ordinance shall become effective when adopted by a majority of the voters at any regular or special town meeting.

# TOWN OF FARMINGTON

## Right to Farm Ordinance

ENACTED: March 12, 2007

CERTIFIED BY: Daryl T. Schram  
Name

Deputy Town Clerk  
Title



## **Chapter 11 – Land Use Table of Contents**

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**Chapter 11 – Land Use**  
**Article 14 - Right to Farm Ordinance**

**11-14.1 Title:**

This Ordinance shall be known and cited as the Town of Farmington Right to Farm Ordinance and will be referred to herein as “this Ordinance”.

**11-14.2 Authority and Administration:**

This Ordinance is adopted pursuant to Title 30-A MRSA §3001 and the Maine Nuisance Law and provisions of Title 17 MRSA §2805.

**11-14-3 Purpose:**

The right to farm is hereby recognized to exist in the Town of Farmington and is hereby declared as an allowed use in the zoning districts as determined in the Table of Uses in the Town of Farmington Zoning Ordinance.

The Town of Farmington finds that it is in the public interest to enhance and encourage farms, farm operations and locally grown farm products within the town. The Town also finds that residential and commercial development adjacent to farms and farm operations can lead to compatibility issues for nearby farm operations and cause diminished economic viability of the farming industry.

This Ordinance is intended to promote public health, safety, and welfare, and to support and encourage continued farming and farm operations in the town. This Ordinance is not intended to modify or abridge State nuisance law, but is to be used as an interpretation and enforcement tool.

The main purpose of this Ordinance is to state that farms and farm operations are not nuisances as long as Best Management Practices are used.

An additional purpose of this Ordinance is to require notification of applicants for, and subsequent buyers of lots within developments requiring approval by the Town through its Planning Board or Code Enforcement Officer for uses on lands adjacent (abutting and across-street/right-of-way) to existing farms and farm operations, of the existence of these farms and farm operations and that the proposed development may be subject to inconveniences or compatibility issues from normal farm operations.

**11-14.4 Applicability:**

This section does not affect the application of State and federal laws. The Town of Farmington must provide the Commissioner of Agriculture, Food, and Rural Resources (hereinafter “Commissioner”) with a copy of this and any other proposed Town ordinance that impacts farm operations. The Town Clerk or a

municipal official designated by the Clerk shall submit a copy of this and any other proposed ordinance to the Commissioner at least ninety (90) days prior to the meeting of the legislative body or public hearing at which adoption of the ordinance will be considered. The Commissioner shall review the proposed ordinance and advise the Town if the proposed ordinance would restrict or prohibit the use of Best Management Practices.

#### **11-14.5 Validity:**

If any part of this Ordinance is found to be invalid, the remainder of this Ordinance shall remain in effect.

#### **11-14.6 Conflicts with Other Ordinances:**

Whenever a provision of this Ordinance conflicts with or is inconsistent with another provision of this Ordinance or any other ordinance, regulation, or statute, the more restrictive provision shall apply.

#### **11-14.7 Effective Date:**

The effective date of this Ordinance shall be the date this Ordinance is adopted by the voters at Town Meeting.

#### **11-14.8 Definitions:**

- A. **Farm.** Farm shall mean the land, buildings, and machinery used in the commercial production of farm products.
- B. **Farm Operation.** Farm operations shall mean a condition or activity that occurs on a farm in connection with the commercial production of farm products and includes, but is not limited to, operations giving rise to noise, odors, dust, insects, fumes, operation of machinery and irrigation pumps, ground and aerial seeding, ground spraying, composting of material produced by the farm or imported for use on the farm, to be used at least in part on the farm, disposal of manure, the application of chemical fertilizers, soil amendments, conditioners and pesticides, and the employment and use of labor.
- C. **Farm Product.** Farm product shall mean those plants and animals useful to humans and includes, but is not limited to, forages and sod crops, grains and food crops, dairy products, poultry and poultry products, bees, livestock and livestock products, and fruits, berries, vegetables, flowers, seeds, grasses and other similar products.

#### **11-14.9 Best Management Practices:**

- A. If a farm or farm operation is alleged to be a nuisance, it may not be legally determined to be such if it meets one of the following conditions:
1. The farm or farm operation conforms to the Best Management Practices, as determined by the Commissioner in accordance with the Maine Administrative Procedure Act, Title 5 MRSA, Chapter 375; or
  2. For complaints regarding the storage or use of farm nutrients as defined in Title 7 MRSA §4201, Subsection 4, the farm or farm operation has implemented a Nutrient Management Plan developed in accordance with Title 7 MRSA, §4204 and operation of the farm is consistent with the Nutrient Management Plan; or
  3. The farm or farm operation existed before a change in the land use or occupancy of land within one mile of the boundaries of the farm, and the farm or farm operation would not have been considered a nuisance before the change in land use or occupancy.
    - a. The above paragraph does not apply to a farm or farm operation that materially changes the nature of the farm operation after a change in the land use or occupancy of the land within one mile of the boundaries of the farm.
    - b. Nothing in 11-14.9.A.3 above affects the applicability of any of the other provisions in this Subsection.
  4. There shall be a one hundred foot (100') minimum setback from the property line adjacent to a farm field of any well that supplies drinking water to a household.

#### **11-14.10 Change in Land Use:**

- A. Violation of municipal ordinances: A method of operation used by a farm or farm operation located in an area where agricultural activities are allowed may not be considered a violation of a municipal ordinance if the method of operation constitutes a Best Management Practices as determined by the Maine Department of Agriculture, Food, and Rural Resources.

#### **11-14.11 Complaint Resolution:**

- A. Pursuant to 17 M.R.S.A. § 2805 all complaints shall be submitted to the

Department of Agriculture in writing and shall be signed by the complainant.

- B. The Commissioner shall investigate all complaints involving a farm or farm operation, including, but not limited to, complaints involving the use of waste products, ground and surface water pollution and insect infestations. In cases of insect infestations not arising from agricultural activities, from agricultural activities, when the State Entomologist believes that the infestation is a public nuisance and is able to identify the source or sources of the infestation, the Commissioner shall refer the matter to the Department of the Attorney General. If the Commissioner finds upon investigation that the person responsible for the farm or farm operation is using Best Management Practices, the Commissioner shall notify that person and the complainant of this finding in writing. Notwithstanding Subsection 11-14.9A.3., if the Commissioner identifies the source or sources of the problem and finds that the problem is caused by the use of other than Best Management Practices, the Commissioner shall:
1. Determine the changes needed in the farm or farm operation to comply with Best Management Practices and prescribe site specific Best Management Practices for that farm operation;
  2. Advise the person responsible for the farm or farm operation of the changes, as determined in paragraph A, that are necessary to conform with Best Management Practices and determine subsequently if those changes are implemented; and
  3. Give the findings of the initial investigation and subsequent investigations and any determination of compliance to the complainant and person responsible.
- C. Good faith. The Maine Rules of Civil Procedure, Rule 11, applies in any private action filed against the owner or operator of a farm or farm operation in which it is alleged that the farm or farm operation constitutes a nuisance if it is determined that the action was not brought in good faith and was frivolous or intended for harassment only.
- D. Failure to adopt Best Management Practices. If the person responsible for the farm or farm operation does not apply Best Management Practices as required by the Commissioner, the Town shall send a written report to the Commissioner, and the Commissioner shall send a written report to an appropriate agency if a federal or State law has been violated and to the Attorney General.

The Attorney General may institute an action to abate a nuisance or to enforce the provisions of this section or any other applicable State law,

and the court may order the abatement with costs as provided under Section 2720, such injunctive relief as provided in this section or by other other applicable law, or that a civil violation has been committed. Failure to apply Best Management Practices in accordance with this Section constitutes a separate civil violation for which a fine up to \$1,000, together with an additional fine of up to \$250 per day for every day that the violation continues, may be adjudged.

#### **11-14.12 Disclosure**

- A. Applicants for developments requiring approval by the Town through its Planning Board or Code Enforcement Officer, including but not limited to subdivision and site review projects, for uses on lands adjacent (abutting and across-street/right-of-way) to existing farms and farm operations, must be notified by the Code Enforcement Office, upon receipt of such applications, of the existence of these farms and farm operations and that the development may be subject to inconveniences or compatibility issues from normal farm operations. (Effective upon the date of Ordinance adoption).

Subsequent buyers of lots within developments approved by the Town through its Planning Board or Code Enforcement Officer, including but not limited to subdivision and site review projects, for uses on lands adjacent (abutting and across-street/right-of-way) to existing farms and farm operations, must be notified by the property owner of the existence of these farms and farm operations and that the property may be subject to inconveniences or discomfort from such operations. (Effective upon date of Ordinance adoption).

The above notifications shall contain the following statement: "Such discomfort and inconveniences may include, but are not limited to: noise, odor, fumes, dust, smoke, machinery operation at any time and throughout any 24 hour period, manure storage and disposal, application (spraying or otherwise) of chemical fertilizers, soil amendments, herbicides, and pesticides. If you choose to work or live near a farm or farm operation, you should be prepared to accept such inconveniences or discomfort as a normal and necessary aspect of living in a town with a strong rural character and an active farming community."

#### **11-14.13 Amendments**

- A. Initiation of Amendments: An amendment to this Ordinance may be initiated by:
1. The Municipal Officers, provided a majority of the Municipal Officers has so voted; and

2. Written petition of a number of voters equal to at least 10% of the number of votes cast in the municipality at the last gubernatorial election.
- B. Public Hearing: The Municipal Officers shall hold a public hearing on the proposed amendment in accordance with 30A MRSA §4352(9). Notification of the hearing shall be posted and advertised twice in a newspaper of general circulation in the municipality. The date of the first publication must be at least seven (7) days prior to the hearing. Notice of the hearing must be posted in the municipal office at least thirteen (13) days before the hearing.
  - C. Adoption of the Amendment: An amendment to this Ordinance shall be adopted by majority vote of the Town Meeting.

# **Town of Farmington**

## **REVOLVING LOAN FUND**

### ***Management Plan***

**Amended July 14, 2009  
Amended October 26, 2010**



## **MANAGEMENT PLAN**

### **A. Purposes of the Revolving Loan Fund (RLF)**

1. To promote the economic well being of the Town of Farmington by helping to finance projects which maximize private sector investment and benefit low and moderate income people;
2. To stimulate job creation and expand business ownership opportunities for Farmington residents through economic development that is compatible with the Town's physical and social environment;
3. To encourage maximum utilization of existing vacant and under-utilized buildings;
4. To stimulate investment in the renovation and conservation of small business space; and
5. To supplement traditional bank financing, business owner investment, and other business loan and investment instruments.

### **B. Administration**

1. The Town of Farmington shall:
  - a. be responsible for overall RLF administration;
  - b. assist RLF applicants with packaging of development proposals;
  - c. recommend amount and terms of RLF and owner participation for each project; and
  - d. maintain a Loan Review Board to review and either approve or deny RLF loan applications;
    - 1) The RLF Review Board shall consist of five (5) regular members who shall be residents of the Town of Farmington;
    - 2) A minimum of three (3) RLF Review Board members shall constitute a quorum for voting purposes;
    - 3) RLF Review Board members shall be appointed by the Board of Selectmen and sworn in by the Town Clerk; and.
    - 4) The term of each Board member shall be three (3) years, and the members shall serve until their successors are appointed and sworn.

- 5) Upon adoption of this management plan, for transition purposes the initial terms shall be staggered so that as nearly an equal number of terms shall expire annually. Towards this end, initial appointment shall be one member for one year, two members for two years, and two members for three years.
2. The Board of Selectmen may adopt amendments to the Town of Farmington Revolving Loan Fund Management Plan after a public hearing has been held to review proposed changes.
3. The RLF shall be audited yearly as part of the Town's annual audit.

**C. Eligibility Criteria**

1. The applicant must be a property owner or resident of the Town of Farmington or an owner of a business or organization located within the Town; and the applicant must have the authority to make legal agreements for that business.
2. The applicant must supply documentation of supplemental traditional bank financing, business owner investment, and/or other business loan and investment instruments.

**D. Eligible Projects**

Eligible project activities include loans for:

1. Business start-ups, expansions and/or building improvements and/or renovations;
2. Real property acquisition; and
3. Capital equipment;

**E. Ineligible Loans**

Loans secured by out-of-state real estate are ineligible.

**F. RLF Terms and Conditions**

1. No loan will exceed the maximum length of ten (10) years.
2. Interest rates will be a fixed rate of 5%, except for loans made for façade improvements within the Village Business Historic District (as described in the Town's Zoning Ordinance) which shall be at a fixed rate of 0%.

3. No loan shall exceed the amount of \$25,000.
4. Payments will be made on a monthly basis.
5. Loans will be evidenced and documented per section H. below (which may be subordinated to the primary lender/s).
6. Before any RLF funds are disbursed, all necessary Town, State, or federal permits must be obtained.
7. There will be no prepayment penalty provision on any loan.

**G. Fees**

All costs associated with legal document preparation and review, recordings and filings shall be borne by the applicant and shall be payable before or at closing of the loan.

**H. Loan Closing Document Package**

Upon loan approval, a formal loan closing document package will be assembled consisting of:


1. Loan Agreement;
2. Promissory Note;
3. Mortgage Deed (when applicable);
4. Security Agreement;
5. UCC-1 Financing statement (when applicable); and
6. Personal Guarantee and/or Corporate Guarantee (when applicable).

All documents shall be signed by a representative of the Town of Farmington and the applicant, and applicable documents shall be witnessed and notarized by a Notary Public of the State of Maine.

# **TOWN OF FARMINGTON**

## **SEWER USE ORDINANCE**

### **Chapter 9**

Certified by:   
Town Clerk

**Affix Seal**

Date of Adoption: 11/17/1994

Date Last Amended: 08/27/2013

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## **TOWN OF FARMINGTON**

### **CHAPTER 9 SEWER USE ORDINANCE**

PURPOSE: An ordinance to promote the general health and welfare of the community by regulating the use of public and private sewers, drains and private wastewater disposal. The installation and connection of building sewers and the discharge of waters and wastes into the public sewer system; in the Town of Farmington, County of Franklin, State of Maine.

#### **ARTICLE 1**

##### **SECTION 1.1 - DEFINITIONS**

Unless the context specifically indicates otherwise, the meaning of terms used in this ordinance shall be as follows:

“ACT” shall mean the Federal Clean Water Act as amended.

“AGENT” shall mean a person doing business for another such as an attorney, deputy, proxy, an intermediary.

“APPLICANT” shall mean any person requesting approval to discharge industrial or domestic wastewaters into facilities of the Town.

“BOD” (denoting Biochemical Oxygen Demand) shall mean the quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedure for five (5) days at 20°C, expressed in milligrams per liter.

“BOARD” shall mean the board of Sewer Commissioners for the Town of Farmington. The Selectmen of the Town of Farmington shall be the Board of Sewer Commissioners.

“BOARD OF SELECTMEN” Shall mean the duly elected selectmen of the town of Farmington.

“BUILDING” shall mean a structure built, erected and framed of component structural parts designed for the housing, shelter, enclosure, or support of persons, or property of a kind, for which toilet facilities are required, or which require the disposal of wastewater from its occupants, operations or processes.

“BUILDING DRAIN” shall mean that part of the lowest horizontal piping of a drainage system which receives the discharge from soil, waste and other drainage pipes inside the walls of the building and conveys it to the building sewer. The building drain extends eight (8) feet outside the inner wall of the building wall.

“BUILDING SEWER” shall mean the extension from the building drain to the public sewer or other place of disposal, also called house connection. **(added 03-14-05)**

“COMBINED SEWER” shall mean a sewer intended to receive both wastewater and storm, or surface water runoff.



“COMMERCIAL” shall mean having to do with commerce: designed for profit: the exchange of goods.

“COMPOSITE SAMPLE” shall mean a sample collected using an automated sampling device that collects flow proportioned samples over a period of time.

“DISCHARGE” shall mean any substance knowingly put or allowed to flow into any part of the town’s sewer system or treatment works.

“DOMESTIC SEWAGE” shall mean water and water-carried wastes normally discharged into the sanitary sewers from dwellings.

“EASEMENT: shall mean and acquired legal right for the use of land owned by others.

“EMULSIFIER” shall mean something which promotes the dispersion of grease, fats or oil in water or wastewaters.

“ENGINEER” shall mean the professional Engineer retained by the Town of Farmington. In the event the Town has not retained an engineer, the term “engineer” as used herein will be construed to mean the Superintendent of the Town of Farmington Wastewater Treatment System.

“FLOATABLE GREASE” shall mean grease, oil or fat in a physical state such that it will separate by gravity from wastewater by treatment in an approve pretreatment facility. A wastewater shall be considered free of floatable grease if it is properly pretreated and the wastewater does not interfere with the collection system.

“GARBAGE” shall mean solid waste from the domestic and commercial preparation, cooking, and dispensing of food, and from the handling, storage and sale of food products and produce.

“GRAB SAMPLE” shall mean a sample collected at a particular instant and represents conditions existing at that single moment.

“INDUSTRY” shall mean manufacturing activity as a whole.

“INDUSTRIAL WASTES” shall mean all water and water-carried solids, liquid and gas wastes resulting from any industrial, manufacturing, or food processing operation or process or from the development of any natural resource or a mixture of any of these fluids and domestic sewage, or any mixture of these fluids with any other water or with any other liquid.

“INSTITUTIONAL” and “INSTITUTE” shall mean an organization for the promotion of a cause; and educational institution; a society or corporation esp. of a public character.

“LOW WATER CONSUMPTION TOILETS” shall mean a flush toilet that uses two or less gallons of water per flush.

“NATURAL OUTLET” shall mean any outlet, including storm sewers, into a watercourse, pond, ditch, lake or other body of surface or groundwater.

“NPDES” shall mean the National Pollutant Discharge Elimination Systems permit program of the U.S. EPA.

“OWNER” shall mean the person, organization, or entity listed as the owner of record as recorded at the Registry of Deeds.

“PERSON” shall mean any individual, firm, company, association, society, corporation, municipal or quasi-municipal agency, state agency, federal agency, or other legal entity.

“pH” shall mean the logarithm of the reciprocal of the weight of hydrogen ions in grams per liter of solution.

“PROPERLY SHREDDED GARBAGE” shall mean the wastes from the handling, preparation, cooking, and dispensing of food that have been shredded to such a degree that all particles will be carried freely under the flow conditions normally prevailing in public sewers, with no particle greater than one-half (1/2) inch in any dimension.

“PROPERTY LINE” shall mean the edge of the street right-of-way if the building sewer is to connect with the public sewer in a public street. “Property Line” shall mean the edge of a sewer easement in those instances where the building sewer connects to the public sewer in a sewer easement.

“PUBLIC SEWER” shall mean a common sewer in which all owners of abutting properties have equal rights and is owned, operated, and maintained by public authority, or governmental agency.

“SANITARY SEWER” shall mean a sewer which carries liquid and water-carried wastes from residences, commercial building, industrial plants and institutions together with minor quantities of ground, storm, and surface waters that are not admitted intentionally.

“SEWAGE” shall mean a the combination of water-carried wastes from residences, business buildings, institutions and industrial establishments, together with such ground, surface and storm water as may be present.

“SEWAGE TREATMENT PLANT” shall mean any arrangement of devices and structures used for treating sewage.

“SEWER” shall mean a pipe or conduit for carrying sewage.

“SEWERAGE WORKS” or “TREATMENT WORKS” shall mean all facilities for collecting, pumping, treating, and disposing of sewage.

“SEWER EXTENSION” shall mean a new or upgraded system for waste-water collection from one or more buildings not previously served by the public sewer and transport of said wastewater to a location within the existing public sewer system as recommended by the Superintendent and approved by the board of Sewer Commissioners. The sewer extension shall consist of sewer pipe and may include manholes, cleanouts, pump stations, or some combination of these components, as necessary. The sewer extension may consist of new construction only, or may include an upgrade of existing components in the public sewer and treatment systems to provide adequate transport and treatment of the additional wastewater discharged into the system.

“SEWER MAIN” same as public sewer.

“SHALL” is mandatory: “MAY” is permissive.

“STORM SEWER” or “STORM DRAIN” shall mean a sewer which carries storm and surface waters and drainage, but excludes sewage and industrial wastes, other than unpolluted cooling water.

“SUPERINTENDENT” shall mean the Wastewater Treatment System Superintendent for the Town of Farmington, or his authorized deputy, agent, or representative. The Superintendent is responsible for the operation and maintenance of the Town’s wastewater facilities.

“SUSPENDED SOLIDS” shall mean the total suspended matter that either floats on the surface of, or are in suspension in water, sewage or other liquids, and which are removable by laboratory filtering.

“TOWN” shall mean the Town of Farmington, Maine, and/or its duly authorized employees or agents.

“WASTEWATER” same as sewage.

“WASTEWATER TREATMENT PLANT” shall mean any facility owned by the Town and used for receiving and treating sewage.

“WATERCOURSE” shall mean a natural or artificial channel for the passage of water either continuously or intermittently.

## **SECTION 1.2 ABBREVIATIONS**

For the purpose of this ordinance the following abbreviations shall have the meaning ascribed to them under this article references to standards of the following organizations shall refer to the latest edition of same.

1. ANSI shall mean American National Standards Institute
2. ASCE shall mean American Society of Civil Engineers
3. ASTM shall mean American A Society for Testing and Materials
4. AWWA shall mean American Water Works Association
5. cm shall mean centimeter.
6. °C shall mean degrees Celsius
7. °F shall mean degrees Fahrenheit
8. DEP shall mean Maine Department of Environmental Protection
9. EPA shall mean U.S. Environmental Protection Agency
10. kg shall mean kilograms
11. l shall mean liters
12. m shall mean meters
13. mg/l shall mean parts per million
14. ppm shall mean parts per million
15. PVC-SDR 35 shall mean polyvinyl chloride sewer material with a standard dimension ratio (pipe diameter/wall thickness equal to 35.
16. Sq m shall mean square meter.

## ARTICLE 2

### USE OF PUBLIC SEWERS REQUIRED

**SECTION 2.1 – UNSANITARY DISPOSAL METHODS PROHIBITED.** It shall be unlawful for any person to place, deposit, or permit to be deposited in a unsanitary manner on public or private property within the town, or in any area under the jurisdiction of the town, any human excrement or other objectionable wastes.

**SECTION 2.2 – UNLAWFUL DISCHARGE PROHIBITED.** It shall be unlawful to discharge to any natural outlet within the Town of Farmington, or in any area under the jurisdiction of the town, any sewerage or other polluted waters, except where suitable treatment has been provided in accordance with the subsequent provisions of this ordinance.

**SECTION 2.3 – PRIVATE DISPOSAL SYSTEMS PROHIBITED.** Except as hereinafter provided, it shall be unlawful to construct or maintain any privy, privy vault, septic tank, cesspool, or other facility intended or used for the disposal of sewage.

**SECTION 2.4 – SEWER USE REQUIRED.** The owners of all buildings, or properties used for human occupancy, employment, recreation or other purposes for which toilet facilities may be required, situated in the Town and abutting on any street, alley, or right of way in which there is now located a public sanitary or combined sewer of the Town, is hereby required at the owners expense to install suitable toilet facilities therein, and to connect such facilities directly with the proper public sewer. This connection shall be made in accordance with the provisions of this sewer ordinance, and shall be made within ninety (90) days after the official notice to do so, provided that said public sewer is within two hundred (200) feet of the buildings to be connected.

Exceptions may be allowed by the board of Sewer Commissioners if: (a) the building construction took place during the "Slow Growth Moratorium". At that time, connections to the sewer system were controlled by Article 9-2A, adopted by a Town Meeting vote on January 16, 1993. This article limited both residential and commercial connections until its expiration on July 1, 1993, (b) if undue economic hardship would result, in which case the property owner should request in writing a deferral of these requirements and the owner shall be required to demonstrate the nature and degree of economic hardship. However, if any component of the Owner's subsurface wastewater disposal system has a failure which would require replacement, connection to the public sewer must be made regardless of the exceptions allowed in this paragraph.

The Board may waive the requirements of the Sewer Use Ordinance for any commercial establishment, industrial firm, institution or other entity who by virtue of the volume, strength or unusual characteristic of their waste alone, would overload or upset the capacity or efficiency of the wastewater treatment facilities or any part thereof if such wastes were to enter the public sewer, or whose waste disposal situation is such that it would be in the public interest to do so.

**SECTION 2.5 – CONSERVATION STANDARDS.** New connections: all new services shall install and maintain water saver shower heads and low consumption toilets. Existing connection: during expansion, reconstruction and/or remodeling, water saver shower heads and low water consumption toilets shall be installed and maintained by the owner.

**SECTION 2.6 – PUBLIC PLANS.** The Board of Sewer Commissioners shall make plans available to the public for physical inspection at the treatment facility or Town Office. Such plans shall describe planned sewer routes, extensions, and estimated dates for the completion of each route, extensions or portion thereof. Copies of plans for each newly authorized sewer route, extension or portion thereof, and its estimated date of completion, shall be made available to the public at nominal copy costs.

## **ARTICLE 3**

### **PRIVATE WASTEWATER DISPOSAL**

**SECTION 3.1 – WASTEWATER DISPOSAL REQUIRED.** Where a public sanitary sewer or combined sewer is not available under the provisions of Article 2, Section 4, the building shall be connected to a private sewage disposal system complying with the provisions of this article and State Plumbing Code.

**SECTION 3.2 – PERMIT REQUIRED.** Before commencement of construction of a private wastewater disposal system, the Owner shall first obtain a written permit signed by Plumbing Inspector for the Town of Farmington. The application for such permit shall be made on a form furnished by the Division of Health Engineering, Maine Department of Human Services, which the applicant shall supplement by any plans, specifications and other information as are deemed necessary by the plumbing inspector. Permit and Inspection fees required under the State of Maine Plumbing Code shall be paid to the Plumbing Inspector at the time of application is filed.

**SECTION 3.3 – COMPLIANCE WITH STATE REGULATIONS REQUIRED.** The type, capacities, location, and layout of a private wastewater disposal system shall comply with the State of Maine Plumbing Code, Part II, Subsurface Wastewater Disposal Rules and the Minimum Lot Size Law (Maine Revised Statutes Annotated, Title 12, Chapter 423-A). No private wastewater disposal system shall be permitted to discharge to any natural outlet without proper review and licensing by the Maine DEP.

**SECTION 3.4 – INSPECTION REQUIRED.** A permit for a private wastewater disposal shall not become effective until the installation is completed to the satisfaction of the Local Plumbing Inspector. He shall be allowed to inspect the work at any stage of construction and, in any event, the applicant for the permit shall notify the Local Plumbing Inspector when the work is ready for final inspection, and before any underground portions are covered.

**SECTION 3.5 – CONNECTION TO PUBLIC SEWER REQUIRED.** At such time as a public sewer is extended to a property served by a private wastewater disposal system, the Town may require a direct connection be made to the public sewer, or the Town may allow the continued use of the private system for the duration of its useful life. In either case the owner shall be required to pay capital cost associated with the installation of said sewer in accordance with Article 6, Section 6.8. Where continued use of a private system is allowed, the property owner shall be billed quarterly, and amount equal to the Board approved minimum sewer use charge. Upon connection to the public sewer the owner shall be required to pay a connection fee. Upon connection, private wastewater disposal facilities shall be abandoned and the septic tank shall be filled with soil for safety.

**SECTION 3.6 – OWNERS EXPENSE.** The Owner shall operate and maintain the private wastewater disposal facilities in a sanitary manner at all times, at no expense to the Town.

## ARTICLE 4

### BUILDING SEWERS AND CONNECTIONS

**SECTION 4.1 – PERMIT REQUIRED.** No unauthorized person shall uncover, make any connections with or opening into, use, alter, or disturb any public sewer or appurtenance thereof without first obtaining the proper permits from the board and the Local Plumbing Inspector. See Section 4.5 for non-permitted sewer excavation requirements. Permits shall expire if construction has not commenced within one year and substantially completed within two years from the date it was issued.

To obtain a permit for sewer connection an application must be filed with the Town, upon approval of the application a connection fee must be paid.

**SECTION 4.2 – APPLICATION.** The property owner or his agent or the occupant shall make application on a special form furnished by the Town. Permit applications shall be supplemented by any plans, specifications, or other information considered pertinent in the judgment of the Superintendent and/or the Code Enforcement Officer. An application fee shall be paid at the time the application is filed. The application fee shall be determined by the board and will be posted at the Town Office.

**SECTION 4.3 – CONNECTION FEE.** For the construction of a new or additional residential unit(s) or the new construction for retail, commercial, industrial, or institutional uses a connection fees shall be required. The connection fee shall be determined by the board and will be posted at the Town Office.

When building construction, renovation or expansion of an existing sewer customer has the potential to increasing the volume of sewage entering the sewer system. The Owner shall notify the Town of the proposed change as required in Section 5.7 of this ordinance. If in the opinion of the board, the construction renovation or expansion will increase the volume of flow, a fee to supplement the original connection fee shall be required. The supplemental fee rate shall be determined by the board and will be posted at the Town Office.

**SECTION 4.4 – PLUMBING PERMIT REQUIRED.** A plumbing permit must be obtained from the Local Plumbing Inspector prior to the installation of a building sewer. This is a requirement of the State Plumbing Code.

**SECTION 4.5 – ASSET ALLOCATION** - All permit and connection fees paid pursuant to this article shall be deposited in a reserve account. These funds shall be used solely for the enhancement and/or upgrade of the Sewer System.

**SECTION 4.6 – NON-PERMITTED SEWER EXCAVATION.** Any person, firm, corporation or other legal entity who shall commerce work for which a permit is required by this ordinance without first having applied for a permit, shall pay double the connection fee fixed by this ordinance for such work, provided, however, that this provision shall not apply to emergency work when it shall be proved to the satisfaction of the Superintendent, or his agent, that such work was urgent and necessary.

Any person, firm or other legal entity commencing work on a building sewer must obtain a “Road Opening Permit” from the Director of Public Works, or his agent, when such work requires excavation in a town street or right of way.

**SECTION 4.7 – OWNER RESPONSIBILITY STATED.** All costs and expenses incident to the installation, repair or maintenance of a building sewer shall be borne by the Owner. The Owner shall indemnify the Town from any loss or damage that may directly or indirectly be occasioned by the installation of the building sewer and all building sewers shall be the property of the Owner. All persons agree to abide by the rules and regulations set forth in this ordinance. The Town retains the right to levy a sewer use charge to provide the revenue for the operation, maintenance and administration of the facilities.

Once a “tee” or “wye” saddle has been connected to the sewer main for the intent of a building sewer and has been inspected by the Superintendent, or his agent, billing to the property owner shall incur within the ensuing quarterly billing period. Sewer use rates shall be determined by the board and will be posted in the Town office.

**SECTION 4.8 – SEPARATE BUILDING SEWERS REQUIRED.** A separate and independent building sewer shall be provided for every building, except where one building stands at the rear of another on an interior lot and no private sewer is available or can be constructed to the rear building through an adjoining alley, court, yard, or driveway; the building sewer from the front building may be extended to the rear building and the whole considered as one building, if approved by the Sewer Commissioners.

**SECTION 4.9 – METER REQUIRED.** All water sources entering the sewer system shall be metered regardless of their origin. Privately owned wells that are used to supply buildings connected to the sewer system shall be metered with a water meter that meets or exceeds the standards of the American Water Works Association (AWWA). Meters on privately owned water systems (wells) shall be installed, maintained and service at the owner’s expense, any person, firm, corporation or other legal entity who wishes to install or has installed a privately owned water systems (wells) shall be installed, maintained and serviced at the owners expense. Any person, firm, corporation or other legal entity who wishes to install or has installed a privately owned water system that discharges into the Town sewer shall make written notification to the Board of Sewer commissioners, date of installation and estimated daily flow shall be referenced in the letter.

The Owner of a private water system that discharges into the Town’s sewer system shall supply to the Town, accurate meter readings when requested to do so. The Town will calculate the sewer bill using these readings. The owner shall provide to the Town written authorization allowing the Superintendent, or his agent to enter onto the premises for any inspections deemed necessary by the Board, or their agent.

**SECTION 4.10 – OLD SEWER CONNECTIONS -** Old building sewers may be used in connection with new buildings only when they are found, on examination and test by the Superintendent, to meet all requirements of this ordinance.

**SECTION 4.11 – PIPE SIZE AND SLOPE SPECIFIED.** The size and slope of the building sewer shall be subject to the approval of the Superintendent, but in no event shall the diameter be less than four (4) inches. The slope of a four-inch pipe shall not be less than one-eighth (1/8) inch per foot.

**SECTION 4.12 – BUILDING SEWER PLACEMENT.** Where possible the building sewer shall be brought into the building at an elevation below the basement floor but shall be sufficient to afford protection from frost. To protect from frost, minimum soil cover of four and one half (4 ½) feet without insulation and three (3) feet with insulation is recommended. The building sewer shall be laid at a uniform grade in straight alignment insofar as possible. Changes in direction shall be made with manholes or properly



curved pipe and fittings with angles of less than 45 degrees. The ends of building sewers which are not connected to the building drain of a structure for any reason shall be sealed against infiltration by a suitable stopper, cap, plug, or other approved means. In all building in which any building drain is to low to permit gravity flow to the public sewer, sanitary sewage industrial waste carried by such drains shall be lifted by an approved mechanical means and discharged into the building sewer.

**SECTION 4.13 – PIPE AND JOINT STANDARDS.** The building sewer shall be : PVC sewer SDR35-ASTM D3034, 12 ½ foot or 20 foot lengths with neoprene ring gaskets; Extra heavy cast iron soil pipe ASTM A746; rubber ring gasket in grooved bell, ASTM C564 or Ductile iron push-on joint sewer pipe, Class 51, ASTM A746, with rubber ring gaskets in 18 to 20 foot lengths. Cast iron or ductile may be required by the Town where the building sewer is exposed to possible damage by tree roots. If installed in filled or unstable ground, the building sewer shall be cast or ductile iron pipe, except if laid on a suitable concrete bed or cradle.

**SECTION 4.14 – EXCAVATION AND BACKFILL.** All excavations required for the installation of a building sewer shall be open trench work unless otherwise approved by the Superintendent. Pipe laying and backfill shall be in accordance with ASTM D2321 specifications. No backfill shall be placed until the work has been inspected by the Superintendent, or his agent.

**SECTION 4.15 – CONNECTION.** The connection of the building sewer shall be made at the Town sewer main. The connection to the Town sewer shall be made using a “Wye” or “Tee” Saddle. The connection is to be secure and watertight. Special fittings may be used for the connection only when approved by the Superintendent.

**SECTION 4.16 – INSPECTION.** The applicant for the building sewer shall notify the Superintendent, at least 48 hours in advance, when the building sewer is ready for inspection and connection to the public sewer. Connection and testing shall be made under the supervision of the Superintendent or his representative. When trenches are opened for the laying of building sewer pipes, such trenches shall be inspected by the Superintendent or his representative. When trenches are opened for the laying of building sewer pipes, such trenches shall be inspected by the Superintendent. Or his agent, before the trenches are backfilled; and the person performing the work shall notify the Superintendent when the installation is completed. If the trench is backfilled before inspection, the Superintendent may require it to be re-excavated for inspection at the Owner’s expense.

**SECTION 4.17 – EXCAVATION PROTECTION REQUIRED.** All excavation for building sewer installations shall be adequately guarded with barricades and lights so as to protect the public from hazard. Streets, sidewalks, parkways, and other public property disturbed in the course of the work shall be restored in a manner satisfactory to the director to the Director of Public Works Director and/or Superintendent.

**SECTION 4.18 – WINTER CONDITIONS.** Except in case of emergency, no connections will be installed during winter conditions unless otherwise approved by the Superintendent and The Public Works Director.

**SECTION 4.19 – CLEANOUT RECOMMENDATION.** Where the length of the service from the building to the sewer is greater than 100 feet or where a change in alignment greater than 45 degrees is required, a cleanout is recommended to aid in maintaining the building sewer.

## ARTICLE 5

### USE OF PUBLIC SEWERS

**SECTION 5.1 – DISPOSAL OF UNPOLLUTED WATERS PROHIBITED** - No person shall discharge or cause to be discharged any storm water, surface water, ground water, roof runoff, subsurface drainage, cooling water or unpolluted industrial process waters to any sanitary sewer.

**SECTION 5.2 – STORMWATER AND SUBSOIL DRAINAGE CONTROL** - Storm water and all other unpolluted drainage shall be discharged to such sewers as are specifically designated as storm sewers, or to a natural outlet as approved by the Superintendent and the DEP. Unpolluted industrial cooling water or process waters may be discharged, on approval of the superintendent to a storm sewer or natural outlet and the discharge shall comply with Maine Revised Annotated, Title 38, Chapter 3, Section 413, as amended.

**SECTION 5.3 – DISCHARGE RESTRICTED** - No person or corporation shall cause or allow any sewage, (including industrial waste) containing any substance which by the Town's Superintendent is deemed deleterious by reason of its position, consistency, temperature or in any other respect, in the operation of the sewer system, to enter the system. No person shall discharge or cause or allow to be discharged into any sewer under the control of the Town, the following described substances, materials, waters or wastes if in the opinion of the Superintendent, such substances, materials, waters or wastes are in excessive amounts or concentrations. Persons who desire to discharge industrial wastewaters into the facilities of the Town shall make their formal application to the Town. In forming an opinion as to the limitations on acceptability of any wastes, the Town will give consideration to such factors as the quantities of subject wastes in relation to flows and velocities in the sewers, materials of construction of the sewers, nature of the wastewater treatment process, capacity of the wastewater treatment plant, degree of treatability of wastes in the wastewater treatment plant, the facilities discharge permit, and other pertinent factors.

The person wishing to discharge industrial waste shall only do so after he has entered into a contract with the Town to discharge said wastes. Said contract shall contain adequate provisions to insure compliance with and prevent violations of any of the following at the time of the contract and in the future:

- (a) Codes and Ordinances of the Town of Farmington;
- (b) State and Federal Laws;
- (c) Rules and regulations issued pursuant to State and Federal laws;
- (d) Discharge and Emission licenses held by the Town of Farmington, its subdivisions, districts and/or agencies.

Wastewaters and wastes considered to contain excessive constituents or characteristics as determined by the Town, and therefore shall be prohibited include:

- (a) Any wastewater containing toxic or poisonous liquids, gases, or solids in excessive quantity either singly or by interaction with other wastes. Said toxic pollutants are defined in standards, issued from time to time under Section 307A of the Acts.

- (b) Any incompatible pollutants controlled by an industry in an amount or concentration in excess of that allowed under standards or guidelines issued from time to time pursuant to Sections 304, 306 and/or 307 of the Acts.
- (c) Any wastewater, liquids or vapor from commercial or industrial discharges having a temperature higher than one hundred and fifty (150) degree F.
- (d) Any wastewaters having a pH lower than 5.5 or higher than 9.5 or having any other corrosive property capable of causing damage or hazard to sewer, structures, equipment process or personnel at the wastewater works.
- (e) Waters or wastes containing fats, wax, grease, or oils whether emulsified or not, in excess of one hundred(100) mg/1 or containing substances which may solidify or become viscous at temperatures between thirty two (32) F and one hundred fifty (150) F.
- (f) Any gasoline, benzene, naphtha, fuel oil, or other flammable liquid, solid or gas.
- (g) Any solid or viscous substance in such a quantity or of such size to be capable of causing obstruction to the flow in sewers, or other interferences with the proper operation of the sewage works such as, but not limited to, stone, gravel, ashes, cinders, sand, concrete, paving materials, mud, straw, shavings, metal, glass, rags, feathers, tar, plastics, wood, unground garbage, whole blood, paunch manure, hair, fleshings, entrails, paper dishes, cups, milk containers, etc., either whole or ground by garbage grinders.
- (h) Any garbage that has not been properly shredded. Garbage grinders may be connected to sanitary sewers from homes, hotels, institutions, restaurants, hospitals, catering establishments or similar places where garbage originates from the preparation of food in kitchens for purpose of consumption on the premises or when served by caterers.
- (i) Any radioactive wastes or isotopes in excessive amounts or such of half-life or concentration as may exceed limits established in applicable State and Federal regulations.
- (j) Any waters or wastes containing iron, chromium, copper, zinc, and similar objectionable or toxic substances in such quantities or concentrations that any such material received in the composite wastewaters at the treatment plant exceeds limits for such materials which may be established by the Superintendent.
- (k) Waters or wastes containing Phenols or other taste or odor producing substances, in such concentration exceeding limits which may be established by the Superintendent as necessary, after treatment of the composite sewage, to meet the requirements of the State, Federal, or other public agencies of jurisdiction for discharge to the receiving waters.
- (l) Water or wastes containing substances which are not amendable to treatment or reduction by the sewage treatment processes employed, or are amenable to treatment only to such a degree that the wastewater treatment plant effluent cannot meet the requirements of agencies having jurisdiction over discharge to the receiving waters.

- (m) Materials which exert or cause; unusual concentrations of suspended solids such as but not limited to, fullers earth, lime slurries, and lime residues, or of dissolved solids such as, but not limited to, sodium chloride and sodium sulfate; excessive discoloration such as, but not limited to, dye wastes, vegetable tanning solutions; unusual BOD, chemical oxygen demand, or chlorine requirement in such quantities as to constitute a significant load on the sewage treatment works: unusual volume of flow or concentration of wastes constituting organic wastes.
- (n) Materials in such concentration and volume that would cause interference with the treatment system.

**SECTION 5.4 – COMMISSION OPTIONS** – If any waters or pollutants are discharged, or are proposed to be discharged to the public sewers, which contain the substances or possess the characteristics enumerated in Section 5.3 of the Article, and which in the judgment of the Superintendent may have a deleterious effect upon the wastewater facilities, processes, equipment, or receiving waters, or which otherwise create a hazard to life or constitute a public nuisance, the Board of Sewer Commissioners may:

- (a) Reject the waters or pollutants,
- (b) Require pretreatment to an acceptable condition for discharge to the public sewers.
- (c) Require control over quantities and rates of discharge, to the public discharge,
- (d) Require payment to cover added cost of handling and treatment of wastes.

If the Board of Commissioners permit the pre-treatment or equalization of waste flows, the design and installation of the Pretreatment or equalization plants and equipment shall be subject to the review of the Town's Consulting Engineer and approval of the Superintendent, and subject to the requirements of all applicable codes, ordinances, laws, and the Town's discharge permit. Where preliminary treatment of flow-equalizing facilities are provided for any waters or wastes, they shall be maintained continuously in satisfactory and effective operation by the owner at his expense.

**SECTION 5.5 – EXTERIOR GREASE, OIL AND SAND INTERCEPTORS** - Exterior grease, oil, and sand interceptors shall be installed at the time of sewer connection by the owner when in the opinion of the Superintendent, they are necessary for the proper handling of the wastes containing floatable greases, flammable liquids and solid or viscous substances in excessive amounts as specified in Section 5.3, paragraphs "e, f and g" of this Article. Such interceptors shall not be required for private living units. This requirement shall not apply to any such currently connected uses, customers, or operations that do not have an exterior interceptors as of the effective date of this section except: (a) when in the opinion of the Board of Sewer Commissioners it can be shown that a lack thereof is causing a problem, or (b) when there is a change in the use of the sewer service or the character of the pollutants discharged. Upon a change of ownership the appropriate interceptor shall be installed within ninety (90) days of the Official Notification to do so. Failure of the Town to notify the owner does not relieve the owner of the obligation nor form the consequences of noncompliance.

All interceptors shall be of a type and capacity approved by the Superintendent, and shall be located as to be readily and easily accessible for cleaning and inspection. In maintaining of these interceptors, the owners shall be responsible for the proper removal and disposal by appropriate means of the captured material and shall maintain records of the dates, and means of disposal which are subject to review by the Superintendent and Board of Commissioners. Any removal, hauling and disposal of the collected materials must be performed in accordance with this ordinance and state and federal regulations. Emulsifiers shall not be used to clean out grease and oil interceptors.

Exceptions to this requirement may be granted by the board when the applicant can clearly demonstrate that: (a) it would create a severe economic burden (b) that construction is limited due to physical location, or (c) that the applicant can demonstrate to the Board, a reasonable alternative that is at least 80% efficient.

**SECTION 5.6 – MANHOLE REQUIRED-** When required by the Board of Commissioners, the Owner of any property with commercial, institutional or industrial wastes shall install a suitable structure, such as a manhole, together with such necessary meters and other appurtenances, in the building sewer to facilitate observation, sampling a measurement of the wastes. Such structures when required, shall be constructed in accordance with plans approved by the Superintendent. The structure shall be installed and maintained by the Owner at their expense, and shall be safe and accessible at all times.

**SECTION 5.7 – NOTIFICATION OF DISCHARGE CHANGE REQUIRED-** The Town must be notified 45 days in advance by any person or persons involved in:

- (1) Proposed substantial change in volume or character of pollutants over that being discharged into the treatment works at the time of issuance of their permit.
- (2) Proposed new discharge into the treatment works of pollutants from any source which would be a new source as defined in Section 306 of the Act if such source were discharging pollutants.

**SECTION 5.8 – STANDARD ANALYSES METHODS REQUIRED** - All measurements, tests, and analyses of the characteristics of waters and wastes to which reference is made in Sections 5.3 shall be determined in accordance with the latest edition of “Standard Methods for the Examination of Water and Wastewater”, published by the American Public Health Association, and shall be determined at the structure, as required by Section 5.6 of this Article, or upon suitable samples taken at said structure. Sampling shall be carried out by accepted methods to reflect the effect of constituents upon the wastewater facilities and to determine the existence of hazards to life, limb, and property.

The particular analyses involved will determine whether a twenty-four (24) hour composite of all outfalls of a premise is appropriate or whether a grab sample or samples would be taken.

All commercial establishments, industrial firms, or institutions discharging into the public sewer shall perform such monitoring of their discharges as the Superintendent may reasonably require, including installation, use and maintenance of monitoring equipment, keeping records and reporting the results of such monitoring to the Superintendent. Such records shall be available upon request by the Superintendent to other agencies having jurisdiction over discharges to the receiving waters.

**SECTION 5.9 – APPLICANT AGREEMENT REQUIRED** - All applications to discharge any industrial wastewater, drainage, substances or wastes directly into any sewer under control of the Town, or tributary thereto, shall be accompanied by an agreement stating that the applicant agrees to abide by all ordinances, rules and regulations of the Town, that the applicant will provide such works for preliminary treatment of the wastewater, drainage, substances or wastes as may be required by the Town, and that the applicant will permit duly authorized representatives of the Town to enter the premises of the industry to sample and measure wastewaters, as needed to check characteristics of the wastewaters, when so directed by the Town. Applications are to be accompanied by a plan showing essential characteristics of all wastewater outlets, analyses of existing and expected averages and maximum

wastewater flows, and must be submitted to and approved by the Town prior to initiating discharge into the facilities of the Town.

**SECTION 5.10 – SPECIAL AGREEMENTS** - No statement contained in this Ordinance shall be construed as preventing any special agreement or arrangements between the Town and any industrial concern whereby an industrial waste of unusual strength or character may be accepted by the Town for treatment, subject to payment therefore by the industrial concern.

## ARTICLE 6

### SEWER EXTENSIONS

**SECTION 6.1 – PLANNING.** All extensions to the sanitary sewer system assumed, owned and maintained by the Town shall be properly designed in accordance with the Design and Construction of Sanitary and Storm Sewers, ASCE Manuals and Reports on Engineering Practice No. 37 (WPCF Manual of Practice No. 9). Plans and specifications for sewer extensions shall be submitted to and approval obtained from the DEP before construction may proceed. Review by the Town's Consulting Engineer may be required prior to acceptance of the design by the Superintendent. The design of sewers must anticipate and allow for flows from all possible future extensions or developments within the immediate drainage area. All costs of having the town's consulting Engineer review the Plans and Specifications shall be paid for by the developer of the extension.

**SECTION 6.2. – PUBLIC CONTRACTS AND PETITIONS.** Sewer extensions may be constructed by the Town under public contract, if, in the opinion of the Board the number of properties to be served by such extension warrants its cost. Under this arrangement, to the extent that grant monies are available, connection and inspection fees shall be waived if the connection is made as part of the construction project, otherwise the property owner shall install the building sewer from his residence or place of business to the sewer main in accordance with Article 3, section 3.5. Property owners may propose sewer extensions within the town by drafting a written petition, signed by a majority to the benefitting property owners, and filing it with the Board. The cost of such extensions shall be assessed to the benefitted property owners in a manner determined by the Board of Sewer Commissioners in accordance with Article 6, Section 6.8.

**SECTION 6.3 – PRIVATE EXTENSIONS.** If the Town does not elect to construct a sewer extension under public contract, the property owner, builder or developer may construct the necessary sewer extension, if such extension is approved by the board of Sewer Commissioners in accordance with the requirements of Section 6.1. The property Owner must pay for the entire design and installation, including all expenses incidental thereto. Each building sewer installed must be installed and inspected as previously required and the inspection and connection fees shall be paid by the Owner. Design of sewers shall be as specified in Section 6.4. The installation of the Sewer extension must be subject to periodic inspection by the Town's Superintendent or Consulting Engineer and expenses for this inspection shall be paid for by the owner, builder or developer.

The Town's Consulting Engineer's decision shall be final in matters of quality and methods of construction. The sewer, as constructed, must pass the leakage test required in Section 6.5 before it is to be used. The cost of sewer extension thus made shall be borne by the developers or property owners, including all building sewers, and the discharge shall comply with MRSA, Title 38, Chapter 3, Section 413, as amended.

**SECTION 6.4 – SEWER DESIGN AND MATERIAL STANDARDS.** Sewer design must be approved by the Maine Department of Environmental Protection and shall be in accordance with the following provisions:

- a. Pipe and material joints shall be polyvinyl Chloride (PVC) conforming to ASTM or D3034 or D3033 and the strength requirements of SDR 35 or class 52 ductile iron meeting AWWA C150 with joints meeting AWWA C104 and fittings meeting AWWA C110.

- b. Minimum internal pipe diameter shall be eight (8) inches.
- c. All joints shall be prepared and installed in accordance with the manufacture's recommendations.
- d. Wye branch fittings shall be used and a watertight connection shall be provided.
- e. The minimum slope of sewer pipe and maximum width of trench at a point six inches above the top of the sewer pipe shall be as follows:

<u>Pipe Diameter</u>	<u>Trench Width</u>	<u>Minimum Slope in Feet per 100 feet.</u>
8"	2' – 8"	0.40
10"	2' – 10"	0.28
12"	3' – 0"	0.22
14"	3' – 2"	0.17
15"	3' – 3"	0.15
16"	3' – 4"	0.14

- f. The depth of sewer shall be sufficient to afford protection from frost, but in no event less than three (3) feet with insulation and five and one half (5-1/2) feet without insulation.
- g. All pipe shall be laid with a minimum of six (6) inches of ¾" crushed stone all around so as to give uniform circumferential support to the pipe unless otherwise recommended by the Town or it's Consulting Engineer.
- h. Manholes shall be constructed at all changes in slope or alignment or at intervals not exceeding three hundred (300) linear feet and shall be precast.  
**(added 8-28-12)**

1. Precast manhole sections shall be manufactured in accordance with ASTM C193.
2. The tongue and groove of manhole sections, including the precast base, shall be formed of concrete so as to receive the butyl rubber sealant. Sections shall be set so as to be vertical and in true alignment and sealed with two (2) one (1) inch butyl rubber strips or Kent-seal.
3. Manhole steps shall be polypropylene reinforced with steel rod, minimum width of sixteen (16) inches. All steps shall form a continuous ladder with a distance of twelve (12) inches between steps.
4. Precast base sections shall be monolithically pressure cast. Holes for pipes shall be cast in the base section so that there is a clear distance of four (4) inches minimum between the inside bottom of the base section and the pipe invert.



5. Pipe manhole connections shall be made with flexible manhole sleeves and stainless steel bands.
6. The top of the precast reinforced concrete unit shall be set at a grade that will allow a minimum of one (1) precast annular ring or a maximum of four (4) before setting the cast iron frame and cover. Mortar shall be Portland Type 2 cement mixed in proportion of one (1) part cement to two (2) parts sand, worked to the proper consistency.
7. The outside of all manholes shall have two coats of non-bituminous water proofing, leaving a smooth, substantially waterproof surface.
8. The concrete manholes shall have a precast or fiberglass invert passing through the bottom which corresponds in shape to  $\frac{3}{4}$  of the pipe. Side inverts shall be curved and main inverts (where direction changes) shall be laid out in smooth curves of the longest possible radius. The top of the shelf shall slope and drain towards the flowing through channel.
9. Manhole frames shall meet the standards of the Town. Minimum standards are; manhole frames shall be a minimum of four (4) inches high and shall be approximately thirty-two (32) inches in diameter with a twenty-four (24) inch opening. Frames shall weigh approximately 310 pounds. Manhole covers shall be twenty-six (26) inches in diameter and shall weigh approximately 175 pounds.  
1 -9 (added 8/28/12)
10. Prior to backfilling, wrap manholes with four (4) layers of six (6) mil thick U.V. resistant, high grade polyethylene to a depth of five (5) feet to act as a frost barrier.

**SECTION 6.5 – PIPELINE AND MANHOLE LEAKAGE TESTS REQUIRED.** All sewers shall satisfy requirements of a leakage test before they are accepted by the Superintendent. The Superintendent shall determine the appropriate test to be made for tightness. The plumber and contractor, at their expense shall furnish all necessary tools, labor, materials and assistance for such tests and shall remove or repair any defective materials when so ordered by the Board.

**SECTION 6.6 – PUMP STATION INSTALLATION.** Any pumping station which after acceptance by the board is to become property of the Town shall meet or exceed all specification required by the Board. Pump station design must be approved by the Superintendent and also by the Maine Department of Environmental Protection. All pump stations must pass leakage tests, as determined by the Superintendent before they are accepted by the Town.

**SECTION 6.7 – SEWER EXTENSION MAINTENANCE BOND REQUIRED.** All sewer extensions constructed at the property owners expense, after final approval and recommendation of acceptance by the Superintendent and subsequent acceptance by the Board of Sewer Commissioners, shall become the property of the Town and shall thereafter be maintained by the Town. Said sewers, after their acceptance, shall be guaranteed against defects in materials or workmanship for twelve (12) months. The guarantee shall be in the form of a maintenance bond or certified check in an amount defined by the Board of Sewer Commissioners.

**SECTION 6.8 – COLLECTION OF ASSESSMENTS.** Whenever the Town has constructed and completed a public sewer, the Municipal officers are hereby authorized to provide for the collection of assessments and charges for such construction over a period of time not to exceed ten (10) years, and may implement such collection methods if the person has agreed to that method in writing and notice of that fact has been recorded in appropriate registry of deeds. The procedure for collection shall be that as specified in 30A M.R.S.A. subsection 3444. The authority granted by this ordinance shall also apply to the collection of expenses involved in the abatement by the municipality of malfunctioning domestic sewage disposal units, as provided for in 30A M.R.S.A. 3428.

## **ARTICLE 7**

### **PROTECTION FROM DAMAGE**

**SECTION 7.1 – CRIMINAL MISCHIEF.** No person shall maliciously, willfully, or negligently break, damage, destroy, uncover, deface, or tamper with any structure, appurtenance, or equipment which is part of the wastewater facilities. Any person violating this provision is subject to arrest under the charge of criminal mischief as set forth in M.R. S. A. title 17-A, Chapter 33, Section 806, as amended.

## **ARTICLE 8**

### **POWERS AND AUTHORITY OF INSPECTORS**

**SECTION 8.1** – The Commission Superintendent and other duly authorized employees or agents of the Town bearing proper credentials and identification shall be permitted to enter all properties for the purpose of inspection, observation, measurement, sampling, and testing pertinent to discharge to the Town's sewer system in accordance with the provisions of this Sewer Use Ordinance.

The Superintendent or other duly authorized representatives are authorized to obtain information concerning industrial processes which have a direct bearing on the kind and source of discharge to the wastewater facilities. The industry may request that such information be kept confidential. The industry must establish that the revelation to the public of the information in question might result in an unfair competitive advantage to competitors.

While performing the necessary work on private properties referred to in this section, the Superintendent or duly authorized representatives of the Town shall observe all safety rules applicable to the premises established by the Owner. The owner shall be held harmless for injury or death to Town employees, and the Town shall indemnify the Owner against loss or damage to the Owner's and against claims and/or demands for personal injury or property damage asserted against the Owner, and arising out of any misconduct or negligence by the Town, its Employees, or its agents in the performance of the necessary work referred to in this section, except as such may be caused by negligence or failure of the Owner to maintain safe conditions.

The Superintendent and other duly authorized employees or agents of the Town bearing proper credentials and identification shall be permitted to enter all private properties through which the town holds a duly negotiated easement for the purposes of, but not limited to, inspection, observation, measurement, sampling, repair, and maintenance of any portion of the sewage works lying within said easement. All entry and subsequent work, if any, on said easement, shall be done in full accordance with the terms of the duly negotiated easement pertaining to the private property involved.

## ARTICLE 9

### VIOLATIONS, PENALTIES, AND ENFORCEMENT

**SECTION 9.1 – VIOLATIONS.** Any person found to be violating any provision of this Sewer Use Ordinance shall be served by the Superintendent with written notice stating the nature of the violation and providing a reasonable time limit for the satisfactory correction thereof. The offender shall, within the period of time stated in such notice, permanently cease all violations.

**SECTION 9.2 – PENALTIES.** Any person who continues to violate beyond the time limit provided to make a correction as required in the written notice, may be subject to court action, shall be guilty of a civil violation and upon conviction shall pay a penalty of not less than \$100 (One Hundred dollars) nor more than \$2,500 (Two Thousand Five Hundred Dollars) or such other relief as the court finds appropriate under M.R.S.A. Title 30-A Section 4452. Each day in which such violation shall continue will be deemed a separate violation. All funds accrued through the payment of penalties shall become the property of the Town of Farmington and shall be deposited into the enterprise fund account to benefit sewer users.

**SECTION 9.3 – LIABILITY.** Any person violating any provisions of the Sewer Use Ordinance shall become liable to the Town for any expense, loss, or damage occasioned to the Town by reason of such offense.

**SECTION 9.4 – LITIGATION.** Notwithstanding any of the foregoing provisions, the board of Sewer Commissioners or Superintendent may institute any appropriate action including injunction or other proceedings to prevent, restrain, or abate violations hereof. The board of Sewer Commissioners will make final determination to institute litigation.

## **ARTICLE 10**

### **ADMINISTRATION**

**SECTION 10.1 – BOARD RESPONSIBILITIES.** This Sewer Use Ordinance shall be administered by a Board of Sewer Commissioners in accordance with MRSA Title 30A, Section 5405. The board of Sewer Commissioners shall also:

- a. Enforce the provisions of the Sewer Use Ordinance.
- b. Provide interpretation of the Ordinance.
- c. Establish rates, fees and other charges for wastewater services as per MRSA 30A Section 5405.
- d. Review operational expenditures and oversee the management of reserve accounts.

Responsibilities not specified in the Ordinance shall be the responsibilities of the Board of Sewer Commissioners.

**SECTION 10.2 – BOARD COMPOSITION.** The Board of Sewer Commissioners shall be composed of the five (5) member duly elected Board of Selectmen.

**SECTION 10.3 – DIRECTION.** Day to day direction of the Superintendent is the responsibility of the Town Manager.

## **ARTICLE 11**

### **LICENSING**

**SECTION 11.1 – PROPERTY OWNER LICENSING.** Property owners do not need to be licensed by the Town to perform repairs to their building sewer. If in the opinion of the Superintendent, the work performed by the property Owner violates any provisions of the Sewer Use Ordinance, or if any work is, in the opinion of the Superintendent or the Town's consulting Engineer, sub-standard, the Board of Sewer Commissioners may disapprove existing work or any future work in the Town.

**SECTION 11.2 – PLUMBING PERMIT REQUIRED.** A permit from the Local Plumbing Inspector, as required by the State Plumbing Code, shall be obtained by the Owner for the installation or replacement of a building sewer.

**SECTION 11.3 – CONTRACTOR LICENSING.** Only those contractors and plumbers who are licensed by the Town of Farmington's Board of Sewer Commissioners as Master Drain Layers are authorized to perform work on the Towns Sewage System, subject to compliance with the following requirements:

- A. Applicants for a Master Drain Layers license may be required to submit a Statement of Qualifications. This statement shall include the applicant's work history, qualifications and references. For those applicants with limited work history and references an oral or written examination may be required at the discretion of the Superintendent. A filing fee will be required in an amount reasonable in relation to the costs of administering the license. The fee will be set by the board and will be posted at the Town office.
- B. If approved by the commission, the licensee shall file with the Commission a proper and acceptable performance and Guarantee Bond in the amount of \$1000.00, which shall remain in full force and effect for a period of one year from the date of application.
- C. Licensees shall file with the commission a Certificate of Insurance in the sum of \$300,000/\$600,000 to cover Public Liability and a Certificate of Insurance in the sum of \$10,000 covering property damage. In addition, a Certificate of Insurance covering Workmen's Compensation shall be filed, all of which shall remain in full force and effect for a period of at least one year from the date of license approval. Said insurance shall indemnify the Commission and the Town of Farmington against any and all damages, incurred in or any way connected with the performance of the work by a master Drain Layer, and for or by reason of any acts or omissions of said Master Drain Layer in the performance of his work.
- D. Applicants for licenses will be approved or disapproved within thirty-one (31) days after filing the application.
- E. The licensing will be waived in the case of Master Plumbers upon proof of insurance as specified in Items B. and C. of this Article.
- F. Other than licensed Master Plumbers, the Commission will license only Journeyman Plumbers and Drain Layers who are personally engaged in making physical installation of sewer and drain connections. When acting in the capacity of a contractor all provisions of Section 11.1 shall apply.

**SECTION 11.4 – TERMS AND FEES.** All Master Drain layer licenses expire one year from the date of issuance. The license is not transferable. A renewal fee shall be due and payable on or before the anniversary date of issue. The renewal fee shall be set by the Board and will be posted at the Town Office.

**SECTION 11.5 – VIOLATIONS.** All Master Drain Layers are required to comply with all the provisions the Sewer Use Ordinance as well as the State Plumbing Code during the course of the Work. The Commission reserves the right to revoke any license if any provision of said license is violated.

**SECTION 11.6 – PROHIBITED SUBSTANCES.** All licensees are required to give a full written report to the Commission within twenty-four (24) hours in the event that prohibited substances are found in or, if the buildings plumbing is such that prohibited substances could enter into, the sewer or building drain.

**SECTION 11.7 – SUPERVISION.** All licensees are required to give personal attention to all installations and shall be held responsible if any portion of this ordinance is violated through the licensees' actions or inactions.



## **ARTICLE 12**

### **VALIDITY**

**SECTION 12.1** – All ordinances or parts thereof in conflict with this Sewer Use Ordinance are hereby repealed.

**SECTION 12.2** – The invalidity of any section, clause, sentence, or provision of this Sewer Use Ordinance shall not affect the validity of any other part of this Sewer Use Ordinance which can be given effect without such invalid part of parts.

## **ARTICLE 13**

### **SEWER USE ORDINANCE IN FORCE**

**SECTION 13.1** – This ordinance shall be in full force and effect from and after its passage, approval, recording, and publication as provided by law.

## ARTICLE 14

### SEWER USE CHARGE

**SECTION 14.1 – REVENUE, EXPENDITURES AND RESERVES.** The source revenues for retiring debt costs, capital expenditures, and operation and maintenance costs of the wastewater collection and treatment facilities shall be obtained through but not limited to the collection of sewer use charges, permit fees, connection fees and license fees.

Unless otherwise stated by ordinance; all revenues received from the collection of sewer fees and rates shall be self appropriating on a continuing basis into the wastewater treatment enterprise fund (Facility operating accounts). This fund is to be used solely for retirement of costs associated with the operation and maintenance of the wastewater collection and treatment facilities. The board of Sewer Commissioners and Town Manager shall oversee and make recommendations on expenditures. All funds deposited into, transferred from and expended from reserve accounts, must receive Board approval.

**SECTION 14.2 – SEWER USE RATES.** - Sewer use rates shall be established by the Board of Sewer Commissioners on a yearly basis. In general, charges will be based on water usage. The usage shall be identified by the Farmington Water department and/or privately owned water meters measuring sources separate from the “Town Water” system. The sewer use charge will be computed and billed at regular intervals throughout each calendar year, as established by the board of Sewer Commissioners.

**SECTION 14.3 – SIGNIFICANT USERS.** Any commercial establishment, industrial firm, institution or other entity who contributes more than ten (10) percent of the average daily flow to the treatment plant shall be considered a Significant User. The board reserves the right to negotiate a contract with these users for sewage treatment and all appurtenances thereof.

**SECTION 14.4 – NON-CHARACTERISTIC WASTES.** When a customer discharges a waste, which because of its characteristics, requires treatment which is more costly than that required by “normal” strength wastes, than that customer shall bear the extra cost in the form of a surcharge. The relevant parameters for surcharge determination are Biochemical Oxygen Demand (BOD) and Suspended Solids (SS). Customers who discharge a wastewater whose characteristics exceed approximately 250 milligrams per liter (mg/l) BOD and 300 milligrams per liter SS respectively, shall be subject to a surcharge on the excess BOD and SS.

To calculate the surcharge, the following formula shall be used:

$$\text{Surcharge for BOD} = (C1 - 250)(Q)(8.34)(S1)$$

Where C1 = the concentration of BOD in mg/l.

Q = the total volume of wastewater contributed during the billing period, in millions of gallons.

S1 = the surcharge for each pound of BOD in dollars.

$$\text{Surcharge for SS} = (C2 - 300)(Q)(8.34)(S2)$$

Where C2 = the concentration of SS in mg/l.

Q= The total volume of wastewater contributed during the billing period, in millions of gallons.

S2 = the surcharge for each pound of SS in dollars.

The surcharge will be calculated using a dollar amount set by the Board of Sewer Commissioners. The board shall have the right, from time to time, to change the surcharge originally or previously assigned to any property Owner.

The Town may conduct sampling programs periodically to analyze the wastewater characteristics of its existing users to determine if a surcharge is indicated. The town reserves the right not to surcharge those customers whose surcharge revenue would not cover the cost of an adequate waste monitoring program.

**SECTION 14.5 – ABATEMENT OF SEWER USE CHARGES.** Abatement of sewer use charges may be granted by the Town Manager and/or System Superintendent. The volume of flow to be used when computing the abatement shall be based upon the total metered water consumption as shown in the records maintained by the Town’s Sewer Department. In the event that a property Owner produces evidence demonstrating that a “known quantity” of metered water did not enter the sewer system, an abatement may be granted. To properly demonstrate a “known quantity” , the board of Sewer Commissioners shall require the property owner to install and maintain an appropriate flow measuring device; a water meter, on the water flow to be abated. The meter installed must meet or exceed the Standards set by the American Water Works Association (AWWA).

Whenever possible an abatement requests should be made prior to the quarterly billing so that adjustments may be made prior to the quarterly billing so that adjustments may be made before the bills are processed. Abatements processed after a quarterly billing will be adjusted on the next quarterly bill.

**SECTION 14.6 – DEPOSIT.** The town may require the owner, tenant or occupant of premises who is obligated to pay rates, fees or charges for the use of, or for the services furnished, or to be furnished, by the sewer system, to make a reasonable deposit with the Municipality in advance to insure the payment of such rates, fees or charges thereof, if and when delinquent.

**SECTION 14.7 – SEWER USE PAYMENT.** All charges are due from the owner of the premises and such owner shall be held responsible. The Town may, if requested by the owner and occupant, send the bill to the occupant. All rates shall be due and payable in arrears at the Town offices. Quarterly bills shall be due thirty (30) days from the billing date. Monthly bills shall be due on the first day of the following month. Failure of the customer to receive his bill does not relieve him of the obligation of its payment nor from the consequences of non-payment.

**SECTION 14.8 – INTEREST ON UNPAID BILLS.** There shall be charged, in addition to the rates established, interest at the highest rate allowable on all sewer fees which are not paid prior to or on the due date shown on the bill.

**SECTION 14.9 – LIENS.** There shall be a lien to secure the payment of sewer charges legally assessed on real estate within the Town, which shall take precedence of all other claims on such real estate, excepting only claims for taxes.

The Treasurer of the Town shall have the authority and power to sue for and collect the sewer charges in accordance with MRSA Title 38, chapter 11, Section 1208.

\*\*\*\*\*

“This ordinance shall be effective upon its adoption by the Legislative Body. Upon the effective date of this ordinance, the Town of Farmington Sewer Ordinance, chapter 9 as originally adopted on December 19, 1974, and amended on September 25, 1984, January 16, 1991 and May 14, 1992, shall be repealed in its entirety.”

## **ARTICLE 15**

### **APPEALS**

**SECTION 15.1 – APPEALS.** Administrative appeals submitted pursuant to this Ordinance shall be subject to the standards and procedures established by the Town of Farmington Board of Appeals Ordinance.

Any person aggrieved by the action of the Board of Sewer Commissioners may appeal to the Board of Appeals by filing a notice of appeal within thirty (30) days after receipt of the Board of Sewer commissioners' notification.

**STATE OF FACTS:** When it was enacted in 1994, The town's Sewer Use Ordinance neglected to include an appeals procedure. As a result, it is unclear what route an aggrieved party must take in order to resolve a grievance. This Article spells out the appeal procedure.

**TOWN OF FARMINGTON  
SEWER CONNECTION APPLICATION**

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

Name of Owner: \_\_\_\_\_

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

Telephone: \_\_\_\_\_ (Day) \_\_\_\_\_ (Night)

Property Location \_\_\_\_\_ Map/Lot \_\_\_\_\_

Project Use: Residential \_\_\_\_\_ Commercial \_\_\_\_\_ Other \_\_\_\_\_

If Commercial or Other, what is the estimated maximum daily flow in gallons? \_\_\_\_\_

Description of Project: \_\_\_\_\_

\_\_\_\_\_

Estimated Starting date: \_\_\_\_\_ Estimated Completion Date \_\_\_\_\_

Comments or Additional information: \_\_\_\_\_

Owner's Signature: \_\_\_\_\_

Proof of Identity \_\_\_\_\_ (Clerks Initials)

NOTE – See Public Works Director for road Opening Permits if applicable.

See Code Enforcement Officer for any applicable local land use ordinances.

\*\*\*\*\*OFFICIAL USE ONLY\*\*\*\*\*

Application Fee - \$50.00

Authorizing Signature(s)

Fees: \$ 350.00 @ Unit

\*\*\*See Attached Lists\*\*\*

(fees are determined by the Board of Sewer Commissioners and are subject to change.)

Received by Town of Farmington

DATE \_\_\_\_\_

Amount: \_\_\_\_\_

Supt. Signature: \_\_\_\_\_

CK# \_\_\_\_\_ Cash \_\_\_\_\_

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

Date: \_\_\_\_\_ Time \_\_\_\_\_ By \_\_\_\_\_

WWTF Form 1, Latest revision 08-27-13 MG

CATEGORY

UNIT CHARGE \$350\*  
(unit = 175 gallons daily)

A. RESIDENTIAL (including mobile homes)

Single Family dwelling (up to two bedrooms) 1

Single Family dwelling with more than two bedrooms  
(each additional bedroom) ½

B. MULTI FAMILY DWELLINGS - including but not limited to  
duplexes apartment buildings, and condominium developments  
(up to two bedroom units) each dwelling 1

C. BOARDING HOMES AND NURSING HOMES

Per bed charge 1

D. CHURCHES

First 60 seats 1

For each additional 30 seats of part thereof ½

E. HOTELS/MOTELS

Minimum charge (2 rooms) 1

Each additional room ½

F. LAUNDROMAT

Per washing machine 1 ½

G. OFFICE AND WAREHOUSE

Minimum charge (up to 6 employees) 1

Each 6 employees or part thereof ½

H. RETAIL

First 1500 square feet 1



Plus \$1.00 per square foot in excess of 1500 sq. ft.

I. SERVICE STATION

Minimum (up to two pumps) 1

Each additional pump ½

J. SCHOOLS/DORMITORIES

Each 6 students or part thereof, based on maximum design capacity 1

K. TAVERNS AND RESTAURANTS

Each 6 seats of part thereof, based on maximum design capacity 1

L. BAKERY

Up to 6 employees 1

Each additional 6 employees or part thereof ½

M. BED AND BREAKFAST

Minimum (up to two rooms) 2

Each additional room ½

N. TRAILER PARK

Per mobile unit 1

O. COMMERCIAL/INDUSTRIAL

Minimum (equivalent to part thereof, provided the developer shall submit to the Town manager or his representative prior to connecting to the system, an analysis of the prospective water usage [prepared, signed and stamped under signature and seal of a registered engineer. The Sewer Commissioners reserve the right to assess based on average daily single family usage (175 gallons per day) based on the disclosed water usage of the developer. If the actual usage of a newly connected commercial/industrial user, in the first two years exceeds their

estimated usage by 10% and additional connection fee shall be assessed based on actual usage divided by the average daily residential usage (175 gallons daily)

1

P. ALL OTHER USES CATEGORY

Fee shall be determined by charging a one unit charge per each equivalent family unit of usage daily (175 gpd) or part thereof.

Q. EXPANSION OF EXISTING USE

A property owner who expands or changes use category shall be assessed additional units or parts thereof as herein above set forth in excess of sewer connection fee previously paid by the property owner.

If the property owner has not been assessed (or his predecessor in title) a sewer connection fee pursuant to the sewer ordinance, the additional or new use shall be based on the schedule set forth above.

The funds derived from the connection fee shall be deposited and segregated from general revenues and shall be used solely and exclusively for the purpose of covering cost of future planning and expansion needs only.

\*Amended 08/27/2013

# **TOWN OF FARMINGTON**

## **Sexually Oriented Business Ordinance**

ENACTED: September 30, 1999

CERTIFIED BY: Leanne E. Pinkham

Town Clerk  
Title

Affix Seal

**Town of Farmington  
Chapter 11 – Land Use  
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# **Sexually Oriented Business Ordinance**

## **Chapter 11**

### **Land Use**

#### **11 - 12.1 Title:**

This ordinance shall be known and cited as the “Town of Farmington Sexually Oriented Business Ordinance” and will be referred to herein as “this Ordinance”. This Ordinance limits Sexually Oriented Businesses to the zoning district(s) specified under the Zoning Ordinance Table of Uses; prescribes definitions of Sexually Oriented Businesses; provides for permitting/licensing and regulation of Sexually Oriented Businesses and employees; and provides for additional miscellaneous standards for Sexually Oriented Businesses.

#### **11 – 12. 2 Authority and Applicability:**

**WHEREAS**, sexually oriented businesses require special supervision from the public safety agencies of the Town in order to protect and preserve the health, safety, and welfare of the patrons of such businesses as well as the citizens of the Town; and

**WHEREAS**, the Board of Selectmen finds that sexually oriented businesses are frequently used for unlawful sexual activities, including prostitution and sexual liaisons of a casual nature; and

**WHEREAS**, the concern over sexually transmitted diseases is a legitimate health concern of the Town which demands reasonable regulation of sexually oriented businesses in order to protect the health and well-being of the citizens; and

**WHEREAS**, permitting is a legitimate and reasonable means of accountability to ensure that operators of sexually oriented businesses comply with reasonable regulations and to ensure that operators do not knowingly allow their establishments to be used as places of illegal sexual activity or solicitation; and

**WHEREAS**, there is convincing documented evidence that sexually oriented businesses, because of their very nature, have a deleterious effect on both the existing businesses around them and the surrounding residential areas adjacent to them, causing increased crime and the downgrading of property values; and

**WHEREAS**, it is recognized that sexually oriented businesses, due to their nature, have serious objectionable operational characteristics, particularly when they are located in close proximity to each other, thereby contributing to urban blight and downgrading the quality of life in the adjacent area; and

**WHEREAS**, the Board of Selectmen desires to minimize and control these adverse effects and thereby protect the health, safety, and welfare of the citizenry; protect the

citizens from increased crime; preserve the quality of life; preserve the property values and character of surrounding neighborhoods and deter the spread of urban blight; and

**WHEREAS**, the Board of Selectmen has determined that locational criteria alone do not adequately protect the health, safety, and general welfare of the people of this Town; and

**WHEREAS**, it is not the intent of this Ordinance to suppress any speech activities protected by the First Amendment, but to enact a content neutral ordinance which addresses the secondary effects of sexually oriented businesses; and

**WHEREAS**, it is not the intent of the Board of Selectmen to condone or legitimize the distribution of obscene material, and the Board recognizes that State and federal law prohibits the distribution of obscene materials and expects and encourages State law enforcement officials to enforce State obscenity statutes against any such illegal activities in the Town.

This Ordinance is adopted pursuant to the enabling provisions of Article VIII, Part 2, Section 1 of the Maine Constitution; the provisions of the Municipal Home Rule Authority (30A MRSA 3001 et seq) and the provisions of the Planning and Land Use Regulation Act, Title 30-A MRSA Section 4312 et seq.

Persons or entities wishing to establish a Sexually Oriented Business or obtain employment with a sexually oriented business within the Town of Farmington shall first obtain a permit/license from the Farmington Board of Selectmen (hereinafter "the Municipal Officers") and shall be subject to the provisions of this Ordinance.

### **11 - 12.3 Purpose:**

**A. Purpose.** It is the purpose of this Ordinance to regulate sexually oriented businesses in order to promote the health, safety, and general welfare of the citizens of the Town, and to establish reasonable and uniform regulations to prevent the deleterious location and concentration of sexually oriented businesses within the Town. The provisions of this Ordinance have neither the purpose nor effect of imposing a limitation or restriction on the content of any communicative materials, including sexually oriented materials. Similarly, it is not the intent nor effect of this Ordinance to restrict or deny access by adults to sexually oriented materials protected by the First Amendment, or to deny access by the distributors and exhibitors of sexually oriented entertainment to their intended market. Neither is it the intent nor effect of this Ordinance to condone or legitimize the distribution of obscene material.

**B. Findings.** Based on evidence concerning the adverse secondary effects of adult uses on the community presented in hearings and in reports made available to the Municipal Officers, and on findings incorporated in the cases of *City of Renton v. Playtime Theatres, Inc.*, 475 U.S. 41 (1986), *Young v. American Mini Theatres*, 426

U.S. 50 (1976), and *Barnes v. Glen Theatre, Inc.*, 501 U.S. 560 (1991), and on studies in other communities including, but not limited to, Phoenix, Arizona; Minneapolis, Minnesota; Houston, Texas; Indianapolis, Indiana; Amarillo, Texas; Garden Grove, California; Los Angeles, California; Whittier, California; Austin, Texas; Seattle, Washington; Oklahoma City, Oklahoma; Cleveland, Ohio; and Beaumont, Texas; and also on findings from the Report of the Attorney General's Working Group On The Regulation Of Sexually Oriented Businesses, (June 6, 1989, State of Minnesota), the Municipal Officers find:

1. Sexually oriented businesses lend themselves to ancillary unlawful and unhealthy activities that are presently uncontrolled by the operators of the establishments. Further, there is presently no mechanism to make the owners of these establishments responsible for the activities that occur on their premises.
2. Certain employees of sexually oriented businesses defined in this Ordinance as adult theatres and cabarets engage in higher incidence of certain types of illicit sexual behavior than employees of other establishments.
3. Sexual acts, including masturbation, and oral and anal sex, occur at sexually oriented businesses, especially those which provide private or semi-private booths or cubicles for viewing films, videos, or live sex shows.
4. Offering and providing such space encourages such activities, which creates unhealthy conditions.
5. Persons frequent certain adult theatres, adult arcades, and other sexually oriented businesses for the purpose of engaging in sex within the premises of such sexually oriented businesses.
6. At least 50 communicable diseases may be spread by activities occurring in sexually oriented businesses, including, but not limited to, syphilis, gonorrhea, human immunodeficiency virus infection (HIV-AIDS), genital herpes, hepatitis B, Non A, Non B amebiasis, salmonella infections and shigella infections. The number of estimated new annual cases of sexually transmitted diseases in Maine is 58,300.
7. Since 1981 and to the present, there has been an increasing cumulative number of reported cases of AIDS caused by the human immunodeficiency virus (HIV) in the United States -- 600 in 1982, 2,200 in 1983, 4,600 in 1984, 8,555 in 1985 and 253,448 through December 31, 1992. Since 1992 new cases have leveled at 40,000 per year about half of which (20,000) are acquired through sexual contact. Currently there are about 500,000 cases of AIDS that have resulted from sexual contact.

8. Through December 1998, there have been 836 reported cases of AIDS in the State of Maine with 462 deaths. Thirty-three newly identified cases, including 26 men and 7 women, were reported from January through December in 1998.
9. Since 1981 and to the present, there have been an increasing cumulative number of persons testing positive for the HIV antibody test in the State of Maine.
10. The number of cases of early (less than one year) syphilis in the United States reported annually has risen, with 33,613 cases reported in 1982 and 45,200 through November of 1990. In 1998, in the State of Maine, 1 case of early syphilis was reported.
11. The number of cases of gonorrhea in the United States reported annually remains at a high level, with over one-half million cases being reported in 1990. In 1998, in the State of Maine, 67 cases of gonorrhea were reported.
12. The number of case of chlamydia in the United States reported annually also remains at a high level. In 1998, in the State of Maine, there were 1,073 cases reported. Estimated new annual cases of sexually transmitted diseases in Maine is 58,300 at a cost of \$32,000,000.
13. The surgeon general of the United States in his report of October 22, 1986, has advised the American public that AIDS and HIV infection may be transmitted through sexual contact, intravenous drug abuse, exposure to infected blood and blood components, and from an infected mother to her newborn.
14. According to the best scientific evidence, AIDS and HIV infection, as well as syphilis and gonorrhea, are principally transmitted by sexual acts.
15. Sanitary conditions in some sexually oriented businesses are unhealthy, in part, because the activities conducted there are unhealthy, and, in part, because of the unregulated nature of the activities and the failure of the owners and the operators of the facilities to self-regulate those activities and maintain those facilities.
16. Numerous studies and reports have determined that semen is found in the areas of sexually oriented businesses where persons view "adult" oriented films.
17. The findings noted in paragraphs 1 through 16 raise substantial governmental concerns.
18. Sexually oriented businesses have operational characteristics which should be reasonably regulated in order to protect those substantial governmental concerns.
19. A reasonable permitting procedure is an appropriate mechanism to place the



burden of that reasonable regulation on the owners and the operators of the sexually oriented businesses. Further, such a permitting procedure will place a heretofore nonexistent incentive on the operators to see that the sexually oriented business is run in a manner consistent with the health, safety and welfare of its patrons and employees, as well as the citizens of the Town. It is appropriate to require reasonable assurances that the permittee is the actual operator of the sexually oriented business, fully in possession and control of the premises and activities occurring therein.

20. Removal of doors on adult booths and requiring sufficient lighting on premises with adult booths advances a substantial governmental interest in curbing the illegal and unsanitary sexual activity occurring in adult theatres.
21. Requiring permittees of sexually oriented businesses to keep information regarding current employees and certain past employees will help reduce the incidence of certain types of criminal behavior by facilitating the identification of potential witnesses or suspects and by preventing minors from working in such establishments.
22. The disclosure of certain information by those persons ultimately responsible for the day-to-day operation and maintenance of the sexually oriented business, where such information is substantially related to the significant governmental interest in the operation of such uses, will aid in preventing the spread of sexually transmitted diseases.
23. It is desirable in the prevention of the spread of communicable diseases to obtain a limited amount of information regarding certain employees who may engage in the conduct which this ordinance is designed to prevent or who are likely to be witnesses to such activity.
24. The fact that an applicant for an adult use permit has been convicted of a sexually related crime leads to the rational assumption that the applicant may engage in that conduct in contravention of this Ordinance.
25. The barring of such individuals from the management of adult uses for a period of years serves as a deterrent to and prevents conduct which leads to the transmission of sexually transmitted diseases.
26. The general welfare, health, and safety of the citizens of the Town will be promoted by the enactment of this Ordinance.

#### **11 - 12.4 Conflict with Other Ordinances:**

Whenever a provision of this Ordinance conflicts with or is inconsistent with other provisions of this Ordinance, or of any other ordinance, regulation or standard, the more restrictive provision shall apply.

### **11 - 12.5 Effective Date:**

The effective date of this Ordinance shall be the date this Ordinance is adopted by the voters at Town Meeting.

### **11 - 12.6 Validity and Severability:**

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

### **11 - 12.7 Definitions:**

As used in this Ordinance, unless the context otherwise indicates, the following terms have the following meanings:

**Adult Arcade** means any place to which the public is permitted or invited wherein coin-operated, slug-operated, or for any form of consideration, or electronically, electrically, or mechanically controlled still or motion picture machines, projectors, video or laser disc players, or other image-producing devices are maintained to show images to five or fewer persons per machine at any one time, and where the images so displayed are distinguished or characterized by the depicting or describing of "specified sexual activities" or "specified anatomical areas."

**Adult Bookstore, Adult Novelty Store or Adult Video Store** means a commercial establishment which, as one of its principal purposes, offers for sale or rental for any form of consideration any one or more of the following:

- A. Books, magazines, periodicals or other printed matter, or photographs, films, motion pictures, video cassettes or video reproductions, slides, or other visual representations which are characterized by the depiction or description of "specified sexual activities" or "specified anatomical areas"; or
- B. Instruments, devices, or paraphernalia which are designed for use in connection with "specified sexual activities."

A commercial establishment may have other principal business purposes that do not involve the offering for sale or rental of material depicting or describing "specified sexual activities" or "specified anatomical areas" and still be categorized as ADULT BOOKSTORE, ADULT NOVELTY STORE, or ADULT VIDEO STORE. Such other business purposes will not serve to exempt such commercial establishments from being categorized as an ADULT BOOKSTORE, ADULT NOVELTY STORE, or ADULT VIDEO STORE so long as one of its principal business purposes is the offering for sale or rental for consideration the specified materials which are characterized by the depiction or description of "specified sexual activities" or "specified anatomical areas."

**Adult Cabaret** means a nightclub, bar, restaurant, or similar commercial establishment which regularly features:

- A. Persons who appear in a state of nudity or semi-nude; or
- B. Live performances which are characterized by the exposure of "specified anatomical areas" or by "specified sexual activities"; or
- C. Films, motion pictures, video cassettes, slides or other photographic reproductions which are characterized by the depiction or description of "specified sexual activities" or "specified anatomical areas."

**Adult Motel** means a hotel, motel or similar commercial establishment which:

- A. Offers accommodations to the public for any form of consideration; provides patrons with closed-circuit television transmissions, films, motion pictures, video cassettes, slides, or other photographic reproductions which are characterized by the depiction or description of "specified sexual activities" or "specified anatomical areas"; and has a sign visible from the public right of way which advertises the availability of this adult type of photographic reproductions; or
- B. Offers a sleeping room for rent for a period of time that is less than ten (10) hours; or
- C. Allows a tenant or occupant of a sleeping room to sub-rent the room for a period of time that is less than ten (10) hours.

**Adult Motion Picture Theater** means a commercial establishment where, for any form of consideration, films, motion pictures, video cassettes, slides, or similar photographic reproductions are regularly shown which are characterized by the depiction or description of "specified sexual activities" or "specified anatomical areas."

**Adult Theater** means a theater, concert hall, auditorium, or similar commercial establishment which regularly features persons who appear in a state of nudity or semi-nude, or live performances which are characterized by the exposure of "specified anatomical areas" or by "specified sexual activities."

**Employee** means a person who performs any service on the premises of a sexually oriented business on a full-time, part-time or contract basis, whether or not the person is denominated an employee, independent contractor, agent or otherwise and whether or not said person is paid a salary, wage or other compensation by the operator of said business. Employee does not include a person exclusively on the premises for repair or maintenance of the premises or equipment on the premises, or for the delivery of goods to the premises.

**Escort** means a person who, for consideration, agrees or offers to act as a companion, guide, or date for another person, or who agrees or offers to privately model lingerie or to privately perform a striptease for another person.

**Escort Agency** means a person or business association who furnishes, offers to furnish, or advertises to furnish escorts as one of its primary business purposes for a fee, tip, or other consideration.

**Establishment** means and includes any of the following:

- A. The opening or commencement of any sexually oriented business as a new business;
- B. The conversion of an existing business, whether or not a sexually oriented business, to any sexually oriented business;
- C. The additions of any sexually oriented business to any other existing sexually oriented business; or
- D. The relocation of any sexually oriented business.

**Licensee** means a person in whose name a license has been issued authorizing employment in a sexually oriented business.

**Nude Model Studio** means any place where a person who appears semi-nude, in a state of nudity, or who displays "specified anatomical areas" and is provided to be observed, sketched, drawn, painted, sculptured, photographed, or similarly depicted by other persons who pay money or any form of consideration. Nude Model Studio shall not include a proprietary school licensed by the State of Maine or a college, junior college or university supported entirely or in part by public taxation; a private college or university which maintains and operates educational programs in which credits are transferable to a college, junior college, or university supported entirely or partly by taxation; or in a structure:

- A. That has no sign visible from the exterior of the structure and no other advertising that indicates a nude or semi-nude person is available for viewing; and
- B. Where in order to participate in a class a student must enroll at least three days in advance of the class; and
- C. Where no more than one nude or semi-nude model is on the premises at any one time.

**Nudity or a State of Nudity** means the showing of the human male or female genitals, pubic area, vulva, anus, anal cleft or cleavage with less than a fully opaque covering,

the showing of the female breast with less than a fully opaque covering of any part of the nipple, or the showing of the covered male genitals in a discernibly turgid state.

**Permittee** means a person in whose name a permit to operate a sexually oriented business has been issued, as well as the individual listed as an applicant on the application for a permit.

**Person** means an individual, proprietorship, partnership, corporation, association, or other legal entity.

**Regularly** means a recurring and/or substantial course of conduct.

**Semi-Nude or in a Semi-Nude Condition** means the showing of the female breast below a horizontal line across the top of the areola at its highest point or the showing of the male or female buttocks. This definition shall include the entire lower portion of the human female breast, but shall not include any portion of the cleavage of the human female breast, exhibited by a dress, blouse, skirt, leotard, bathing suit, or other wearing apparel provided the areola is not exposed in whole or in part.

**Sexual Encounter Center** means a business or commercial enterprise that, as one of its principal business purposes, offers for any form of consideration:

- A. Physical contact in the form of wrestling or tumbling between persons of the opposite sex; or
- B. Activities between male and female persons and/or persons of the same sex when one or more of the persons is in a state of nudity or semi-nude.

**Sexually Oriented Business** means an adult arcade, adult bookstore, adult novelty store, adult video store, adult cabaret, adult motel, adult motion picture theater, adult theater, escort agency, nude model studio, or sexual encounter center.

**Specified Anatomical Areas** means:

- A. The human male genitals in a discernibly turgid state, even if completely and opaquely covered; or
- B. Less than completely and opaquely covered human genitals, pubic region, buttocks or a female breast below a point immediately above the top of the areola.

**Specified Criminal Activity** means any of the following offenses:

- A. Prostitution or promotion of prostitution; dissemination of obscenity; sale, distribution or display of harmful material to a minor; sexual performance by a child; possession or distribution of child pornography; public lewdness;

indecent exposure; indecency with a child; engaging in organized criminal activity; sexual assault; molestation of a child; gambling; or distribution of a controlled substance; or any similar offenses to those described above under the criminal or penal code of the State of Maine, other states or countries;

B. For which:

(1) less than two years have elapsed since the date of conviction or the date of release from confinement imposed for the conviction, whichever is the later date, if the conviction is of a misdemeanor offense;

(2) less than five years have elapsed since the date of conviction or the date of release from confinement for the conviction, whichever is the later date, if the conviction is of a felony offense; or

(3) less than five years have elapsed since the date of the last conviction or the date of release from confinement for the last conviction, whichever is the later date, if the convictions are of two or more misdemeanor offenses or combination of misdemeanor offenses occurring within any 24-month period.

C. The fact that a conviction is being appealed shall have no effect on the disqualification of the applicant or a person residing with the applicant.

**Specified Sexual Activities** means any of the following:

- A. The fondling or other erotic touching of human genitals, pubic region, buttocks, anus, or female breasts;
- B. Sex acts, normal or perverted, actual or simulated, including intercourse, oral copulation, masturbation, or sodomy; or
- C. Excretory functions as part of or in connection with any of the activities set forth in A through B above.

**Substantial Enlargement of a sexually oriented business** means the increase in floor areas occupied by the business by more than twenty-five percent (25%), as the floor areas exist on the date this Ordinance takes effect.

**Transfer Of Ownership Or Control of a sexually oriented business** means and includes any of the following:

- A. The sale, lease, or sublease of the business;
- B. The transfer of securities which constitute a controlling interest in the business, whether by sale, exchange, or similar means; or

- C. The establishment of a trust, gift, or other similar legal device which transfers the ownership or control of the business.

#### **11 - 12.8 Classification:**

Sexually oriented businesses are classified as follows:

1. adult arcades;
2. adult bookstores, adult novelty stores, or adult video stores;
3. adult cabarets;
4. adult motels;
5. adult motion picture theaters;
6. adult theaters;
7. escort agencies;
8. nude model studios; and
9. sexual encounter centers.

#### **11 - 12.9 Permit/License Required:**

No person may establish, operate or maintain a Sexually Oriented Business without first obtaining a nontransferable permit from the Municipal Officers. No person may obtain employment with a sexually oriented business without first obtaining a nontransferable license from the Municipal Officers.

It is a violation of this Ordinance for any person:

- A. To operate a sexually oriented business without a valid sexually oriented business license issued by the Town pursuant to this Ordinance.
- B. Who operates a sexually oriented business to employ a person to work for the sexually oriented business who is not licensed as a sexually oriented business employee by the Town pursuant to this Ordinance.
- C. To obtain employment with a sexually oriented business without having secured a sexually oriented business employee license pursuant to this Ordinance.

#### **11 - 12.10 Application Procedure:**

- A. An application for a permit/license must be made on a form provided by the Town.
- B. All applicants must be qualified according to the provisions of this Ordinance. The application may request and the applicant shall provide such information (including fingerprints) as to enable the Town to determine whether the applicant meets the qualifications established in this Ordinance.

### C. Application to establish a Sexually Oriented Business

1. If a person who wishes to operate a sexually oriented business is an individual, the person must sign the application for a permit as applicant. If a person who wishes to operate a sexually oriented business is other than an individual, each individual who has a 20 percent or greater interest in the business must sign the application for a permit as applicant. Each applicant must be qualified under the following Section and each applicant shall be considered a permittee if a permit is granted.
2. The completed application for a sexually oriented business permit shall contain the following information and shall be accompanied by the following documents:
  - a. If the applicant is:
    - (1) an individual, the individual shall state his/her legal name and any aliases and submit proof that he/she is 18 years of age;
    - (2) a partnership, the partnership shall state its complete name, and the names of all partners, whether the partnership is general or limited, and a copy of the partnership agreement, if any;
    - (3) a corporation, the corporation shall state its complete name, the date of its incorporation, evidence that the corporation is in good standing under the laws of its state of incorporation, the names and capacity of all officers, directors and principal stockholders, and the name of the registered corporate agent and the address of the registered office for service of process.
  - b. If the applicant intends to operate the sexually oriented business under a name other than that of the applicant; he or she must state:
    - (1) the sexually oriented business' fictitious name; and
    - (2) submit the required registration documents.
  - c. Whether the applicant, or a person residing with the applicant, has been convicted of a specified criminal activity as defined in this Ordinance, and, if so, the specified criminal activity involved, the date, place, and jurisdiction of each.
  - d. Whether the applicant, or a person residing with the applicant, has had a previous permit under this Ordinance or other similar sexually oriented business ordinances from another town, city or county



denied, suspended or revoked, including the name and location of the sexually oriented business for which the permit was denied, suspended or revoked, as well as the date of the denial, suspension or revocation, and whether the applicant or a person residing with the applicant has been a partner in a partnership or an officer, director or principal stockholder of a corporation that is permitted under this Ordinance whose permit has previously been denied, suspended or revoked, including the name and location of the sexually oriented business for which the permit was denied, suspended or revoked as well as the date of denial, suspension or revocation.

- e. Whether the applicant or a person residing with the applicant holds any other permits under this Ordinance or other similar sexually oriented business ordinance from another town, city or county and, if so, the names and locations of such other permitted businesses.
- f. The single classification of permit for which the applicant is filing.
- g. The location of the proposed sexually oriented business, including a legal description of the property, street address, and telephone number(s), if any.
- h. The applicant's mailing address and residential address.
- i. A recent photograph of the applicant(s).
- j. The applicant's driver's license number, Social Security number, and/or his/her State or federally issued tax identification number.
- k. A sketch or diagram showing the configuration of the premises, including a statement of total floor space occupied by the business. The sketch or diagram need not be professionally prepared, but it must be drawn to a designated scale or drawn with marked dimensions of the interior of the premises to an accuracy of plus or minus six (6) inches.
- l. A current certificate and straight-line drawing prepared within thirty (30) days prior to application by a registered land surveyor depicting the property lines and the structures containing any existing sexually oriented businesses within 1,000 feet of the property to be certified; the property lines of any established religious institution/synagogue, school, or public park or recreation area within 1,000 feet of the property to be certified. For purposes of this Section, a use shall be considered existing or established if it is in existence at the time an application is submitted.

- m. If an applicant wishes to operate a sexually oriented business, other than an adult motel, which shall exhibit on the premises, in a viewing room or booth of less than one hundred fifty (150) square feet of floor space, films, video cassettes, other video reproductions, or live entertainment which depict specified sexual activities or specified anatomical areas, then the applicant shall comply with the application requirements set forth in Article 12.9.

D. Application for a sexually oriented business employee license.

1. Before any applicant may be issued a sexually oriented business employee license, the applicant shall submit on a form to be provided by the Town the following information:
  - a. The applicant's name or any other name (including "stage" names) or aliases used by the individual;
  - b. Age, date, and place of birth;
  - c. Height, weight, hair and eye color;
  - d. Present residence address and telephone number;
  - e. Present business address and telephone number;
  - f. Date, issuing state and number of driver's permit or other identification card information;
  - g. Social Security number; and
  - h. Proof that the individual is at least eighteen (18) years of age.
2. Attached to the application form for a sexually oriented business employee license as provided above, shall be the following:
  - a. A color photograph of the applicant clearly showing the applicant's face, and the applicant's fingerprints on a form provided by the police department. Any fees for the photographs and fingerprints shall be paid by the applicant.
  - b. A statement detailing the license history of the applicant for the five (5) years immediately preceding the date of the filing of the application, including whether such applicant previously operated or is seeking to operate, in this or any other county, town, city, state, or country has ever had a license, permit, or authorization to do business denied, revoked, or suspended, or had any professional or vocational license or permit

denied, revoked, or suspended. In the event of any such denial, revocation, or suspension, state the name, the name of the issuing or denying jurisdiction, and describe in full the reason for the denial, revocation, or suspension. A copy of any order of denial, revocation, or suspension shall be attached to the application.

- c. A statement whether the applicant has been convicted of a specified criminal activity as defined in this Ordinance and, if so, the specified criminal activity involved, the date, place and jurisdiction of each.

## **11 - 12.11 Standards for Permit:**

### **A. General**

1. Sexually oriented businesses may be operated only in the district(s) or zone(s) defined and described in the Zoning Ordinance Table of Uses.
2. Sexually oriented businesses may not be operated within 1,000 feet of:
  - a. A church, synagogue, mosque, temple or building which is used primarily for religious worship and related religious activities;
  - b. A public or private educational facility including but not limited to child day care facilities, nursery schools, preschools, kindergartens, elementary schools, private schools, intermediate schools, junior high schools, middle schools, high schools, vocational schools, secondary schools, continuation schools, special education schools, junior colleges, and universities; school includes the school grounds, but does not include facilities used primarily for another purpose and only incidentally as a school;
  - c. A boundary of a residential district as defined in the Zoning Ordinance Table of Uses;
  - d. A public park or recreational area which has been designated for park or recreational activities including but not limited to a park, playground, nature trails, swimming pool, reservoir, athletic field, basketball or tennis courts, pedestrian/bicycle paths, wilderness areas, or other similar public land within the town which is under the control, operation, or management of the town park and recreation authorities or management of any non-profit conservation trust;
  - e. The property line of any lot devoted to a residential use existing in any zone at the time of application;
  - f. An entertainment business which is oriented primarily towards

children or family entertainment, including but not limited to bowling alleys, roller or ice skating rinks, video stores, miniature golf and movie theaters; or

- g. A licensed premises, licensed pursuant to the alcoholic beverage control regulations of the State.
- 3. A sexually oriented business may not be operated within 1,000 feet of another sexually oriented business.
- 4. More than one sexually oriented business may not be operated in the same building, structure, or portion thereof.
- 5. For the purpose of subsection A.2 of this Section, measurement shall be made in a straight line, without regard to the intervening structures or objects, from the nearest portion of the building or structure used as the part of the premises where a sexually oriented business is conducted, to the nearest property line of the premises of a use listed in subsection A.2. Presence of a town, county or other political subdivision boundary shall be irrelevant for purposes of calculating and applying the distance requirements of this Section.
- 6. For purposes of subsection A.3 of this Section, the distance between any two sexually oriented businesses shall be measured in a straight line, without regard to the intervening structures or objects or political boundaries, from the closest exterior wall of the structure in which each business is located.
- 7. Any sexually oriented business lawfully operating on the effective date of this Ordinance, that is in violation of subsection A (1 through 6 ) of this Section shall be deemed a nonconforming use. The nonconforming use will be permitted to continue for a period not to exceed one year, unless sooner terminated for any reason or voluntarily discontinued for a period of thirty (30) days or more. Such nonconforming uses shall not be increased, enlarged, extended, or altered except that the use may be changed to a conforming use. If two or more sexually oriented businesses are within 1,000 feet of one another and otherwise in a permissible location, the sexually oriented business which was first established and continually operating at a particular location is the conforming use and the later established business(es) is/are nonconforming.
- 8. A sexually oriented business lawfully operating as a conforming use is not rendered a nonconforming use by the location, subsequent to the grant or renewal of the sexually oriented business license, of a use listed in subsection A.2 of this Section within 1,000 feet of the sexually oriented business. This provision applies only to the renewal of a valid license, and does not apply when an application for a license is submitted after a license

has expired or been revoked.

## **B. Additional Standards For Adult Motels**

1. Evidence that a sleeping room in a hotel, motel, or a similar commercial establishments has been rented and vacated two or more times in a period of time that is less than ten (10) hours creates a rebuttable presumption that the establishment is an adult motel as that term is defined in this Ordinance.
2. A person commits a violation if, as the person in control of a sleeping room in a hotel, motel, or similar commercial establishment that does not have a sexually oriented permit, he rents or sub-rents a sleeping room to a person and, within ten (10) hours from the time the room is rented, he rents or sub-rents the same sleeping room again.
3. For purposes of subsection B (1 & 2) of this section, the terms "rent" or "sub-rent" mean the act of permitting a room to be occupied for any form of consideration.

## **C. Standards Pertaining To Exhibition or Sexually Explicit Films, Videos or Live Entertainment in Viewing Rooms.**

1. A person who operates or causes to be operated a sexually oriented business, other than an adult motel, which exhibits on the premises in a viewing room of less than one hundred fifty (150) square feet of floor space, a film, video cassette, live entertainment, or other video reproduction which depicts specified sexual activities or specified anatomical areas, shall comply with the following requirements:
  - a. Upon application for a sexually oriented permit, the application shall be accompanied by a diagram of the premises showing a plan thereof specifying the location of one or more manager's stations and the location of all overhead lighting fixtures and designating any portion of the premises in which patrons will not be permitted. A manager's station may not exceed thirty-two (32) square feet of floor area. The diagram shall also designate the place at which the permit will be conspicuously posted, if granted. A professionally prepared diagram in the nature of an engineer's or architect's blueprint shall not be required; however, each diagram should be oriented to the north or to some designated street or object and should be drawn to a designated scale or with marked dimensions sufficient to show the various internal dimensions of all areas of the interior of the premises to an accuracy of plus or minus six (6") inches. The Town may waive the foregoing diagram for renewal applications if the applicant adopts a diagram that was previously submitted and

certifies that the configuration of the premises has not been altered since it was prepared.

- b. The application shall be sworn to be true and correct by the applicant.
- c. No alteration in the configuration or location of a manager's station may be made without the prior approval of the Town.
- d. It is the duty of the permittee of the premises to ensure that at least one licensed employee is on duty and situated in each manager's station at all times that any patron is present inside the premises.
- e. The interior of the premises shall be configured in such a manner that there is an unobstructed view from a manager's station of every area of the premises to which any patron is permitted access for any purpose, excluding restrooms. Restrooms may not contain video reproduction equipment. If the premises has two or more manager's stations designated, then the interior of the premises shall be configured in such a manner that there is an unobstructed view of each area of the premises to which any patron is permitted access for any purpose from at least one of the manager's stations. The view required in this subsection must be by direct line of sight from the manager's station.
- f. It shall be the duty of the permittee to ensure that the view area specified herein remains unobstructed by any doors, curtains, partitions, walls, merchandise, display racks or other materials and, at all times, to ensure that no patron is permitted access to any area of the premises which has been designated in the application as an area in which patrons will not be permitted.
- g. No viewing room may be occupied by more than one person at any time.
- h. The premises shall be equipped with overhead lighting fixtures of sufficient intensity to illuminate every place to which patrons are permitted access at an illumination of not less than five (5.0) foot-candles as measured at the floor level.
- i. It shall be the duty of the permittee to ensure that the illumination described above is maintained at all times that any patron is present in the premises.

- j. No permittee shall allow openings of any kind to exist between viewing rooms or booths.
- k. No person shall make or attempt to make an opening of any kind between viewing booths or rooms.
- l. The permittee shall, during each business day, regularly inspect the walls between the viewing booths to determine if any openings or holes exist.
- m. The permittee shall cause all floor coverings in viewing booths to be nonporous, easily cleanable surfaces, with no rugs or carpeting.
- n. The permittee shall cause all wall surfaces and ceiling surfaces in viewing booths to be constructed of, or permanently covered by, nonporous, easily cleanable material. No wood, plywood, composition board or other porous material shall be used within forty-eight (48") inches of the floor.

**D. A person having a duty under subsection C.1 (a. through n.) above commits a violation if he knowingly fails to fulfill that duty.**

**E. Additional Standards For Escort Agencies.**

- 1. An escort agency shall not employ any person under the age of 18 years.
- 2. A person commits a violation if the person acts as an escort or agrees to to act as an escort for any person under the age of 18 years.

**F. Additional Standards For Nude Model Studios.**

- 1. A nude model studio shall not employ any person under the age of 18 years.
- 2. A person under the age of 18 years commits a violation if the person appears semi-nude or in a state of nudity in or on the premises of a nude model studio. It is a defense to prosecution under this subsection if the person less than 18 years was in a restroom not open to public view or visible to any other person.
- 3. A person commits a violation if the person appears in a state of nudity, or knowingly allows another to appear in a state of nudity in an area of a nude model studio premises which can be viewed from the public right of way.
- 4. A nude model studio shall not place or permit a bed, sofa, or mattress in any

room on the premises, except that a sofa may be placed in a reception room open to the public.

#### **G. Additional Regulations Concerning Public Nudity.**

1. It shall be a violation for a person who knowingly and intentionally, in a sexually oriented business, appears in a state of nudity or depicts specified sexual activities.
2. It shall be a violation for a person who knowingly or intentionally in a sexually oriented business appears in a semi-nude condition unless the person is an employee who, while semi-nude, shall be at least ten (10) feet from any patron or customer and on a stage at least two feet from the floor.
3. It shall be a violation for an employee, while semi-nude in a sexually oriented business, to solicit any pay or gratuity from any patron or customer or for any patron or customer to pay or give any gratuity to any employee, while said employee is semi-nude in a sexually oriented business.
4. It shall be a violation for an employee, while semi-nude, to touch a customer or the clothing of a customer.

#### **H. Prohibition Against Children In A Sexually Oriented Business.**

A person commits a violation if the person knowingly allows a person under the age of 18 years on the premises of a sexually oriented business.

#### **I. Hours of Operation.**

No sexually oriented business, except for an adult motel, may remain open at any time between the hours of one o'clock (1:00) A.M. and eight o'clock (8:00) A.M. on weekdays and Saturdays, and one o'clock (1:00) A.M. and noon (12:00) P.M. on Sundays.

#### **J. Exemptions.**

1. It is a defense to prosecution under subdivision F of this Article that a person appearing in a state of nudity did so in a modeling class operated:
  - a. by a proprietary school, licensed by the State of Maine; a college, junior college, or university supported entirely or partly by taxation;
  - b. by a private college or university which maintains and operates educational programs in which credits are transferable to a college, junior college, or university supported entirely or partly by taxation; or



- c. in a structure:
  - 1. which has no sign visible from the exterior of the structure and no other advertising that indicates a nude person is available for viewing; and
  - 2. where, in order to participate in a class a student must enroll at least three (3) days in advance of the class; and
  - 3. where no more than one nude model is on the premises at any one time.

## **11 - 12.12 Issuance of Permit/License:**

### **A. Sexually Oriented Business Permit**

- 1. Within 30 days after receipt of a completed sexually oriented business application, the Municipal Officers shall approve or deny the issuance of a permit to an applicant. The Municipal Officers shall approve the issuance of a permit to an applicant unless it is determined by a preponderance of the evidence that one or more of the following findings is true:
  - a. An applicant is under eighteen (18) years of age.
  - b. An applicant or a person with whom applicant is residing is overdue in payment to the Town of taxes, fees, fines, or penalties assessed against or imposed upon him/her in relation to any business.
  - c. An applicant has failed to provide information reasonably necessary for issuance of the permit or has falsely answered a question or request for information on the application form.
  - d. An applicant or a person with whom the applicant is residing has been denied a permit by the Town to operate a sexually oriented business within the preceding twelve (12) months or whose permit to operate a sexually oriented business has been revoked within the preceding twelve (12) months.
  - e. An applicant or a person with whom the applicant is residing has been convicted of a specified criminal activity defined in this Ordinance.
  - f. The premises to be used for the sexually oriented business have not been approved by the health department, fire department, and the code enforcement officer as being in compliance with applicable laws and ordinances.
  - g. The permit fee required by this Ordinance has not been paid.

- h. An applicant of the proposed establishment is in violation of or is not in compliance with any of the provisions of this Ordinance.
- 2. The permit, if granted, shall state on its face the name of the person or persons to whom it is granted, the expiration date, the address of the sexually oriented business and the classification for which the permit is issued pursuant to Article 12.8. All permits shall be posted in a conspicuous place at or near the entrance to the sexually oriented business so that they may be easily read at any time.
- 3. The health department, fire department, and the code enforcement officer shall complete their certification that the premises is in compliance or not in compliance within twenty (20) days of receipt of the application by the Town.
- 4. A sexually oriented business permit shall be issued for only one classification as found in Article 12.8.

**B. Sexually Oriented Business Employee License.**

- 1. Upon the filing of said application for a sexually oriented business employee license, the Town shall issue a temporary license to said applicant. The application shall then be referred to the appropriate departments for an investigation to be made on such information as is contained on the application. The application process shall be completed within thirty (30) days from the date the completed application is filed. After the investigation, the Municipal Officers shall issue a license, unless it is determined by a preponderance of the evidence that one or more of the following findings is true:
  - a. The applicant has failed to provide information reasonable necessary for issuance of the license or has falsely answered a question or request for information on the application form;
  - b. The applicant is under the age of eighteen (18) years;
  - c. The applicant has been convicted of a “specified criminal activity” as defined in this Ordinance;
  - d. The sexually oriented business employee license is to be used for employment in a business prohibited by local or State law, statute, rule or regulation, or prohibited by a particular provision of this Ordinance; or
  - e. The applicant has had a sexually oriented business employee license revoked by the Town within two (2) years of the date of the current

application. If the sexually oriented business employee license is denied, the temporary license previously issued is immediately deemed null and void. Denial, suspension, or revocation of a license issued pursuant to this subsection shall be subject to appeal as set forth in Article 12.20.

2. A license granted pursuant to this section shall be subject to annual renewal upon the written application of the applicant and a finding by the Town that the applicant has not been convicted of any specified criminal activity as defined in this Ordinance or committed any act during the existence of the previous license, which would be grounds to deny the initial license application. The renewal of the license shall be subject to the payment of the fee as set forth in Article 12.13.

#### **11 - 12.13 Fees:**

- A. Every application for a sexually oriented business permit (whether for a new permit or for renewal of an existing permit) shall be accompanied by a \$50.00 non-refundable application and investigation fee.
- B. In addition to the application and investigation fee required above, every sexually oriented business that is granted a permit (new or renewal) shall pay to the Town an annual non-refundable permit fee of \$50.00 prior to issuance or renewal.
- C. Every application for a sexually oriented business employee license (whether for a new license or for renewal of an existing license) shall be accompanied by an annual \$25.00 non-refundable application, investigation, and license fee.
- D. All permit/license applications and fees shall be submitted to the Town Clerk.

#### **11 - 12.14 Inspection:**

- A. An applicant or permittee shall allow representatives of the Police Department, Health Department, Fire Department, Code Enforcement, or other Town or State departments or agencies to inspect the premises of a sexually oriented business for the purpose of insuring compliance with the law, at any time it is occupied or open for business.
- B. A person who operates a sexually oriented business or his agent or employee commits a violation if he refuses to allow such lawful inspection of the premises at any time it is open for business.

#### **11 - 12.15 Expiration of Permit:**

- A. Each Permit shall expire one year from the date of issuance and may be renewed only by making application as provided in Article 12.10. Application for renewal

shall be made at least thirty (30) days before the expiration date, and when made less than thirty (30) days before the expiration date, the expiration of the permit will not be affected.

- B. When the Town denies renewal of a permit, the applicant shall not be issued a permit for one year from the date of denial. If, subsequent to denial, the Town finds that the basis for denial of the renewal permit has been corrected or abated, the applicant may be granted a permit if at least ninety (90) days have elapsed since the date denial became final.

#### **11 - 12.16 Suspension:**

The Town shall suspend a permit for a period not to exceed thirty (30) days if it determines that a licensee or an employee of a permittee has:

- A. Violated or is not in compliance with any section of this Ordinance;
- B. Refused to allow an inspection of the sexually oriented business premises as authorized by this chapter.

There shall be immediate cessation of business activities upon suspension of permit until the issues are appropriately adjudicated.

#### **11 - 12.17 Revocation:**

- A. The Town shall revoke a permit if a cause of suspension in Article 12.16 occurs and the license has been suspended within the preceding twelve (12) months. There shall be immediate cessation of business activities upon revocation of the permit until the issues are appropriately adjudicated.
- B. The Town shall revoke a permit if it determines that:
  - 1. A permittee gave false or misleading information in the material submitted during the application process;
  - 2. A permittee has knowingly allowed possession, use, or sale of controlled substances on the premises;
  - 3. A permittee has knowingly allowed prostitution on the premises;  
A permittee knowingly operated the sexually oriented business during a period of time when the permittee's license was suspended;
  - 4. Except in the case of an adult motel, a permittee has knowingly allowed any act of sexual intercourse, sodomy, oral copulation, masturbation, or other sex act to occur in or on the permitted premises; or

5. A permittee is delinquent in payment to the Town, County, or State for any taxes or fees past due.
- C. When the Town revokes a permit, the revocation shall continue for one (1) year, and the permittee shall not be issued a sexually oriented business permit for one (1) year from the date the revocation became effective. If, subsequent to revocation, the Town finds that the basis for the revocation has been corrected or abated, the applicant may be granted a license if at least ninety (90) days have elapsed since the date the revocation became effective.
- D. After denial of an application, or denial of a renewal of an application, or suspension or revocation of any permit, the applicant or permittee may file an appeal. (See Appeals subsection 12.20)

#### **11 – 12.18 Transfer of License:**

A permittee shall not transfer his/her permit to another, nor shall a permittee operate a sexually oriented business under the authority of a license at any place other than the address designated in the application.

#### **11 - 12.19 Violation:**

- A. Enforcement. The Municipal Officers or their designees shall enforce this Ordinance.
- B. Penalties. A person who operates or causes to be operated a sexually oriented business without a valid permit or is in violation of Article 12.9 of this Ordinance is subject to penalty under 30-A MRSA, Sec. 4452. Each day that the violation continues constitutes a separate offense with maximum fines of two thousand five hundred dollars (\$2,500.00) per offense. There is a twenty-five thousand dollars (\$25,000.00) maximum fine per offense upon the second conviction within two (2) years for violations under this Ordinance.

#### **11 – 12. 20 Appeals:**

Any person aggrieved by the action of the municipal officers or their designees may appeal to the Board of Appeals by filing a notice of appeal within thirty (30) days after receipt of the municipal officers or designee's notification. All activities of the Sexually Oriented Business must cease during any appeal period.

Administrative appeals and variance applications submitted under this Ordinance shall be subject to the standards and procedures established by the Town of Farmington Board of Appeals Ordinance.

## **11 - 12.21 Amendments:**

**A. Initiation of Amendments:** An amendment to this Ordinance may be initiated by:

1. The Board of Selectmen, provided a majority of the Board of Selectmen has so voted:
2. Written petition of a number of voters equal to at least 10% of the number of votes cast in the municipality at the last gubernatorial elections.

**B. Public Hearing:** The Board of Selectmen shall hold a public hearing on the proposed amendment. Notification 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.

**C. Adoption of Amendment:** An amendment of this Ordinance shall be adopted by a majority vote of a Town Meeting.

# TOWN OF FARMINGTON

## Shoreland Zoning Ordinance

ENACTED: June 4, 1975

AMENDED: March 14, 1977  
May 6, 1991  
March 14, 2005  
March 12, 2007  
March 20, 2010  
January 1, 2013  
March 28, 2016

CERTIFIED BY: \_\_\_\_\_  
Leanne E. Dickey

Town Clerk  
Title

Affix Seal

**Chapter 11**  
**Town of Farmington Shoreland Zoning Ordinance**  
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## CHAPTER 11 – LAND USE

### Article 1. Shoreland Zoning

#### 11-1.1 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 freshwater 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 waters; to conserve natural beauty and open space; and to anticipate and respond to the impacts of development in shoreland areas.

#### 11-1.2 Authority:

This Ordinance has been prepared in accordance with the provisions of 38 M.R.S. § 435-449.

#### 11-1.3 Applicability:

This Ordinance applies to:

- A. All land areas within two hundred fifty (250) feet, horizontal distance, of the normal high-water line of any great pond or river, including but not limited to the Sandy River, Wilson Stream, Temple Stream, and Clearwater Lake (within Farmington jurisdiction).
- B. All land areas within two hundred fifty (250) feet, horizontal distance, of the upland edge of certain freshwater wetlands, excluding forested wetlands, including but not limited to the wetlands ten (10) acres or larger as numbered by MGS and published in 1989 by DEP, and those which are rated as "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 MDIF&W as of December 31, 2008.
- C. All land areas within seventy-five (75) feet, horizontal distance, of the normal high-water line of certain streams, including but not limited to portions of Barker Brook, Beaver Brook, Cascade Brook, Beales Brook, Hardy Brook, McLain Brook, and several unnamed brooks.

The above rivers, streams, wetlands, and great ponds are depicted on the Town of Farmington Shoreland Zoning Map which is part of and incorporated into this Ordinance. Specific applicability of this ordinance and its provisions is dependent on said map. In all instances, the Shoreland Zone begins at the normal high waterline or upland edge of a wetland and extends inland the specified distance.

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

#### 11-1.4 Effective Date Ordinance and Ordinance Amendments:

This Ordinance, which was amended by the municipal legislative body on March 28, 2016, 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 of for approval. If the Commissioner fails to act on this Ordinance, or Ordinance Amendment, within forty-five (45) days of his/her receipt of the Ordinance, or Ordinance Amendment, it shall be automatically approved.

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

#### 11-1.5 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.

#### 11-1.6 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.

#### 11-1.7 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.

#### 11-1.8 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 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.

#### 11-1.9 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, which is made a part of this Ordinance:

1. Resource Protection
2. Limited Residential
3. Agriculture/Forest
4. General Development
5. Stream Protection

##### B. Scale of Map:

The Official Shoreland Zoning Map shall be drawn at a scale of not less than: 1 inch = 2,000 feet. District boundaries shall be clearly delineated and a legend indicating the symbols for each district 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.

##### 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.

#### 11-1.10 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.

#### 11-1.11 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.

#### 11-1.12 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 this 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:** All new principal and accessory structures, excluding functionally water-dependent uses, must meet the water body, tributary stream, or wetland setback requirements contained in Section 15.B.1. 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 the subparagraphs below (a) and (b) below.

##### Further Limitations:

- a. Expansion of any portion of a structure within twenty-five (25) feet 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. 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, tributary stream, or wetland setback requirement.

- b. Notwithstanding paragraph (a), above, if a legally existing nonconforming principal structure is entirely located less than twenty-five (25) feet from the normal high-water line of a water body, tributary stream, or upland edge of a wetland, that structure may be expanded as follows, as long as all other applicable municipal land use standards are met and the expansion is not prohibited by Section 12.C.1.
  - 1) The maximum total footprint for the principal structure may not be expanded to a size greater than eight hundred (800) square feet or thirty percent (30%) larger than the footprint that existed on January 1, 1989, whichever is greater. The maximum height of the principal structure may not be made greater than fifteen (15) feet or the height of the existing structure, whichever is greater.
- c. All other legally existing nonconforming 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 other applicable municipal land use standards are met and the expansion is not prohibited by Section 12.C.1., or Section 12.C.1.a., above.
  - 1) For structures located less than seventy-five (75) feet from the normal high-water line of a water body, tributary stream, or upland edge of a wetland, the maximum combined total footprint for all structures may not be expanded to a size greater than one thousand (1,000) square feet or thirty percent (30%) larger than the footprint that existed on January 1, 1989, whichever is greater. The maximum height of any structure may not be made greater than twenty (20) feet or the height of the existing structure, whichever is greater.
  - 2) For structures located less than one hundred (100) feet 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 footprint for all structures may not be expanded to a size greater than fifteen hundred (1,500) square feet or 30% larger than the footprint that existed on January 1, 1989, whichever is greater. The maximum height of any structure may not be made greater than twenty-five (25) feet or the height of the existing structure, whichever is greater. Any portion of those structures located less than seventy-five (75) feet from the normal high-water line of a water body, tributary stream, or upland edge of a wetland must meet the footprint and height limits in Section 12.C.1.b.1), and Section 12.C.1.c.1), above.
  - 3) In addition to the limitations in subparagraphs 1), and 2), above, for structures that are legally nonconforming due to their location within the Resource Protection District when located at less than two hundred fifty (250) feet from the normal high-water line of a water body or the upland

edge of a wetland, the maximum combined total footprint for all structures may not be expanded to a size greater than fifteen hundred (1,500) square feet or thirty percent (30%) larger than the footprint that existed at the time the Resource Protection District was established on the lot, whichever is greater. The maximum height of any structure may not be made greater than twenty-five (25) feet or the height of the existing structure, whichever is greater, except that any portion of those structures located less than seventy-five (75) feet from the normal high-water line of a water body, tributary stream, or upland edge of a wetland must meet the footprint and height limits in Section 12.C.1.b.1), and Section 12.C.1.c.1), above.

- d. An approved plan for expansion of a nonconforming structure must be recorded by the applicant with the registry of deeds, within ninety (90) days of approval. The recorded plan must show the existing and proposed footprint of the non-conforming structure, the existing and proposed structure height, the footprint of any other structures on the parcel, the shoreland zone boundary and evidence of approval by the municipal review authority.
2. Foundations: 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.3. Relocation, below. No structure, which is less than the required setback from the normal high-water line of a water body, tributary stream, or upland edge of a wetland shall be expanded toward the water body, tributary stream, or wetland.
3. 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 accordance with Section 15.S. 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 (1) native tree, three (3) feet in height, for every tree removed. If more than five (5) trees are planted, no one species of tree shall make up more than fifty percent (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 re-established within the setback area. The vegetation and/or ground cover replanted must consist of similar 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, trees, or a combination thereof.

4. 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 fifty percent (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 footprint of the reconstructed or replaced structure at its new location. If the total footprint 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 fifty percent (50%) or less of the market value or damaged by fifty percent (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 (CEO) within one (1) 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.3., above, the physical condition and type of foundation present, if any.

5. 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, flood plain management, archaeological and historic resources, and functionally water-dependent uses.

6. Expiration and Extension of Permits and Completion Dates: Refer to Section 16.F.

#### 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., above.
2. Resumption Prohibited: A lot, building or structure in or on which a non-conforming use is discontinued for a period exceeding one (1) 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 (1) 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.5. 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 (2) 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. § 4807-A through 4807-D) and the State of Maine Subsurface Wastewater Disposal Rules are complied with.

If two (2) 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 (2) or more contiguous lots or parcels are in single or joint ownership of record at the time of or since adoption or amendment of this Ordinance, if any of these lots do not individually meet the dimensional requirements of this Ordinance or subsequent amendments, and if one (1) 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 two (2) or more contiguous lots, at least one (1) of which is non-conforming, owned by the same person or persons on the effective date of this Ordinance and recorded in the Registry of Deeds if the lot is served by a public sewer or can accommodate a subsurface sewage disposal system in conformance with the State of Maine Subsurface Wastewater Disposal Rules, and:

- a. Each lot contains at least one hundred (100) feet of shore frontage and at least twenty thousand (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

one hundred (100) feet of shore frontage and twenty thousand (20,000) square feet of lot area.

#### 11-1.13 Establishment of Districts:

##### A. Resource Protection District:

The Resource Protection District includes areas in which development would adversely affect water quality, productive habitat, or biological ecosystems. This district shall include the following areas when they occur within the limits of the shoreland zone, exclusive of the Stream Protection District, except areas which are currently developed, and areas which meet the criteria for the Limited Residential, Agriculture/Forest, or General Development.

1. Areas within two hundred fifty (250) feet, horizontal distance, of the upland edge of freshwater wetlands, 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 MDIF&W as of December 31, 2008. 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 flood plains 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 flood plain soils.
3. Areas of two (2) or more contiguous acres with sustained slopes of twenty percent (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 wetland, 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 waters, which are subject to severe erosion or mass movement.

##### B. Limited Residential District:

The Limited Residential District includes those areas suitable for residential and recreational development. It includes areas other than those in the Resource

Protection District, or Stream Protection District, and areas, which are used less intensively than those in the General Development District.

C. Agriculture/Forest District:

The Agriculture/Forest District includes areas suited to agriculture purposes and timber harvesting operations consistent with maintaining water quality, and wildlife habitat. Such districts also include areas primarily devoted to agriculture and forestry operations as of the effective date of this ordinance, unless otherwise restricted. Passive recreation activities will also be allowed.

D. General Development District:

The General Development District includes areas of two (2) or more contiguous acres devoted to commercial, industrial or recreational activities or a mix of such activities: manufacturing, fabricating, wholesaling, warehousing, retail trade, service activities, intensive recreational development such as amusement parks, race tracks and fairgrounds.

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

E. Stream Protection District:

The Stream Protection District includes all land areas within seventy-five (75) feet, horizontal distance, of the normal high-water line of a stream, exclusive of those areas within two-hundred fifty (250) feet, horizontal distance, of the normal high-water line of a great pond, or river, or within two hundred fifty (250) feet, horizontal distance, of the upland edge of a freshwater wetland. Where a stream and its associated shoreland area are located within two-hundred 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. These include but are not limited to portions of Barker Brook, Beaver Brook, Cascade Brook, Beals Brook, Hardy Brook, McLain Brook, and several unnamed brooks.

11-1.14 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 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:

- SP - Stream Protection  
 RP - Resource Protection  
 LR - Limited Residential  
 GD - General Development  
 AF - Agriculture Forest

TABLE 1 – Land Uses in the Shoreland Zone					
Land Use	Districts				
	SP	RP	LR	GD	AF
1. Non-intensive recreational uses not requiring structures such as hunting, fishing and hiking	Yes	Yes	Yes	Yes	Yes
2. Motorized vehicular traffic on existing roads and trails	Yes	Yes	Yes	Yes	Yes
3. Forest management activities except for timber harvesting and land management roads	Yes	Yes	Yes	Yes	Yes
4. Timber harvesting	Yes	CEO	Yes	Yes	CEO
5. Clearing or removal of vegetation for activities other than timber harvesting	CEO	CEO-1	Yes	Yes	Yes
6. Fire prevention activities	Yes	Yes	Yes	Yes	Yes
7. Wildlife management practices	Yes	Yes	Yes	Yes	Yes
8. Soil and water conservation practices	Yes	Yes	Yes	Yes	Yes
9. Mineral exploration	No	Yes-2	Yes-2	Yes-2	Yes-2
10. Mineral extraction including sand & gravel	No	PB-3	PB	PB	PB
11. Surveying and resource analysis	Yes	Yes	Yes	Yes	Yes
12. Emergency operations	Yes	Yes	Yes	Yes	Yes
13. Agriculture	Yes	PB	Yes	Yes	Yes

Land Use	Districts				
	SP	RP	LR	GD	AF
14. Aquaculture	PB	PB	PB	Yes	Yes
15. Principal structures and uses:					
A. One and two family residential, including driveways	PB – 4	PB – 9	CEO	CEO	PB – 9
B. Multi-unit residential	No	No	PB	PB	No
C. Commercial	No	No	No	PB	No
D. Industrial	No	No	No	PB	No
E. Governmental and institutional	No	No	PB	PB	No
F. Small non-residential facilities for educational, Scientific, or nature interpretation purposes	PB – 4	PB	CEO	CEO	CEO
16. Structures accessory to allowed uses	PB – 4	PB	CEO	Yes	PB
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	CEO-11	CEO-11
B. Permanent	PB	PB	PB	PB	PB
18. Conversions of seasonal residences to year-round residences	LPI	LPI	LPI	LPI	LPI
19. Home Occupations	PB	PB	PB	Yes	PB
20. Private sewage disposal systems for allowed uses	LPI	LPI	LPI	LPI	LPI
21. Essential services:					
A. Roadside distribution lines (34.5kV and lower	CEO – 6	CEO - 6	Yes - 12	Yes - 12	Yes - 12
B. Non-roadside or cross-country distribution lines involving ten poles or less in the Shoreland Zone	PB - 6	PB - 6	CEO	CEO	CEO
C. Non-roadside or cross-country distribution lines eleven or more poles in the Shoreland Zone					
D. Other essential services	PB - 6	PB - 6	PB	PB	PB
22. Service drops, as defined, to allowed uses	Yes	Yes	Yes	Yes	Yes
23. Public and private recreation areas involving minimal structural development	PB	PB	PB	CEO	PB
24. Individual, private campsites	CEO	CEO	CEO	CEO	CEO
25. Campgrounds	No	No - 7	PB	PB	PB

Land Use	Districts				
	SP	RP	LR	GD	AF
26. Road construction	PB	No - 8	PB	PB	PB
27. Land management roads	Yes	PB	Yes	Yes	Yes
28. Parking facilities	No	No - 7	PB	PB	PB
29. Filling and earthmoving of < 10 cubic yards	CEO	CEO	Yes	Yes	CEO
30. Filling and earthmoving of > 10 cubic yards	PB	PB	CEO	CEO	PB
31. Signs	Yes	Yes	Yes	Yes	Yes
32. Uses similar to allowed uses	CEO	CEO	CEO	CEO	CEO
33. Uses similar to uses requiring a CEO permit	CEO	CEO	CEO	CEO	CEO
34. Uses similar to uses requiring a PB permit	PB	PB	PB	PB	PB

**Key:**

1. In RP not allowed within seventy-five (75) feet horizontal distance of the normal high-water line of a great pond, except to remove safety hazards.
2. Requires permit from the Code Enforcement Officer if more than one hundred (100) square feet of surface area, in total, is disturbed.
3. In RP not allowed in areas so designated because of wildlife value.
4. Provided that a variance from the setback requirement is obtained from the Board of Appeals.
5. Functionally water-dependent uses and uses accessory to such water dependent uses only.
6. See further restrictions in Section 15.L.2.
7. Except when area is zoned for resource protection due to floodplain criteria, in which case a permit is required from the Planning Board.
8. Except as provided in Section 15.H.3.
9. Single-family residential structures may be allowed by special exception only according to the provisions of Section 16.E. Special Exceptions. Two-family residential structures are prohibited.

10. Except for commercial uses otherwise listed in this Table such as campgrounds that are allowed in the respective district.
11. Excluding bridges and other crossings not involving earthwork, in which case no permit is required.
12. Permit not required but must file a written “notice of intent to construct” with the Code Enforcement Officer.

#### 11-1.15 Land Use Standards:

All land use activities within the Shoreland Zone shall conform with the following provisions, if applicable.

##### A. Minimum Lot Standards:

##### 1. Lot Sizes and Frontages:

##### a. Residential per dwelling unit within the Shoreland Zone:

Lots created after effective date of ordinance:

Minimum Lot Area: Forty thousand (40,000) square feet.

Minimum Shore Frontage: Two hundred (200) feet.

Lots of record existing at effective date of ordinance:

Minimum Lot Area: Twenty thousand (20,000) square feet.

Minimum Shore Frontage: One hundred (100) feet.

##### b. Governmental, Institutional, Commercial, or Industrial per principal structure within the Shoreland Zone:

Minimum Lot Area: Sixty thousand (60,000) square feet.

Minimum Shore Frontage: Three hundred (300) feet.

##### c. Public and Private Recreational Facilities within the shoreland zone:

Minimum Lot Area: Forty thousand (40,000) square feet.

Minimum Shore Frontage: Two hundred (200) feet.

2. Land below the normal high-waterline 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 (1) residential dwelling unit, principal governmental, institutional, commercial, or industrial structure or use, or combination thereof, is constructed or established on a single parcel, all dimensional requirements shall be met for each additional dwelling unit, principal structure, or use.

B. Principal and Accessory Structures:

1. All new principal and accessory structures shall be set back at least one hundred (100) feet, horizontal distance, from the normal high-water line of great ponds classified GPA and rivers that flow to great ponds classified GPA, and seventy-five (75) feet, horizontal distance, from the normal high-water line of other water bodies, tributary streams, or the upland edge of a wetland, except that in the General Development District the setback from the normal high-water line shall be at least twenty-five (25) feet, horizontal distance. In the Resource Protection District the setback requirement shall be two hundred fifty (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. 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, Stream Protection, and Agricultural and Forest 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 new buildings and structures, including basements, shall be elevated at least one (1) foot above the elevation of the 100-year flood of record, or in the absence of these, the flood as defined by soil types identified as recent floodplain 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. With the exception of General Development Districts located adjacent to rivers that do not flow to great ponds, non-vegetated surfaces shall not exceed a total of twenty (20) percent of the portion of the lot located within the shoreland zone. This limitation does not apply to public boat launching facilities regardless of the district in which the facility is located.

In a General Development District located adjacent to rivers that do not flow to great ponds, non-vegetated surfaces shall not exceed a total of seventy (70) percent of the portion of the lot located within the shoreland zone.

For the purposes of calculating lot coverage, non-vegetated surfaces include, but are not limited to the following: structures, driveways, parking areas, and other areas from which vegetation has been removed. Naturally occurring ledge and rock outcroppings are not counted as nonvegetated surfaces when calculating lot coverage for lots of record on March 24, 1990 and in continuous existence since that date.

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 twenty-five (25) feet, horizontal distance, from the normal high-water line of a water body, tributary stream, or upland edge of wetland;
  - c. The site where the retaining wall(s) will be constructed is legally existing lawn or is a site eroding from lack of naturally occurring vegetation, and which cannot be stabilized with vegetation alone;
  - d. The total height of the wall(s), in the aggregate, is(are) no more than twenty-four (24) inches;
  - e. Retaining wall(s) is(are) located outside of the 100-year floodplain on rivers, streams, 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 absence of these, by soil types identified as recent flood plain soils;

- f. The area behind the wall is re-vegetated 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 twenty-five (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:
  - 1) 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;
  - 2) Vegetation plantings must be in quantities sufficient to retard erosion and provide for effective infiltration of stormwater runoff;
  - 3) Only native species may be used to establish the buffer area;
  - 4) A minimum buffer width of fifteen (15) feet, horizontal distance, is required, measured perpendicularly to the normal high-water line or upland edge of a wetland; and
  - 5) 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 DEP pursuant to the Natural Resources Protection Act, 38 M.R.S. § 480-C); and that the applicant demonstrates that no reasonable access alternative exists on the property.
- 7. Expiration and Extension of Permits and Completion Dates:

Refer to Section 16.F.

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

1. No more than one pier, dock, wharf or similar structure extending or located below the normal high-water line of a water body or within a wetland is allowed on a single lot; except that when a single lot contains at least twice the minimum shore frontage as specified in Section 15.A, a second structure may be allowed and may remain as long as the lot is not further divided.
2. Access from shore shall be developed on soils appropriate for such use and constructed so as to control erosion.
3. The location shall not interfere with existing developed or natural beach areas.
4. The facility shall be located so as to minimize adverse effects on fisheries.
5. 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, or dock, shall not be wider than six (6) feet for non-commercial uses.
6. No new structure shall be built on, over or abutting a pier, wharf, dock, or other structure extending beyond the normal high-water line of a water body or within a wetland unless the structure requires direct access to the water as an operational necessity.
7. New permanent piers and docks 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.
8. 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.
9. Except in the General Development District, structures built on, over, or abutting a pier, wharf, dock or other structure extending beyond the normal high-water line of a water body or within a wetland shall not exceed twenty (20) feet in height above the pier, wharf, dock or other structure.
10. Vegetation may be removed in excess of the standards in Section 15.P. of this Ordinance in order to conduct shoreline stabilization of an eroding shoreline, provided that a permit is obtained from the Planning Board. Construction equipment must access the shoreline by barge when feasible as determined by the Planning Board.
  - a. When necessary, the removal of trees and other vegetation to allow for construction equipment access to the stabilization site via land must be

limited to no more than twelve (12) feet in width. When the stabilization project is complete the construction equipment accessway must be restored.

b. Revegetation must occur in accordance with Section 15.S.

11. A deck over a river may be exempted from the shoreland setback requirements if it is part of a downtown revitalization project that is defined in a project plan approved by the legislative body of the municipality, and may include the revitalization of structures formerly used as mills that do not meet the structure setback requirements, if the deck meets the following requirements:

a. The total deck area attached to the structure does not exceed seven hundred (700) square feet;

b. The deck is cantilevered over a segment of a river that is located within the boundaries of the downtown revitalization project;

c. The deck is attached to or accessory to an allowed commercial use in a structure that was constructed prior to 1971 and is located within the downtown revitalization project;

d. The construction of the deck complies with all other applicable standards, except the shoreline setback requirements in section 15.B.; and

e. The construction of the deck complies with all other state and federal laws.

#### 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 allowed.
2. When an individual private campsite is proposed on a lot that contains another principal use and/or structure, the lot must contain the minimum lot dimensional requirements for the principal structure and/or use, and the individual private campsite separately.
3. 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.
4. No more than five (5) recreational vehicles shall be allowed on a campsite. The recreational vehicles 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.

(See also 11-1.17 "Individual Private Campsites").

5. 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 (1,000) square feet.
6. 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 (LPI). Where disposal is off-site, written authorization from the receiving facility or landowner is required.
7. When a recreational vehicle, tent, or similar shelter is placed on-site for more than one hundred 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
11. Photographic processing
12. Printing

#### G. Parking Areas:

1. Parking areas shall meet the shoreline and tributary streams setback requirements for structures for the district in which such areas are located, except that the setback requirement for parking areas serving public boat launching facilities, in districts other than the General Development 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 percent (20%), the road and/or driveway setback shall be increased by ten (10) feet, horizontal distance, for each five percent (5%) increase in slope above twenty (20%) percent.

Section 15.H.1. does not apply to approaches to water crossings nor 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 a 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 a 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 (2:1), 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 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.T.
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 fifty (50) feet plus two (2) 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:

<u>Grade (Percent)</u>	<u>Spacing (Feet)</u>
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 percent (10%) or less.
    - c. On road sections having slopes greater than ten percent (10%), ditch relief culverts shall be placed at approximately a thirty (30) degree angle down slope 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, Limited Residential and Agricultural/Forest Districts:

1. Signs relating to goods and services sold on the premises shall be allowed, provided that such signs shall not exceed six (6) square feet in area and shall not exceed two (2) signs per premises. Signs relating to goods or services not sold or rendered on the premises shall be prohibited.



2. Name signs are allowed, provided such signs shall not exceed two (2) signs per premises, and shall not exceed twelve (12) square feet in the aggregate.
3. Residential users may display a single sign not over three (3) square feet in area relating to the sale, rental, or lease of the premises.
4. Signs relating to trespassing and hunting shall be allowed without restriction as to number provided that no such sign shall exceed two (2) square feet in area.
5. Signs relating to public safety shall be allowed without restriction.
6. No sign shall extend higher than twenty (20) feet above the ground.
7. Signs may be illuminated only by shielded, non-flashing lights.

J. Storm Water Runoff:

1. All new construction and development shall be designed to minimize storm water runoff from the site in excess of the natural predevelopment conditions. Where possible, existing natural runoff control features, such as berms, swales, terraces and wooded areas shall be retained in order to reduce runoff and encourage infiltration of storm water.
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 4, below.
2. No part of any extraction operation, including drainage and runoff control features shall be permitted within one hundred (100) feet, horizontal distance, of the normal high-water line of a great pond classified GPA or a river flowing to a great pond classified GPA, and within seventy-five (75) feet, horizontal distance, of the normal high-water line of any other water body, tributary stream, or the upland edge of a wetland. Extraction operations shall not be permitted within fifty (50) feet, horizontal distance, of any property line, without written permission of the owner of such adjacent property.
3. Developers of new gravel pits shall demonstrate that no reasonable mining site outside the Shoreland Zone exists. When gravel pits must be located within the zone, they shall be set back as far as practicable from the normal high-water line and no less than seventy-five (75) feet and screened from the river by existing vegetation.
4. Within twelve (12) months following the completion of extraction operations at any extraction site, which operations shall be deemed complete when less than one hundred (100) cubic yards of materials are removed in any consecutive twelve (12) month period, ground levels and grades shall be established in accordance with the following:
  - a. All debris, stumps, and similar material shall be removed for disposal in an approved location, or shall be buried on-site. Only materials generated on-site may be buried or covered on-site.
  - b. The final graded slope shall be two and one half to one (2½:1) slope or flatter.

- c. Topsoil or loam shall be retained to cover all disturbed land areas, which shall be reseeded and stabilized with vegetation native to the area. Additional topsoil or loam shall be obtained from off-site sources if necessary to complete the stabilization project.
5. In keeping with the purposes of this Ordinance, the Planning Board may impose such conditions as are necessary to minimize the adverse impacts associated with mineral extraction operations on surrounding uses and resources.

N. Agriculture:

1. All spreading and storage of manure shall be accomplished in conformance with the Manure Utilization Guidelines published by the former Maine Department of Agriculture on November 1, 2001 and the Nutrient Management Law (7 M.R.S. § 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; nor within twenty-five feet (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, 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 that has been filed with the Planning Board.

## O. Timber Harvesting

1. Shoreline integrity and sedimentation. Persons conducting timber harvesting and related activities must take reasonable measures to avoid the disruption of shoreline integrity, the occurrence of sedimentation of water, and the disturbance of water body and tributary stream banks, water body and tributary stream channels, shorelines, and soil lying within water bodies, tributary streams and wetlands. If, despite such precautions, the disruption of shoreline integrity, sedimentation of water, or the disturbance of water body and tributary stream banks, water body and tributary stream channels, shorelines, and soil lying within water bodies, tributary streams and wetlands occurs, such conditions must be corrected.
2. Slash treatment. Timber harvesting and related activities shall be conducted such that slash or debris is not left below normal high-water line of any water body or tributary stream, or the upland edge of a wetland. Section 15.O.1. and 2. does not apply to minor, incidental amounts of slash that result from timber harvesting and related activities otherwise conducted in compliance with this section.
  - a. Slash actively used to protect soil from disturbance by equipment or to stabilize exposed soil, may be left in place, provided that no part thereof extends more than four (4) feet above the ground.
  - b. Adjacent to great ponds, rivers and wetlands:
    - 1) No accumulation of slash shall be left within fifty (50) feet horizontal distance, of the normal high-water line or upland edge of a wetland; and
    - 2) Between fifty (50) feet and two hundred fifty (250) feet, horizontal distance, of the normal high-water line or upland edge of a wetland, all slash larger than three (3) inches in diameter must be disposed of in such a manner that no part thereof extends more than four (4) feet above the ground.
3. Timber harvesting and related activities must leave adequate tree cover and shall be conducted so that a well-distributed stand of trees is retained. This requirement may be satisfied by following one of the following three options:
  - a. Option 1 - Forty percent (40%) volume removal, as follows:
    - 1) Harvesting of no more than forty percent (40%) of the total volume on each acre of trees four and one half (4½) inches DBH or greater in any ten (10) year period is allowed. Volume may be considered to be equivalent to basal area;
    - 2) A well-distributed stand of trees which is windfirm, and other vegetation

including existing ground cover, must be maintained; and,

- 3) Within seventy-five (75) feet, horizontal distance, of the normal high-water line of rivers, streams, and great ponds, and within seventy-five (75) feet, horizontal distance, of the upland edge of freshwater wetlands, there must be no cleared openings. At distances greater than seventy-five (75) feet, horizontal distance, of the normal high-water line of a river or great pond or upland edge of a wetland, timber harvesting and related activities must not create single cleared openings greater than fourteen thousand (14,000) square feet in the forest canopy. Where such openings exceed ten thousand (10,000) square feet, they must be at least one hundred (100) feet, horizontal distance, apart. Such cleared openings will be included in the calculation of total volume removal. Volume may be considered equivalent to basal area.

b. Option 2 - Sixty (60) square foot basal area retention, as follows:

- 1) The residual stand must contain an average basal area of at least sixty (60) square feet per acre of woody vegetation greater than or equal to one (1) inch DBH, of which forty (40) square feet per acre must be greater than or equal to four and one half (4½) inches DBH;
- 2) A well-distributed stand of trees which is windfirm, and other vegetation including existing ground cover, must be maintained; and
- 3) Within seventy-five (75) feet, horizontal distance, of the normal high-water line of water bodies and within seventy-five (75) feet, horizontal distance, of the upland edge of wetlands, there must be no cleared openings. At distances greater than seventy-five (75) feet, horizontal distance, of the normal high-water line of a river or great pond, or upland edge of a wetland, timber harvesting and related activities must not create single cleared openings greater than fourteen thousand (14,000) square feet in the forest canopy. Where such openings exceed ten thousand (10,000) square feet, they must be at least one hundred (100) feet, horizontal distance, apart. Such cleared openings will be included in the calculation of the average basal area. Volume may be considered equivalent to basal area.

c. Option 3 (Outcome based), which requires:

- 1) An alternative method proposed in an application, signed by a Licensed Forester or certified wildlife professional, submitted by the landowner or designated agent to the State of Maine Department of Conservation's Bureau of Forestry (Bureau) for review and approval, which provides equal or better protection of the shoreland area than this rule.
- 2) Landowners must designate on the Forest Operations Notification form

required by 12 M.R.S. chapter 805, subchapter 5, which option they choose to use. If landowners choose Option 1 or Option 2, compliance will be determined solely on the criteria for the option chosen. If landowners choose Option 3, timber harvesting and related activities may not begin until the Bureau has approved the alternative method.

- 3) The Bureau may verify that adequate tree cover and a well-distributed stand of trees is retained through a field procedure that uses sample plots that are located randomly or systematically to provide a fair representation of the harvest area.
4. Skid trails, yards, and equipment operation. This requirement applies to the construction, maintenance, and use of skid trail and yards in shoreland areas.
  - a. Equipment used in timber harvesting and related activities shall not use river, stream, or tributary stream channels as travel routes except when surface waters are frozen and snow covered, and the activity will not result in any ground disturbance.
  - b. Skid trails and yards must be designed and constructed to prevent sediment and concentrated water runoff from entering a water body, tributary stream, or wetland. Upon termination of their use, skid trails and yards must be stabilized.
  - c. Setbacks:
    - 1) Equipment must be operated to avoid the exposure of mineral soil within twenty-five (25) feet, horizontal distance, of any water body, tributary stream, or wetland. On slopes of ten percent (10%) or greater, the setback for equipment operation must be increased by twenty (20) feet, horizontal distance, plus an additional ten (10) feet, horizontal distance, for each five percent (5%) increase in slope above ten percent (10%). Where slopes fall away from the resource, no increase in the twenty-five (25) foot setback is required.
    - 2) Where such setbacks are impracticable, appropriate techniques shall be used to avoid sedimentation of the water body, tributary stream, or wetland. Such techniques may include the installation of sump holes or settling basins, and/or the effective use of additional ditch relief culverts and ditch water turnouts placed to avoid sedimentation of the water body, tributary stream, or wetland. If, despite such precautions, sedimentation or the disruption of shoreline integrity occurs, such conditions must be corrected.
5. Land Management Roads. Land management roads, including approaches to crossings of water bodies, tributary stream channels, and wetlands, ditches, and other related structures, must be designed, constructed, and maintained to prevent sediment and concentrated water runoff from directly entering the water body,

tributary stream or wetland. Surface water on or adjacent to water crossing approaches must be diverted through vegetative filter strips to avoid sedimentation of the watercourse or wetland. Because roadside ditches may not extend to the resource being crossed, vegetative filter strips must be established in accordance with the setback requirements in Section 15.O.1. through 7. of this rule.

- a. Land management roads and associated ditches, excavation, and fill must be set back at least:
  - 1) One hundred (100) feet, horizontal distance, from the normal high-water line of a great pond, river, water body, or freshwater wetland;
  - 2) Fifty (50) feet, horizontal distance, from the high-water line of streams and tributary streams; and
  - 3) Twenty-five (25) feet, horizontal distance, from the normal high-water line of tributary streams.
- b. The minimum one hundred (100) foot setback specified in Section 15.O.5.a.1), above, may be reduced to no less than fifty (50) feet, horizontal distance, and the fifty (50) foot setback specified in Section 15.O.1. through 5.a.2), above, may be reduced to no less than twenty-five (25) feet, horizontal distance, if, prior to construction, the landowner or the landowner's designated agent demonstrates to the Planning Board's satisfaction that no reasonable alternative exists and that appropriate techniques will be used to prevent sedimentation of the water body, tributary stream, or wetland. Such techniques include, but are not limited to, the installation of settling basins, and/or the effective use of additional ditch relief culverts and turnouts placed to avoid sedimentation of the water body, tributary stream, or wetland. If, despite such precautions, sedimentation or the disruption of shoreline integrity occurs, such conditions must be corrected.
- c. On slopes of ten percent (10%) or greater, the land management road setback must be increased by at least twenty (20) feet, horizontal distance, plus an additional ten (10) feet, horizontal distance, for each five percent (5%) increase in slope above ten percent (10%).
- d. New land management roads are not allowed in a Resource Protection District, unless, prior to construction, the landowner or the landowner's designated agent makes a clear demonstration to the Planning Board's satisfaction that no reasonable alternative route exists outside the shoreland zone, and that the new road must be set back as far as practicable from the normal high-water line and screened from the river by existing vegetation.
- e. Ditches, culverts, bridges, dips, water turnouts, and other water control installations associated with roads must be maintained on a regular basis to

assure effective functioning. Drainage structures shall deliver a dispersed flow of water into an unscarified filter strip no less than the width indicated in the setback requirements in Section 15.O.1. through 7. Where such a filter strip is impracticable, appropriate techniques shall be used to avoid sedimentation of the water body, tributary stream, or wetland. Such techniques may include the installation of sump holes or settling basins, and/or the effective use of additional ditch relief culverts and ditch water turnouts placed to avoid sedimentation of the water body, tributary stream, or wetland. If, despite such precautions, sedimentation or the disruption of shoreline integrity occurs, such conditions must be corrected.

- f. Road closeout or discontinuance: Maintenance of the water control installations required in Section 15.O.1. through 5.e must continue until use of the road is discontinued and the road is put to bed by effective installation of water bars or other adequate road drainage structures at appropriate intervals, constructed to avoid surface water flowing over or under the water bar, and extending a sufficient distance beyond the traveled way so that water does not re-enter the road surface.
- g. Upgrading existing roads: Extension or enlargement of presently existing roads must conform to the provisions of Section 15.O.1. Any non-conforming existing road may continue to exist and be maintained, as long as the non-conforming conditions are not made more non-conforming.
- h. Exception: Extension or enlargement of presently existing roads need not conform to the setback requirements of Section 15.O.1. through 5.a., if, prior to extension or enlargement, the landowner or landowner's designated agent demonstrates to the Planning Board's satisfaction that no reasonable alternative exists and that appropriate techniques will be used to prevent sedimentation of the water body, tributary stream, or wetland.

Such techniques may include, but are not limited to, the installation of settling basins, and/or the effective use of additional ditch relief culverts and turnouts placed to avoid sedimentation of the water body, tributary stream, or wetland. If, despite such precautions, sedimentation or the disruption of shoreline integrity occurs, such conditions must be corrected.

- 1) Additional measures: In addition to the foregoing minimum requirements, persons undertaking construction and maintenance of roads and river, stream and tributary stream crossings must take reasonable measures to avoid sedimentation of surface waters.
6. Crossings of water bodies: Crossings of rivers, streams, and tributary streams must allow for fish passage at all times of the year, must not impound water, and must allow for the maintenance of normal flows.



- a. Determination of flow: Provided they are properly applied and used for the circumstances for which they are designed, methods including but not limited to the following are acceptable as a means of calculating the ten (10) year and twenty-five (25) year frequency water flows and thereby determining water crossing sizes as required in Section 15.O.1. : The United States Geological Survey (USGS) Methods; specifically: Hodgkins, G. 1999. Estimating the Magnitude of Peak Flows for Streams in Maine for Selected Recurrence Intervals, U.S. Geological Survey, Water Resources Investigations Report 99-4008, 45 pp.
- b. Upgrading existing water crossings: Extension or enlargement of presently existing water crossings must conform to the provisions of Section 15.O.1. Any non-conforming existing water crossing may continue to exist and be maintained, as long as the non-conforming conditions are not made more non-conforming; however, any maintenance or repair work done below the normal high-water line must conform to the provisions of Section 15.O.1.
- c. Other Agency Permits: Any timber harvesting and related activities involving design, construction, and maintenance of crossings on water bodies other than a river, stream, or tributary stream may require a permit from the Land Use Regulation Commission, the Department of Environmental Protection, or the US Army Corps of Engineers.
- d. Any timber harvesting and related activities involving the design, construction, and maintenance of crossings of freshwater wetlands identified by the Department of Inland Fisheries and Wildlife as essential wildlife habitat require prior consultation with the Department of Inland Fisheries and Wildlife.
- e. Notice to Bureau of Forestry: Written notice of all water crossing construction maintenance, alteration, and replacement activities in shoreland areas must be given to the Bureau prior to the commencement of such activities. Such notice must contain all information required by the Bureau, including:
  - 1) A map showing the location of all proposed permanent crossings;
  - 2) The GPS location of all proposed permanent crossings;
  - 3) For any temporary or permanent crossing that requires a permit from State or federal agencies, a copy of the approved permit or permits; and
  - 4) A statement signed by the responsible party that all temporary and permanent crossings will be constructed, maintained, and closed out in accordance with the requirements of this Section.
- f. Water crossing standards: All crossings of rivers require a bridge or culvert sized according to the requirements of Section 15.O.1. through 6.g., below. Streams and tributary streams may be crossed using temporary structures that are not bridges or culverts provided:

- 1) Concentrated water runoff does not enter the stream or tributary stream;
- 2) Sedimentation of surface waters is reasonably avoided;
- 3) There is no substantial disturbance of the bank, or stream or tributary stream channel;
- 4) Fish passage is not impeded; and
- 5) Water flow is not unreasonably impeded.

Subject to Section 15.O.1. through 6.f.5), above, skid trail crossings of streams and tributary streams when channels of such streams and tributary streams are frozen and snow covered or are composed of a hard surface which will not be eroded or otherwise damaged are not required to use permanent or temporary structures.

- g. Bridge and Culvert Sizing: For crossings of river, stream and tributary stream channels with a bridge or culvert, the following requirements apply:
  - 1) Bridges and culverts must be installed and maintained to provide an opening sufficient in size and structure to accommodate ten (10) year frequency water flows or with a cross-sectional area at least equal to two and one half ( $2\frac{1}{2}$ ) times the cross-sectional area of the river, stream or tributary stream channel.
  - 2) Temporary bridge and culvert sizes may be smaller than provided in Section 15.O.1. through 6.g.1), if techniques are effectively employed such that in the event of culvert or bridge failure, the natural course of water flow is maintained and sedimentation of the water body or tributary stream is avoided. Such crossing structures must be at least as wide as the channel and placed above the normal high-water line. Techniques may include, but are not limited to, the effective use of any, a combination of, or all of the following:
    - a) Use of temporary skidder bridges;
    - b) Removing culverts prior to onset of frozen ground conditions;
    - c) Using water bars in conjunction with culverts; and
    - d) Using road dips in conjunction with culverts.
  - 3) Culverts utilized in river, stream or tributary stream crossings must:
    - a) Be installed at or below river, stream, or tributary streambed elevation;

- b) Be seated on firm ground;
  - c) Have soil compacted at least halfway up the side of the culvert;
  - d) Be covered by soil to a minimum depth of one (1) foot or according to the culvert manufacturer's specifications, whichever is greater; and
  - e) Have a headwall at the inlet end which is adequately stabilized by riprap or other suitable means to reasonably avoid erosion of material around the culvert.
- 4) River, stream, and tributary stream crossings allowed under Section 15.O.1, but located in flood hazard areas (i.e. A zones) as identified on a community's Flood Insurance Rate Maps (FIRM) of Flood Hazard Boundary Maps (FHBM), must be designed and constructed under stricter standards contained in that community's National Flood Insurance Program (NFIP). For example, a water crossing may be required to pass a 100-year flood event.
- 5) Exception: Skid trail crossings of tributary streams within shoreland areas and wetlands adjacent to such streams may be undertaken in a manner not in conformity with the requirements of the foregoing subsections provided persons conducting such activities take reasonable measures to avoid the disruption of shoreline integrity, the occurrence of sedimentation of water, and the disturbance of stream banks, stream channels, shorelines, and soil lying within ponds and wetlands. If, despite such precautions, the disruption of shoreline integrity, sedimentation of water, or the disturbance of stream banks, stream channels, shorelines, and soil lying within ponds and wetlands occurs, such conditions must be corrected.
- h. Skid trail closeout. Upon completion of timber harvesting and related activities, or upon the expiration of a Forest Operations Notification, whichever is earlier, the following requirements apply:
- 1) Bridges and culverts installed for river, stream, and tributary stream crossings by skid trails must either be removed and areas of exposed soil stabilized, or upgraded to comply with the closeout standards for land management roads in Section 15.O.1. through 6.i., below;
  - 2) Water crossing structures that are not bridges or culverts must either be removed immediately following timber harvesting and related activities, or, if frozen into the river, stream, or tributary stream bed or bank, as soon as practical after snowmelt; and
  - 3) River, stream, and tributary stream channels, banks and approaches to crossings of water bodies and tributary streams must be immediately

stabilized on completion of harvest, or if the ground is frozen and/or snow covered, as soon as practical after snowmelt. If, despite such precautions, sedimentation or the disruption of shoreline integrity occurs, such conditions must be corrected.

- i. Land management road closeout. Maintenance of the water control features must continue until use of the road is discontinued and the road is put to bed by taking the following actions:
  - 1) Effective installation of water bars or other adequate road drainage structures at appropriate intervals, constructed to reasonably avoid surface water flowing over or under the water bar, and extending sufficient distance beyond the traveled way so that water does not re-enter the road surface;
  - 2) Water crossing structures must be appropriately sized or dismantled and removed in a manner that reasonably avoids sedimentation of the water body or tributary stream; and
  - 3) Any bridge or water crossing culvert in roads to be discontinued shall satisfy one of the following requirements:
    - a) It shall be designed to provide an opening sufficient in size and structure to accommodate twenty-five (25) year frequency water flows;
    - b) It shall be designed to provide an opening with a cross-sectional area of the river, stream or tributary stream at least three and one half (3½) times the cross-sectional area of the river, stream, or tributary stream channel; or
    - c) It shall be dismantled and removed in a fashion to reasonably avoid sedimentation of the river, stream, or tributary stream.

If, despite such precautions, sedimentation or the disruption of shoreline integrity occurs, such conditions must be corrected.

## 7. Slope Table:

Filter strips, skid trail setbacks, and land management road setbacks must be maintained as specified in Section 15.O.1., but in no case shall be less than shown in the following table:

Average slope of land between exposed mineral soil and the shoreline (percent)	Width of strip between exposed mineral soil and shoreline (feet along surface of the ground)
0	25
10	45
20	65
30	85
40	105
50	125
60	145
70	165

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

1. In a Resource Protection District abutting a great pond, there shall be no cutting of vegetation within the strip of land extending seventy-five (75) feet, horizontal distance, inland from the normal high-water line, except to remove hazard trees as described in section Q.

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 15.P.1., above, 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, or within a strip extending 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 two hundred fifty (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 single footpath not to exceed six (6) feet in width as measured between tree trunks and/or shrub stems is allowed for accessing the shoreline 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 twenty-four (24) or more in each twenty-five (25) foot by fifty (50) foot rectangular twelve hundred fifty (1,250) square feet area as determined by the following rating

system.

Diameter of Tree at four and one half (4½) feet Above Ground

Points:

2 in. - < 4 in.	1
4 in. - < 8 in.	2
8 in. - < 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 sixteen (16) per twenty-five (25) foot by fifty (50) foot rectangular area.

The following shall govern in applying this point system:

- 1) The twenty-five (25) foot by fifty (50) foot rectangular plots must be established where the landowner or lessee proposes clearing within the required buffer;
- 2) Each successive plot must be adjacent to, but not overlap a previous plot;
- 3) Any plot not containing the required points must have no vegetation removed except as otherwise allowed by this Ordinance;
- 4) Any plot containing the required points may have vegetation removed down to the minimum points required or as otherwise allowed by this Ordinance; and;
- 5) Where conditions permit, no more than fifty percent (50%) of the points on any twenty-five (25) foot by fifty (50) foot rectangular area may consist of trees greater than twelve (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 (4½) feet above ground level for each twenty-five (25) foot by fifty (50) foot rectangle area. If five (5) saplings do not exist, no woody stems less than two (2) inches in diameter can be removed until five (5) saplings have been recruited into the plot.

Notwithstanding the above provisions, no more than forty percent (40%) of the total volume of trees four (4) inches or more in diameter, measured at four and one half (4½) 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.2. and 2.a., above.
- d. Pruning of tree branches, on the bottom one third (1/3) of the tree is allowed.
- e. In order to maintain a buffer strip of vegetation, when the removal of storm-damaged, dead or hazard trees results in the creation of cleared openings, these openings shall be replanted with native tree species in accordance with Section 15.Q., below, unless existing new tree growth is present.
- f. In order to maintain the vegetation in the shoreline buffer, clearing or removal of vegetation for allowed activities, including associated construction and related equipment operation, within or outside the shoreline buffer, must comply with the requirements of Section 15.P.2.

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 percent (40%) of the volume of trees four (4) inches or more in diameter, measured four and one half (4½) feet above ground level. Tree removal in conjunction with the development of permitted uses shall be included in the forty percent (40%) 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, twenty-five (25%) of the lot area within the shoreland zone or ten thousand (10,000) square feet, whichever is greater, including land previously cleared. This provision applies to the portion of a lot within the shoreland zone, including the buffer area, but shall not apply to the General Development District.
- 4. 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.

Q. Hazard Trees, Storm-Damaged Trees, and Dead Tree Removal.

1. Hazard trees in the shoreland zone may be removed without a permit after consultation with the Code Enforcement Officer if the following requirements are met:
  - a. Within the shoreline buffer, if the removal of a hazard tree results in a cleared opening in the tree canopy greater than two hundred fifty (250) square feet, replacement with native tree species is required, unless there is new tree growth already present. New tree growth must be as near as practicable to where the hazard tree was removed and be at least two (2) inches in diameter, measured at four and one half (4.5) feet above the ground level. If new growth is not present, then replacement trees shall consist of native species and be at least four (4) feet in height, and be no less than two (2) inches in diameter. Stumps may not be removed.
  - b. Outside of the shoreline buffer, when the removal of hazard trees exceeds forty (40) percent of the volume of trees four (4) inches or more in diameter, measured at four and one half (4.5) feet above ground level in any ten (10) year period, and/or results in cleared openings exceeding twenty-five (25) percent of the lot area within the shoreland zone, or ten thousand (10,000) square feet, whichever is greater, replacement with native tree species is required, unless there is new tree growth already present. New tree growth must be as near as practicable to where the hazard tree was removed and be at least two (2) inches in diameter, measured at four and one half (4.5) feet above the ground level. If new growth is not present, then replacement trees shall consist of native species and be at least two (2) inches in diameter, measured at four and one half (4.5) feet above the ground level.
  - c. The removal of standing dead trees, resulting from natural causes, is permissible without the need for replanting or a permit, as long as the removal does not result in the creation of new lawn areas, or other permanently cleared areas, and stumps are not removed. For the purposes of this provision dead trees are those trees that contain no foliage during the growing season.
  - d. The Code Enforcement Officer may require the property owner to submit an evaluation from a licensed forester or arborist before any hazard tree can be removed within the shoreland zone.
  - e. The Code Enforcement Officer may require more than a one-for-one replacement for hazard trees removed that exceed eight (8) inches in diameter measured at four and one half (4.5) feet above the ground level.



2. Storm-damaged trees in the shoreland zone may be removed without a permit after consultation with the Code Enforcement Officer if the following requirements are met:
  - a. Within the shoreline buffer, when the removal of storm-damaged trees results in a cleared opening in the tree canopy greater than two hundred fifty (250) square feet, replanting is not required, but the area shall be required to naturally revegetate, and the following requirements must be met:
    - 1) The area from which a storm-damaged tree is removed does not result in new lawn areas, or other permanently cleared areas;
    - 2) Stumps from the storm-damaged trees may not be removed;
    - 3) Limbs damaged from a storm event may be pruned even if they extend beyond the bottom one-third (1/3) of the tree; and
    - 4) If after one growing season, no natural regeneration or regrowth is present, replanting of native tree seedlings or saplings is required at a density of one seedling per every eighty (80) square feet of lost canopy.
  - b. Outside of the shoreline buffer, if the removal of storm damaged trees exceeds 40% of the volume of trees four (4) inches or more in diameter, measured at four and one half (4.5) feet above the ground level in any ten (10) year period, or results, in the aggregate, in cleared openings exceeding 25% of the lot area within the shoreland zone or ten thousand (10,000) square feet, whichever is greater, and no natural regeneration occurs within one growing season, then native tree seedlings or saplings shall be replanted on a one-for-one basis.

#### R. Exemptions to Clearing and Vegetation Removal Requirements

The following activities are exempt from the clearing and vegetation removal standards set forth in Section 15.P., provided that all other applicable requirements of this chapter are complied with, and the removal of vegetation is limited to that which is necessary:

1. The removal of vegetation that occurs at least once every two (2) years for the maintenance of legally existing areas that do not comply with the vegetation standards in this chapter, such as but not limited to cleared openings in the canopy or fields. Such areas shall not be enlarged, except as allowed by this section. If any of these areas, due to lack of removal of vegetation every two (2) years, reverts back to primarily woody vegetation, the requirements of Section 15.P. apply;
2. The removal of vegetation from the location of allowed structures or allowed uses, when the shoreline setback requirements of section 15.B. are not

applicable;

3. The removal of vegetation from the location of public swimming areas associated with an allowed public recreational facility;
4. The removal of vegetation associated with allowed agricultural uses, provided best management practices are utilized, and provided all requirements of section 15.N. are complied with;
5. The removal of vegetation associated with brownfields or voluntary response action program (VRAP) projects provided that the removal of vegetation is necessary for remediation activities to clean-up contamination on a site in a general development district, or other equivalent zoning district approved by the Commissioner that is part of a state or federal brownfields program or a voluntary response action program pursuant 38 M.R.S. §343-E, and that is located along a river that does not flow to a great pond classified as GPA pursuant to 38 M.R.S. § 465-A.
6. The removal of non-native invasive vegetation species, provided the following minimum requirements are met:
  - a. If removal of vegetation occurs via wheeled or tracked motorized equipment, the wheeled or tracked motorized equipment is operated and stored at least twenty-five (25) feet, horizontal distance, from the shoreline, except that wheeled or tracked equipment may be operated or stored on existing structural surfaces, such as pavement or gravel;
  - b. Removal of vegetation within twenty-five (25) feet, horizontal distance, from the shoreline occurs via hand tools; and
  - c. If applicable clearing and vegetation removal standards are exceeded due to the removal of non-native invasive species vegetation, the area shall be revegetated with native species to achieve compliance.
7. The removal of vegetation associated with emergency response activities conducted by the Department, the U.S. Environmental Protection Agency, and their agents.

#### S. Revegetation Requirements.

When revegetation is required in response to violations of the vegetation standards set forth in Section 15.P. to address the removal of non- native invasive species of vegetation, or as a mechanism to allow for development that may otherwise not be permissible due to the vegetation standards, including removal of vegetation in conjunction with a shoreline stabilization project, the revegetation must comply with the following requirements.

1. The property owner must submit a revegetation plan, prepared with and signed by a qualified professional that describes revegetation activities and maintenance. The plan must include a scaled site plan, depicting where vegetation was, or is to be removed, where existing vegetation is to remain, and where vegetation is to be planted, including a list of all vegetation to be planted.
2. Revegetation must occur along the same segment of shoreline and in the same area where vegetation was removed and at a density comparable to the pre-existing vegetation, except where a shoreline stabilization activity does not allow revegetation to occur in the same area and at a density comparable to the pre-existing vegetation, in which case revegetation must occur along the same segment of shoreline and as close as possible to the area where vegetation was removed:
3. If part of a permitted activity, revegetation shall occur before the expiration of the permit. If the activity or revegetation is not completed before the expiration of the permit, a new revegetation plan shall be submitted with any renewal or new permit application.
4. Revegetation activities must meet the following requirements for trees and saplings:
  - a. All trees and saplings removed must be replaced with native noninvasive species;
  - b. Replacement vegetation must at a minimum consist of saplings;
  - c. If more than three (3) trees or saplings are planted, then at least three (3) different species shall be used;
  - d. No one species shall make up 50% or more of the number of trees and saplings planted;
  - e. If revegetation is required for a shoreline stabilization project, and it is not possible to plant trees and saplings in the same area where trees or saplings were removed, then trees or sapling must be planted in a location that effectively reestablishes the screening between the shoreline and structures; and
  - f. A survival rate of at least eighty (80) percent of planted trees or saplings is required for a minimum five (5) years period.
5. Revegetation activities must meet the following requirements for woody vegetation and other vegetation under three (3) feet in height:

1. All woody vegetation and vegetation under three (3) feet in height must be replaced with native noninvasive species of woody vegetation and vegetation under three (3) feet in height as applicable;
2. Woody vegetation and vegetation under three (3) feet in height shall be planted in quantities and variety sufficient to prevent erosion and provide for effective infiltration of stormwater;
3. If more than three (3) woody vegetation plants are to be planted, then at least three (3) different species shall be planted;
4. No one species shall make up 50% or more of the number of planted woody vegetation plants; and
5. Survival of planted woody vegetation and vegetation under three feet in height must be sufficient to remain in compliance with the standards contained within this chapter for minimum of five (5) years
6. Revegetation activities must meet the following requirements for ground vegetation and ground cover:
  - a. All ground vegetation and ground cover removed must be replaced with native herbaceous vegetation, in quantities and variety sufficient to prevent erosion and provide for effective infiltration of stormwater;
  - b. Where necessary due to a lack of sufficient ground cover, an area must be supplemented with a minimum four (4) inch depth of leaf mulch and/or bark mulch to prevent erosion and provide for effective infiltration of stormwater; and
  - c. Survival and functionality of ground vegetation and ground cover must be sufficient to remain in compliance with the standards contained within this chapter for minimum of five (5) years.

T. 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 rip-rap, 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. Drainage ways shall be designed and constructed in order to carry water from a twenty-five (25) year storm or greater, and shall be stabilized with vegetation or lined with rip-rap.

#### U. 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.

#### V. 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.

#### W. Archaeological Sites:

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

#### 11-1.16 Administration:

##### A. Administering Bodies and Agents:

1. Code Enforcement Officer. A Code Enforcement Officer shall be appointed or reappointed by July 1<sup>st</sup>.
2. Board of Appeals. A Board of Appeals shall be created in accordance with the provisions of 30-A M.R.S. § 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 twenty-five (25%) longer than the culvert being replaced;
  - b. The replacement culvert is not longer than seventy-five (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 archeological excavation as long as the excavation is conducted by an archeologist 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.
5. When an excavation contractor will perform an activity that requires or results in more than one (1) cubic yard of soil disturbance, the person responsible for management of erosion and sedimentation control practices at the site must be certified in erosion control practices by the Maine Department of Environmental Protection. This person must be present at the site each day earthmoving activity occurs for a duration that is sufficient to ensure that proper erosion and sedimentation control practices are followed. This is required until erosion and sedimentation control measures have been installed, which will either stay in place

permanently or stay in place until the area is sufficiently covered with vegetation necessary to prevent soil erosion. The name and certification number of the person who will oversee the activity causing or resulting in soil disturbance shall be included on the permit application. This requirement does not apply to a person or firm engaged in agriculture or timber harvesting if Best Management Practices (BMP) for erosion and sedimentation control are used; and municipal, State and federal employees engaged in projects associated with that employment.

#### D. Procedure for Administering Permits:

Within thirty-five (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 thirty-five (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 thirty-five (35) days after the first available date on the Planning Board's agenda following receipt of the completed application, or within thirty-five (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 waters;
6. Will protect archaeological and historic resources as designated in the Comprehensive Plan;
7. Will avoid problems associated with flood plain development and use; and



8. Is in conformance with the provisions of Section 15, Land Use Standards.

If a permit is either denied or approved with conditions, the reasons as well as conditions shall be stated in writing. No approval shall be granted for an application involving a structure if the structure would be located in an unapproved subdivision or would violate any other local ordinance or regulation or 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 residential structure the Resource Protection District or the Agricultural and Forest 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 twenty percent (20%); and
  - b. Located outside the floodway of the 100-year flood-plain along rivers and artificially formed great ponds along rivers, 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 (1) foot above the 100-year floodplain elevation; and the development is otherwise in compliance with any applicable municipal floodplain ordinance.

If the floodway is not shown on the Federal Emergency Management Agency Maps, it is deemed to be one half ( $\frac{1}{2}$ ) the width of the 100-year floodplain.

4. The total footprint, including cantilevered or similar overhanging extensions, of all principal and accessory structures is limited to a maximum of fifteen-hundred (1,500) square feet. This limitation shall not be reduced 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 seventy-five (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 and Extension of Permit and Completion Date

### 1. Expiration of Permit

All Shoreland Zoning permits shall expire within one (1) year of the date of issuance if a substantial start is not made in construction or in the use of the property during that period. If work is not completed within two (2) years from the date of issuance, a new application must be made (See 3 Extension of Completion Date). The CEO shall make determinations regarding commencement and completion.

a. In determining commencement the CEO shall consider:

- 1) Surveying;
- 2) Land work (to include but not be limited to clearing, grading, erosion and storm water runoff control and access road preparation); and
- 3) Foundation work if applicable

b. In determining completion the CEO shall consider:

- 1) Final grading;
- 2) Completion of access roads to include final surfacing, culverts, and ditches;
- 3) Permanent erosion and storm water runoff control;
- 4) External building completion; and
- 5) Finished landscaping and seeding of appropriate areas.

### 2. Extension of Permit

Permits may be extended for one (1) year from the date of issuance by the CEO for projects not commencing within one (1) year of initial Board approval. Written extension requests must be submitted to the CEO at least forty-five (45) days before the one (1) year expiration.

Proposal approvals which are granted a one (1) year extension from the date of

issuance shall also have their completion date extended by one (1) year.

Before extending an approval the CEO must determine that extenuating circumstances beyond the control of the applicant exist. Extenuating circumstances may include but are not limited to procurement of financing, legal issues, availability of materials, availability of qualified contractors, and adverse weather conditions.

### 3. Extension of Completion Date

The CEO may extend the completion date of a commenced project by one (1) year beyond the allotted two (2) years. In determining this extension the CEO shall consider factors such as, but not limited to, financial hardship, legal difficulties, site condition problems, contract delay, disruption in supply of labor and/or materials, or personal issues (illness, injury, death in the family, etc.)

### 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 Ordinance.
- c. The Board of Appeals shall not grant a variance unless it finds that:
  - 1) The proposed structure or use would meet all provisions of Section 15, except for the specific provision which has created the non-conformity and from which relief is sought; and
  - 2) The strict application of the terms of this Ordinance would result in undue hardship. The term "undue hardship" means:
    - 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 the general conditions of 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.2), above, the Board of Appeals or the Code Enforcement Officer if authorized in accordance with 30-A M.R.S. §4353-A, 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 shall 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. Any permit issued pursuant to this subsection is subject to Sections 16.H.2.f. and 16.H.4.b.4), below.
- 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 testimony. When acting in “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 the decision was contrary to specific provision 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 of 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:

- 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, 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 Appeals Board, upon a showing of good cause, may waive the thirty (30) day requirement.
- 2) 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.
- 3) 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.
- 4) 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:
  - 1) A majority of the full voting membership of the Board shall constitute a quorum for the purpose of deciding an appeal.
  - 2) The person filing the appeal shall have the burden of proof.
  - 3) 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.
  - 4) All decisions shall become a part of the record and shall include a statement of findings and conclusions as well as the reasons or basis therefore, and the appropriate order, relief or denial thereof. 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 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. § 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. § 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.
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. § 4452.

#### 11-1.17 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 plant or animal species.

Basal Area - the area of cross-section of a tree stem at four and one half (4-½) feet above ground level and inclusive of bark.

Basement - any portion of a structure with a floor-to-ceiling height of six (6) feet or more and having more than fifty percent (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 of Forestry - State of Maine Department of Agriculture, Conservation, and



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.

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 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 four and one half (4½) 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 (2) 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; stream, 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 footprint 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 footprint of a structure 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 (1) foot in height.

Floor area - the sum of the horizontal areas of the floor(s) of a structure enclosed by exterior walls.

Footprint – the entire area of ground covered by the structure(s) on a lot, including but not limited to cantilevered or similar overhanging extensions, as well as unenclosed structures, such as patios and decks.

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

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

Forest stand - a contiguous group of trees sufficiently uniform in age class distribution, composition, and structure, and growing on 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 (10) or more contiguous acres; or of less than ten (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 ten (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, 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, waterfront dock facilities, boat building facilities, marinas, navigation aids, basins and channels, shoreline structures necessary for erosion control purposes, and uses that primarily provide general public access to inland waters. Recreational boat storage buildings are not considered to be a functionally water-dependent use.

Great pond - any inland body of water which in a natural state has a surface area in excess of ten (10) 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. Article 4-A § 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 un-harvested areas greater than ten (10) acres within the area affected by a harvest.

Hazard tree – a tree with a structural defect, combination of defects, or disease resulting in a structural defect that under the normal range of environmental conditions at the site exhibits a high probability of failure and loss of a major structural component of the tree in a manner that will strike a target. A normal range of environmental conditions does not include meteorological anomalies, such as, but not limited to: hurricanes, hurricane-force winds, tornados, microbursts, or significant ice storm events. Hazard trees also include those trees that pose a serious and imminent risk to bank stability. A target is the area where personal injury or property damage could occur if the tree or portion of the tree fails. Targets include roads, driveways, parking areas, structures, campsites, and other developed area where people frequently gather and linger.

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.

Hydric Soils - Hydric soils have been defined by the USDA Soil Conservation Service as soil that is saturated, flooded, or ponded long enough during the growing season to develop anaerobic conditions in the upper part.

Increase in non-conformity of a structure – any change in a structure or property which causes further deviation from the dimensional standard(s) creating the non-conformity 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 and 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 municipality 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. 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 (2) lots.

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 (2) 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, lot coverage or footprint, 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.

Non-native invasive species of vegetation – species of vegetation listed by the Maine Department of Agriculture, Conservation and Forestry as being invasive in Maine ecosystems and not native to Maine ecosystems.

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. 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.

Outlet stream – any perennial or intermittent stream, as shown on the most recent highest resolution version of the national hydrography dataset available from the United States Geological Survey on the website of the United States Geological Survey or the national map, that flows from a freshwater wetland.

Person - an individual, corporation, governmental agency, municipality, trust, estate, partnership, association, two (2) or more individuals having a joint or common interest, or other legal entity.

Piers, docks, 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 structure other than one which is used for purposes wholly incidental or accessory to the use of another structure or use on the same lot.

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

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

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

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

Sapling – a tree species that is less than two (2) inches in diameter at four and one half (4.5) feet above ground level.

Seedling – a young tree species that is less than four and one half (4.5) feet in height above ground level.

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, horizontal distances.
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 fifty (250) feet, horizontal distance, of the normal high-water line of any great pond, or river, within two hundred fifty (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 fresh water.

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.

Storm-damaged tree – a tree that has been uprooted, blown down, is lying on the ground, or that remains standing and is damaged beyond the point of recovery as the result of a storm event.

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, highest resolution version of the national hydrography dataset available from the United States Geological Survey on the website of the United States Geological Survey or the national map to the point where the stream becomes a river, or where the stream meets the shoreland zone of another water body or wetland. When a stream meets the shoreland zone of a water body or wetland and a channel forms downstream of the waterbody or wetland as an outlet, that channel is also a stream.

Structure - anything temporarily or permanently located, built, constructed, or erected for the support, shelter or enclosure of persons, animals, goods or property of any kind, or anything constructed or erected on or in the ground. The term includes structures temporarily or permanently located, such as decks, patios, and satellite dishes. Structure does not include fences, poles and wiring and other aerial equipment normally associated with service drops, including guy wires and guy anchors, subsurface waste water disposal systems as defined in Title 30-A, § 4201, Subsection 5; geothermal heat exchange wells as defined in Title 32, § 4700-E, Subsection 3-C; or wells or water wells as defined in Title 32, § 4700-E, Subsection 8.

Substantial start - completion of thirty percent (30%) 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. § 414, any surface waste water disposal system, or any municipal or quasi-municipal sewer or waste water treatment system.

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

Timber harvesting - the cutting and removal of timber for the primary purpose of selling or processing forest products. "Timber harvesting" does not include the cutting or removal of vegetation within the shoreland zone when associated with any other land use activities. 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.

Tree - a woody perennial plant with a well-defined trunk(s) at least two (2) inches in diameter at four and one half (4.5) feet above the ground, with a more or less definite crown, and reaching a height of at least ten (10) feet at maturity.

Tributary stream - 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 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 approximately twenty (20) feet tall or taller.

Vegetation - all live trees, shrubs, and other plants including without limitation, trees both over and under four (4) inches in diameter, measured at four and one half (4½) feet above ground level.

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

Water body - any great pond, river, or stream.

Water Crossing - any project extending from one bank to the opposite bank of a river, or 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 wetland.

Wetland vegetation - technically called "hydrophytes" are plants growing in water or on a substrate that is at least periodically deficient in oxygen as a result of excessive water content.

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

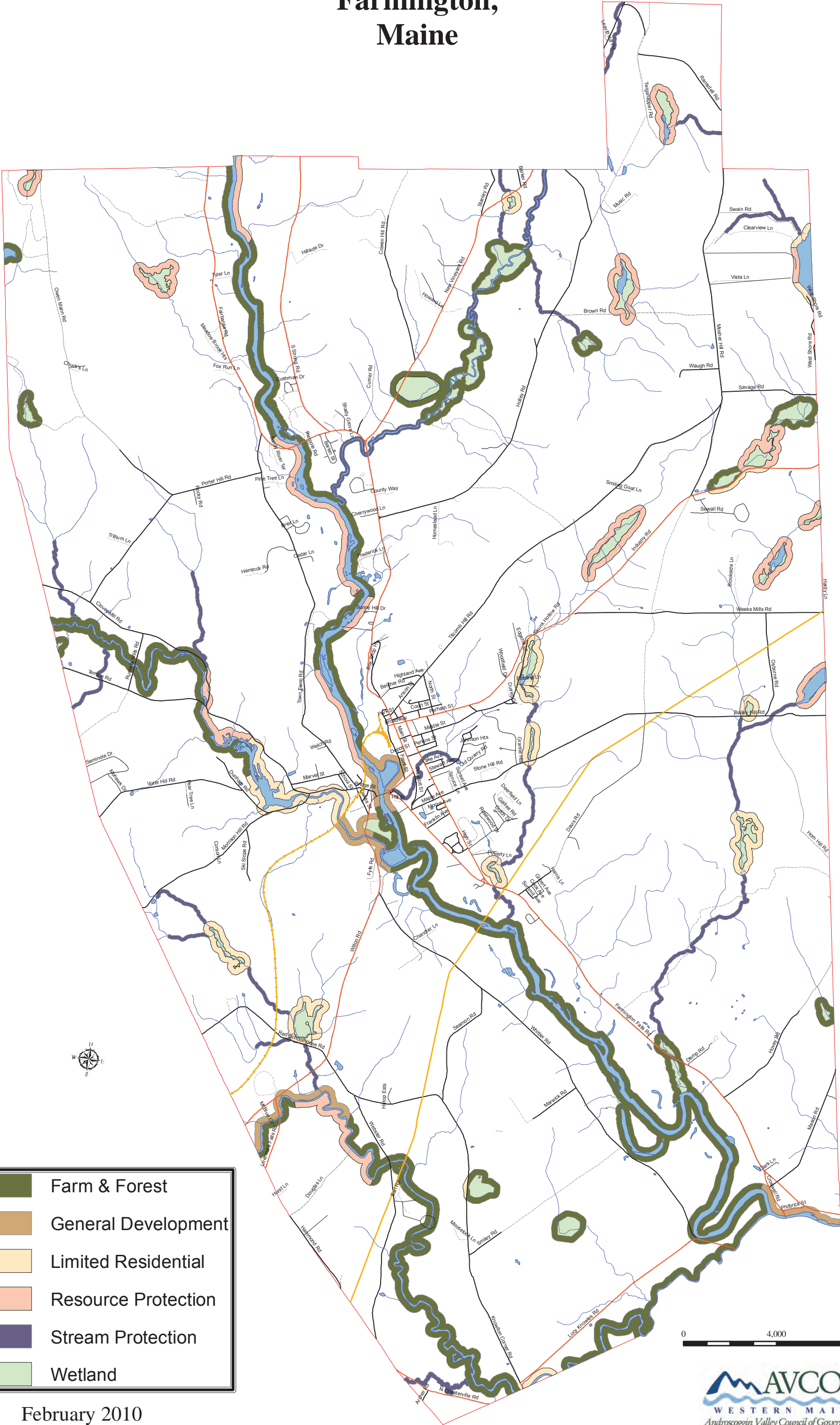
Woody Vegetation - live trees or woody, non-herbaceous shrubs.

11-1.18 Fees:

A non-refundable application fee of \$50.00 shall be paid to the Town Clerk and a copy of a receipt for the same shall accompany the application.

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

# Farmington, Maine



February 2010

# TOWN OF FARMINGTON

## Sign Ordinance

ENACTED: November 18, 1999

AMENDED: March 3, 2003  
July 19, 2004  
March 14, 2005  
October 28, 2008  
April 27, 2010  
March 26, 2018

CERTIFIED BY:

Leanne Dickey  
Leanne Dickey

Town Clerk  
Title

Affix Seal

**Town of Farmington  
Chapter 11 – Land Use  
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# **Town of Farmington**

## **Sign Ordinance**

### **Chapter 11 - Land Use**

#### **11- 3.1 Title:**

This ordinance shall be known and cited as the Town of Farmington Sign Ordinance and will be referred to herein as “this Ordinance”. This Ordinance limits the erection of signs to the zoning district(s) under the Zoning Ordinance Table of Uses; prescribes definitions of sign terminology; provides for the permitting and regulation of signs; and provides for additional miscellaneous standards for signs.

#### **11- 3.2 Authority and Administration:**

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

#### **11- 3.3 Purpose:**

The purpose of this Ordinance is to regulate signage within the Town of Farmington in a way which provides sufficient on-site identification of business locations while also serving the public’s interest in having such signage erected to provide business identification in an orderly, safe and functional manner.

#### **11- 3.4 Applicability:**

This Ordinance shall not exempt any property owner from obtaining other permits or meeting any requirements of any other Town Ordinances, State or federal laws or regulations. Where requirements differ from the provisions of this Ordinance, the stricter shall apply.

#### **11- 3.5 Validity:**

If any part of this Ordinance is found to be invalid, the remainder of this Ordinance shall remain in effect.

#### **11- 3.6 Conflicts with Other Ordinances:**

Whenever a provision of this Ordinance conflicts with or is inconsistent with another provision of this Ordinance or of any other ordinance, regulation or statute, the more restrictive provision shall apply.

#### **11- 3.7 Effective Date:**

The effective date of this Ordinance shall be the date this Ordinance is adopted by the voters at Town Meeting.

### **11- 3.8 Definitions:**

**Attached Sign.** A sign affixed parallel to a wall or printed on a wall or window, any part of which does not extend more than eighteen (18) inches from the wall. An attached sign may not project above the top of the wall or beyond the end of the building.

**Ground Signs.** A sign attached to the ground, or to a separate structure attached to the ground, the sole purpose of said structure being to support the sign.

**Person.** Includes a firm, association, organization, partnership, trust, company, or corporation as well as an individual, but does not include a governmental unit.

**Premises.** One or more parcels of land which are in the same ownership and are contiguous, and including all buildings and other structures thereon.

**Roof Sign.** A sign wholly erected on the roof structure or parapet wall of any building or which is displayed above the eaves of a building.

**Sign.** Every device, frame, letter, figure, character, mark, plane, point, design, picture, stroke, stripe, trademark or reading matter, including awnings containing identification or advertisement matter, which is used or intended to be used to attract attention or convey information when the same is placed so as to be visible from within any street or public way, including the sign face and supporting structure.

**Advertisement Sign.** A sign which is used or intended to be used to attract attention regarding commercial ventures.

**Identification Sign.** A sign limited to family name, address and/or name of property.

**Sign Face.** One entire side of a sign as viewed by an observer, which includes the area of the smallest square, rectangle, triangle, circle or combination thereof, and which includes that part of the supporting structure forming the border and background thereof. NOTE: If a sign is double faced, both sides of the sign apply to square footage requirements.

### **Temporary Signs/Banners:**

**Temporary Business Signs/Banners.** Signs/banners for products, services, or promotion of same not to exceed thirty (30) days in duration.

**Temporary Election and Campaign Signs/Banners.** Signs/banners not exceeding sixteen (16) square feet of sign face and erected no more than forty-two (42) days prior to the election/campaign and removed within seventy-two (72) hours after election/campaign.

**Temporary Public Events Signs/Banners.** Signs/banners for public events erected at official municipally-maintained locations no more than fourteen (14) days prior to the event and removed within twenty-four (24) hours after the event.

**Visibility.** Capable of being seen without visual aid by a person of normal vision acuity.



### **11- 3.9 Permit Required:**

- A. It shall be unlawful for any person to erect, or keep within the Town of Farmington any sign or other advertising structure as defined in this Ordinance which is visible from within the limits of any street or public way without first obtaining a sign permit from the Code Enforcement Officer and paying the required fee.
1. Applications shall be made on forms to be provided by the Code Enforcement Officer.
  2. Every applicant, before being granted a permit hereunder, shall pay a permit fee of twelve dollars \$12.00 plus an additional fee of fifty cents (\$.50) per square foot of sign face for each sign over forty (40) square feet of sign face.

### **11- 3.10 Exemptions:**

- A. Exemptions shall not be construed as relieving the owner of such signs from the responsibility of complying with applicable provisions of this Ordinance. The exemptions shall apply to the requirement for sign permit only and no sign permit shall be required for the erection of the following signs:
1. One sign not exceeding one (1) sq. ft. in area and bearing only property number, post box numbers, and/or the name of occupants residing at premises.
  2. Signs including off-premise signs erected and maintained pursuant to and in discharge of any governmental functions, or required by law, ordinance or other governmental regulation.
  3. Signs directing and guiding traffic and parking on private property, not exceeding four (4) sq. ft. in area and bearing no commercial matter. Where confusion would occur, the name of the business may be included on the sign.
  4. Signs located on the interior of a structure.
  5. One real estate "for sale" sign not exceeding six (6) sq. ft. in area per lot or per dwelling unit located in the Residential, Village Residential, Village Business and Farm and Forest, and not exceeding fifteen (15) sq. ft. in area per lot located in the General Purpose and Residential/Light Commercial District.
  6. Fuel price/informational signs meeting the following standards:
    - a. Sign size limited to one (1) sq. ft. each;
    - b. One (1) sign permitted per pump and per other product sold on premises;
    - c. Sign must be affixed to pump;
    - d. Sign must advertise motor vehicle fuel or motor vehicle product sold on premises; and
    - e. Information attached to pump and describing how to use fuel pump is exempt from standards.

7. Memorial signs or tablets, name of historic buildings and date of erection when engraved in surface of building or constructed of permanent material.
8. "Posted", "No Trespassing", "Beware of Dog" and "Private Driveway" signs of no greater than two (2) sq. ft. each in area.
9. Holiday decoration of a temporary nature and not containing advertising matter.
10. Scoreboards for athletic events.
11. Sponsor panels.

Though exempt from the permitting process, the following standards shall apply to all sponsor panels:

- a. Sponsor panels will be allowed to be located only at the athletic fields and facilities.
- b. Sponsor panels shall be no larger than 4' high by 8' wide.
- c. All sponsor panels, installed at Hippach Field shall be made of steel or aluminum. The dark green background color shall be an exact match to that of existing panels, with white lettering for business names and logos. Phone numbers or business addresses are not allowed.
- d. All sponsor panels, installed at the Elks Club Little League Field in West Farmington, Philbrick Park Little League Field in Farmington Falls, and Mt. Blue High School Football Field, are allowed to use multi-colors and logos. Phone numbers, and business addresses are allowed.

Any patron that wishes to erect a sponsor panel will commit to a three (3) year agreement with the Town and will pay a three hundred dollar (\$300.00) fee prior to panel installation. There will be a renewal fee of \$100.00 per year, thereafter. Fees may be waived at the discretion of the Town Manager in the case of major donors to municipal facilities. The patron will be responsible for the cost of the panel and will follow the manufacturing guidelines as recommended by the Director of Parks and Recreation.

12. Service bay instruction signs, such as instructional signs for automatic teller machines (ATM's) and food boards for drive-in restaurants, but which do not contain other information which would not be needed by an individual utilizing the service bay or drive-in facility. Such exempt signs shall not exceed fifteen (15) sq. ft. in sign area.
13. Traffic or other federal, State or municipal signs, and legal notices and other such temporary, emergency or non-advertising signs.
14. Temporary building construction with a sign face of not more than thirty-two (32) sq. ft.

15. Election and campaign signs, provided such signs do not exceed sixteen (16) square feet of sign face and are erected no more than forty-two (42) days prior to the event and removed within seventy-two (72) hours after such events.
16. Public events signs, although not allowed within the public rights-of-way, may be erected at official municipally-maintained locations for such signs, no more than fourteen (14) days prior to the event and are removed within twenty-four (24) hours after. See 23 M.R.S. §1925 and any subsequently adopted rules including but not limited to those found in Chapter 201 and Chapter 203.
17. Official Business Directional Signs (OBDS), and traveler's directional, church and service organization signs, provided that such display no advertising matter but only directional and informational matter for the public convenience.

#### **11- 3.11 Prohibited Signs:**

##### **A. No sign shall:**

1. Be directly affixed to any rock, ledge, or other natural feature (except for the signs referred to in Section 11-3.10 A (8) hereinabove);
2. Interfere with or obstruct the view or safety of pedestrian or vehicular traffic;
3. Be neon, flash, blink, fluctuate, move or be otherwise animated or consist of banners, pennants, ribbons, streamers, or similar devices (except for the signs referred to in Section 11-3.10 A (12) hereinabove);
4. Be mobile, portable or wheeled signs, except for permitted temporary signs;
5. Violate any provision of any State law relative to outdoor advertising;
6. Advertise or publicize an activity not conducted on the premises upon which the sign is located (off-premise) except for those allowed by the Maine Department of Transportation under the OBDS program, the Maine Travelers Information Services Act, and MDOT policies;
7. Be located in any street or public right-of-way, public park or other public property;
8. Remain on the premises longer than 30 days after the cessation of the business;
9. Signs containing LEDs are not allowed in the Town's Village Business Historic District as defined in the Town's Zoning Ordinance in §11-8.9.E. (A).

##### **B. Prohibited Locations:**

All signs and banners of any kind shall be prohibited in the traffic island at the intersection of Farmington Falls Road and Main Street, in the traffic island bounded by Bridge Street, Water Street and the Wilton Road in West Farmington, in the traffic

islands at the intersection of High Street and the Farmington Falls Road, and all municipally-owned property except as exempted in §11-3.10.A.16.

### **11- 3.12 Temporary Signs:**

Temporary Advertising Banners. The Code Enforcement Officer may approve a banner upon application of a business, for a period not to exceed thirty (30) days, when said banner is for a new product, service, or part of a franchise promotion. There shall be no permit fee. Such temporary signs/banners must be located on the premises on which the business is conducted.

### **11- 3.13 Non-conforming Signs:**

A. A non-conforming sign shall be defined as a sign legally in existence and erected on or before the date of enactment of this Ordinance and may be maintained for an indefinite time although not in conformance with this Ordinance.

1. Non-conforming signs shall not be enlarged or altered in a manner which would increase the non-conformity thereof.
2. Any non-conforming sign which is damaged or destroyed may be replaced as originally erected within a period of twelve (12) months from said damage. After the twelve (12) month period, any non-conforming sign shall not be changed, reconstructed or replaced except in conformity with this Ordinance

### **11- 3.14 Sign Standards by Zoning Districts:**

All signs shall be maintained by the owner thereof in a clean, safe and secure manner.

#### **A. Farm & Forest** **Residential** **Village Residential Zones**

The following standards shall apply to all signs in the Farm & Forest, Residential, and Village Residential Zones:

1. Maximum number of sign faces permitted shall not exceed two (2) per lot.
2. Maximum sign size:
  - a. Signs for residential & home occupation shall not exceed twenty-five (25) sq. ft.
  - b. Signs for other permitted uses shall not exceed fifty (50) sq. ft.
3. The types of signs permitted are attached or ground identification signs.
4. The minimum setback shall be at least five (5) feet from the property line and shall be clear of the State or Town right-of-way.
5. The maximum height of ground signs shall not exceed ten (10) feet.

6. No sign shall be located on the roof of a building.
7. No sign shall obstruct traffic, obscure vision and/or create a public safety hazard.

**B. Village Business  
Village Commercial  
Residential/Light Commercial Zone**

The following standards shall apply to all signs in the Village Business, Village Commercial and Residential/Light Commercial Zones:

1. Maximum number of sign faces permitted per single use lot shall not exceed six (6), (except for lots abutting more than one street, in which case two (2) additional sign faces, either attached or ground, per each additional street frontage are allowed).
2. Maximum total signage per lot shall not exceed one hundred (100) sq. ft. with no individual sign to exceed fifty (50) sq. ft. in sign area. When lots abutt more than one street and an additional sign is used, the total signage shall not exceed one hundred twenty-five (125) sq. ft.
3. Types of signs permitted are attached or ground identification and advertisement signs.
4. Minimum setbacks:

Village Business and Village Commercial: No minimum setback is required as long as all parts of the sign(s) are located within property lines and shall be clear of the State or Town right-of-way.

Residential/Light Commercial: A minimum setback of five (5) feet from the property line shall be required. All parts of the sign(s) shall be located within property lines and clear of the State or Town right-of-way.

5. Maximum height of ground signs shall not exceed fifteen (15) feet.
6. No sign shall be located on the roof of a building.
7. No sign shall obstruct traffic, obscure vision and/or create a public safety hazard.
8. Signs on multi-unit lots. Notwithstanding the standards of B. 1-3 above, the following standards shall apply to signs on multi-unit lots:
  - a. Individual businesses shall not be allowed to apply for a sign permit unless they can show that their sign proposal is part of an overall sign plan for the multi-unit lot which meets the standards of this section. The purpose of the standard is to coordinate all the signage on a multi-use site;
  - b. One (1) attached or ground identification sign per business not exceeding twenty (20) sq. ft. in sign area;

- c. One (1) attached identification sign per each business in the complex with an allowable sign area of one (1) sq. ft. per each linear foot of the business unit's building frontage, but in no case shall the sign exceed forty (40) sq. ft. in sign area;
  - d. One (1) joint identification sign no larger than fifty (50) sq. ft. in sign area;
  - e. For lots abutting more than one (1) street, additional signage meeting the standards of 8 b, c, or d above is allowed per each additional street frontage;
  - f. Illumination: All illuminated signs shall have lights which are shielded or hooded so that the light source is not visible off of the premises. Only white, mercury, sodium or metal halide lights shall be used for external illumination.
9. Signs in the Village Business Historic District. In addition to B. 1-8 above, all signs in the Village Business Historic District shall be made of solid or composite material that is opaque (not translucent or transparent) and, if illuminated, externally illuminated. Any sign in existence at the time of adoption of this amendment (07-19-04) that does not meet this new standard shall be allowed to remain for the life of said sign. (Proof of existence shall be a valid sign permit on file with the Town). Upon replacement of such non-conforming signs, such replacement signs must be made to meet the new standard. Also see §11-3.11.A.09 of this Ordinance.

### **C. General Purpose Zone**

The following standards shall apply to all signs in the General Purpose Zone.

- 1. For single use lots the maximum number of sign faces permitted per lot shall not exceed six (6), (except for lots abutting more than one street in which case two (2) additional attached or ground identification signs are allowed per each additional street frontage).
- 2. Maximum total signage per lot is not to exceed one hundred (100) sq. ft. with no individual sign to exceed one hundred (100) sq. ft. The maximum signage total may be increased by 25% for each of the following circumstances, if applicable:
  - a. The distance of the building from the road exceeds 100 feet;
  - b. The lot frontage of the business premise exceeds 200 feet;
  - c. The speed limit of the adjacent roadway is 40 M.P.H. or greater.
- 3. Types of signs permitted are attached or ground identification and advertisement signs.
- 4. Minimum setback. All signs (unless otherwise stated) shall be set back at least five (5) feet from the property line and shall be clear of the State or Town right-of-way.
- 5. Maximum height of ground signs shall not exceed twenty-five (25) feet.

6. Roof signs shall not extend further than five (5) feet above the roofline of the building to which they are attached, and are not to exceed twenty-five (25) feet from ground level.
7. No sign shall obstruct traffic, obscure vision and/or create a public safety hazard.
8. Signs on multi-unit lots. Notwithstanding the standards of 1-3 above, the following standards shall apply to signs on multi-unit lots:
  - a. Individual business shall not be allowed to apply for a sign permit unless they can show that their sign proposal is part of an overall sign plan for the multi-unit lot which meets the standards of this section. The purpose of the standard is to coordinate the signage on a multi-use site.
  - b. One (1) attached or ground identification sign per business not exceeding thirty-five (35) sq. ft. in sign area;
  - c. One (1) attached identification sign per each business in the complex with an allowable sign area of one (1) square foot per each linear foot of the business unit's building frontage, but in no case shall the sign exceed seventy (70) sq. ft. in sign area;
  - d. One (1) joint identification sign no greater than one hundred (100) sq. ft. sign area;
  - e. For lots abutting more than one (1) street, additional signage meeting the standards of b, c, or d above is allowed per each additional street frontage.
9. Illumination: All illuminated signs shall have lights which are shielded or hooded so that the light source is not visible off of the premises. Only white, mercury, sodium or metal halide lights shall be used for external illumination.

#### **11- 3.15 Enforcement:**

Any sign not in compliance with any provision of this Ordinance, or any sign which no longer advertises a bona fide business conducted, or agent or person having the beneficial use of the premises, is a violation of this Ordinance. The Code Enforcement Officer shall order the violation corrected within thirty (30) days. Failure to correct the violation within thirty (30) days shall be a civil violation. The Code Enforcement Officer is authorized to commence an action seeking penalties, injunctive relief, and attorney's fees to correct the violation.

#### **11- 3.16 Penalties:**

Violation of the provisions of this Ordinance or failure to comply with any of its requirements shall be penalized in accordance with 30-A M.R.S. §4452. The owner or tenant of any building, structure, premises, or part thereof and any architect, builder, contractor, agent or other person who commits, participates in, or maintains such violation may be found guilty of a separate offense and suffer the penalties herein provided.

### **11- 3.17 Appeals:**

Any person aggrieved by the action of the Code Enforcement Officer may appeal to the Board of Appeals by filing a notice of appeal within thirty (30) days after receipt of the Code Enforcement Officer's notification. Administrative appeals and dimensional variance applications submitted under this Ordinance shall be subject to the standards and procedures established by the Town of Farmington Board of Appeals Ordinance.

### **11- 3.18 Amendments:**

**A. Initiation of Amendments:** An amendment to this Ordinance may be initiated by:

1. The Board of Selectmen, provided a majority of the Board of Selectmen has so voted;
2. Written petition of a number of voters equal to at least 10% of the number of votes cast in the municipality at the last gubernatorial elections.

**B. Public Hearing:** The Board of Selectmen shall hold a public hearing on the proposed amendment. Notification 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.

**C. Adoption of Amendment:** An amendment of this Ordinance shall be adopted by a majority vote of a Town Meeting.



# TOWN OF FARMINGTON

## Site Review Ordinance

ENACTED: August 2, 1995

AMENDED: March 11, 2002  
November 22, 2016

CERTIFIED BY: Leanne E. Pinkham  
Town Clerk

**Town of Farmington  
Chapter 11 – Land Use  
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# **Town of Farmington Site Review Ordinance**

## **11-5.1. Title**

This Ordinance, which repeals and replaces the Site Review Ordinance adopted on August 2, 1995, shall be known and cited as the Town of Farmington Site Review Ordinance and will be referred to as “this Ordinance”. This Ordinance establishes a process for review and approval of uses of land or structures, and construction, alteration or expansion of structures; prescribes application and approval criteria; implements the Town of Farmington Zoning Ordinance; and provides for additional performance standards.

## **11-5.2. Authority, Administration and Applicability**

**WHEREAS**, the residents of the Town, desiring to preserve, maintain and promote the viability, sustainability and quality of life which are characteristic of the Town, adopted a Site Review Ordinance and subsequently wrote and adopted the Comprehensive Plan as a guide to the growth and development of the Town; and

**WHEREAS**, the residents of the Town, recognizing that the particular use of land or structures in a particular location may impact on community and/or individual goals, adopted the Zoning Ordinance, thereby implementing one of the strategies set forth in the Comprehensive Plan and directed the Planning Board to administer the Ordinance; and

**WHEREAS**, there is a recognized need to balance implementation of the Zoning Ordinance, the rights of landowners and their abutters, and the protection of that which is held in common by all residents; and

**NOW THEREFORE**, this Ordinance is adopted pursuant to the enabling provisions of Article VIII, part 2 section 1, of the Maine Constitution; the provisions of Title 30-A, MRSA §3001 (Municipal Home Rule Authority) and the provisions of Title 30-A MRSA §4312 et. seq. (Planning and Land Use Regulation Act).

The Planning Board of the Town of Farmington, herein referred to as “the Board”, shall administer this Ordinance.

This Ordinance shall apply to all proposals regarding the use of land and/or structures, alteration of land, and all construction of structures including erection, relocation, alteration or expansion of such within the Town of Farmington.

Persons or entities wishing to change the use of land or structures as defined above, must first obtain approval from the Code Enforcement Officer, herein after referred to as the “CEO”, or the Board and shall be subject to the provisions of this Ordinance and other applicable ordinances. This approval must be received before any building construction activity, or site preparation may commence.

### **11-5.3. Purposes**

The purposes of this Ordinance are to:

- A. Provide local review of projects, which may or may not be governed by State law or regulation, that potentially impact the community or residents of the community and to assure consistency with the goals and policies of the Comprehensive Plan;
- B. Protect public health and safety, and promote the general welfare and quality of life of the Town;
- C. Maintain and protect the rural, agricultural character of the Town by fitting projects harmoniously into the fabric of the community;
- D. Conserve the natural resources of the Town and protect the environment and those resources held in common by the public from exploitation, abuse and degradation;
- E. Protect historical, archeological, and recreational resources of the Town;
- F. Balance the rights of landowners and/or tenants with the corresponding rights of abutting and neighboring landowners and/or tenants and minimize adverse impacts on adjacent property; and
- G. Identify potential problems created by a particular project and seek alternatives that minimize the impact on municipal services.

### **11-5.4. Conflict with Other Ordinances**

Whenever a provision of this Ordinance conflicts with or is inconsistent with other provisions of this Ordinance, or of any other ordinance, regulation or standard, the more restrictive provision shall apply.

### **11-5.5 Effective Date**

The effective date of this Ordinance shall be August 2, 1995. *(To be updated after amendments are approved at Town Meeting.)*

### **11-5.6. Validity and Severability**

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

### **11-5.7. Definitions**

In general, words and terms used in these regulations shall have their customary dictionary meanings. More specifically, certain words and terms used herein are defined below. Additional definitions maybe found in the Zoning Ordinance or in the various referenced Town Ordinances. Definitions from all Town Ordinances are collated in the Town of Farmington Lexicon for ease of reference.

**Abutter.** Abutter shall mean the owner(s) of record of property sharing a common boundary with a given piece of property, whether or not these properties are separated by a public or private street or right-of-way.

**Agent.** Agent shall mean a person empowered to act for another.

**Applicant.** Applicant shall mean the person seeking approval to change the use of land and/or structures, alter land, or construct structures including erection, relocation, alteration or expansion of such.

**Aquifer.** Aquifer shall mean a geological formation composed of rock, sand, gravel or any other permeable bedrock or surficial geological formation that stores and transmits significant quantities of recoverable water.

**Campground.** Campground shall mean a plot of ground upon which two or more campsites are located, established, or maintained for occupancy by camping units of the general public for recreational use as transient living quarters.

**Commercial.** Commercial shall mean any connection with the buying or selling of goods or services on or away from the premises including the provision of facilities for a fee.

**Hazardous Materials.** Hazardous Materials shall mean any waste as designated by the Maine Board of Environmental Protection in Chapter 850 of their Rules under the authority of 38 MRSA, Section 1301, et. seq.

**Historic or Archaeological Resources.** Historic or Archaeological Resources shall mean 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 Comprehensive Plan.

**Home Occupation.** Home Occupation shall mean an occupation or profession which is customarily carried on in a dwelling unit or structure accessory to a dwelling unit which is incidental to residential use and employs no more than one full-time equivalent outside employee. The home occupation must be carried on by the owner of the home, who is living in the dwelling.

**Major Projects.** Major Projects shall mean the construction of any new structures or structure expansion or building addition having a total floor area of ten thousand (10,000) square feet or more; and/or the construction of any surface parking area(s) for more than ten thousand (10,000) square feet; and/or a change in the use of a total floor area of ten thousand (10,000) square feet.

**Owner of Record.** Owner of Record shall mean the party, individual, entity, corporation, trust or business which is currently listed at the Franklin County Registry of Deeds as the owner of a subject parcel, lot or property.

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

**Public Street.** Public Street shall mean a street or road maintained by the Town of Farmington or the State of Maine.

**Vicinity.** Vicinity shall mean an area which encompasses the property and people who live in close proximity to one another and share a common landscape with its inherent sounds, noises, fumes, odors and other characteristics of a neighborhood.

**Wetlands.** As defined by Title 38, MRSA, Section 480 B.4

## **11-5.8 Levels of Review and Review Procedures**

### **A. General Provisions**

1. All changes of the use of land (as defined in the Zoning Ordinance Table of Uses) and/or structure(s), alteration of land, and all construction of structures including the erection, relocation, alteration or expansion of such within the Town shall be reported to the Code Enforcement Office before they are commenced.
2. All proposals must comply with all applicable standards of this Ordinance, the Zoning Ordinance and other applicable land use ordinances.
3. The Zoning Ordinance Table of Uses establishes the appropriateness of specific land uses in six defined zones. This Ordinance establishes the process and standards by which review is conducted. As such, proposed uses in certain categories under the Table of Uses may only require reporting to the CEO. Proposed uses in certain categories may be reviewed and approved by the CEO if properly documented to prove minimal or no impact on abutting properties or resources. All other proposed uses must be reviewed and approved by the Board.
4. Certain proposed uses, because of the nature of the activities associated with the use, may have more than one applicable use category in the Table of Uses. In such cases the more restrictive category shall apply.
5. Proposed commercial or industrial uses not specifically listed in the Zoning Ordinance Table of Uses or that would not be generally recognized by the CEO as a subset of an existing category shall be referred to the Zoning Board for interpretation, clarification and decision of where the proposed use fits in the Table of Uses.

## 6. Overlay Districts and Subdivisions

- a. Proposals within certain overlay districts and proposals for subdivisions must first be reviewed and approved subject to application requirements and performance standards set forth in the applicable ordinance or regulations.
  - 1) Shoreland Zoning Ordinance (11-1)
  - 2) Floodplain Management Ordinance (11-2)
  - 3) Wellhead Protection Ordinance (11-7)
  - 4) Subdivision Regulations
- b. In addition the proposal may require review and approval subject to application requirements and performance standards contained in this Ordinance, the Zoning Ordinance and/or other applicable land use ordinances, when determined to be applicable by the CEO or Board.

### B. Levels of Review

#### 1. Uses Not Requiring Approval

- a. The following uses, when listed as (Y) "Yes, permitted, subject to land use standards" in the Zoning Ordinance Table of Uses do not require CEO or Board approval.

- 1) Construction of detached single-family and two-family dwellings and accessory structures.
- 2) The normal and customary practices of agriculture and agricultural management activities. These practices shall be conducted, where applicable, according to and described in the State of Maine Strategy for Managing Nonpoint Source Pollution from Agricultural Sources and Best Management System Guidelines published by the Nonpoint Source Agricultural Task Force and dated October 9, 1991 and as amended thereafter.

Construction of accessory structures or expansion of existing structures used for normal and customary agricultural practices not exceeding five thousand (5000) sq. ft. in new construction or not exceeding twenty five percent (25%) expansion of any existing building in area.

- 3) The normal and customary practices of forestry activities. These activities shall be conducted, where applicable, according to and described in the Erosion and Sediment Control Handbook for Maine Timber Harvesting Operations dated February 1991 and issued by the Maine Forest Service and as amended thereafter.

- 4) The relocation of an existing retail or service business within the Town of Farmington which is in compliance with all local and State laws and regulations providing that the relocation meets the following criteria:
    - a) The relocated business will be located within existing structures, currently used for retail or service business and there will be no new buildings, demolitions, or building additions; and
    - b) The relocated business will not require any new curb cuts, driveways, or parking areas; and
    - c) The relocated business will not require any additional Town services.
  - 5) Home Occupations that meet the following criteria:
    - a) The primary activity associated with the Home Occupation is listed as (Y) "Yes, permitted, subject to land use standards" in the Zoning Ordinance Table of Uses;
    - b) The home occupation meets all of the performance standards contained in 11-8.11.B of the Zoning Ordinance; and
    - c) The proposal does not seek to expand the dwelling or accessory structure, or seek to construct a new structure to accommodate the home occupation.
  - 6) Telecommunication facilities exempted in 11-11.9 of the Wireless Telecommunication Facility Siting Ordinance.
  - 7) Earthmoving activities exempted in 11-9.10 of the Soil Erosion & Stormwater Runoff Management Ordinance.
  - 8) Extraction activities exempted in 11-8.11C. Extractive Industry performance standard in the Zoning Ordinance.
- b. Although the uses listed above (11-5.8.B1a.) do not require CEO or Board approval they remain subject to and must comply with applicable standards of Town land use ordinances. The CEO shall make available information necessary to comply with applicable standards.
  - c. When the use does not require CEO or Board approval, the applicant must complete a Registration Form with the Code Enforcement Office stating the name, address and phone number of owner; name, address and phone number of property owner (if different); and, if a business, the name, location and nature of the business.



## 2. CEO Review and Approval

Uses listed as (Y) “Yes, permitted subject to land use standards” in the Table of Uses means that the generic use category is acceptable in the zoning district, however a specific proposal for change to a permitted use or expansion of a current use, must be reviewed and approved by the CEO. Before approving such proposal, the CEO must find that the specific proposal conforms to the standards and criteria of this and other applicable ordinances and meets the following criteria:

- a. The use will not require alteration of existing land or the natural environment beyond the parameter of the CEO’s authority under the Town’s Shoreland Zoning, Floodplain and Soil Erosion Control/Storm Water Management Ordinances;
- b. The use will not require the addition of new structures or expansion of an existing structure which seeks to expand by more than one thousand (1000) sq. ft. or twenty-five percent (25%) in area (which ever is lesser) in any ten (10) year period, regarding (but not limited to) floor space, parking area, seating capacity, outdoor storage area or other facilities;
- c. The use will not create health, safety or municipal resource problems;
- d. The use will not have adverse impacts on the subject property or abutting properties;

A proposal not meeting the criteria stated above and/or a proposal the CEO feels he/she cannot approve will, at the request of the applicant, be processed for review by the Board.

The Board and abutting landowners will be notified of all CEO determinations.

## 3. Board Review and Approval

- a. Proposals for use not meeting the criteria set forth in 11-5.8.B.2. above, proposals the CEO feels he/she cannot approve, proposals subject to review under 11-5.8.B.2. that a member of the Board requests Board consideration and/or an abutter has requested review.
- b. Uses listed as (Y\*) “permitted subject to land use standards and Planning Board approval” means that the generic use category is acceptable in the zoning districts, however a specific proposal in a particular location must be developed in accordance with a detailed plan reviewed and approved by the Board. Before approving such uses the Board must find that the specific proposal in the particular location conforms to the standards and criteria of this and other applicable ordinances.

c. Uses listed as (\*) “permitted on a site specific basis, subject to land use standards and Planning Board approval” in the Table of Uses means that the generic use category is not generally acceptable in the zoning district, but that a specific proposal in a particular location developed in accordance with a detailed plan reviewed and approved by the Board may be allowed. In addition to providing all the submissions required for site review, an applicant for such a use must submit a detailed statement describing the probable impacts of the use with reference to the criteria listed below. The applicant must demonstrate to the Board that the specific proposal in the particular location conforms to the standards and criteria of this and other applicable ordinances and meets the following criteria:

- 1) The use will be developed, implemented and operated in a way which is consistent with the Comprehensive Plan and with the stated purpose of the zoning district in which the use is to be located;
- 2) The use will be developed, implemented and operated in a way which will not have adverse impacts on the subject property and on nearby properties which are greater in degree or different in kind from the impacts of permitted uses existing in the vicinity of the proposed use;
- 3) The use will be developed, implemented and operated in a way which will not alter the essential character of the area in which it is located;
- 4) The use will be developed, implemented and operated in a way which will not substantially reduce the value of or impair the reasonable use of adjoining properties;
- 5) Sounds, noises, odors, fumes, vibrations, smoke, dust and discharges to the air which will be generated by the proposed use shall not be greater in degree, either in number of occurrences or magnitude (levels) or concentration, or different in kind than those generated by permitted uses existing in the vicinity of the proposed use. If detectable at or beyond the boundary of the property, the use will be developed, implemented and/or operated in such a way that the change in ambient conditions, existing at the time, will not adversely impact residents in the vicinity of the proposed use;
- 6) The hours of operation of the proposed use will be compatible with those of permitted uses existing in the vicinity of the proposed use;
- 7) The use will be developed, implemented and operated in a way which will not create public health, safety or municipal resource problems greater in degree or different in kind from those connected with permitted uses existing in the vicinity of the proposed use;
- 8) The proposed use will not create erosion and sedimentation problems,

water quality problems or problems associated with floodplain development; and

- 9) The proposed use will not have unreasonable adverse impacts on natural resources and archaeological or historic resources.

#### 4. Additional Review Considerations

##### a. Notice to Abutters

###### 1) CEO Review

Abutting property owners shall be notified by certified mail, by the Town, of an application which the CEO determines is ready for approval by the CEO. Abutters will have a fifteen (15) day period (from date of CEO's determination) to request consideration by the Board. The cost of notification shall be borne by the applicant.

###### 2) Board Review

Abutting property owners shall be notified by certified mail, by the Town, at least fifteen (15) days prior to initial Board consideration, of a pending application for Site Review. This notice shall indicate the time, date and place of Board consideration of the application. The cost of notification shall be borne by the applicant.

##### a. Onsite Visit

All applications shall have an onsite visit by the CEO. An additional site visit(s) may be scheduled by the Board.

##### b. Public Hearing

If the Board decides to hold a public hearing, it shall publish notice of the day, time and place of the hearing in a newspaper of general circulation in the municipality at least twice, the date of the first publication to be at least fifteen (15) days prior to the hearing. The cost of advertising shall be borne by the applicant.

Notice of the public hearing shall be sent through regular mail to all abutters of the proposed development fifteen (15) days prior to the hearing by the Town of Farmington.

##### c. Professional Review

###### 1) Professional Services

The Board may require that a fully qualified consultant(s) review one or more submissions of an application and report as to compliance or

noncompliance with this Ordinance and recommend, if possible, procedures which will result in compliance. The consultant(s) shall be determined by the Board to be competent in a field germane to the issue under consideration and shall be mutually acceptable to the Board and the applicant. The consultant shall estimate the cost of such review and the applicant shall deposit with the Town the full estimated cost which the Town shall place in an escrow account. The Town shall pay the consultant from the escrow account and reimburse the applicant if funds remain after payments are completed. If escrowed funds are insufficient, the applicant shall deposit additional funds with the Town, based on the consultant's estimate, sufficient for completion (if said completion is still desired).

## 2) Additional Studies

The Board may require the applicant to undertake any study which the Board deems necessary to insure that the requirements of the Ordinance are met. The costs of all such studies shall be borne by the applicant.

### d. Departmental Notification and Review

The application shall be forwarded to applicable department heads for their comments and recommendations. All comments and recommendations shall be received within fifteen (15) days unless an extension is requested by the department head.

## **C. Review Procedures**

1. The CEO shall review all proposals to determine if CEO or Board approval is required and within seven (7) days make his/her determination and notify the applicant.
2. Where CEO or Board approval is required, the CEO shall provide the applicant with all necessary application forms, advise the applicant of review criteria and performance standards contained in any applicable Town land use ordinances and inform the applicant of any other submissions he/she feels necessary to deem the application complete for initial review.
3. Where CEO approval is required, a second meeting will be scheduled for final review of the completed application and required submissions. Within seven (7) days the CEO shall notify the Board and the applicant of his determination.

An application which the CEO determines is ready for approval by the CEO will be considered finally approved after a fifteen (15) day period (from the date of the CEO's determination) unless consideration by the Board has been

requested by a Board member or an abutter.

If such consideration has been requested the Board shall, at its next meeting, determine if further Board review and approval is required.

4. Where Board approval is required, the CEO shall review the application and required submissions to determine if all requested information has been provided and required fees, reimbursements, and deposits have been received. Upon completion of this review the applicant shall be placed upon the next available Board agenda for Initial Review allowing for a fifteen (15) day processing and notification period. The CEO shall forward the application to the Board along with any written comments and recommendations from applicable department heads provided that the proposal is not known to be in violation of any Town land use ordinances.

- a. Initial Review

The applicant, or his duly authorized agent, shall attend the meeting of the Board to discuss the proposal. The Board shall provide the applicant with a dated receipt of the Site Review initial application at the Board meeting where the application is first presented and heard by the Board. If the applicant or agent is not present, the Board shall table the review of the application. Review of the application shall be rescheduled at a subsequent meeting of the Board at the request of the applicant. Absence of the applicant at a second Board meeting shall result in the nullification of the application and will require resubmission of the application.

- b. Complete Application

Within fifteen (15) days of the Board's receipt of a Site Review initial application, the Board shall notify the applicant in writing that the application is complete, or what additional submissions and/or additional studies are required for a complete application. The Board shall determine whether to hold a public hearing and/or conduct an additional onsite visit once the application is determined by the Board to be a complete application.

- c. Subsequent Review

If additional submissions, additional studies, public hearing(s), or an additional onsite visit, were required as a result of the initial review, a final review will be scheduled by the Board to consider these additional findings and to determine that the application is complete. The Board reserves the right to require professional review of any submission in which compliance or noncompliance with the standards of this ordinance or any other applicable land use ordinance exists.

#### **11-5.9. Approval, Conditions, Findings, Denial**

Within thirty (30) days of a public hearing, or within sixty (60) days of receipt of a complete application, if no hearing is held, or within another time limit as may be otherwise mutually agreed to by the Board and the applicant, the Board shall make findings of fact on the application and approve, approve with conditions, or deny the application. The Board may attach conditions to the proposal approval to ensure conformity with the standards and criteria of this Ordinance and/or other applicable ordinances. The Board shall specify, in writing, its findings of facts and reasons for any conditions or denial.

#### **11-5.10. Site Plan Revision**

The site shall be developed and maintained as depicted in the site plan and the written submission of the applicant. Modification of any approved site plan or alteration of a parcel which was the subject of site plan approval shall require approval of the revised site plan by the CEO or Board, whichever is applicable.

#### **11-5.11. Expiration and Extension of Approval and Completion Date**

##### **A. Expiration of Approval**

All Site Review approvals shall expire within one (1) year of the date of issuance unless work thereunder is commenced. Normally, if work is not completed within two (2) years from the date of issuance, a new application must be made (See C. Extension of Completion Date). The CEO shall make determinations regarding commencement and completion.

1. In determining commencement the CEO shall consider:
  - a. Surveying;
  - b. Land work (to include but not be limited to clearing, grading, erosion and storm water runoff control and access road preparation); and
  - c. Foundation work if applicable.
2. In determining completion the CEO shall consider:
  - a. Final grading;
  - b. Completion of access roads to include final surfacing, culverts, and ditches;
  - c. Permanent erosion and storm water runoff control;
  - d. External building completion; and
  - e. Finished landscaping and seeding of appropriate areas.

##### **B. Extension of Approval**

Proposal approvals may be extended for one (1) year from the date of issuance by the CEO for projects not commencing within one (1) year of initial Board approval. Written extension requests must be submitted to the CEO at least forty-five (45) days before the one (1) year expiration.

Proposal approvals which are granted a one (1) year extension from the date of issuance shall also have their completion date extended by one (1) year.

Before extending an approval the CEO must determine that extenuating circumstances beyond the control of the applicant exist. Extenuating circumstances may include but are not limited to procurement of financing, legal issues, availability of materials, availability of qualified contractors, and adverse weather conditions.

### **C. Extension of Completion Date**

The CEO may extend the completion date of a commenced proposal by one (1) year beyond the allotted two (2) years.

In determining this extension the CEO shall consider factors such as, but not limited to, financial hardship, legal difficulties, site condition problems, contract delay, disruption in supply of labor and/or materials, or personal issues (illness, injury, death in the family, etc.)

#### **11-5.12. Fees**

- A. All applications must be accompanied by the appropriate application fee that shall be set by the Board of Selectmen.
- B. All applicable fees including but not limited to postage reimbursement, advertising fees, consultant fees, will be the responsibility of the applicant and must be paid before receiving written confirmation of approval by the CEO or Board.

#### **11-5.13. Site Review Application Requirements**

##### **A. General Requirements**

1. If the applicant and the property owner of record are not one in the same, the applicant shall provide evidence of consent to the proposal by the property owner. A statement signed by the property owner, shall delegate to the applicant the right to develop and implement the proposal in accordance with a complete Site Review Application approved by the Board. This shall include any changes or conditions required by the Board.
2. If another person(s) is/are to represent the applicant in dealings with the Board that person(s) shall be designated as an agent, in writing, by the applicant.
3. All applications for Site Review shall be submitted on application forms provided by the Code Enforcement Office. The required fees, ten (10) sets of the application form, and ten (10) sets of the required plans, maps and

supplemental information shall be submitted to the Code Enforcement Office.

4. Maps, plans or other drawings must of a scale sufficient to allow for review of the proposal under the performance standards of this Ordinance and other applicable ordinances. In no case shall the scale be more than one hundred (100) feet to the inch for that portion of the tract of land being proposed for the project.

## **B. Submission Requirements for a Complete Site Review Application**

A complete site review application shall contain the following:

1. A fully executed and signed Town of Farmington Site Review Application form;
2. A signed Site Review Check List of required submissions;
3. Property owner's statement if owner and applicant are not one in the same;
4. Statement designating agents(s) if applicable;
5. Letter(s) of Review from applicable Town departments;
6. Copy of deed;
7. Evidence of payment of application fee;
8. A site plan if applicable (See 11-5.13.C1);
9. A detailed narrative appropriate to the project describing the proposed development activity;
10. Building plans showing, as a minimum, the first floor footprint and all elevations;
11. Required supplemental information or additional studies; and
12. Copies of all applicable local, State and federal approvals and permits, provided, however, that the Board may approve site plans subject to the issuance of special local, State and federal licenses and permits in cases where it determines that it is not feasible for the applicant to obtain them at the time of site review.

## **C. Site Plan Requirements**

1. A basic Site Plan shall, for new construction and/or land alteration (not for change of use within an already permitted structure) be sufficient to allow



review of the following items:

- a. Dimensions of all lot lines (including street frontage) and total square footage of the lot;
  - b. The location of all required setbacks;
  - c. The location, dimensions and first floor area (sq.ft.) and height of all existing and proposed buildings;
  - d. Location and width of proposed streets, curbs, driveways, sidewalks, bike paths, if any;
  - e. Location of existing and/or proposed fences, retaining walls, parking spaces, loading areas, open spaces, stands of trees, open drainage courses, service areas and easements (rights-of-way, drainage, utility and grading, etc);
  - f. Location of wells and septic systems on site (planned or existing);
  - g. Plan scale and orientation to North; and
  - h. Location, dimensions, and character of all existing and/or proposed signs and exterior lighting.
2. Major projects or any projects involving significant grading or the construction of roadways, utilities, stormwater drainage facilities, or similar items shall have a site plan prepared by a professional licensed to practice site design and/or engineering in the State of Maine.
  3. When an architect, engineer, surveyor, geologist, soil scientist or other professionals licensed or certified and issued a seal by the State of Maine, prepared the plan, the preparer's seal shall be affixed to the plan.
  4. An approval block must be provided on the plan drawing for the signatures of the Planning Board and date together with the following words, "Approved: Town of Farmington Planning Board".

#### **D. Supplemental Information**

All applications shall contain at least a detailed narrative appropriate to the project describing the existing conditions of the site and proposed development activities.

Depending on the size, complexity and/or nature of the proposal, the CEO and/or the Board may require sufficient information on one or more of the following to allow for review of the proposal under the performance standards of this Ordinance and other applicable ordinances.

Supplemental information may be in the form of a detailed narrative, reports, studies, surveys, charts, maps, plans or other drawings.

## 1. Existing Conditions

To allow for a thorough understanding of existing conditions on the proposed site, information on one or more of the following may be required:

- a. Location of zoning district boundaries of the property if located in two or more zoning districts and/or overlay districts;
- b. Boundaries of all contiguous property under the control of the owner or applicant regardless of whether all or part is being developed at this time;
- c. The bearings and distances of all property lines and the source of this information. A formal boundary survey may not be required when sufficient information is available to establish all property boundaries on the ground;
- d. The location of existing buildings within fifty (50) feet of the parcel to be developed and the location of intersection roads or driveways within two-hundred (200) feet of the parcel;
- e. All existing contours and proposed grade elevations of the entire site. Contour intervals shall be twenty (20) feet or as specified by the Board;
- f. Locations and size of any existing sewer and water mains, culverts and drains on the property to be developed and of any that will serve the development from abutting streets or land;
- g. Location, names and present widths of existing streets and rights-of-way within or adjacent to the proposed development; and
- h. Location, dimensions and ground floor elevations of all existing buildings on the site.

## 2. Proposed Development Activities

To allow for a thorough review of the proposal, information on one or more of the following maybe required:

- a. Location, dimensions and materials to be used in the construction of proposed driveways, parking and loading areas and walkways;
- b. A utility plan showing provisions for water supply and wastewater disposal including the size and location of all piping, holding tanks, leach fields, etc;
- c. Location and nature of electrical, telephone and any other utility services to

be installed on the site;

- d. A landscaping schedule keyed to the site plan and indicating the varieties and sizes of trees, shrubs, and other vegetation to be planted on the site;
- e. Locations of all existing and/or proposed easements (rights-of-way, drainage, utility, grading, etc.) and other legal restrictions that may affect the premises;
- f. An on-site soils investigation report by a Maine Department of Human Services licensed Site Evaluator for sites not served by Town sewer. The report shall identify the types of soil, location of test pits, and proposed location and design for the subsurface disposal system; and
- g. An Access Management Plan containing, as a minimum, the information listed below:
  - 1) Site description - A description of the site, including, as applicable, the locations of driveways and streets located on any property immediately adjacent to the site and across the street or road in the immediate vicinity of the project driveway(s);
  - 2) Overall use of the parcel - A description of the existing and proposed uses of the site;
  - 3) Traffic distribution - A description and diagram of the anticipated distribution of traffic entering and exiting the site;
  - 4) Vehicular circulation system within the parcel - A description and diagram of the anticipated distribution of traffic within the lot and the parking;
  - 5) Trip distribution description and diagram - A description and diagram of the anticipated distribution of traffic entering and exiting the site, to include the relationship of all driveways and intersecting roads exiting onto the roadway in terms of angle and grade;
  - 6) Driveway volume - Accompanying the Access Management Plan shall be a letter that shall certify the number of peak hour vehicle trips that the proposed land use will generate (according to the Trip Generation Manual, 6<sup>th</sup> Edition, published by the Institute of Transportation Engineers or any subsequent adopted revision);
  - 7) Minimum sight distance for all exiting driveways in both directions – Measurement shall be from the driver's seat of a vehicle that is ten (10) feet behind the curb (or edge of shoulder) line with the height of eye three and one-half (3½) feet above the pavement and the height of object four and one-quarter (4¼) feet; and

- 8) Driveway spacing - Spacing between the development's driveway and driveways on contiguous lots.

### 3. Impacts of the Proposed Development Activities

To allow for a thorough review of the potential impacts of the proposal on adjacent properties, the community or the environment, information on one or more of the following may be required:

- a. Assessment of all machinery, processes and activities likely to generate air pollution, fumes/odors, sound or noise, to include type, size, location and potential impacts beyond the lot lines;
- b. The provision for handling all solid wastes, including hazardous and special wastes and the location and proposed screening of any on-site collection or storage facilities; and
- c. Traffic Impact Study
  - 1) If the project meets a) or b) below, the developer shall provide a full traffic impact study at his/her own expense:
    - a) Volume: During any one (1) hour period, traffic (inbound or outbound) attributable to the development equals or exceeds one hundred (100) passenger car equivalents per hour at the project driveway(s).
    - b) Safety or capacity deficiencies: The Planning Board determines that a traffic impact study must be conducted because of traffic safety or capacity deficiencies in the vicinity of the development.
  - 2) In general, the Traffic Impact Study shall include a description of the traffic movement to be generated by the development, including types and peak hour, average daily vehicle trips, travel routes, and duration of traffic movement both during and following construction. The study shall contain, as a minimum, the information listed below:
    - a) Site description - A description of the site, including, as applicable, the locations of driveways and streets located on any property immediately adjacent to the site and across the street or road in the immediate vicinity of the project driveway(s);
    - b) Use description (site) - A description of the existing and proposed uses of the site;
    - c) Regional map - A regional map showing the site, and roads in the vicinity of the development, and other proposed projects in the vicinity

of the development;

- d) Description of traffic increases - A description of any traffic increases that are likely to occur in the vicinity of the development during the study period. The Developer shall include, as applicable, projects that are: under construction and not fully occupied; are pending State or local approval; or have State or local approval, but are not constructed or fully occupied;
- e) Trip generation calculation and summary table - The study shall include a calculation of the trip generation for the development and other likely traffic increases, including a summary table listing each type of land use, the size involved, the average trip generation used, and the resultant total trips generated;
- f) Trip distribution description and diagram - The study shall include a description and diagram of the anticipated distribution of traffic entering and exiting the site; and
- g) Definition of the study area - The study shall include a definition of the study area, including all links and intersections using the following threshold criteria:
  - i) The study area shall include the first major intersection to either side of the project driveway(s);
  - ii) The study area shall be expanded beyond the first major intersection(s) to either side of the project driveway to include those links and intersections for which, during any one (1)-hour peak period, traffic attributable to the development equals or exceeds the following at any intersection in the vicinity of the development:
    - Twenty-five (25) vehicles in a left-turn only lane;
    - Thirty-five (35) vehicles in a through lane, right-turn lane, or a combined through and right-turn lane; or
    - Thirty-five (35) vehicles (multiplying the left-turn lane volume by 1.5) in a combined left-turn, through and right-turn lane;
  - iii) Capacity analysis of signalized intersections located outside of the study area may be required, if these signals are, or should be, interconnected with an intersection located within the study area. The study area may need to be extended, if signal progression on a signal interconnect system is changed.

- h) Use description and diagram (roads) - The study shall include a description and diagram of an anticipated utilization of roads and intersections in the vicinity of the development.
- i) Diagram/documentation of traffic volume - The study shall include a diagram and appropriate documentation of the traffic volume on roads and intersections in the vicinity of the development for both the estimated annual average daily traffic and the AM/PM peak hour traffic (including turns during the peak hour). The study shall show the following on the traffic diagrams:
  - i) Existing traffic volume based on actual counts;
  - ii) Traffic attributable to other projects that are proposed or approved;
  - iii) Traffic attributable to the development assuming full build-out and full occupancy;
  - iv) Projected traffic volume for the design hour at the time the development will begin operation, assuming full build-out and full occupancy of the development; and
  - v) Left-turn lane/right-turn lane warrant analysis.
- j) Capacity analysis - The study shall include a capacity analysis for determination of the level of service for each road and intersection in the vicinity of the development. Capacity analyses must be performed for all intersections that are currently operated or will be operated as part of a signal interconnect system. The analysis shall report whether or not length of storage for through or turning lanes is adequate.
- k) Traffic signal analysis - The study shall include an analysis of the need for new traffic signals in the vicinity of the development. The "Manual of Uniform Traffic Control Devices" shall be used as the basis to analyze the need for construction or elimination of traffic signals, as appropriate.
- l) Sight distance determination - The study shall include a determination of the available sight distance in all directions at each intersection in the vicinity of the development.
- m) Inventory and analysis of accidents - The study shall include an inventory and analysis of traffic accidents in the vicinity of the development during the most recent three (3) year period. A

collision diagram shall be provided for all links and intersections found to meet MDOT criteria for “High Accident Locations.”

- n) Description of improvements - The study shall include a description of recommendations for improvements to deficient roads or intersections, and the results of implementation of the recommendations.
- d. Assessment of stormwater runoff and potential effect on ground water and contiguous soils.
- e. Assessment of proposed exterior lighting and its impact on adjacent properties.

#### **E. Performance Guarantee**

The Board may require the posting of an improvement guarantee in such amount as is reasonably necessary to ensure the proper installation and maintenance of all offsite improvements, and onsite improvements with offsite impacts, required as a condition of approval. The nature and duration of the guarantee shall be structured to achieve this goal without adding unnecessary costs to the applicant.

In the event that a development is abandoned, the performance guarantee may be utilized to stabilize, secure, and/or restore the site as may be necessary, including, but not limited to, re-vegetation of areas, grading and fencing.

#### **11-5.14. Performance Standards**

The following criteria and standards shall be utilized by the Board in reviewing applications for Site Plan Review approval.

##### **A. Landscaping**

The landscape shall be preserved in its natural state and enhanced insofar as practicable by minimizing tree removal, disturbance of soil, and retaining existing vegetation during construction, and/or placing new plantings as specified in Landscaping Standards of the Town of Farmington’s Zoning Ordinance (11-8.11 E).

Environmentally sensitive areas such as wetlands, steep slopes, floodplains and unique natural features, and natural drainage areas will be maintained and preserved to the maximum extent as delineated in the Town of Farmington’s Floodplain Management Ordinance and by State and federal law.

##### **B. Historic and Archaeological Resources**

If any portion of the site has been identified or is found to contain historic or

archaeological resources, the Maine Historic Preservation Commission must be notified and requested to make an evaluation of the site and include subsequent measures for protecting these resources.

### **C. Relation to Proposed Buildings to Existing Environment**

Proposed structures shall be related harmoniously to existing buildings which represent the historic character of the community and that have a visual relationship to the proposed structures, so as to have a minimally adverse affect on the aesthetic qualities of the developed and neighboring areas.

### **D. Vehicular Access and Parking**

The proposed development shall provide safe access to and from public and private roads. Safe access shall be assured by providing an adequate number and location of access points, with respect to sight-distances, intersections, schools and other traffic generators.

### **E. Off-Street Parking**

A use shall not be extended and no structure shall be constructed or enlarged unless sufficient off-street automobile parking space is provided. The location of parking to the side or rear of buildings is encouraged. (See the Town of Farmington's Zoning Ordinance 11-8.11.D.)

### **F. Soil Erosion Control & Storm Water Management**

Adequate provisions shall be made to minimize soil erosion and to allow for storm water runoff so that the removal of surface waters will not adversely affect neighboring properties, downstream conditions, or the public storm drainage. All activities must be in compliance with the Town of Farmington Soil Erosion Control & Storm Water Runoff Management Ordinance.

In addition, all erosion and sedimentation controls shall be completed in conformance with the Best Management Practices (BMP'S) as described in:

The Maine Forest Service - Erosion and Sediment Control Handbook for Maine Timber Harvesting Operations Best Management Practices. Maine Forest Services. June, 1991 and as amended thereafter;

State of Maine Strategy for Managing Nonpoint Source Pollution from Agricultural Sources and Best Management System Guidelines. NPS Agricultural Task Force. October, 1991 and as amended thereafter; and

Maine Erosion and Sediment Control Handbook for Construction Best Management Practices. Cumberland County SWCD/Maine Department of Environmental Protection, March 1991 and as amended thereafter.



## **G. Site Conditions**

1. Within thirty (30) days of completion of building, developed areas shall be cleared of all stumps, litter, rubbish, brush, weeds, dead and dying trees, roots and debris and excess or scrap building materials shall be removed.
2. Final sitework must be completed within two (2) years from the date of issuance (see 11-5.10 A).
3. No significant change shall be made in the elevation or contour of any lot or site by the removal of earth to another lot or site other than as shown on the approved Site Review Plan.

## **H. Advertising Features**

The size, location, design, lighting and materials of all exterior signs and outdoor advertising structures or features shall not detract from the design of proposed buildings and structures and the surrounding properties, and must be in compliance with the Town of Farmington Sign Ordinance.

## **I. Hours of Operation**

The hours of operation of the proposed development will not have an unreasonable adverse effect on prevailing conditions in the vicinity due to noise during otherwise quiet hours of the day, excessive lighting during the nighttime hours, conditions conducive to loitering, disorderly conduct or public safety problems, or other conditions in the nature of a nuisance. If the prevailing character in the vicinity of the development is rural or residential, operation during certain nighttime, weekend and holiday hours shall be presumed to have an adverse impact, but may be allowed by the Planning Board if the applicant demonstrates that the proposed development can be operated in ways which will not create adverse impacts during those hours. These certain nighttime, weekend and holiday hours shall be determined on a site specific basis by the Planning Board.

## **J. Special Features**

Exposed storage areas, exposed machinery installations, service areas, truck loading areas, utility buildings and structures, and similar accessory areas and structures, shall be subject to such setbacks, screen plantings, or other screening methods deemed reasonable, practicable and required by the Planning Board (see 11-8.9 E. and 11-8.11 E. of the Town of Farmington Zoning Ordinance).

## **K. Exterior Lighting**

All exterior lighting shall be designed to encourage energy efficiency, to ensure safe movement of people and vehicles, and to minimize adverse impact on

neighboring properties and public ways. Lighting shall be arranged to minimize glare and reflection on adjacent properties and the traveling public (see 11-8.11F. of the Town of Farmington Zoning Ordinance).

#### **L. Emergency Vehicle Access**

Provisions shall be made for providing and maintaining convenient and safe emergency vehicle access to all buildings and structures. Fire lanes shall be not less than twenty (20) feet of unobstructed width, able to withstand live loads of fire apparatus and have a minimum of 13 ft. 6 in. of vertical clearance. An approved turnaround for fire apparatus shall be provided where an access road is a dead end and is in excess of one hundred fifty (150) feet in length; the turnaround shall have a minimum centerline radius of fifty (50) feet.

#### **M. Public Services**

The development will not have an unreasonable adverse impact on the public services including municipal road systems, fire department, police department, sewer department, and other municipal services and facilities.

#### **N. Ground Water**

The proposed development shall not result in a reduction of the quality or a substantial reduction in the quantity of ground water. In making this determination, the Board shall consider the location of aquifers and aquifer recharge areas and the nature of the proposed development and its potential threat to ground water resources. The Board may place conditions upon an application to minimize potential impacts to the Town's ground water resources.

1. The use will not decrease the quantity of ground water available on nearby properties below that needed to support existing uses, potential expansions of existing uses or allowable uses. Projects anticipating the use of more than the State average yield of five (5) gallons per minute (7,200 gallons per day) from bedrock wells and the State average minimum high yield of ten (10) gallons per minute (14,400 gallons per day) from wells in sand and gravel aquifers will require evaluation by a State licensed hydrogeologist.
2. The use will not increase the contaminant concentration in the ground water to more than eighty percent (80%) of the State and federal Primary and Secondary Drinking Water Standards.
3. For above ground fuel storage, and chemicals or industrial wastes and potentially harmful raw materials, an impermeable diked area shall be provided. The diked area must be sized to contain the total volume of fuel tanks and piping; roofed to prevent accumulation of rainwater in the diked area and shall be properly vented. There shall be no drains in the facility. All concrete, whether walls or pads, shall be reinforced concrete and shall be designed by a

Professional Engineer Registered in the State of Maine when required by the Board. All such storage structures must be approved by the State Fire Marshal's Office.

4. Underground petroleum tanks shall be installed in accordance with the standards promulgated by the Maine Board of Environmental Protection.

#### **O. Air Pollution**

The applicant must demonstrate that the proposed development shall not create emission levels of dust, dirt, fly ash, vapors, or gases which could lower ambient air quality, at any point beyond the lot line of the commercial or industrial establishment creating that emission. All such activities shall also comply with applicable federal and State regulations.

#### **P. Fumes/Odors**

The applicant must demonstrate that the proposed development will not produce offensive, harmful or unhealthy fumes or odors, that are greater in degree, or different in kind than those generated by permitted uses existing in the vicinity of the proposed use. If detectable at or beyond the boundary of the property, the use will be developed, implemented and/or operated in such a way that the change in ambient conditions, existing at the time, will not adversely impact residents in the vicinity of the proposed use and/or development.

An exception to this standard will exist when the Planning Board and residents of the vicinity of the proposed development are generally in agreement that the change in the ambient environment is acceptable. Such an exception pre-supposes that there will be a recognizable change in the ambient environment.

#### **Q. Noise (unwanted sound)**

The applicant must demonstrate that the nature of sound emanations from the proposed development, regardless of sound pressure level, duration and intensity will not be inconsistent with and will not be abhorrent to the ambient sound environment (nature of sound emanations) generally experienced in the vicinity in which the development is proposed.

An exception to the performance standard for noise will exist when the Planning Board and residents of the vicinity of the proposed development are generally in agreement that the proposed change in the sound environment is acceptable. Such an exception pre-supposes that there will be a recognizable change to the ambient sound environment.

#### **R. Sound Pressure**

The proposed development must not exceed federal and State mandated maximum sound pressure levels at or beyond the boundaries of the development.

#### 1. Sound Level Measurement

Sound pressure levels shall be measured with a sound level meter with a frequency weighting network manufactured according to standards prescribed by the American National Standards Institute (ANSI) or its successor body. All measuring meters must be calibrated by a certified laboratory and certificates of calibration shall be made available to the Board upon their request.

Measurements shall be made at all abutting lot lines of the site, at a height of at least four (4) feet above the ground surface.

In measuring sound pressure levels under this sections, sounds with a continuous duration of less than sixty (60) seconds shall be measured by the maximum reading on a sound level meter set to the A weighted scale and the fast meter response (L maxfast).

Sounds with a continuous duration of sixty (60) seconds or more shall be measure on the basis of the energy average sound level over a period of sixty (60) seconds equivalent sound level (LEQ).

#### 2. Maximum Permissible Sound Pressure Levels

The maximum permissible sound pressure level at or beyond the boundaries of the development of any continuous, regular or frequent source of sound produced by an activity shall be as follows:

- a. Sixty (60) dBA between the hours of 7:00 A.M. and 10:00 P.M. as measured at or within the boundaries of any residential zone.
- b. Fifty (50) dBA between the hours of between the hours of 10:00 P.M. and 7:00 A.M. as measured at or within the boundaries of any residential zone.
- c. In addition to the sound pressure level standards established above, best practicable sound abatement techniques shall be employed to minimize noise impacts.

### **S. Sewage Disposal**

The development shall provide for suitable sewage disposal. All individual on-site systems will be designed by a licensed Site Evaluator in full compliance with the Maine Subsurface Wastewater Disposal Rules.

All installation and connection of building sewers and the discharge of waters and wastes into the public sewer system shall be done in compliance with the Town of Farmington Sewer Use Ordinance.

## **T. Waste Disposal**

The proposed development will provide for adequate disposal of solid and hazardous wastes in a timely manner. All disposal activities shall be done in compliance with the Town of Farmington Solid Waste Ordinance and all applicable State and federal laws.

1. All solid and hazardous wastes will be disposed of at a licensed disposal facility having adequate capacity to accept the project's wastes.
2. All hazardous waste will be disposed of at a licensed hazardous waste disposal facility and evidence of a contractual arrangement with the licensed facility and/or licensed hauler shall be submitted.

## **U. Setbacks**

The proposed development will provide adequate setbacks and shall be done in compliance with the Town of Farmington Zoning Ordinance (See Sections 11-8.9 E).

## **V. Screening and Buffering**

No industrial or commercial buildings or uses shall be established in, or adjacent to, a residential use, or an existing agricultural use unless a landscaped buffer strip is provided to create a visual screen between the uses. Where no natural vegetation can be maintained or due to varying site conditions, the landscaping screen may consist of fences, walls, tree plantings, hedges or combinations thereof. The buffering shall be sufficient to minimize the impacts of any kind of potential use such as; loading and unloading operations, outdoor storage areas, vehicle parking, mineral extraction, waste collection and disposal areas. Where a potential safety hazard to small children would exist, physical screening or barriers shall be used to deter entry to such premises. The buffer areas shall be maintained and vegetation replace to insure continuous year-round screening.

## **W. Connectivity**

Highway Connectivity:

The Planning Board may determine that a proposed commercial retail and/or service business project is best served by utilization of an existing abutting retail and/or service businesses' highway access driveway versus a curb-cut for the construction of a new additional highway opening to service the applicant's site. In these instances, the Board may require that an applicant submit an alternative access plan after discussing same with said abutter. It is understood that accomplishing such a joined/shared highway access road requires negotiation and agreement, and likely deeded easements and compensation for same.

The feasibility of such alternative access plans will be determined by the Board and applicant jointly, based on factors such as financial, legal, physical, and compatibility. The goal is to reduce the number of curb-cuts to increase highway safety, enabling in-fill development of properties that otherwise might not be viable.

#### **Background Connectivity:**

The Planning Board may determine that a proposed commercial retail and/or service business project is best served by utilization of a background connector to an existing abutting retail and/or service businesses in addition to a new curb-cut for the construction of a highway opening to service the applicant's site.

In these instances, the Board may require that an applicant submit a background connection plan after discussing same with said abutter. It is understood that accomplishing such a joined/shared connector requires negotiation and agreement, and likely deeded easements.

The feasibility of such background connection plans will be determined by the Board and applicant jointly, based on factors such as financial, legal, physical, and compatibility. The goal is to allow and increase access to more businesses via background connectors thereby reducing the number of vehicles having to re-enter the highway to access abutting and neighboring businesses.

### **11-5.15. Appeals**

Any person aggrieved by the final action of the CEO or Planning Board may appeal to the Board of Appeals by filing a notice of appeal within thirty (30) days after receipt of the CEO's or Planning Board's notification. The CEO determination under §11-5.8C.3 that an application is ready for approval by the CEO is not a final, appealable action until 15 (fifteen) days have passed from the date of such determination and no abutter or Planning Board member has requested Planning Board review. Administrative appeals submitted under this Ordinance shall be subject to the standards and procedures established by the Town of Farmington Board of Appeals Ordinance.

### **11-5.16. Amendments**

#### **A. Initiation of Amendments**

An amendment to this Ordinance may be initiated by:

1. The Board of Selectmen, provided a majority of the Board of Selectmen has so voted;
2. Written petition of a number of voters equal to at least ten percent (10%) of the number of votes cast in the municipality at the last gubernatorial elections;

#### **B. Public Hearing**

The Board of Selectmen shall hold a public hearing on the proposed amendment. Notification of the hearing shall be posted and advertised in a newspaper of general circulation in the municipality at least seven (7) days prior to the hearing.

## **11-5.17. Enforcement**

### **A. Violations**

1. Any violation of this Ordinance, including failure to comply with any condition, shall be deemed to be a violation of 30-A §4452. Every day a violation exists constitutes a separate violation.
2. Commencement of any project without Planning Board or CEO approval shall be considered a violation of this Ordinance. Any party committing such a violation shall immediately cease project operations, whether of a construction, renovation or business nature, upon notification by the CEO per B.1. below or upon self-discovery of the violation. In such cases, an after-the-fact (ATF) application for Site Review must be immediately filed with the CEO. The ATF application fee will be double the normal application fee and must be paid prior to Planning Board or CEO review. Payment of this ATF application fee does not preclude the Town from pursuing fines and/or penalties under 30A MRSA §4452 (per A. 1. above and D. below) or preclude the Town from negotiating and executing an administrative consent agreement to recover fines without court action (per C. below).

### **B. Code Enforcement Officer**

1. It shall be the duty of the CEO to enforce the provisions of this Ordinance. If the CEO finds that any provision of this Ordinance is being violated, he/she shall notify in writing the person responsible for such violation, indicating the nature of the violation and ordering the action necessary to correct it, including discontinuance of illegal use of land, buildings or structures, or work being done, removal of illegal buildings or structures, and abatement or mitigation of violations. A copy of such notices shall be submitted to the municipal officers and be maintained as a permanent record.
2. The CEO shall conduct on-site inspections to insure compliance with all applicable laws and conditions attached to permit approvals. The CEO shall also investigate all complaints of alleged violations of the Ordinance.
3. The CEO shall keep a complete record of all essential transactions of the CEO, 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.

### **C. Legal Actions**

When the above action does not result in the correction or abatement of the violation, the Municipal Officers, upon receiving written notification from the CEO, shall institute any and all actions and proceedings, either legal or equitable, including injunctions of violations and the impositions of penalties and/or fines in order to enforce the provisions of this Ordinance. 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.

**D. Penalties/Fines**

Any person, including but not limited to a landowner, a landowner's agent or a contractor, who orders or conducts any activity in violation of this Ordinance, or upon failure to comply with any of its requirements, shall be penalized in accordance with title 30-MRSA Section 4452. The owner or tenant of any building, structure, premises, or part thereof and any architect, builder, contractor, agent, or other person who commits, participates in, or maintains such violation may be found guilty of a separate offense and be subject to the penalties herein provided.



Town of Farmington Roller Skating, Skateboarding, and Scooter Riding Ordinance

- 16-1.1      Title and Authority. This Ordinance shall be known as the Town of Farmington Roller Skating, Skateboarding, and Scooter Riding Ordinance. This Ordinance is enacted pursuant to the Home Rule power granted in the Maine Constitution, and 30-A MRSA 3001 et. seq.
- 16-1.2      Purpose. Roller-skating, skateboarding and scooter riding are dangerous activities when conducted on streets, sidewalks, and in public areas in a reckless or hazardous manner. The purpose of this Ordinance is to protect the public health and welfare by prohibiting roller-skating, skateboarding, and scooter riding on certain streets, sidewalks, and public areas within the municipality of Farmington.
- 16-1.3      Definitions.
- a. Public Area - includes all publicly owned or leased parking lots and Meetinghouse Park.
  - b. Roller Skate – a shoe with a set of wheels attached for skating over a hard surface.
  - c. Scooter – a foot operated vehicle consisting of a narrow footboard mounted between two wheels tandem with an upright steering handle attached to the front wheel.
  - d. Sidewalk - a space adjacent to a street or highway with a built up curb or grass strip that separates the space from the street or highway, designed exclusively for use by pedestrians.
  - e. Skateboard - a single platform which is mounted on wheels, having no mechanism or other device with which to power, steer, or control the direction of movement thereof while being used, operated, or ridden.
  - f. Streets - includes all streets, highways, roads, avenues, lanes, alleyways, or other public rights-of-way used for the passage of motor vehicles. Streets shall mean the area between the curbs or, if no curbs, that portion of the public right-of-way used for the passage of motor vehicles.
- 16-1.4      Operation on Certain Streets and Sidewalks Prohibited. No person shall operate, or cause to be operated, any roller skates, skateboard, or scooter upon the following streets and sidewalks of the municipality of Farmington in the areas designated:
- Broadway from High Street to Front Street
  - Main Street from Anson Street to Academy Street

- Church Street from High Street to Main Street
- Wilton Road from the Temple Stream Bridge to the Wilton town line

16-1.5 Operation in Public Areas Prohibited. No person shall operate, or cause to be operated, any skateboard, roller skates, or scooter in any publicly owned or leased parking lot or Meetinghouse Park.

16-1.6 Operation on Sidewalks or Streets in Reckless Manner Prohibited. No person shall operate, or cause to be operated, any roller skates, skateboard, or scooter upon any sidewalks or streets of the municipality of Farmington in a reckless or hazardous fashion or in a manner creating interference with pedestrian or vehicular traffic.

16-1.7 Operation after dark. No person shall operate, or cause to be operated, any roller skates, skateboard, or scooter upon any sidewalks or streets of the municipality of Farmington between dusk and dawn unless wearing reflective clothing and/or illuminating devices.

16-1.8 Enforcement. Any constable duly authorized by the municipality or any law enforcement officer may enforce this Ordinance.

16-1.9 Penalties. Upon conviction of a violation of this Ordinance, the penalties shall be as follows:

First Offense	Written Warning
Second Offense	\$10.00 Fine
Third Offense	\$25.00 Fine
Fourth Offense	\$50.00 Fine
Fifth and Subsequent Offense	\$100.00 Fine

All fines collected under this Ordinance shall accrue to the General Fund of the Town of Farmington. The parents of any violator seventeen (17) years or younger will be subject to a court summons if fine is not paid. If not paid within thirty (30) days, the offender is subject to a court summons, with a fine of up to \$150.00.

16-2.0 Severability. In the event that a court of competent jurisdiction determines that any provision of this Ordinance is invalid, the remaining provisions shall continue in full force and effect.

16-2.1 Effective Date. This Ordinance shall become effective when adopted by the legislative body of the municipality of Farmington.

16-2.2      Amendments:

- A. Initiation of Amendments: An amendment to this Ordinance may be initiated by
  - 1. The Board of Selectmen, provided a majority of the Board of Selectmen has so voted;
  - 2. Written petition of a number of voters equal to at least 10% of the number of votes cast in the municipality at the last gubernatorial elections.
- B. Public Hearing: The Board of Selectmen shall hold a public hearing on the proposed amendment. Notification of the hearing shall be posted and advertised in a newspaper of general circulation in the municipality at least seven (7) days prior to the hearing.
- C. Adoption of Amendment: An amendment of this Ordinance shall be adopted by a majority vote of a Town Meeting.

# **TOWN OF FARMINGTON**

## **Soil Erosion control & Storm Water Runoff Management Ordinance**

ENACTED: November 18, 1999

CERTIFIED BY: Leanne E. Pinkham

Town Clerk

**Town of Farmington  
Chapter 11 – Land Use  
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**Town of Farmington**  
**Soil Erosion Control & Storm Water Management Ordinance**  
**Chapter 11**  
**Land Use**

**11 – 9.1 Title:**

This Ordinance shall be known and cited as the Town of Farmington Soil Erosion Control & Storm Water Management Ordinance and will be referred to herein as “this Ordinance” and prescribes definitions of earthmoving; provides for permitting and regulation.

**11 – 9.2 Authority and Administration:**

This Ordinance is adopted pursuant to the enabling of Article VIII, Part 2, Section 1, of the Maine Constitution and the provisions of Title 30-A MRSA Section 3001 et. seq. (Home Rule) and Section 4312 et. seq. (Planning and Land Use).

**11 – 9.3 Purpose:**

The purpose of this Ordinance is to conserve soil resources, protect water, maintain public health and safety by regulating earth-moving and other activities resulting in the exposure of soils, and to address the affects of development on both the quantity and quality of storm water runoff.

**11 – 9.4 Applicability:**

This Ordinance shall not exempt any property owner from obtaining other permits or meeting any requirements of any other Town Ordinances, State or federal laws or regulations. Where requirements or conditions of any such permits, ordinances, laws or regulations differ from the provisions of these performance standards, the stricter shall apply.

**11 – 9.5 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.

**11 – 9.6 Effective Date:**

The effective date of this Ordinance shall be the date this Ordinance is adopted by the voters at Town Meeting.

### **11 – 9.7 Validity:**

If any part of this Ordinance is found to be invalid, the remainder of these performance standards shall remain in effect.

### **11 – 9.8 Definitions:**

**Earth-Moving Activities.** Earth-moving activities means any activity in which earth is moved from one location on a site to a different location on the site, in which earth is removed from a site, or in which earth is brought onto a site, including, but not limited to, any stripping of vegetation or topsoil, or any grading, excavation, filling or storage or disposal of earth or soil.

**Permit.** Permit means a soil erosion control/storm water management permit issued pursuant to this Ordinance.

**Shoreland Zone.** All areas as defined in the Town of Farmington Shoreland Zoning Ordinance.

**Soil.** Soil means sand, silt, clay, gravel, rock, or any combination of any of the foregoing.

### **11 – 9.9 Permit Required:**

No person may engage in any earth-moving activity, as defined in this Ordinance, or perform any activity resulting in exposure of soils, without first obtaining a Soil Erosion Control/Storm Water Management Permit. This Ordinance provides for certain exemptions (see Article 9.10).

**A. Code Enforcement Officer's Authority.** The Code Enforcement Officer (CEO) shall have the authority to act on soil erosion control/storm water management permit applications for the following earth-moving activities:

1. Any earth-moving activity of ten (10) cubic yards or less within a Shoreland Zone.
2. Any earth-moving activity of greater than twenty-five (25) cubic yards but not exceeding fifty (50) cubic yards outside a Shoreland Zone.

**B. Planning Board Authority.** The Planning Board shall have the authority to act on soil erosion control/storm water management permit applications for the following earth-moving activities:

1. Any earth-moving activity of greater than ten (10) cubic yards within a Shoreland Zone.

2. Any earth-moving activity of greater than fifty (50) cubic yards outside of a Shoreland Zone.
3. Clearing of lots for commercial sale or commercial development.  
(NOTE: The Site Review Ordinance includes additional requirements with regards to clearing of trees, vegetation and/or soil).

#### **11 – 9.10 Exemptions:**

The following activities DO NOT require a soil erosion control/storm water management permit:

- A. Any earth-moving activity of twenty-five (25) cubic yards or less outside the Shoreland Zone. (For earth-moving activity of greater than twenty-five (25) cubic yards outside the Shoreland Zone see Articles 9.9 A 2 and 9.9 B 2).
- B. Any earth-moving activity relating to the construction of a single family dwelling or private, residential use projects of less than 5,000 square feet of ground surface area, provided the earth-moving activity is not within the Shoreland Zone and does not adversely impact abutters.
- C. Any earth-moving activity required for the installation of any approved subsurface waste-water disposal system (less than 2,000 GPD in capacity) or sewer connection. (The disturbed area shall be loamed, seeded and mulched within one week from the time it was last actively worked. Per Best Management Practices (BMP's), dormant seeding to be used in the fall.)
- D. Any earth-moving activity for approved solid waste disposal facilities.
- E. Cemetery graves.
- F. Tilling of gardens.
- G. Agricultural activities such as plowing, earth-moving, tilling, and seeding provided the person(s) involved follow appropriate BMP's as described in the manual entitled State of Maine Strategy for Managing Nonpoint Source Pollution from Agricultural Sources and Best Management System Guidelines published by the Nonpoint Source Agricultural Task Force dated October 9, 1991. At least three (3) copies shall be kept on file with the Code Enforcement Office and available for public use, inspection and examination.
- H. Forestry activities, including cutting, logging, thinning, planting, burning, trail and road building, and harvesting, if the person(s) involved follow



appropriate BMP's as described in the Erosion and Sediment Control Handbook for Maine Timber Harvesting Operations dated February 1991 and issued by the Maine Forest Service. At least three (3) copies shall be kept on file with the Code Enforcement Office and available for public use, inspection and examination.

- I. Any earth-moving activities or exposure of soils required in an emergency response involving public health or safety. Subsequent soil stabilization activities at emergency sites are the responsibility of the landowner or the individual or entity responsible for the emergency situation where appropriate.

#### **11 – 9.11 Application Procedures:**

**A. Code Enforcement Officer Application:** (See Article 9.9 A)

The application package must include all of the following items:

1. A completed application form.
2. A general site location map.
3. A site plan including a landscaping plan, existing vegetation preservation, and buffer areas.
4. A soil erosion control plan and a storm water management plan, which may be presented in a written narrative form without a map.
5. All appropriate fees.

**B. Planning Board Application:** (See Article 9.9 B)

The application package must include all of the following items:

1. A completed application form.
2. A general site location map.
3. A site plan including a landscaping plan, existing vegetation preservation, and buffer areas.
4. A topographical map.
5. A soil map.
6. A detailed soil erosion control plan and a storm water management plan including a map and a written narrative.

7. A detailed description of the development plan.
8. All appropriate fees.

**C. Soil Erosion Control Standards:** The soil erosion control plan submitted with an application for a soil erosion control/storm water management permit must include appropriate practices as described in Maine Erosion and Sediment Control Handbook for Construction - Best Management Practices (BMP's) dated March 1991, and published by the Cumberland County Soil and Water Conservation District and the Maine Department of Environmental Protection. At least three (3) copies of this handbook shall be kept on file with the Code Enforcement Office and available for public use, examination and inspection.

Erosion of soil and sedimentation of watercourses and waterbodies shall be minimized by employing the following standards in accordance with the above referenced BMP's:

1. Stripping of vegetation, soil removal, and regrading or other development shall be accomplished in such a way as to minimize erosion.
2. Except for surplus topsoil from road construction, parking areas, and building excavations, topsoil is not to be removed from a development site.
3. The duration of exposure of the disturbed area shall be kept to a practical minimum.
4. Temporary vegetation and/or mulching shall be used to protect exposed erodable areas during development.
5. Permanent (final) vegetation and mechanical erosion control measures shall be installed as soon as feasible after construction ends.
6. Until a disturbed area is stabilized, sediment in run-off water shall be trapped by the use of debris basins, sediment basins, silt traps, or other acceptable methods.
7. The top of a cut or the bottom of a fill section shall not be closer than ten (10) feet to an adjoining property, unless otherwise specified by the Planning Board.
8. During grading operations, methods of dust control shall be employed wherever appropriate.

**D. Storm Water Management Standards:** The storm water management

plan submitted with an application for a soil erosion control/storm water management permit must conform to the standards and practices delineated in the Storm Water Management Best Management Practices (BMP's) as established by the Maine Department of Environmental Protection. At least three (3) copies of the BMP's shall be kept on file with the Code Enforcement Office and available for public use, examination and inspection.

If the estimated post-development peak rate of storm water runoff from the affected land is calculated to be greater than the pre-development peak runoff peak rates, in any watershed within the boundaries of the affected land during any phase of development, then a detention basin or other acceptable engineered disbursement system shall be designed and constructed to maintain pre-development runoff peak rates from the site.

If the outflow is to be conveyed into a man-made piped or open drainage system, the applicant shall demonstrate by hydraulic analysis that the downstream channel or system capacity is sufficient to carry the flow without adverse effects. The design of piped or open channel systems shall be based on a 25-year flow frequency without surcharge or flooding of areas not specifically planned for such flooding.

Storm water runoff systems shall be fully cognizant of upstream runoff which must pass over or through the site to be developed. The system shall be designed to pass upstream flows generated by a 25-year frequency through the proposed development without surcharging the system or flooding areas not specifically planned for such flooding.

Storm water runoff systems shall be designed to assure provision of both major and minor components which will serve the combined objectives of access convenience, property protection, erosion control, and pollution control.

#### **E. Fees:**

1. \$50.00 – permit application fee\*
2. These fees shall be doubled for after-the-fact permits.

\*The Town of Farmington shall be exempt from the application fee.

**F. Performance Guarantee:** The Planning Board may require a performance guarantee based on the projected complexity of the proposed erosion control and/or storm water management measures required of the project, and/or the potential for significant cost to the Town and/or other landowners if the erosion control and/or storm water

management measures are not adequately installed. The performance guarantee may be in the form of a bond issued by a reputable bonding company, or a letter of credit, or cash from the applicant in an amount to cover the estimated cost of installing and completing all erosion control measures specified in the application. Any performance guarantee required by the Planning Board shall remain in place and in effect until all temporary erosion control and/or storm water management measures are removed and permanent erosion and sediment control and/or storm water management measures have been installed and found by the CEO to be operating satisfactorily.

#### **G. Application Procedure:**

1. Submitting an Application: The review process by the CEO or Planning Board begins with the receipt of a completed application form, application fee, and with all the required plans and maps. Within thirty (30) days from the receipt of an application, the Planning Board will notify the applicant in writing whether the application is complete or, if incomplete, which additional information is needed to complete the application.
2. Complete Application: After the CEO or Planning Board has determined that the application is complete, the CEO or Planning Board shall begin review of the permit application to determine its conformance with the provisions of this Ordinance.
3. Public Hearing: The Planning Board may at its discretion, decide to hold a public hearing on an application for a soil erosion control/storm water management permit. In the event that the Planning Board determines to hold a public hearing on a permit application, such a public hearing shall be held within thirty (30) days after receiving a complete application. The Planning Board shall give notice of the date, time and place of such hearing to the applicant and shall publish in a newspaper of general circulation in the town at least two times, the date of the first publication to be at least ten (10) days prior to the hearing. Public hearings will not be held on permit applications reviewed by the CEO.

Within forty-five (45) days after the CEO or the Planning Board determines that it has received a completed application, the CEO or Planning Board shall, in writing, (a) approve the permit application and issue the permit; (b) approve the permit application subject to conditions and issue the permit subject to these conditions; or, (c) disapprove the

permit application, indicating the deficiencies. The applicant shall comply with all terms of the application.

4. The CEO or the Planning Board shall approve an application for a soil erosion control/storm water management permit when it finds that:
  - a. The proposed earth-moving activity will:
    1. be conducted in accordance with soil erosion control and storm water management plans consistent with the requirements of this Ordinance; and
    2. be conducted in accordance with the standards set forth in Maine Erosion and Sediment Control Handbook for Construction: Best Management Practices, dated March 1991, or latest version thereof, and published by the Cumberland County Soil and Water Conservation District and the Maine Department of Environmental Protection; and
    3. be conducted in accordance with the standards and practices delineated in the Storm Water Management Best Management Practices as established by the Maine Department of Environmental Protection; and
    4. not cause unreasonable erosion of earth or soil or unreasonable adverse impacts on water quality; and
    5. be done by an applicant who has the financial capacity and an agent/contractor who has the technical ability to conduct the earth-moving activity in accordance with the approved soil erosion control plan.
  - b. The applicant has filed an acceptable landscape, existing vegetation preservation, and buffer areas plan which is in compliance with the Landscape Performance Standards of the Zoning Ordinance of the Town of Farmington.
  - c. Any aggrieved party wishing to submit additional information, not previously presented, may file a new application.

**H. Other Requirements:** The CEO or the Planning Board may request additional information deemed necessary to meet the provisions of this Ordinance. The requested evidence or documentation, such as the services of a consulting engineer, geologist, or the Franklin County Soil & Water Conservation District (FCSWCD) shall be secured and submitted by the applicant.

The notice of request shall include the reasons justifying the request for the

additional evidence or documentation. The Planning Board in a written agreement from the applicant and at the applicant's expense, may secure a consultant, the District's engineer (FCSWCD), or other qualified person for all or part of the review process. The applicant shall provide the additional information within forty-five (45) days unless agreed otherwise. All costs associated with such review, including the costs of any consultants, hired by the Planning Board will be paid by the applicant prior to issuance of a soil erosion control/storm water management permit.

In the event that the CEO or Planning Board determines that the review of an application requires additional evidence or documentation, the Planning Board shall notify the applicant in writing within ten (10) days following the determination that a complete application has been filed.

- I. Permit Duration:** Any work authorized by this permit shall be completed within one (1) year of the date of the permit unless otherwise specified in the permit. The CEO or the Planning Board may, upon a showing of reasonable cause, renew a soil erosion permit for one (1) additional period, not to exceed one (1) year, provided that the plans have not been substantially changed since the original application, and provided that the applicant has complied with the applicable soil erosion control and storm water management plans and all conditions of the original permit.

## **11 – 9.12 Enforcement:**

**A. Responsibility:** The CEO shall inspect the project area at any time as necessary to insure compliance with the application, permit, and this Ordinance. The applicant shall notify the CEO promptly once the project area has been finally stabilized. Upon notification of final stabilization, the CEO shall inspect the project area and issue a certificate of final inspection upon determination of full compliance with the application, the permit, and this Ordinance.

**B. Violations:** It shall be a violation of this Ordinance for any person:

1. to engage in any activity requiring an erosion control/storm water management permit without first obtaining a permit;
2. to fail to comply with the terms of an erosion control/storm water management permit or any permit conditions; or
3. to utilize improperly designed or installed erosion controls or storm water management components.

Upon detection of a violation, the CEO shall require immediate measures to temporarily correct the violation. Once such temporary measures have

been completed, the CEO may negotiate an agreement to permanently correct the violation. If a permit has not been obtained, the violator must immediately apply for an after-the-fact permit. The CEO may issue a stop work order if conditions warrant, at which time all earth-moving activities must cease. The violator shall make immediate corrective measures as outlined by the CEO.

When a violator fails to voluntarily correct a violation, the CEO shall send written notification to the violator, stating:

1. what the violation is;
2. the penalties for the violation;
3. means by which to come into compliance and;
4. a deadline for compliance.

Copies of this letter will be sent to the Town Manager and Town Attorney. If the deadline passes without correction, the CEO shall contact Town officials for assistance in pursuing enforcement through legal action.

Each day during which any violation of any of the provisions of this Ordinance is committed or continue shall constitute a separate civil violation. In addition to any other penalty authorized by this section, any person violating any of the provisions of this Ordinance shall be required to restore the site to the condition existing prior to commencement of the violation, or to bear the expense of such restoration. In addition, any other penalty authorized with this section, the Town may seek injunctive relief including restoration of the site to the condition existing prior to the commencement of the violation.

**C. Penalties:** Any person, including but not limited to a landowner, a landowner's agent or a contractor, who orders or conducts any activity in violation of this Ordinance, or upon failure to comply with any of its requirements, shall be penalized in accordance with Title 30-A MRSA Section 4452.

**D. Inadequate Erosion & Sediment Control and/or Storm Water**

**Management Plans:** The CEO may order the submission of supplemental plans and implementation of additional erosion and sediment control and/or storm water management measures deemed necessary to correct conditions or problems not adequately addressed by a previous application or permit. These plans must be submitted to the Planning Board if the Board issued the permit. The permits shall be modified or conditions added as necessary to meet the standards of this Ordinance.

### **11 - 9.13 Appeals:**

Any person aggrieved by the action of the Code Enforcement Officer or Planning Board may appeal to the Board of Appeals by filing a notice of appeal within thirty (30) days after receipt of the Code Enforcement Officer's or Planning Board's notification. Administrative appeals submitted under this Ordinance shall be subject to the standards and procedures established by the Town of Farmington Board of Appeals Ordinance.

### **11 – 9.14 Amendments:**

- A. Initiation of Amendments:** An amendment to this Ordinance may be initiated by:
1. The Board of Selectmen, provided a majority of the Board of Selectmen has so voted;
  2. Written petition of a number of voters equal to at least 10% of the number of votes cast in the municipality at the last gubernatorial elections.
- B. Public Hearing:** The Board of Selectmen shall hold a public hearing on the proposed amendment . Notification of the hearing shall be posted and advertised in a newspaper of general circulation in the municipality at least seven (7) days prior to the hearing.
- C. Adoption of Amendment:** An amendment of this Ordinance shall be adopted by a majority vote of a Town Meeting.



# TOWN OF FARMINGTON

## Streets and Sidewalks Ordinance

Enacted: May 26, 1959

Amended: March 16, 1970

December 12, 1977

March 11, 1980

June 6, 1988

March 11, 1996

March 12, 2007

September 25, 2007

Certified by:



Name - Leanne Pinkham

Town Clerk  
Title

Affix Seal

TOWN OF FARMINGTON  
Chapter 10 – Streets and Sidewalks

Revised 03/20/10

Article 1. Street Standards

10-1.1 GENERAL

No street or way shall be laid out and accepted as a public street or way by the Town of Farmington except in accordance with the provisions of this Ordinance. All other ordinances, or parts thereof, in conflict with or inconsistent with the provisions of this Ordinance, are hereby repealed.

(Approved 05/26/59)

10-1.2 DEFINITIONS

Minor Streets: Rural or local roads, providing access to abutting properties for residential or commercial use.

Collector Streets: Feeders of traffic from minor streets to highways or arterial roads.

Major Roads: Arterial ways whose purpose is to serve heavy traffic flows and as a route for traffic between and through towns.

(Approved 03/11/80)

10-1.3 ACCEPTANCE OF STREETS AND WAYS

A street or way constructed on private lands by the owner thereof shall be laid out and accepted as a public street or way by the Town only upon the following conditions:

- A. Underground utilities shall be located so as not to interfere with the Town's highway drainage facilities, including but not limited to, culverts, catch basins, under drainage interceptors, ditches, swales, etc. and the maintenance thereof by the Town.
- B. The Town may contract with the owner for performance of certain corrections or work within twelve (12) months after acceptance of the way. Posting of a bond may be part of the agreement. Street acceptance will allow financing by lot purchasers, and the agreement will allow review of the street construction after it has wintered over. The owner may be required to apply a second asphalt treatment the summer after acceptance or to reimburse the Town for same.

C. The owner or developer shall present the following materials when applying for acceptance of his street by the Town (submission to the Planning Board when part of a proposed subdivision): a plan, plot plan, profile, cross-sections, and test-pit findings.

1. A plan and a plot plan drawn, when practicable, to a scale of forty (40') feet to one (1") inch, and to be on one or more sheets of paper not exceeding twenty-four (24") inches by thirty-three (33") inches in size. Said plot plan shall show the north point, the area of all lots, the length of all lot lines, the locations and ownership of all adjoining subdivisions and adjacent acreage, passageways, street lines, buildings, boundary monuments, waterways, topography, at not greater than six (6') foot intervals, all angles necessary for the plotting of said street and lots and their reproduction on the ground, the distance to the nearest established street line, and any buildings abutting on said street or way, together with the stations of their said lines.

(Approved 03/11/80)

2. A profile of said street or way drawn to a longitudinal scale of forty (40') feet to one (1") inch and a vertical scale of forty (40') feet to one (1") inch. Said profile shall show the profile of the sidelines and centerlines of said street or way, and the proposed grades thereof. Any buildings abutting on said street or way shall be shown on said profile.

(Approved 05/26/59)

3. A cross-section of said street or way drawn to a horizontal scale of five (5') feet to one (1") inch, and a vertical scale of one (1') foot to one (1") inch.

(Approved 05/26/59)

4. Test-pits shall be dug in the road right-of-way every on hundred fifty (150") feet, or less as topographical indicators dictate. Results to a depth of five (5') feet shall be submitted, and incorporated in the profiles and cross-sections.

(Approved 03/11/80)

#### D. Required Standards

The following are required improvements and shall be installed at the expense of the developer: monuments, streets, sidewalks, street signs, streetlights, curbs, gutters, water mains, sanitary sewers, storm drains, and fire hydrants, except where the Board of Selectmen may waive or vary such improvements,

2. Required improvements shall be installed in conformance with the provisions of this Ordinance subject to the approval of the Public Works Director and a performance bond shall be posted prior to acceptance of the improvements if not constructed by Town personnel.
3. Monuments shall be six (6) inches square by three (3') feet in length, stone or concrete with a one (1") inch diameter metal pipe at least two (2') feet long set in the center, located in the ground at final grade level and indicated on the final plan. Permanent monuments shall be set at all street intersections and points of curve.

(Approved 03/11/80)

#### 10-1.4 DESIGN AND CONSTRUCTION STANDARDS

##### A. Design Standards

Standard	Highway Type		
	Minor	Collector	Major
Pavement	Asphalt	Bit. Con.	Bit. Con.
Pavement Width	20'	22'	24'
Pavement Width to Curb	28'	36'	42'
Shoulder Width	4'	6'	8'
Design Speed	25 mph	45 mph rural 25 mph local	30-45 mph
Minimum Right-of-way	50'	60'	80'
Maximum Grade	10 pct	6 pct	4 pct
Minimum Grade	.5%	.5%	.5%
Sight <u>Distance</u>	200'	300'	400'

Maximum slope either side of the right-of-way is to be 2:1

Cul-de-sac: Maximum length - nine hundred (900') feet; minimum turnaround right-of-way radius - sixty-eight (68') feet; minimum turn-around radius - sixty (60') feet to outside curb; minimum outside approach radius at curb – fifty (50') feet. Right-of-way of cul-de-sac road is fifty (50') feet.

(Approved 03/11/80)

##### B. Planning

1. Streets shall be suitably located to accommodate the prospective traffic and to afford satisfactory access for emergency apparatus, snow removal and road maintenance equipment.

(Approved 03/11/80)

2. The arrangements, width and grade of all streets shall be considered in

relation to existing and planned streets, topographic conditions, public convenience and safety, and in their appropriate relation to proposed land uses.

3. Local streets shall be planned so that whenever possible, their use by through traffic will be discouraged.
4. Grades of streets shall conform as closely as possible to original topography and shall be arranged so that building sites are at or above street grade. Steep grades and sharp curves shall be avoided.
5. Where a tract is subdivided into lots much larger than the minimum size required in the zoning district in which a subdivision is located, the Planning Board may require that streets and lots be laid out to permit further re-subdivision.
6. Intersections of major streets by other streets shall be held to a minimum and shall be at least eight hundred (800') feet apart, if possible. Cross street intersections shall be avoided, except at important traffic intersections. A distance of at least two hundred and fifty (250') feet shall be maintained between offset intersections. Within one hundred (100') feet of an intersection right-of-way, streets shall be at right angles.
7. Half streets and privately owned reserve strips controlling access to streets or adjacent property shall be prohibited.
8. Arrangement of streets shall provide for continuation of existing streets between adjacent properties where necessary for convenient movements of traffic, fire protection or efficient provisions of utilities.
9. If adjacent property is undeveloped and the street must be a dead-end temporarily, right-of-way and improvements shall be extended to the property line. A temporary circular turn-around shall be provided on all temporary dead-end streets, with the notation on the plat that land outside the street right-of way shall revert to abutting lots whenever the street is continued.

#### C. Construction Standards

The following specifications shall constitute the minimum standards for construction and improvement of streets:

Sub-Grade: All streets shall be sound, firm land, free from excessive moisture, drainable to a public runoff, rough graded, and compacted the full width of the right-of-way.

Sub-Base Course: All streets shall have a sub-base course of at least twelve (12") inches of gravel in sandy soil and at least eighteen (18") inches of gravel in clay soil.

(Amended 06/06/88)

Roads with a clay base shall have under drain put in at a minimum of three and one-half (3<sup>1</sup>/<sub>2</sub>") inches deep on each side of roadway.

(Amended 06/06/88)

	Major	Collector	Minor
Shaping Course	4" Crushed Gravel	4" Crushed Gravel	4" Crushed Gravel
Surface Course	4" Bituminous Concrete	4" Bituminous Concrete	3" Bituminous Concrete

(Amended 03/13/07)

#### D. Street Material Standards

The following material standards are to be utilized in the construction of street improvements:

1. Bituminous Concrete (Hot Mix, Hot Top): To meet specifications as set forth by the State of Maine Department of Transportation.
2. Crushed Gravel: Crusher run gravel of clean, hard durable particles of washed crushed gravel of which one-hundred (100%) percent will pass a one and one-half (1<sup>1</sup>/<sub>2</sub>") inch round screen opening and of which sixty (60) to seventy (70%) percent will pass a three-fourth (<sup>3</sup>/<sub>4</sub>") inch round opening, however, not more than twenty-five (25%) percent shall pass a number forty (#40) square screen opening.
3. Gravel: Gravel shall consist of material free from silt, loam or clay, obtained from an approved source and meeting the following requirements:

Not less than forty (40%) percent shall be retained by a number four (#4) sieve. The stone portion of the gravel shall be uniformly graded from coarse to fine and the maximum size particles shall not exceed three (3") inches in diameter.

## E. Application Standards

1. Bituminous concrete will be applied in accordance with procedures outlined in the Asphalt Institute, Asphalt Paving Manual, MS-8, Second Edition, August 1965 or a revision thereof.
2. No bituminous material shall be applied when the atmospheric temperature is fifty (50°) degrees Fahrenheit or below.

(Amended 03/13/07)

## F. Sidewalks

### 1. Design Standards

- a. Minimum width of sidewalks in residential areas shall be five (5') feet, and in commercial or industrial areas five (5') feet.
- b. Sidewalks shall generally be of bituminous concrete at least two (2") inches thick, except through driveways and other areas subject to vehicular traffic where they shall be at least four (4") inches thick, laid on a compacted bed of gravel at least six (6") inches deep. Cement may be used at the discretion of the developer with the approval of the Town Manager.
- c. Where sidewalks abut the traveled area of streets, a separate curb edge will be provided.

### 2. Planning Guidelines

- a. Sidewalks shall be suitably located to accommodate prospective pedestrian traffic and to afford satisfactory access to snow removal equipment and the handicapped.
- b. Sidewalks shall be arranged as to cause no undue hardship to adjoining properties, and shall be coordinated so as to compose a convenient system.
- c. Sidewalks shall be built where there are one-hundred (100) pedestrians per day and one-hundred (100) vehicles per hour averaging over twenty-five (25) miles per hour or where there are one-hundred fifty (150) pedestrians per day and thirty (30) vehicles per hour averaging over twenty-five (25) miles per hour.

### 3. Construction Standards

#### a. Surface Dimensions and Material:

Sidewalks servicing residential areas shall consist of a bituminous concrete surface two (2') inches deep and five (5') feet wide, except at driveways where the depth shall be increased to four (4") inches. The width of sidewalks in commercial areas shall be five (5') feet. The use of cement may be allowed in accordance with Section 10-1.4(F) above.

#### b. All sidewalk bases shall consist of six (6") inches of compacted gravel.

#### c. All sidewalks shall comply with standards regarding the Americans with Disability Act (ADA) code of federal regulations, 28 CFR Part 36.

### 4. Material Standards

#### a. Gravel used shall meet the same specifications as that used for streets as specified in 10-1.4(D).

#### b. Bituminous concrete surfacing shall meet the specifications as specified by the State of Maine and be applied in accordance with the Asphalt Institute, Asphalt Paving Manual, MS-8, Second Edition, August 1965 or any revision thereof.

#### c. Concrete surfacing shall meet specifications as provided by the Town Manager.

### 5. Backfilling

This item shall consist of backfilling with suitable materials, topped with good loam to a rolled depth of four (4") inches to the property line on one side and the top of the curb on the other. All surplus material shall be removed and the site left neat and presentable to the satisfaction of the Town Manager and the abutting property owners.

### G. Street Naming and Numbering

#### 1. The Board of Selectmen shall approve road names and numbers to all properties. The Board of Selectmen shall be responsible for maintaining the following official records:

##### a. A Farmington map for official use showing road names and numbers.

##### b. An alphabetical list of all 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.
- 2. Naming System: All roads in Farmington that serve two (2) or more addresses shall be named regardless of whether the ownership is public or private. A road name assigned by the Town of Farmington shall not constitute or imply acceptance of the road as a public way. Names of new streets shall not duplicate or bear phonetic resemblance to the name of existing streets.
- 3. Numbering System: Numbers shall be assigned every fifty (50') 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 following criteria shall govern the numbering System:
  - a. All number origins shall begin from the designated center of Farmington or that end of the road closest to the designated center. 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 or driveway of said structure.
  - c. Every structure with more than one (1) principle use or occupancy shall have a separate number for each use or occupancy. [i.e. duplexes will have two (2) separate numbers; apartments will have one (1) road number with an apartment number, such as 235 Maple Street, Apt. 2].

\*This interval shall be reduced to twenty-five (25') feet in the following downtown areas: Main Street between Exchange Street and Academy Street; Broadway between Front Street and High Street.
- 4. Compliance: All owners of structures/residences shall install/display and maintain or cause to be installed/displayed and maintained in a conspicuous place on said structure/residence, the "assigned number" in the following manner:
  - a. Description of "assigned number".
    - 1) 'Assigned number' shall be at least four (4") inches high as approved by the Board of Selectmen.
    - 2) 'Assigned number shall be in a contrasting color to the structure "residence.

- 3) "Assigned number" or the background should be reflective or illuminated.

b. Installation of "assigned number".

- 1) If the structure/residence is less than fifty (50) feet from the edge of the road right-of-way, the "assigned number" shall be installed/displayed on the structure/residence and shall be located as to be visible from the road.
- 2) If the structure/residence is over fifty (50) feet from the edge of the road right-of-way, the "assigned number" shall be installed/displayed both on the structure/residence and on a post, fence, wall, or some structure at the property line adjacent to the walk or access to the residence/structure and shall be located as to be visible from the road visible in both directions.
- 3) If the structure/residence is a multi-unit building, the "assigned number" shall be installed as stated above. In addition, each unit entry door shall display an identifying letter/number.
- 4) On new structures/residences, "assigned number" shall be installed/displayed prior to use or occupancy of the structure/residence.
- 5) Any different (independent) number(s) attached to the structure/residence that might be mistaken for, or confused with, the "assigned number" shall be removed.

Recommendation: All residents and other occupants are requested to post the assigned number and road name adjacent to their telephone for emergency purposes.

(Approved 08/22/06)

4. New Developments and Subdivisions: All new developments and subdivisions shall be named and numbered in accordance with the above procedures and as follows:
  - a. New Developments. Whenever any residence or other structure is constructed or developed on an existing named and numbered road, it shall be the duty of the new owner to procure an assigned number from the Assessor. When an unnamed and unnumbered road previously serving only one (1) address has a second structure or

residence built on it, this road shall be named and numbered in accordance with 10-1.4(G).

- b. New Subdivisions. Any prospective subdivider shall show a proposed road name and lot numbering system on the pre-application submission to the Planning Board. Approval of subdivision by the Planning Board shall constitute the preliminary assignment of road names and numbers to the lots in the subdivision. Final approval of road names and assigned numbers shall be the responsibility of the Board of Selectmen in accordance with 10-1.4(G)1. On the final plan showing proposed roads, the applicant shall mark on the plan, lines or dots, in the center of the streets every fifty (50') feet so as to aid in the assignment of numbers to structures subsequently constructed.
- c. Street name signs shall be furnished and installed by the developer, The type, size and location shall be to the approval of the Director of Public Works and will conform to the manual of Uniform Traffic Control Devices, United States Department of Transportation (U.S.D.O.T.), Federal Highway Administration (F.H.W.A.), or any revision thereof.

Effective Date: This amended Ordinance Section (G) shall become effective as of March 11, 1996. It shall be the duty of the Town of Farmington to notify by mail each owner and the Post Office of new addresses. It shall be the duty of each property owner to comply with this Ordinance within thirty (30) days of notification by the Town. On new structures, numbering will be installed prior to use or occupancy of the structure.

Enforcement and Penalties. Any residence or structure found not to be in compliance with any provisions to 10-1.4(G) shall comply within ten (10) days of written notification by the Code Enforcement Officer. Violation of any provisions of 10-1.4 (G) or failure to comply with any requirement in 10-1.4 (G) by any person, business, or corporation shall subject the violator to a civil penalty of one hundred (\$100) dollars.

#### H. Street Lights.

If approved by the Board of Selectmen as necessary for the public safety, the poles, brackets, and lights shall be of the size, type and location approved by the local power company and the Town Manager or his designated representative.

#### Curbing.

1. General – This item shall consist of suitable base granite stones, bituminous concrete or cement concrete, set in conformity with lines and

grades indicated in the accompanying drawings. Granite curbing shall be utilized in high [lots less than one hundred fifty (150') feet footage] density residential, commercial and industrial areas. Bituminous granite or concrete curbing shall be used in areas containing greater than one hundred fifty (150') foot lot frontages.

2. Base Course – This item shall be six (6") inches of sub-base gravel as specified in 10-1.4(C), and shall be compacted to the specified depth below the finish grade of the curb.
3. Granite Curb – The granite stones shall be hard, sound, durable quarried granite thoroughly cleaned of any iron or rust particles. The individual stones shall have a minimum depth of seventeen (17") inches and a maximum of twenty-five (25") inches. The top thickness shall not be less than five (5") inches or more than eight (8") inches. It must be of uniform thickness in any continuous section. The overall thickness shall have a minimum of six (6") inches and a maximum of nine (9") inches. The maximum length shall be six (6") feet excepting for members placed over catch basins or in curved sections. Curbstones set a radius of one hundred sixty (160') feet or less shall be cut to the curb required. Individual stones shall have a top surface sawed to an approximately true plane. The front and back arris lines shall be pitched straight and true. The front face shall be roughly square to the plane of the top and shall be smooth quarry split, free from drill holes in the exposed surfaces with no projections greater than three-quarters (<sup>3</sup>/<sub>4</sub>" ) of an inch or depressions greater than one-half (W) inch measured from the vertical plane through the top arris line for a minimum distance of eight (8") inches from the top. The remaining distance may show projections or depressions not exceeding one (1") inch. The ends of all stones shall be square to the above-described planes and so finished that when stones are placed close together end-to-end, no more than one-half (W) inch space shall show in the top or the exposed section of the face. The top three (3") inches of the back surface shall have no projection which will exceed a batter of four (4") inches in twelve (12") inches.
4. Bituminous Concrete Curb – Bituminous concrete curbs shall be constructed in accordance with Specifications Series No. 3 of the Asphalt Institute.
5. Backfilling – This item shall consist of backfilling with suitable material, topped with good loam to a rolled depth of four (4) inches from the property line on one (1) side and to the top of the curb on the other. All surplus material shall be removed and the site left neat and presentable to the satisfaction of the Town Manager and the abutting property owners.

## Water Mains

Installation of water mains shall be in accordance with specifications promulgated by the Farmington Village Corporation.

## K. Sanitary Sewers

Installation of sanitary sewers or sewer systems shall be in accordance with the Maine State Plumbing Code and the Town of Farmington Sewer Ordinance.

## L. Storm Drainage

1. General – This item shall consist of furnishing and laying any of the following types of pipe to a true grade line: vitrified clay – Class Extra Strength; reinforced concrete; asphalt-coated and non-corrugated galvanized pipe; and HDPE (Plastic N-12) – Cement Class.
2. Bridges – All bridges, metal plate pipe, pipe arch, or arch culverts or retaining walls shall be submitted in plan and profile to the Town Manager for approval.
3. Vitrified Clay Pipe – This item shall consist of furnishing vitrified clay pipe extra strength, meeting the specifications for diameter of pipe required with a minimum of one (1) catch basin at twelve (12") inch, and main lines of fifteen (15") inch.
4. Reinforced Concrete Pipe – This item consists of furnishing reinforced concrete pipe, meeting the specifications for the diameter of pipe required and in sections not less than three (3') feet nor more than eight (8') feet long, with the same minimum diameters as in vitrified clay pipe.
5. Asphalt-Coated and Non-Coated Corrugated Galvanized Pipe – This item shall consist of furnishing asphalt-coated or non-coated corrugated galvanized pipe, meeting the Town's specifications for diameter or pipe required and in sections not over twenty (20') feet in length, and the same minimum diameters as in vitrified clay pipe.
6. Application for Pipe Installation – This item shall apply to all types of pipe mentioned.
  - a. Trenches. When the pipe is to be laid below the existing ground line, a trench shall be excavated to the required depth. Where rock is encountered, the trench shall be excavated eight (8') inches below the bottom of the pipe. This area shall be filled with sand or other suitable material, thoroughly tamped, and shaped.

- b. Infill – Where pipe is to be placed in a fill section, the fill shall first be constructed and compacted to an elevation three (3') feet higher than the flow line of the pipe or one (1') foot over the top of the pipe, whichever is greater. Then the trench shall be excavated and the pipe laid and backfilled.
  - c. Insufficient Foundation – Whenever the natural foundation material is insufficient to safely support the structure and a deeper foundation cannot be obtained by excavating and replacing with approved material, then timber grillage work may be used to distribute the bearing area for the pipes on which shall be placed approved material, thoroughly tamped, to give a depth of fill of eight (8") inches from the top of the timber grillage to the bottom of the pipe.
  - d. Laying – All pipe of the bell and spigot type shall be laid with the hub upgrade, spigot ends fully entered into the adjacent hub, and true to lines and grades. Pipe of asphalt-coated or non-coated corrugated galvanized iron shall be butted together and the sections jointed with a coupling band with the required number of bolts for the pipe diameter. Any pipe which is not laid true to alignment and grade shall not be accepted.
  - e. Backfill – The backfill shall be made in shallow layers [about twelve (12") inches] with an approved material, free from large stones, sods or other material which would prevent the backfill from being thoroughly compacted. Each layer shall be tamped thoroughly around and over the pipe. Tamping shall be done with mechanical tampers. No heavy equipment shall be moved over the pipe until a full compacted backfill of at least three (3') feet above the pipe has been placed. Pipes shall have at least four (4') feet cover to the finish grade. All backfill shall be of sub-base gravel.
7. Catch Basins General – This item shall include concrete, concrete block, reinforced concrete pipe, and asphalt-coated and non-coated corrugated galvanized catch basins with grates or drop inlets with covers. They shall be located at the curb line of the road surface, and at the grade line of the road. Catch basins shall be spaced not more than three hundred (300) feet apart on flat grades or at low points in the grade and up to one (1%) percent: from one (1%) percent grade to eight (8%) percent grade they shall be spaced not more than two hundred (200\_) feet apart. From eight (8%) percent up they shall be spaced not more than one hundred fifty (150) feet apart, and located on each side of the street.

8. Concrete Catch Basins — This item shall consist of the construction of catch basins of concrete with grating. The concrete shall be of three thousand (3,000) pounds, twenty-eight (28) day strength concrete.
9. Concrete Block Catch Basins — This item shall consist of the construction of catch basins of concrete barrel and batter blocks with necessary concrete top and grade.
10. Reinforced Concrete Pipe Catch Basin — This item shall consist of the construction of catch basins of reinforced concrete pipe with necessary concrete top and grate similar to the type used in the concrete and concrete block type catch basin.
11. Application for Catch Basins — A pit shall be excavated to the depth of sixteen (16") inches below the invert of the lowest pipe. All excavated material shall be removed and disposed of.
  - a. A concrete, or concrete segment base six (6") inches thick shall be placed in the bottom of the pit.
  - b. The backfill shall be placed in layers not exceeding twelve (12") inches in thickness and shall be thoroughly compacted through the use of mechanical tampers.
  - c. A concrete frame with a metal cascade grate shall be placed on the structure at the proper location and grade.

#### M. Fire Hydrants

Hydrants shall be of the size, type, and make specified by the Farmington Village Corporation.

#### N. Design Standards

The design standards labeled Town of Farmington, Maine Land Development Ordinance 1975 consisting of nine (9) pages and containing drawings of catch basins, cul-de-sac, cross-sections, curbing, storm drains and curve radii shall be incorporated as Section 10-1.N of this Ordinance.

### 10-1.5 ACCEPTANCE OF STREETS AND WAYS REQUIRED BY THE GENERAL PUBLIC INTEREST

Notwithstanding the provisions of Sections 10-1.2.4 hereof, the Town may at a regular Town Meeting, lay out and accept any street or way in the Town of Farmington as a public street or way of said Town, the cost thereof to be borne by the Town, whenever the general public interest so required.

(Adopted 05/26/59)

10-1.6 NO STREET OR WAY TO BE ACCEPTED UNTIL AFTER REPORT AND INSPECTION

No street or way shall be laid out and accepted by the Town of Farmington until the Town Planning Board (regarding subdivisions) and/or Road Commissioner or his/her designee shall have made a careful investigation of said street or way and shall have reported to the Board of Selectmen or Town Meeting their recommendations with respect thereto.

Article 2. Snow

10-2.1 DEFINITIONS

Person: The word "person" as used herein shall include the singular and the plural and shall also mean and include any person, firm or corporation, association or any other organization.

(Adopted 03/16/70)

12-2.2 PUBLIC WAYS

It shall be unlawful for any person to place or cause to be placed or deposited by motor vehicle or otherwise, any snow or ice, on any public streets, or town roads without forthwith causing the same to be removed from said street or way.

10-2.3 PENALTY

Every person convicted of a violation of this Ordinance shall be punished by a fine of not less than ten (\$10) dollars nor more than one hundred (\$100) dollars.

10-2.4 AMENDMENTS

A. An amendment to this Ordinance may be initiated by:

- 1) The Board of Selectmen, provided a majority of the Board of Selectmen has so voted; or
- 2) Written petition of a number of voters equal to at least ten percent (10%) of the number of votes cast in the municipality at the last gubernatorial election.



B. The Board of Selectmen shall hold a public hearing on the proposed amendment. Notification of the hearing shall be posted and advertised in a newspaper of general circulation in the municipality at least seven (7) days prior to the hearing.

(Adopted 03/13/07)

#### 10-2.5 APPEALS

Administrative appeals and variance applications submitted under this Ordinance shall be subject to the standards and procedures established by the Town of the Farmington Board of Appeals Ordinance.

Any person aggrieved by the action of the Director of Public Works, Town Manager, Planning board, or the code Enforcement Officer may appeal to the board of Appeals by filing a notice of appeal within thirty (30) days after receipt of Municipal notification.

(Adopted 03/13/07)

#### 10-2.6 Effective date


The effective date of this Ordinance is the date of its enactment by the Town Meeting.

(Revised 03/20/10)

# TOWN OF FARMINGTON

## Subdivision Ordinance

ENACTED: July 22, 2003  
AMENDED: March 14, 2005

CERTIFIED BY:   
Name

Town Clerk  
Title

Affix Seal

**Town of Farmington  
Subdivision Ordinance  
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# **Town of Farmington Subdivision Ordinance**

## **11-10.1 Title**

This Ordinance replaces the Farmington Subdivision Regulations (4-3-78 and subsequently modified on 9-12-01) and shall be known and cited as the Town of Farmington Subdivision Ordinance and will be referred to as “this Ordinance”.

## **11-10.2 Authority, Administration, and Applicability**

This Ordinance has been adopted in accordance with Title 30-A M.R.S.A. §4401 et. seq., as hereafter amended. It shall apply to all subdivisions (residential, commercial and industrial) as defined by said State law.

The Planning Board of the Town of Farmington, herein referred to as “the Board”, shall administer this Ordinance.

The provisions of this Ordinance shall govern all land and all structures of all proposed subdivisions, as defined, within the boundaries of the Town of Farmington.

No subdivision (as defined herein) within the Town of Farmington, shall be permitted, except within the provisions and standards of this Ordinance. No person, firm, corporation or other legal entity may sell, lease, develop, build upon or convey for consideration any land or structure(s) requiring approval as a subdivision, before applying for and receiving subdivision approval.

## **11-10.3 Purpose**

The purpose of this Ordinance shall be:

- A. To establish an administrative review process which will provide the Board with sufficient evidence, data, and materials to carry out its responsibilities as required by 30-A M.R.S.A. §4401 et seq., and be in accordance with the Town’s goals, objectives and priorities as articulated in its Comprehensive Plan;
- B. To assure the comfort, health, safety and general welfare of the residents of the Town of Farmington; and

- C. To protect the environment and conserve the natural and cultural resources of the Town of Farmington.

#### **11-10.4 Validity and Severability**

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

#### **11-10.5 Conflicts with Other Ordinances**

Whenever a provision of this Ordinance conflicts with or is inconsistent with other provisions of this Ordinance, or of any other ordinance, regulation or standard, the more restrictive provision shall apply.

#### **11-10.6 Effective Date**

The effective date of this Ordinance shall be July 22, 2003

#### **11-10.7 Definitions**

**Abutter.** Abutter shall mean the owner(s) of record of a property sharing a common boundary with a given piece of property, whether or not these properties are separated by public or private right-of-way.

**Aggrieved Party:** Aggrieved Party shall mean any person, body, company, corporation, or other legal entity who has been denied or alleges to have been denied some personal or property right or who has had an imposition, burden or obligation impaired upon or whose pecuniary interest is directly affected.

**Comprehensive Plan:** Comprehensive Plan shall mean the Comprehensive Plan adopted by the Town of Farmington on 7-15-98, amended on 11-18-99, and as subsequently amended.

**Easement:** Easement shall mean the legal right of use of a portion of land for specified purposes.

**Fresh Water Wetland:** Fresh Water Wetland shall mean fresh water swamps, marshes, bogs and similar areas which are:

1. Inundated or saturated by surface or ground water at a frequency and for a duration sufficient to support, and which under normal circumstances do support, a prevalence of wetland vegetation typically adapted for life in saturated soils; and

2. Not considered part of a great pond, river stream or brook.

These areas may contain small stream channels or inclusions of land that do not conform to the criteria.

**Lot of Record:** Lot of record shall mean a piece of land measured and set apart for a specific use and recorded in the Franklin Country Registry of Deeds.

**Stream, River or Brook:** Stream, River or Brook shall mean a channel between defined banks. A channel is created by the action of surface water and has two (2) or more of the following characteristics:

1. It is depicted as a solid or broken blue line on the most recent edition of the U.S. Geological Survey 7.5-minute series topography map or if that is not available, a 15-minute series topography map.
2. It contains or is known to contain flowing water continuously for a period of at least three (3) months of the year in most years.
3. The channel bed is primarily composed of material such as sand and gravel, parent material or bedrock that has been deposited or scoured by water.
4. The channel contains aquatic animals such as fish, aquatic insects or mollusks in the water or, if no surface water is present in the stream bed.
5. The channel bed contains aquatic vegetation and is essentially devoid of upland vegetation.

Stream, river, or brook does not mean a ditch or other drainage way constructed and maintained solely for the purpose of draining storm water or a grassy swale.

**Subdivision:** Subdivision shall mean the subdivision of a tract or parcel of land as defined in Title 30-A, M.R.S.A. §4401 et seq., and as hereafter amended.

A subdivision would include, but not be limited to, such developments as apartments, condominiums, shopping centers, mobile home parks, industrial parks, and planned unit and cluster developments.

Per Title 30-A M.R.S.A. §4401 et seq., and upon enactment of this Ordinance, the Town has elected not to count lots of forty (40) or more acres as lots for the purposes of this Ordinance when the parcel of land being divided is located entirely outside any shoreland area as defined in the Town's Shoreland Zoning Ordinance.

## **11-10.8 Review Procedure**

This Ordinance shall provide an application and review procedure consisting of:

**A. Pre-application meeting with the Code Enforcement Officer (CEO).**

The applicant, or his agent who shall be authorized as such in writing, shall first meet with the CEO to present general information regarding the proposed subdivision. The CEO shall provide the applicant with all necessary application forms, advise the applicant of review criteria, including the review criteria contained in Title 30-A M.R.S.A. §4404 et seq., performance standards, and any other applicable Town land use ordinances, and inform the applicant of any other submissions that may be necessary to deem the application complete.

**B. Submission of a complete application form and subdivision plan.**

The applicant shall submit ten copies of the completed application form, subdivision plan, and supplemental information to the CEO.

**1. The application form shall include:**

- a. Name, address, and phone number of property owner, applicant, and any other person involved in preparation of this application and plan;
- b. Name, address, and map and lot numbers of all abutting property owners;
- c. Location of the proposed subdivision;
- d. Type of subdivision (residential, commercial or industrial);
- e. Name of proposed subdivision;
- f. Number of units;
- g. Number of acres;
- h. Existing use of proposed site;
- i. Notification if site is in Tree Growth or Farm and Open Space;
- j. Average number of vehicles per day anticipated using this site;
- k. Nature of interior roads;

- l. Manner in which police and fire service (access for emergency vehicles) will be provided;
  - m. Impact on public infrastructure;
  - n. Water supply; and
  - o. Sewage disposal.
- 2. The subdivision plan shall include, but not be limited to:
  - a. A survey plan (to scale, recommended 1 inch : 100 feet) showing the location of the entire proposed subdivision, boundaries of the tract, lot lines with their approximate dimensions, location and width of all streets, roads, rights-of-way, location of all existing and proposed buildings, utility poles, walls or fences, brooks, culverts, soil test pits, and permanent markers. The survey plan shall include the stamp and signature of the surveyor, architect, engineer or planning consultant. The survey plan must also include topography at twenty (20) foot intervals unless otherwise prescribed by the Board. In addition, the survey plan shall show the location of existing and proposed wells and septic systems, the location of any existing natural and manmade features including all rivers, streams, brooks, and wetlands within or adjacent to the proposed subdivision which may influence the layout of the proposed subdivision;
  - b. Septic suitability soil tests for every “non-sewered” lot in a residential, commercial or industrial subdivision; and
  - c. The location and elevation of any 100-year floodplain. When any part of a subdivision is located in a special flood hazard area as identified by the Federal Emergency Management Agency, the plan shall indicate that the principal structures on lots in the subdivision shall be constructed with their lowest floor, including the basement, at least one foot above the 100-year flood elevation.
- 3. Supplemental Information

Depending on the size, complexity and/or nature of the proposal, the CEO and/or the Board may require sufficient information on one or more of the following to allow for review of the proposal under the performance standards of this Ordinance and other applicable ordinances:



- a. A soil erosion control and storm water runoff management plan using Best Management Practices (BMP's) as stated in "Maine's Erosion and Sediment Control Handbook for Construction" – March 1991 or latest revision. [Note: If the proposed subdivision triggers applicability of the Town's Soil Erosion Control and Storm Water Management Ordinance, an additional application for approval under same must also be filed];
- b. Parking plan [see Zoning Ordinance Performance Standards];
- c. An Access Management Plan and/or a copy of the approved Driveway or Entrance Permit issued by the Maine Department of Transportation if a driveway(s) or entrance(s) will enter onto a State or State aid road outside the urban compact area. [see Zoning Ordinance Performance Standards];
- d. Landscaping plan [see Zoning Ordinance Performance Standards];
- e. If applicable, a letter stating that the subdivision will not cause an unreasonable burden on the water supply from either the Farmington Water Department (FVC), or the Farmington Falls Standard Water District (FFSWD);
- f. If applicable, a letter from the Wastewater Treatment Facility (WWTF) superintendent assessing the impact of the proposed subdivision and stating that it will not cause an unreasonable burden on the municipal sewer system. Commercial and industrial subdivisions must state their plans for solid waste disposal;
- g. A letter from the CEO stating that the proposed subdivision property is in compliance with all applicable Town land use ordinances, or State and federal requirements;
- h. Letters from the Fire Chief, Police Chief, and Director of Public Works stating that the proposed subdivision is adequately designed for traffic safety and handling emergency vehicles;
- i. Aerial photo (or copy of same) of subject and adjacent properties;
- j. The location of and nature of significant wildlife habitat identified by the Maine Department of Inland Fisheries and Wildlife; and
- k. The location of known archeological resources, historic buildings or sites, unique natural areas, and scenic areas with a written description of how such features will be maintained or impacts upon them minimized.

### C. Onsite Visit

All proposed subdivision sites shall have an onsite visit by the CEO or designated agent. Additional site visits may be scheduled by the Board.

### D. Abutter Notification

When the CEO determines that the application and subdivision plan are complete, abutting property owners shall be notified by certified mail, at least fifteen (15) days prior to initial Board consideration of a pending application for subdivision. This notice shall indicate the time, date and place of Board consideration of the application. The cost of notification shall be borne by the applicant.

### E. Planning Board Review

When the CEO has determined that the application and subdivision plan are complete, the CEO shall then place the application on the Board's agenda. The applicant, or duly authorized agent, who shall not be the CEO, shall attend the meeting where the application is presented and reviewed by the Board.

#### 1. Public Hearing

In the event that the Board determines to hold a public hearing on the proposed subdivision, it shall hold such hearing within thirty (30) days of the receipt of the completed application, and shall publish notice of the date, time and place of such hearing in a newspaper of general circulation at least two (2) times. The date of the first publication must be at least fourteen (14) days before the hearing and the second notification must be at least seven (7) days before the hearing. Notice of the hearing must be posted in the municipal office building at least fourteen (14) days before the hearing.

#### 2. Additional Studies

The Board may require the applicant to undertake any additional studies which are reasonable and justifiable to accomplish the requirements of this Ordinance. The costs of all such studies shall be borne by the applicant.

### F. Performance Guarantee

The Board may require the posting of an improvement guarantee in such amount as is reasonably necessary to ensure the proper installation and maintenance of all offsite improvements, and onsite improvements with offsite impacts, required as a condition of approval. The nature and duration of the guarantee shall be structured to achieve this goal without adding unnecessary costs to the applicant.

In the event that a development is abandoned, the performance guarantee may be utilized to stabilize, secure, and/or restore the site as may be necessary, including, but not limited to, re-vegetation of areas, grading and fencing.

#### **11-10.9 Fees/Costs**

- A. All applications must be accompanied by the appropriate application fee that shall be set by the Board of Selectmen.
- B. All applicable fees, including but not limited to postage reimbursement, advertising fees, consultant fees, will be the responsibility of the applicant and must be paid before receiving written confirmation of approval by the Board.
- C. The cost of all first time street/road signs including any type of sign that is required for the development i.e. – Stop, Curve, etc. will be the responsibility of the developer.

#### **11-10.10 Performance Standards**

The following performance standards, in addition to the criteria contained in Title 30-A §4404.1-19, are to be used by the Board in reviewing subdivision applications and shall serve as minimum requirements for approval. The subdivision shall be approved, unless in the judgment of the Board the applicant is not able to reasonably meet one or more of these standards. In all instances the burden of proof shall be on the applicant, and such burden of proof shall include the production of evidence necessary to demonstrate that the standards will be met.

- A. Landscape Preservation  
The landscape shall be preserved in its natural state insofar as practicable by minimizing tree removal and disturbance of soil, and retaining existing vegetation during construction.
- B. Vehicular Access  
The proposed site layout shall provide for safe access and egress from public and private roads by providing adequate location, numbers and control of access points including site distances, turning lanes, and traffic signalization when required by existing and projected traffic flow on the municipal and State road systems. Access management plans must conform with all performance standards for same in the Town's Zoning Ordinance.
- C. Parking and Circulation  
The layout and design of all means of vehicular and pedestrian circulation, including walkways, interior drives, and parking areas shall provide for safe general interior circulation, separation of pedestrian and vehicular traffic, service traffic, loading areas, and arrangement and use of parking areas.

Off-street parking and loading area plans must conform with all performance standards for same in the Town's Zoning Ordinance.

D. Soil Erosion/Stormwater Runoff/Drainage

The development shall not cause unreasonable soil erosion. Adequate provision shall be made for surface drainage so that removal of surface waters will not adversely affect neighboring properties, downstream water quality, or the public storm drainage system. When possible, on-site absorption of run-off waters shall be utilized to minimize discharges from the site. If the proposed subdivision triggers applicability of the Town's Soil Erosion Control and Storm Water Management Ordinance, an additional application must be filed.

E. Existing Utilities

The development shall not impose an unreasonable burden on sewers, storm drains, water lines, or other public utilities.

F. Municipal Services

When the Board finds, based upon the recommendation of Department Heads, that municipal services do not have sufficient capacity to service the proposed subdivision, the Board may require phasing of the subdivision to allow for the development of expanded municipal services, deny the application, or require the applicant to assist in upgrading municipal services.

G. Exterior Lighting

All exterior lighting shall be designed to minimize adverse impact on neighboring properties. Outdoor lighting plans must conform with all performance standards for same in the Town's Zoning Ordinance.

H. Groundwater Quality

The development shall not result in an obvious reduction of groundwater quality. In making this determination, consideration shall be given to topography, any underlying aquifers and aquifer recharge areas, the nature of soils and subsoils and, if applicable, their ability to adequately support subsurface wastewater disposal.

I. Water Supply

The developer shall provide reasonable evidence for an adequate water supply for its intended use and will not cause an unreasonable burden on an existing water district or water department, if one is to be utilized.

J. Sewer/Septic

The development shall provide for adequate sewage waste disposal in accordance with the Town of Farmington Sewer Use Ordinance and the Maine Subsurface Wastewater Disposal Rules.

K. Natural Areas/Historic Sites

The development shall not have an undue adverse effect on historic sites or rare and irreplaceable natural areas.

L. Capacity

The applicant shall demonstrate adequate financial and technical capacity to meet the above standards.

**11-10.11 Approvals, Conditions, Findings, Denial**

The Board, within thirty (30) days of a public hearing, or within sixty (60) days of receiving the completed application if no hearing is held, or within such other time limit as may be otherwise mutually agreed to, shall deny or grant approval of the proposed subdivision or grant approval with conditions as it may deem advisable to satisfy the performance standards listed in Section 11-10.11 of this Ordinance and the performance standards in the Town's Zoning Ordinance. In all instances the burden of proof shall be on the applicant.

Upon completion of the requirements of this Ordinance, and approval by the Board, the majority of the Board shall sign the submitted plan which shall deem the Board's final approval. The plan shall be filed by the applicant with the Franklin County Registry of Deeds. Any subdivision plan not so filed or recorded within ninety (90) days of the date upon which such plan is approved and signed by the Board as herein provided shall become null and void, unless the particular circumstances of said applicant warrant the Board to grant an extension which shall not exceed two (2) additional periods of ninety (90) days. The developer shall bear the cost of any registration fees.

No changes, erasures, modifications, or revisions shall be made on any plan after approval has been given by the Board and endorsed in writing on the plan, unless the plan is first resubmitted and the Board approves any modifications. In the event that a plan is recorded without complying with this requirement, the same shall be considered null and void.

**11-10.12 Appeals**

Any party aggrieved by the final determination by the Board may appeal to the Farmington Board of Appeals by filing an application for appeal within thirty (30) days after receipt of the Board's decision. The Board of Appeals may affirm, modify or reverse the Board's decision after holding a public hearing and may grant a variance as defined herein. Public hearings shall be held in accordance with Title 30-A M.R.S.A. §2691.

### **11-10.13 Amendments**

A. An amendment to this Ordinance may be initiated by:

1. The Board of Selectmen, provided a majority of the Board of Selectmen has so voted;
2. Written petition of a number of voters equal to at least ten percent (10%) of the number of votes cast in the municipality at the last gubernatorial elections.

### **11-10.14 Enforcement**

A. Violations

1. Any violation of this Ordinance, including failure to comply with any condition, shall be deemed to be a violation of 30-A M.R.S.A. §4452.
2. Commencement of any project without Planning Board or CEO approval shall be considered a violation of this Ordinance. Any party committing such a violation shall immediately cease project operations, whether of a construction, renovation or business nature, upon notification by the CEO per B.1. below or upon self-discovery of the violation. In such cases, an after-the-fact (ATF) application for Subdivision Approval must be immediately filed with the CEO. The ATF application fee will be double the normal application fee and must be paid prior to Planning Board review. Payment of this ATF application fee does not preclude the Town from pursuing fines and/or penalties under 30A MRSA §4452 (per A. 1. above and D. below) or preclude the Town from negotiating and executing an administrative consent agreement to recover fines without court action (per C. below).

B. Code Enforcement Officer

1. It shall be the duty of the CEO to enforce the provisions of this Ordinance. If the CEO finds that any provision of this Ordinance is being violated, he/she shall notify in writing the person responsible for such violation, indicating the nature of the violation and ordering the action necessary to correct it, including discontinuance of illegal use of land, buildings or structures, or work being done, removal of illegal buildings or structures, and abatement or mitigation of violations. A copy of such notices shall be submitted to the municipal officers and be maintained as a permanent record.

2. The CEO shall conduct on-site inspections to insure compliance with all applicable laws and conditions attached to permit approvals. The CEO shall also investigate all complaints of alleged violations of the Ordinance.
3. The CEO shall keep a complete record of all essential transactions of the CEO, 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.

#### C. Legal Actions

When the above action does not result in the correction or abatement of the violation, the Municipal Officers, upon receiving written notification from the CEO, shall institute any and all actions and proceedings, either legal or equitable, including injunctions of violations and the impositions of penalties and/or fines in order to enforce the provisions of this Ordinance. 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.

#### D. Penalties/Fines

Any person, including but not limited to a landowner, a landowner's agent or a contractor, who orders or conducts any activity in violation of this Ordinance, or upon failure to comply with any of its requirements, shall be penalized in accordance with Title 30-A M.R.S.A. §4452. The owner or tenant of any building, structure, premises, or part thereof and any architect, builder contractor, agent, or other person who commits, participates in, or maintains such violation may be found guilty of a separate offense and be subject to the penalties herein provided.





# TOWN OF FARMINGTON

## TRAFFIC ORDINANCE

### Chapter 12

Certified by: Heanne E Dickey  
Town Clerk

Affix Seal

Date Last Amended: 09/27/16

Amended 07/10/01	Amended 04/12/11
Amended 10/22/02	Amended 04/24/12
Amended 10/14/03	Amended 09/25/12
Amended 12/28/04	Amended 02/12/13
Amended 05/22/07	Amended 07/14/15
Amended 06/24/08	Amended 09/27/16
Amended 11/25/08	
Amended 04/28/09	

## TOWN OF FARMINGTON TRAFFIC ORDINANCE - CHAPTER 12

### **ARTICLE 1. GENERAL**

Chapter 12 of the Town of Farmington Ordinances, dated February 14, 1995, supersedes any previous Chapter 12 Town of Farmington Ordinances and all Chapter 12 amendments approved by the Board of Selectmen to Chapter 12, prior to February 14, 1995.

- 12-1.1**      **SIGNS:** The parking signs, traffic signs, traffic signals, and markings provided for by this Ordinance and appearing in any Town way or Town owned or maintained parking lot shall be prima facie evidence that such signs and markings were erected and marked in accordance with the provisions of this Ordinance and by the municipal officers.
- 12-1.2**      Any person who removes, destroys, damages, or defaces any sign or signal erected by or under the direction of the Town of Farmington shall be deemed guilty of a Town of Farmington Ordinance violation and shall be punished by a fine of not more than \$100.00, plus costs. This section does not preclude the Town of Farmington to pursue criminal charges under Title 17A, Section 806, M.R.S.A., in which there may be fines and jail penalties imposed under guidelines set out in Title 17A M.R.S.A.
- 12-1.3**      A. The word "parked" as used in this Code shall mean allowing a motor vehicle to remain stationary in a way, parking lot, or in the street, whether attended or unattended.
- B. A vehicle which is unlawfully parked in violation of this Ordinance shall be prima facie evidence of the unlawful parking of such vehicle by the person in whose name such vehicle is registered.
- C. An officer or civilian employee may cause any vehicle so unlawfully parked to be removed from the way and placed in a suitable parking space, at the expense of the owner of such vehicle. Neither the Town of Farmington nor the officer shall be liable for any damage that may be caused by such removal. Civilian employees shall only cause a vehicle to be removed with the authority of the police shift supervisor.
- D. Any person or vehicle owner who is issued any parking ticket in violation of this Ordinance under Chapter 12 may choose to contest the violation by coming to the Police Department and attempting to resolve the matter with the issuing officer or Chief of Police. If the person or vehicle owner is not satisfied with the

explanation, then that person can be issued a Civil Citation for a District Court Judge to hear. The person or vehicle owner may be adjudicated a fine of up to \$100.00, plus costs, plus the cost of the original parking ticket.

## **ARTICLE 2. NO PARKING**

- 12-2.1**      **PENALTY:** The municipal police officers and/or civilian parking ticket personnel are authorized to ticket any vehicle found in violation of this Article, which shall subject the owner of said vehicle to pay a penalty of \$20.00 to the Town of Farmington for each such violation. Fines, except parking for people with disabilities fines, not paid within thirty (30) days of issuance of a ticket shall be doubled. Any vehicle owner who has not paid the parking tickets shall after thirty (30) days receive a notice of nonpayment. This warning shall include a notice of possible court action with a fine of up to \$100.00, plus costs, plus the original parking ticket fines. All such fines recovered from parking violations shall be used by the municipality.
- 12-2.2**      No person shall park a vehicle within twenty (20) feet of any intersection.
- 12-2.3**      No person, when parking a vehicle, shall park with the curb on the driver's left except at the left side of a public way designated for one-way traffic. No person shall otherwise park with the vehicle facing oncoming traffic. All vehicles shall park within the designated parking lines.
- 12-2.4**      No person shall park a vehicle at any time on a public way so as to obstruct the free passage of other vehicles on said public way, or to and from any other public or private way; this includes public sidewalks.
- 12-2.5**      No person shall park a vehicle at any time on any sidewalk now existing or hereafter to be created.
- 12-2.6**      No person shall park a vehicle within ten (10) feet of any entrance to an alley, fire lane or non-residential drive in the business district of the Town of Farmington. For the purposes of this section, "Business District" shall be defined to be bounded and described as follows:

On the north by the northerly sidewalk of Anson Street (therefore to include the northerly side of Anson Street within the boundaries); bounded on the west by the westerly side of Pleasant Street and Front Street and to include within the boundaries said westerly side; bounded on the south by the southerly side of Depot Street and to include the southerly side of said Depot Street; bounded on the south by Academy Street and to include the southerly side of said Academy Street. This district includes the premises running as far easterly as the westerly side of High Street **but does not include** the westerly side of High Street within this district except the area on the westerly side of High Street between Broadway and Church Street (Exception for westerly side of High Street from Broadway to Church Street added 9/25/12). This district also includes both sides of Main Street from Depot Street to Anson Street."

- 12-2.7** No person shall park within twenty (20) feet of either side of any fire hydrant in the Town of Farmington, except on Broadway from the intersection of High Street to the intersection of Front Street, and Main Street from the intersection of Anson Street to the intersection of South Street, which will be within fifteen (15) feet.
- 12-2.8** **Academy Street:** No person shall park a vehicle on Academy Street at any time in the following places:
- a. south side of Academy Street from the intersection of Main Street and Academy Street to the intersection of High Street and Academy Street;
  - b. north side of Academy Street from the intersection of Main Street and Academy Street east to a “No Parking” sign located twenty (20) feet from the intersection;
  - c. north side of Academy Street from the intersection of High Street and Academy Street west to a “No Parking” sign by the parking lot of the Baptist Church.
- 12-2.9** **Anson Street:** No person shall park a vehicle at any time on the north side of Anson Street from the intersection of Main Street and Anson Street east to the opposite side of the northerly terminus of High Street.
- 12-2.10** **Bridge Street:** No person shall park a vehicle on either side of Bridge Street (1991) in West Farmington northerly to a point one hundred (100) feet from the Wilton Road to a “No Parking” sign. No person shall park a vehicle on the south side of Bridge Street in West Farmington from the intersection of Bridge and Oakes Street approximately sixty-five (65) feet to a utility pole.
- 12-2.11** **Broadway:** No person shall park a vehicle on the north side of Broadway from the intersection of Front Street and Broadway east to a “No Parking” sign located forty (40) feet east of said intersection.
- 12-2.12** **Church Street:** No person shall park a vehicle on Church Street at any time in the following places:
- a. south side from the intersection of Main Street and Church Street east to a “No Parking” sign located forty-five (45) feet from said intersection;
  - b. north side from the easterly corner of the County Lot two hundred and twenty (220) feet to a “No Parking” sign.
- 12-2.13** **Depot Street:** No person shall park a vehicle at any time on either side of Depot Street.
- 12-2.14** **Exchange Street:** No person shall park a vehicle on either side of Exchange Street.
- 12-2.15** **Grove Street:** No person shall park a vehicle on either side of Grove Street from

Perham Street to Court Street.

**12-2.16**      **High Street:** No person shall park a vehicle at any time on the following sections of High Street:

- a.      west side of High Street between Academy Street and Maple Avenue;
- b.      east side of High Street from the intersection of Anson Street and High Street south to the intersection of Court Street and High Street;
- c.      west side of High Street from the intersection of High Street and Anson Street to a point opposite of Court Street and High Street;
- d.      east side of High Street from the intersection of Lincoln Street and High Street south to twenty (20) feet south of 190 High Street;
- e.      east side of High Street from the intersection of Middle Street and High Street sixty (60) feet north to a “No Parking” sign;
- f.      east side of High Street from the intersection of Lake Avenue and High Street sixty (60) feet south to a “No Parking Here to Corner” sign;
- g.      east side of High Street from the intersection of High Street and Lincoln Street to the crosswalk in front of the main entrance to Mallett Hall.

**12-2.17**      **Lake Avenue:** No person shall park a vehicle on the north side of Lake Avenue at any time from the intersection of High Street and Lake Avenue, to 132 Lake Avenue.

**12-2.18**      **Lincoln Street:** No person shall park a vehicle on either side of Lincoln Street at any time from the intersection of Quebec Street and Lincoln Street to the intersection of High Street and Lincoln Street, except that parking is allowed in the following areas of said street:

- a.      in nine marked spaces on the south side of Lincoln Street from a point approximately eighty (80) feet from its intersection with High Street east to a “No Parking” sign.
- b.      in two (2) marked spaces on the north side of Lincoln Street in front of Frances Allen Black Hall, which two (2) spaces shall be fifteen (15) minute parking.

**12-2.19**      **Maguire Street:** No person shall park a vehicle on either side of Maguire Street at any time from the intersection of Middle Street and Maguire Street, to the intersection of Perkins Street and Maguire Street, except for the loading and unloading of children at 110 Maguire Street.

**12-2.20**      **Main Street:** No person shall park a vehicle on Main Street at any time in the following areas:

- a. west side from the intersection of Depot Street and Main Street north thirty (30) feet to a “No Parking” sign;
- b. east side of Main Street from the intersection of Prescott Street and Main Street north to 234 Main Street;
- c. west side of Main Street from the intersection of Prescott Street and Main Street to the intersection of Depot Street and Main Street;
- d. west side of Main Street from the intersection of Pleasant Street and Main Street north to the intersection of Belcher Road and Main Street;
- e. east side of Main Street from 116 Main Street north to the intersection of Belcher Road and Main Street;
- f. either side of Main Street from the intersection of Prescott Street and Main Street to Center Bridge and Main Street.

**12-2.21**      **Maple Avenue:** No person shall park a vehicle on either side of Maple Avenue from the intersection of High Street and Maple Avenue west to the intersection of Farmington Falls Road and Maple Avenue.

**12-2.22**      **Middle Street:** No person shall park a vehicle on Middle Street at any time in the following areas:

- a. on the Community Center side (south side) of the street from the intersection of High Street and Middle Street to the intersection of the Industry Road and Middle Street, subject to the following exceptions:
  - i. the parking space for people with disabilities near the American Legion building;
  - ii. the first two (2) parking spaces easterly of the easterly most vehicular entrance to the Community Center, which shall be restricted to parking for people with disabilities;
  - iii. the third parking space easterly of the most easterly entrance to the Community Center which shall be restricted to loading and unloading;
- b. north side of Middle Street from the intersection of High Street and Middle Street east two hundred and twenty five (225) feet to the entrance to the M.S.A.D. 9 / U.M.F. parking lot.

**12-2.23** (Added 9/25/12)      **North Street:** No person shall park a vehicle on North Street at any time in the following areas:

- a. east side of the entire street
- b. west side from the intersection of North Street and Orchard Street to the intersection of North Street and Perham Street

- 12-2.24** (Added 2/12/13)      **Orchard Street:** No person shall park a vehicle on the south side of Orchard Street.
- 12-2.25**      **Park Street:** No person shall park a vehicle on either side of Park Street from the intersection of Park Street and Main Street to the intersection of Park Street and Pleasant Street.
- 12-2.26**      **Perham Street:** No person shall park a vehicle on Perham Street at any time in the following areas:
- a.      on the south side from the intersection of High Street and Perham Street east to 127 Perham Street;
  - b.      on the north side from the intersection of Grove Street and Perham Street easterly to what is known as Tannery Brook.
- 12-2.27**      **Perkins Street:** No person shall park a vehicle on either side of Perkins Street at any time from the intersection of High Street and Perkins Street to the intersection of Perkins Street and Quebec Street.
- 12-2.28**      **Pleasant Street:** No person shall park a vehicle on Pleasant Street at any time in the following areas:
- a.      either side of Pleasant Street from the intersection of Main Street and Pleasant Street to the intersection of Park Street and Pleasant Street;
  - b.      west side of Pleasant Street from the intersection of Pleasant Street and Park Street south twenty (20) feet to a “No Parking” sign.
- 12-2.29**      **Prescott Street:** No person shall park a vehicle on either side of Prescott Street at any time from the intersection of Main Street and Prescott Street south to the intersection of Prescott Street and Maple Avenue.
- 12-2.30**      **Quebec Street:** No person shall park a vehicle on Quebec Street at any time in the following areas:
- a.      both sides of Quebec Street from the intersection of Lincoln Street and Quebec Street to the intersection of Middle Street and Quebec Street, except during church services and other church activities;
  - b.      west side of Quebec Street thirty (30) feet from either side of the entrance/exit to the Mallett School.
- 12-2.31**      **Seamon Road:** No person shall park a vehicle on the Seamon Road at any time in the following areas:
- a.      west side of the Seamon Road in front of the High School from the intersection of the Whittier Road, first southerly following the curve of the road, then westerly to the exit of the SAD #9 Vocational School;

- b. south side of the Seamon Road forty (40) feet either side of the SAD #9 bus exit to a “No Parking” sign.

**12-2.32**      **South Street:** No person shall park a vehicle on South Street at any time in the following areas:

- a. south side of South Street from Main Street to High Street;
- b. north side of South Street from the intersection of High Street and South Street west thirty-five (35) feet to a “No Parking” sign;
- c. north side of South Street from the intersection of Main Street and South Street east thirty-five (35) feet to a “No Parking” sign.

**12-2.33**      **Water Street:** No person shall park a vehicle on either side of Water Street between the intersections of Wilton Road and Water Street, and the intersection of Bridge Street (1991) and Water Street.

**12-2.34**      **Whittier Road:** No person shall park a vehicle on the south side of the Whittier Road starting at a point from opposite NET Pole #24 and extending easterly to a point opposite NET Pole #31, a distance of 0.25 mile.

**12-2.35**      **Wilton Road:** No person shall park a vehicle on either side of the Wilton Road at any time from the intersection of the Farmington Falls Road and Main Street (Center Bridge) to the Wilton town line.

**12-2.36**      **Municipal Parking Lot Entrance:** No person shall park a vehicle on either side of the entrance road to the Municipal Parking Lot between the Post Office and Weber Insurance Agency.

**12-2.37**      **Zebra Zones:** No person shall park in any Zebra Zone, so-called, which zones are designated by diagonal striping, except as permitted in section 12-5.3 of this Ordinance.

### **ARTICLE 3. LIMITED PARKING**

**12-3.1**      **PENALTY:** The municipal police officers and/or civilian parking ticket personnel are authorized to ticket any vehicle found in violation of this Article, which shall subject the owner of said vehicle to pay a penalty of \$10.00 to the Town of Farmington for each such violation of the twenty (20) minute, two (2) hour and three (3) hour parking ban; all other fines for limited parking will be \$20.00. Fines, except parking for people with disabilities fines, not paid within thirty (30) days of issuance of a ticket shall be doubled. Any vehicle owner who has not paid the parking tickets shall after thirty (30) days receive a notice of nonpayment. This warning shall include a notice of possible court action with a fine of up to \$100.00, plus costs, plus the original parking ticket fines. All such fines recovered from parking violations shall be used by the municipality.

**12-3.2**      **Bridge Street:** No person shall park a vehicle on the north side of Bridge Street for more than two (2) hours between the hours of 9:00 A.M. and 6:00 P.M. from the



intersection of Town Farm Road and Bridge Street, continuing easterly for eighty-four (84) feet (it should be noted that for every two (2) hours between the hours of 9:00 A.M. and 6:00 P.M. constitutes a separate violation, providing the vehicle has not been moved and the tire has been chalked).

**12-3.3      Broadway:** No person shall park a vehicle on Broadway for more than two (2) hours at a time between the hours of 9:00 A.M. and 6:00 P.M.; an exception is for the first three (3) spaces in front of 163 Broadway (Belcher Building), which shall be twenty (20) minute parking between 9:00 A.M. and 6:00 P.M.

**12-3.4      Broadway Municipal "Keyes Square" Parking Lot:** No person shall park a vehicle in the Broadway Municipal Parking Lot for more than three (3) hours at a time between the hours of 9:00 A.M. and 6:00 P.M. (it should be noted that for every three (3) hours between the hours of 9:00 A.M. and 6:00 P.M. constitutes a separate violation, providing the vehicle has not been moved and the tire has been chalked). **The exceptions to this area are in those spots that the Town of Farmington does not own, which include the following:**

- a.      the first spot directly behind the I.O.O.F Building;
- b.      all of the spots directly behind 203 Broadway to 221 Broadway;
- c.      the four (4) spots behind Howards Rexall;
- d.      all of the spots in the closed-in area directly behind the Post Office;
- e.      the four (4) spots behind the Weber Insurance Agency (Jonathan Pound) building.

**12-3.4A      Church Street:** No person shall park a vehicle on either side of the portion of Church Street west of the front entrance of 113 Church Street (Children's Task Force) for more than two (2) hours at any time between the hours of 9:00 A.M. and 6:00 P.M.

**12-3.4B (Added 09/27/16)      Church Street Lot Developed in 2016 at 112 Church Street at corner of Church and Cony Streets:** No person shall park a vehicle in this lot on Sundays from 12:00 p.m. (noon) to 3:00 p.m. from the 15th of November to the 15th of April each year. The purpose of this three (3) hour no parking period each week is to establish time during the winter months for municipal clearance of snow buildup. Notwithstanding this restriction, this parking lot shall be approved for overnight and long term parking except that there shall be no parking from midnight to 6:00 a.m. from November 15 to April 15th for the 14 spaces on the west side (Cony Street side) of the lot. The owner of any vehicle violating any provision of this sub section of the ordinance shall be subject to a penalty of \$20.00 and/or be subject to vehicle towing.

**12-3.5      Front Street Parking Lot:** No person shall park a vehicle in the Front Street Parking Lot on Sundays from 12:00 P.M. (noon) to 2:00 P.M. from the fifteenth (15th) of November to the fifteenth (15th) of April each year. The purpose of this two (2) hour no parking period each week is to establish a time during the winter months for municipal clearance of snow buildup. Notwithstanding this restriction, this parking lot shall be approved for overnight and long-term parking. The owner of any vehicle violating this provision shall be subject to a penalty of \$20.00 and/or be subject to

vehicle towing at the owner's expense. The Front Street Parking Lot property is leased by the Town of Farmington and the University of Maine at Farmington from Farmington Construction, Inc. and is identified as Lot 4 on "Amended Plan of Farmington Construction, Inc., Farmington, and Franklin County, Maine". The 99-year lease dated October 7, 1993 is clarified by a Memorandum of Understanding dated May 10, 2000, and recorded in the Franklin County Registry of Deeds in Book 1930, Page 291 (the Front Street Parking Lot is no longer a part of the former 12-3.8 / Winter Parking Ordinance).

**12-3.6 Front Street (West Side - In Front of 165-169 Front Street):** No person shall park a vehicle on the west side of Front Street in the spaces in the front of the 165-169 Front Street building (newly constructed by Jon and Lois Bubier in 2010) for more than two (2) hours at a time between the hours of 9:00 a.m. and 6:00 p.m. in this location.

**12-3.7 (Added 02/12/13) Front Street West Side:** described as Lot "5" and Lot "6" on Acme Survey dated May 3, 1999, P-3508, Franklin Registry of Deeds, being those referred to in first portion of paragraph "b" of License of Franklin Savings Bank of 6/6/11 Book 3353, Page 250 Franklin Registry of Deeds. Pursuant to the conditions of said License public use of these lots is limited to the period of time from 6:00 p.m. to midnight Monday through Friday and from 6:00 a.m. to midnight Saturday and Sunday. **Front Street East Side:** at lot adjacent to "stairway" and being that referred to in paragraph "a" of said License from Franklin Savings Bank: No person shall park a vehicle in the said *Front Street East Side* lot for more than two (2) hours at a time (added 07/14/15) *Moreover, no person shall park a vehicle for any period of time in any of the foregoing lots from midnight until 6:00 a.m. Overnight parking during said six hour period is thus prohibited in all three of the foregoing lots. (added 07/14/15)*

**12-3.8 Lincoln Street:** No person shall park a vehicle for more than fifteen (15) minutes in the two (2) spaces on the north side of Lincoln Street in front of Frances Allen Black Hall.

**12-3.9 Main Street:** No person shall park a vehicle on Main Street for more than two (2) hours at a time between the hours of 9:00 A.M. and 6:00 P.M. in the following locations (it should be noted that for every two (2) hours between the hours of 9:00 A.M. and 6:00 P.M. constitutes a separate violation, providing the vehicle has not been moved and the tire has been chalked):

- a. east side of Main Street from the intersection of Academy Street north to the intersection of Anson Street;
- b. west side of Main Street from the intersection of Pleasant Street and Main Street south to the intersection of Academy Street;
- c. Exception is three (3) spaces in front of the Farmington Post Office shall be for twenty (20) minutes (amended 10-10-95).

- 12-3.10**      **Main Street (Intervale) Park ‘N Ride Parking Lot:** No person shall park a vehicle in the Main Street Park ‘N Ride Parking Lot from the fifteenth (15<sup>th</sup>) day of November to the fifteenth (15<sup>th</sup>) day of April of each year between the hours of 12:00 A.M. (midnight) and 6:00 A.M., except in the front seven (7) spots designated for overnight parking.
- 12-3.11**      **Overnight Parking Ordinance:** No person shall park a vehicle during the summer months (**for winter months, see 12-3.13**) on the below mentioned streets and parking lots from the sixteenth (16<sup>th</sup>) day of April to the fourteenth (14<sup>th</sup>) day of November from 12:00 A.M. (midnight) to 6:00 A.M. The owner or operator of said vehicle shall be subject to a penalty of \$20.00, and/or be subject to having said vehicle towed at the owners expense. The following are the streets and parking lots:
- a.      **Main Street:** from the intersection of Main Street and South Street to the intersection of Main Street and Belcher Road; and
  - b.      **Broadway:** from the intersection of Front Street and Broadway to the intersection of High Street and Broadway.
  - c.      **Church Street:** from Main Street to the front entrance of 113 Church Street (Children’s Task Force), including the four (4) spaces along the front of the County Lot.
  - d.      **Exchange Street Parking Lot**
  - e.      **South Street** (Added 9/25/12)
- 12-3.12**      **Pleasant Street (part of) Ordinance:** No person shall park their vehicle in the four spaces on the east side of Pleasant Street in front of 138-140 Pleasant Street for more than two (2) hours at a time between the hours of 9:00 a.m. and 6:00 p.m. in the foregoing location. (It should be noted that for every two (2) hours between the hours of 9:00 a.m. and 6:00 p.m. constitutes a separate violation, provided the vehicle has not been moved and the tire has been chalked).
- 12-3.13**      **Winter Parking Ordinance:** No person shall park a vehicle from 12:00 A.M. (midnight) to 6:00 A.M. on any street, public way, or Town owned or leased parking lot (i.e. Exchange Street Parking Lot, Park ‘N Ride Parking Lot except in the front seven (7) spots designated for overnight parking, Town Office Parking Lot, Community Center Parking Lot and Broadway Municipal “Keyes Square” Parking Lot), from the fifteenth (15<sup>th</sup>) day of November to the fifteenth (15<sup>th</sup>) day of April of each year or during any part of the day which would block the removal of snow. The decision to remove snow at times other than 12:00 A.M. (midnight) to 6:00 A.M. rests solely with the Public Works Director or his designee. The owner of said vehicle shall be subject to a penalty of \$20.00 and/or be subject to having their vehicle towed at the owner’s expense. This section shall not apply to the Front Street Parking Lot, so called. See Front Street Parking Lot language (former 12-3.8/Winter Parking Ordinance and former 12-3.9/Snow Removal Ordinance now combined). This section shall also not apply to the 13 spaces on the east side of the Church Street Parking Lot so-called. See Section 12-3.4B, “Church Street Lot Developed in 2016 at 112 Church Street at corner of Church and Cony Streets” (added 09/27/16).

**12-3.14**      **Shuffling or Relocating Vehicles to Avoid Penalties:** When signs are erected in each block giving notice thereof, no person shall relocate or move a vehicle in order to avoid a violation of the parking time limit. The following action in the “business district” as defined in §12-2.6 of this ordinance shall be considered prima facie evidence of such prohibited conduct when observed by a law or parking enforcement officer:

- a. When a person moves or relocates a vehicle that has been parked less than the posted time limit from a time-limited parking space; and within five (5) minutes after vacating this space,
- b. Returns to the same parking space or moves to another time limited space; and
- c. the aggregate time in “a” and “b” is more than the posted time limit.

Such shuffling or relocating shall constitute overtime parking for the purposes of this section. Overtime parking is a violation of this article and shall be subject to the fines set forth in Section 12-3.1.

**12-3.15**      **Removing or Erasing Chalk Marks to Avoid Penalties:** The purpose of this section is to address removing or erasing a chalk mark placed on a tire by a law or parking enforcement officer who has placed such chalk mark on a vehicle’s tire to determine the duration that the vehicle has occupied a parking space. No person may therefore remove or so erase such a chalk mark so placed for said purpose. A violation of this section shall be subject to the fines set forth in Section 12-3.1.

**12-3.16** (Added 9/25/12)      **Temporary Closure of Municipal Lots for Maintenance Purposes:**  
The Town Manager or his or her designee may, from time to time, temporarily close some or all of the spaces in the Municipal Lots for the purpose of maintenance activities.

#### **ARTICLE 4. PARKING FOR PEOPLE WITH DISABILITIES**

**12-4.1**      Parking spaces for people with disabilities are required for those individuals who are mobility impaired or who may have a serious health impairment that limits the distance that they can comfortably walk from vehicle to building. This definition is subscribed to by the Americans with Disabilities Act (ADA), and the Town of Farmington also subscribes to the guidelines outlined in ADA with respect to parking for people with disabilities.

**12-4.2**      **PENALTY:** The penalty for violation of the Town of Farmington Parking for

People With Disabilities Ordinance shall not be less than \$200.00 per M.R.S.A. 30-A, Section 3009(1)(D)(3). Any vehicle or motorcycle parked in a parking space clearly marked as a parking space for people with disabilities that does not bear a special registration plate or placard issued under M.R.S.A. 29-1, Section 523, or a similar plate issued by another state, must be cited for a forfeiture of not less than \$200.00. "Clearly marked" includes painted signs on pavement and vertical standing signs that are visible in existing weather conditions. Any vehicle owner who has not paid the parking tickets shall after thirty (30) days receive a notice of nonpayment. This warning shall include a notice of possible court action with a fine of up to \$100.00, plus costs, plus the original parking ticket fines. All such fines recovered from parking violations shall be used by the municipality.

#### **12-4.3**

No person shall park a vehicle or motorcycle in any parking space designated for people with disabilities on any public way or Town of Farmington public parking lot, unless said vehicle or motorcycle is registered by a person with disabilities. Any vehicle or motorcycle parked in a "clearly marked" space designated as a parking space for people with disabilities that does not bear a special registration plate or placard issued under M.R.S.A. Title 29A, Section 521, or a similar plate issued by another state shall be considered in violation of this Ordinance. "Clearly marked" includes painted signs on the pavement and vertical standing signs with the international symbol for people with disabilities, which are visible in existing weather conditions. The following areas shall have parking for people with disabilities:

- a. east side of Main Street in front of the Superior Court building;
- b. east side of Main Street in front of 204 Main Street;
- c. west side of Main Street in front of Franklin Savings Bank;
- d. west side of Main Street just south of the intersection of Exchange Street and Main Street;
- e. south side of Broadway just east of the entrance alley to the Broadway Municipal "Keyes Square" Parking Lot, which spot shall be designated as van accessible for people with disabilities;
- f. two (2) spaces on the east side of the Broadway Municipal "Keyes Square" Parking Lot just north of the exit to High Street;
- g. north side of Middle Street in front of 120 Middle Street;
- h. west side of the Community Center to the right of the side door;
- i. east side of the Community Center directly in front of the ramp for people with disabilities;
- j. one (1) spot on the south side of Middle Street near the American Legion building about one hundred and thirty (130) feet from the intersection of High Street and Middle Street (amended 6-24-08);
- k. one (1) spot on the east side of High Street near the American Legion building about forty (40) feet south of the intersection of Middle Street and High Street (amended 4-24-12);
- l. east side of the rear parking lot directly behind the Town Office building just to the left of the entrance walkway;
- m. south side of the parking lot directly in front of the Town Office

- building;
- n. north side of South Street across from the UMF Student Center;
- o. east side of the Main Street Park 'N Ride Parking Lot just left of the exit, which area shall have two (2) parking spots for people with disabilities;
- p. west end of the Front Street Parking Lot.
- q. south side of Church Street in front of 109 Church Street (Braconi/Carlson building) in the first space west of the passageway that separates the Braconi/Carlson building from the Franklin County Children's Task Force Lot.

**12-4.4**      **Private Property Parking for People with Disabilities:** The following provisions apply to the establishment and policing of parking spaces for people with disabilities on private property to which the public has access:

- a. local or county law enforcement agencies may enforce people with disabilities parking restrictions on private off-street parking areas;
- b. under these agreements public law enforcement officials may ensure that parking spaces designated for people with disabilities are used appropriately by persons with disabilities on private lots open to the public. These parking restrictions for people with disabilities in private lots may also be enforced by County or municipal volunteer parking personnel;
- c. any vehicle or motorcycle parked in a "clearly marked" space designated as a parking space for people with disabilities that does not bear a special registration plate or placard issued under M.R.S.A. Title 29A, Section 521, or a similar plate issued by another state, shall be considered in violation of this Ordinance. "Clearly marked" includes painted signs on the pavement and vertical standing signs with the international people with disabilities symbol, which are visible in existing weather conditions.

## **ARTICLE 5. SPECIALTY PARKING**

**12-5.1**      **PENALTY:** The municipal police officers and/or civilian parking ticket personnel are authorized to ticket any vehicle found in violation of this Article, which shall subject the owner of said vehicle to pay a penalty of \$20.00 to the Town of Farmington for each such violation. Fines, except parking for people with disabilities fines, not paid within thirty (30) days of issuance of a ticket shall be doubled. Any vehicle owner who has not paid the parking tickets shall after thirty (30) days receive a notice of nonpayment. This warning shall include a notice of possible court action with a fine of up to \$100.00, plus costs, plus the original parking ticket fines. All such fines recovered from parking violations shall be used by the municipality.

**12-5.2**      No vehicle shall park in the first space on the south side of Broadway west of Main Street in an area designated for "Police Vehicles Only" except authorized police vehicles or private vehicles of police officers when they are on-duty in the downtown

area.

**12-5.3** Except in the areas of fire hydrants and people with disabilities zones, delivery vehicles (trucks, vans and cars used for delivery purposes) will be allowed to park in "No Parking" areas commonly called "zebra zones" for up to sixty (60) minutes in the following areas:

- a. the Business District as defined in section 12-2.6 of this Ordinance;
- b. in the Broadway Municipal "Keyes Square" Parking Lot;
- c. nothing in the foregoing provisions shall preclude the use of delivery vehicles to:
  - 1. Maiden Lane, being the alleyway located west of 165 Main Street and east of 118 Broadway, 138 Pleasant Street and the east side of the Exchange Street / Pleasant Street Parking Lot;
  - 2. Farmington Construction, Inc. alleyway, located between 195 Broadway and 205 Broadway;
  - 3. the alleyway on the north side of Broadway located between 186 Broadway and 200 Broadway;
  - 4. the alleyway on the north side of Broadway located east of 224 Broadway and west of 232 Broadway.

**12-5.4** **Private Parking Lot Lease Agreements:** The Selectmen of Farmington may enter into a lease agreement with the owner of private parking lots for parking ticket enforcement and/or maintenance with the mutual consent of both parties. These lease agreements shall have the same force and effect as similar Chapter sections on public ways. The fines and penalties will parallel the Chapter 12 sections covering public ways on the same issues.

**12-5.5** (Added 9/25/12) **Tour Buses Parking:** The Town Manager or his or her designee may, from time to time, specify certain spaces in the following locations: north side of Lower Broadway, north side of Church Street, and/or west side of Main Street in front of Meeting House Park, to be used during specific hours and between specific dates exclusively for the parking of buses, limousines, taxi cabs, or pedicabs.

## **ARTICLE 6. ONE-WAY TRAFFIC**

**12-6.1** **PENALTY:** Municipal police officers and/or civilian parking ticket personnel are authorized to ticket any vehicle found in violation of this Article, which shall subject the owner of said vehicle to a penalty not less than twenty-five (\$25) dollars nor more than five hundred (\$500) dollars. Enforcement under this Article may be concurrent with enforcement of provisions of 29-A M.R.S.A. §103 and 29-A M.R.S.A. §2057.

**12-6.2** No vehicle may proceed from High Street to Main Street on Church Street.

## **Town of Farmington Ordinance Restricting Vehicle Weight on Posted Ways**

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### **Section 1. Purpose and Authority**

The purpose of this "Ordinance Restricting Vehicle Weight on Posted Ways" (hereinafter, the "Ordinance") is to prevent damage to town ways and bridges in the Town of Farmington which may be caused by vehicles of excessive weight, to lessen safety hazards and the risk of injury to the traveling public, to extend the life expectancy of town ways and bridges, and to reduce the public expense of their maintenance and repair. This Ordinance is adopted pursuant to 30-A M.R.S.A. § 3009 and 29-A M.R.S.A. §§ 2395 and 2388.

### **Section 2. Definitions**

The definitions contained in Title 29-A M.R.S.A. shall govern the construction of words contained in this Ordinance. Any words not defined therein shall be given their common and ordinary meaning.

### **Section 3. Restrictions and Notices**

The municipal officers may, either permanently or seasonally, impose such restrictions on the gross registered weight of vehicles as may, in their judgment, be necessary to protect the traveling public and prevent abuse of the highways, and designate the town ways and bridges to which the restrictions shall apply.

Whenever notice has been posted as provided herein, no person may thereafter operate any vehicle with a gross registered weight in excess of the restriction during any applicable time period on any way or bridge so posted unless otherwise exempt as provided herein.

The notice shall contain, at a minimum, the following information: the name of the way or bridge, the gross registered weight limit, the time period during which the restriction applies, the date on which the notice was posted, and the signatures of the municipal officers. The notice shall be conspicuously posted at each end of the restricted portion of the way or bridge in a location clearly visible from the traveled way

Whenever a restriction expires or is lifted, the notices shall be removed wherever posted. Whenever a restriction is revised or extended, existing notices shall be removed and replaced with new notices. No person may remove, obscure or otherwise tamper with any notice so posted except as provided herein.

### **Section 4. Exemptions**

Vehicles that are exempt from the Maine Department of Transportation's (MaineDOT) "Rules and Regulations Restricting Heavy Loads on Closed Ways" dated December 31, 1996 and amended on March 4, 1998, a copy of which is attached and is hereby incorporated as part of this Ordinance, are exempt from this Ordinance. In addition, any vehicle delivering home heating



fuel and operating in accordance with a permit issued by the MaineDOT under 29-A M.R.S.A. § 2395 (4) and, when necessary during a period of drought emergency declared by the governor, any vehicle transporting well-drilling equipment for the purpose of drilling a replacement well or for improving an existing well on property where that well is no longer supplying sufficient water for residential or agricultural purpose and operating in accordance with a permit issued by the MaineDOT under 29-A M.R.S.A. § 2395 (4-A).

### **Section 5. Permits**

The owner or operator of any vehicle not otherwise exempt as provided herein may apply in writing to the municipal officers for a permit to operate on a posted way or bridge notwithstanding the restriction. The municipal officers may issue a permit only upon all of the following findings:

- (a) no other route is reasonably available to the applicant;
- (b) it is a matter of economic necessity and not mere convenience that the applicant use the way or bridge; and
- (c) the applicant has tendered cash, a bond or other suitable security running to the municipality in an amount sufficient, in their judgment, to repair any damage to the way or bridge which may reasonably result from the applicant's use of same.

Even if the municipal officers make the foregoing findings, they need not issue a permit if they determine the applicant's use of the way or bridge could reasonably be expected to create or aggravate a safety hazard or cause substantial damage to a way or bridge maintained by the municipality. They may also limit the number of permits issued or outstanding as may, in their judgment, be necessary to preserve and protect the highways and bridges.

In determining whether to issue a permit, the municipal officers shall consider the following factors:

- (a) the gross registered weight of the vehicle;
- (b) the current and anticipated condition of the way or bridge;
- (c) the number and frequency of vehicle trips proposed;
- (d) the cost and availability of materials and equipment for repairs;
- (e) the extent of use by other exempt vehicles; and
- (f) such other circumstances as may, in their judgment, be relevant.

The municipal officers may issue permits subject to reasonable conditions, including but not limited to restrictions on the actual load weight and the number or frequency of vehicle trips, which shall be clearly noted on the permit.

### **Section 6. Administration and Enforcement**

This Ordinance shall be administered and may be enforced by the municipal officers or their duly authorized designee [such as road commissioner, code enforcement officer or law enforcement officer].

### **Section 7. Penalties**

Any violation of this Ordinance shall be a civil infraction subject to a fine of not less than \$250.00 nor more than \$1000.00. Each violation shall be deemed a separate offense. All fines shall accrue to the Town of Farmington. In addition to any fine, the Town may seek restitution for the cost of repairs to any damaged way or bridge and reasonable attorney fees and costs.

Prosecution shall be in the name of the Town of Farmington and shall be brought in the Franklin County District Court.

**Section 8. Amendments**

This Ordinance may be amended by the municipal officers at any properly noticed meeting.

**Section 9. Severability; Effective Date**

In the event any portion of this Ordinance is declared invalid by a court of competent jurisdiction, the remaining portions shall continue in full force and effect. This Ordinance shall take effect immediately upon enactment by the municipal officers at any properly noticed meeting.

# TOWN OF FARMINGTON

## Public Wellhead Protection Ordinance

ENACTED: May 28, 2013

CERTIFIED BY: Jeannette Pinkham  
Name

Town Clerk  
Title

Affix Seal

**Town of Farmington  
Public Wellhead Protection Ordinance  
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# **WELLHEAD PROTECTION ORDINANCE**

## **ARTICLE I. GENERAL PROVISIONS**

### **SECTION 1. TITLE**

This Ordinance shall be known and cited as the “Public Wellhead Protection Ordinance” of the Town of Farmington, Maine.

### **SECTION 2. AUTHORITY**

This Ordinance is adopted pursuant to the enabling provisions of Article VIII-A of the Maine Constitution, Title 30-A M.R.S. § 3001 (Home Rule), Title 30-A M.R.S. § 4311 (Growth Management), and Title 22 M.R.S. §2642 (Protection of Drinking Water Supplies).

### **SECTION 3. PURPOSE**

The purpose of this Ordinance is to protect the public water supply in the Town of Farmington, Maine from land uses which pose a threat to the quality and/or quantity of the groundwater being extracted from the wells which serve public water systems.

### **SECTION 4. EFFECTIVE DATE**

This Ordinance shall take effect upon its enactment by the Town. Enacted: May 28, 2013.

### **SECTION 5. APPLICABILITY**

This Ordinance applies to all land uses located or proposed within the area delineated as the Wellhead Protection Zones on the official Town of Farmington Zoning Map, official Wellhead Protection Area Map, or other official map.

### **SECTION 6. RELATIONSHIP WITH OTHER ORDINANCES**

Whenever a provision of this Ordinance is inconsistent with another provision of this Ordinance or with any other ordinance, regulation or statute, the more restrictive provision shall control.

### **SECTION 7. VALIDITY AND SEVERABILITY**

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

## SECTION 8. AMENDMENTS

### A. Initiation and Procedure

A proposal for an amendment to this Ordinance may be initiated by: (1) The Planning Board; (2) the Board of Selectmen; or (3) an individual, through the petition process for placing articles on the warrant for Town Meeting per Title 30-A M.R.S. §2522 .

Amendments proposed by the Planning Board under paragraph (1) above shall be forwarded to the Board of Selectmen to be considered for inclusion as an article in a future Town Meeting warrant. Amendments proposed by the Board of Selectmen under paragraph (2) above shall be forwarded to the Planning Board for advisory review and comment prior to being considered for placement on a Town Meeting warrant. In both cases, the Board of Selectmen shall have final authority to determine whether to present the amendment by Warrant Article to the Town Meeting for approval.

### B. Public Hearing and Farmington Village Corporation - Water Department (Water Department) Notification

The Board of Selectmen shall hold a Public Hearing on any proposed Amendment, including amendments proposed by petition. . . . Notification of the Public Hearing and Water Department notification shall follow the requirements pursuant to Title 30-A M.R.S. § 4352.

### C. Enactment

A proposed amendment to this Ordinance must be approved by a majority vote of the Town Meeting.

## **ARTICLE II. ADMINISTRATION, ENFORCEMENT, APPEALS AND PENALTIES**

### **SECTION 1. ADMINISTERING BODIES AND AGENTS**

#### **A. Code Enforcement Officer**

The Code Enforcement Officer (CEO) of the Town of Farmington shall administer and enforce this Ordinance. The Code Enforcement Officer shall refer all applications requiring Planning Board review to the Planning Board.

#### **B. Planning Board**

The Planning Board (PB) of the Town of Farmington shall review and act upon applications as designated under this Ordinance.

### **SECTION 2. APPLICATION APPROVAL REQUIRED**

After the effective date of this Ordinance, no person shall engage in any land use activity identified in the Land Use Table listed in Article III, Section 2 without filing application and obtaining approval under this ordinance.

### **SECTION 3. NON CONFORMANCE**

Non-conforming structures, lots, and uses that existed before the effective date of this Ordinance shall be allowed to continue, subject to the requirements set forth in this article.

#### **A. 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.

##### **(2) Repair and Maintenance**

This Ordinance shall allow, without permit, the normal upkeep and maintenance of non-conforming uses and

structures including repairs or renovations which do not involve expansion of the non-conforming use or structure.

## B. Non-Conforming Structures

### (1) Expansion

A non-conforming structure may be added to or expanded after obtaining a permit from the Planning Board if such addition or expansion has no greater impact than the existing structure.

- a. If any portion of a structure is less than the required setback from the property line, that portion of the structure shall not be expanded in floor area or volume, by 30% or more, during the lifetime of the structure.
- b. Construction or enlargement of a foundation beneath the existing structure shall not be considered an expansion of the structure provided: that the structure and new foundation are placed such that the setback requirement is met to the greatest practical extent as determined by the Planning Board, basing its decision on the criteria specified below in subsection 2. (Relocation); that the completed foundation does not extend beyond the exterior dimensions of the structure; and that the foundation does not cause the structure to be elevated by more than three (3) additional feet.
- c. No structure which is less than the required setback from the property line shall be expanded toward the property line.

### (2) Relocation

A non-conforming structure may be relocated within the boundaries of the parcel on which the structure is located provided that the site of relocation conforms to all setback requirements to the greatest practical extent as determined by the Planning Board, and provided that the applicant demonstrates that the present subsurface sewage disposal system meets the requirements of State law and the State of Maine Subsurface Wastewater Disposal Rules (Rules), or that a new system can be installed in compliance with the



law and said Rules. In no case shall a structure be relocated in a manner that causes the structure to be more non-conforming or have any greater adverse impact than the existing location.

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

### (3) Reconstruction or Replacement

Any non-conforming structure which is removed, or damaged or destroyed by more than fifty percent (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 two (2) years of the date of said damage, destruction or removal. In no case shall a structure be reconstructed or replaced so as to increase its non-conformity or have any greater adverse impact than the existing structure.

Upon application within the above two (2) year period, the Planning Board may grant an additional extension of any permit issued for such reconstruction or replacement so long as good faith progress has been demonstrated and a realistic plan for completion of construction is presented to and accepted by the Board. The Board may also require evidence of ability to complete the project in the allotted extension time, such as, but not limited to, bank letters of credit and/or written agreements with suppliers or contractors for goods and services required to complete reconstruction or replacement.

Any non-conforming structure which is damaged or destroyed by fifty percent (50%) or less of the market value of the structure, excluding normal maintenance and repair, may be reconstructed in place with a permit from the Code Enforcement Officer.

(4) Chance of a 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 subject or adjacent properties and resources than that of the existing use. The determination of no greater adverse impact shall be made according to, but not limited to, the criteria listed in subsection C3 below.

(5) Changes Mandated by Federal, State, and Local Laws or Regulations

Any expansion, relocation, reconstruction or replacement of any portion of a non-conforming structure which is mandated by federal, State or local building and safety codes, including, but not limited to the Americans with Disabilities Act and State Fire Code, shall require review and approval by the Planning Board regardless of whether the required changes are to be performed at the same time as other expansions, relocations, reconstruction or replacement of the non-conforming structure. The Planning Board shall not withhold approval for the mandated changes unless the contemplated changes create a health or safety hazard which is likely to affect the occupants and/or the public.

(6) Written Documentation Required for Not Greater Adverse Impact

In determining that no greater adverse impact will occur as a result of the expansion, relocation, reconstruction or replacement, or change of use of a non-conforming structure, the Planning Board shall also require written documentation from the applicant regarding the probable effects on public health and safety, if applicable, 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 functionally water-dependent uses.

C. Non-Conforming Uses

(1) Expansions

Expansions of non-conforming are prohibited, except that the non-conforming use of a residential dwelling unit may, after obtaining a permit from the Planning Board, be expanded within existing residential structures or within expansions of such structures as permitted in Section B1 as above.

## (2) Resumption Prohibited

A lot, building or structure in or on which a non-conforming use is discontinued for a period exceeding one (1) 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 (1) 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 unless conditions outlined in B3 exist.

## (3) Change of Use

An existing non-conforming use may be changes 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 Planning Board shall require written documentation from the applicant regarding the probable effects. The determination of no greater adverse impact shall be made according to, but be not limited to, the criteria listed below:

- a. That the proposed use is of the same character or less noxious than the current nonconforming use;
- b. That the proposed use will not create a traffic hazard nor increase an existing traffic hazard;
- c. That the amount of parking required meets the minimum requirements for the use that exists on the site or will be otherwise provided in accordance with the Town of Farmington Traffic Ordinance, Site Review Ordinance, and the Off-Street Parking and Loading Performance Standard in the Zoning Ordinance;

- d. That the extent of noise, odors, vibrations, smoke, dust, and air discharges of the proposed use shall be equal to or less than the present use;
- e. That the rate of surface water run-off from the site will not be increased;
- f. That the hours of operation of the proposed use will be compatible with the existing, surrounding land uses;
- g. That the proposed use will have no greater adverse impact on surrounding properties; and
- h. That the proposed use will not create adverse effect on public health and safety, erosion and sedimentation, and if applicable, 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 functionally water dependent uses.

#### D. Non-Conforming Lots of Record

##### (1) Non-Conforming Lots of Record

A non-conforming lot of record as of the effective date of this Ordinance or applicable amendment thereto may be built upon, without the need for a variance, provided that such lot is in compliance with State Minimum Lot Size Law and the State of Maine Subsurface Wastewater Disposal Rules and that all provisions of the Zoning Ordinance, except lot size and frontage, can be met. Variance relating to setbacks or other dimensional requirements not involving lot size or frontage may only 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 lots are in conformance with the State Minimum Lot Size Law and the State of Maine Subsurface Wastewater Disposal Rules.

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 upon issuance of a written determination by the Code Enforcement Officer that each resulting lot is in compliance with the State Minimum Lot Size Law and the State of Maine Subsurface Wastewater Disposal Rules and conforms to the greatest extent possible with the dimensional requirements of the Zoning Ordinance.

#### SECTION 4. APPLICATIONS

An applicant under this Ordinance shall submit an application in writing to the Planning Board, as designated in the Wellhead Protection Area Land Use Table (Article III, Section 2). All applications shall be dated and signed by the owner(s) or leasee(s). Such signatures shall certify that the information in the application is complete and correct.

#### SECTION 5. PLANNING BOARD APPLICATION REVIEW AND HEARINGS

Within thirty (30) days of the date of receiving a written application and fee, the CEO shall notify the applicant in writing, either that the application is sufficient for initial Planning Board review or, if the application is insufficient, that specified additional material is needed to make the application sufficient. The CEO shall also notify the Water Department upon receipt of a sufficient application. Once the application is sufficient, the CEO shall forward a copy of same to the Water Department and applicable department heads requesting that they provide comments on the proposal. The CEO shall then place the application on the next available Planning Board agenda, allowing for a fifteen (15) day processing and notification period. The CEO shall forward the application to the Board along with any written comments and recommendations from the Water Department and applicable department heads

Once the Planning Board has determined that a complete application has been received, the Board shall approve or deny the application, in writing, within sixty (60) days of receipt of the complete application, or within thirty (30) days of a public hearing if one is held. The Board shall specify, in writing, its findings of facts and reasons for any conditions or denial.

The applicant, or his duly authorized representative, shall attend the meeting of the Planning Board to discuss the application. The Board

shall provide the applicant a dated receipt of the application at the Board meeting where the application is first presented and heard by the Board. The Board shall determine whether to hold a public hearing on the application.

Abutting property owners shall be notified by certified mail, by the Town, at least fifteen (15) days prior to initial Planning Board consideration of a pending application for review. This notice shall indicate the time, date and place of Board consideration of the application.

If the Planning Board decides to hold a public hearing, it shall publish notice of the date, time, and place of the hearing in a newspaper of general circulation in the municipality at least two times, the date of the first publication to be at least fifteen (15) days prior to the hearing.

Applications shall be approved if the proposed use or structure is found to be in conformance with the provisions of this Ordinance. Approvals may be made subject to reasonable conditions to ensure conformity with provisions of this Ordinance. If an application is either denied or approved with conditions, the reasons shall be stated in writing.

When a proposed use in a Wellhead Protection Area requires Planning Board approval under Article III, Section 2 of this Ordinance, the Board, may, as a condition of its approval, require the applicant to (1) grant the municipality of the Water Department permission to install and maintain groundwater monitoring wells on the applicant's property; or (2) install monitoring wells and implement a groundwater testing and monitoring program approved by the Board, at the applicant's expense. The Board may attach additional reasonable conditions to the approval to ensure conformity with the standards and criteria of this Ordinance.

#### SECTION 6. APPLICATION FEE

An application fee of \$50.00 must be submitted with an application.

#### SECTION 7. INDEPENDENT REVIEW AND ADVICE

##### A. Professional Services

The Planning Board may require an attorney or consultant to review one or more aspects of an application for compliance or noncompliance with this Ordinance and to advise the Board. The attorney or consultant shall first estimate the cost of such review and

the applicant shall deposit, with the Town the full estimated cost, which the Town shall place in an escrow account. The Town shall pay the attorney or consultant from the escrow account and reimburse the applicant if funds remain after payment. If escrowed funds are insufficient, the applicant shall deposit additional funds with the Town, based on attorney or consultant estimate, sufficient for completion. The attorney or consultant shall be fully qualified to provide the required information and shall be mutually acceptable to the Town and the applicant.

B. Additional Studies

The Planning Board may require the applicant to undertake any study that it deems reasonable and necessary to determine whether a proposed activity meets the requirements of this ordinance. The costs of such studies shall be borne by the applicant.

SECTION 8. PERFORMANCE GUARANTEES

The Planning Board may require the applicant to provide performance guarantees for an amount adequate to cover the total construction costs of all required improvements. Performance guarantees may be made by certified check, payable to the Town, or a savings account naming the Town as owner, for the establishment of an escrow account; by an irrevocable letter of credit from a financial institution establishing funding for the construction of the project, from which letter the Town may draw if construction is inadequate; or by a performance bond, payable to the Town, issues by a surety company and acceptable to the Town. The form, time periods, conditions, and amount of performance guarantees shall be determined by the Board.

SECTION 9. EXPIRATION OF APPROVAL

All application approvals shall expire within one (1) year of the date of issuance unless work thereunder is commenced. If work is not completed within two (2) years from the date of approval issuance, a new application must be filed.

All approved plans which expire are subject to any subsequent changes in requirements under Town Ordinances or State/Federal laws when reapplication is made.

SECTION 10. ENFORCEMENT AND PENALTIES

A. Inspections and Complaints

The CEO shall investigate all complaints of alleged violations of this Ordinance, pursuant to Title 30-A M.R.S. § 4452. The CEO may seek technical advice from a representative of the Water Department when investigating complaints.

The CEO may also conduct site inspections to ensure compliance with this Ordinance, pursuant to Title 30-A M.S.R. § 4452. During investigations, the CEO may be accompanied by a representative of the Water Department.

#### B. Notice of Violations

It shall be the duty of the CEO to enforce this Ordinance, in accordance with the provisions of this Ordinance and State laws. If the CEO finds that any provision is being violated, the CEO shall notify in writing the person responsible for such violation. The notice shall state the nature of the violation, the Ordinance provision or permit condition violated, and the action necessary to correct the violation. The notice shall inform the recipient of their right to appeal as to the facts supporting the notice by the CEO, pursuant to Article II, Section 12 of this Ordinance. A copy of the notice shall be provided to the Planning Board, Water Department, and Board of Selectmen.

#### C. Recordkeeping

The CEO shall keep a complete record of all transactions relating to the administration and enforcement of this Ordinance, and shall maintain a permanent record of those transactions at the Town Office. Copies of all applications and approvals shall be provided to the Water Department.

#### D. Legal Action

When a person does not correct a violation after receiving notice to do so, the CEO shall notify the Board of Selectmen and the Water Department. The Selectmen, or their authorized agent, may institute all legal and equitable actions necessary to correct the violation and recover fines and costs.

#### E. Penalties

Any person who continues to violate a provision of this Ordinance or condition of a permit after receiving written notice to correct the situation shall be subject to penalties as provided in Title 30-A M.R.S. §



4452.

## SECTION 11. APPEALS

### A. Time for Appeal

Any party aggrieved by a decision or order of the CEO or Planning Board under this Ordinance may appeal the decision or order concerned within thirty (30) days to the Board of Appeals. Appeals shall be filed on forms to be provided by the Code Office for this purpose. There is a \$50.00 fee assessed with each appeal application form.

### B. Parties

For purposes of this section, the term “party” shall be limited to:

1. An applicant whose application is denied or granted with conditions.
2. An applicant whose approval is suspended or revoked by the CEO or PB.
3. A person owning property within a Wellhead Protection Area designated in Appendix I of this Ordinance, who is adversely affected by a decision or order of the Code Enforcement Officer or Planning Board with respect to any property located in the same Wellhead Protection Area.
4. A person whose use of groundwater as a domestic water supply is adversely affected by a decision or order of the CEO or PB under this Ordinance.
5. The Town of Farmington, through its municipal officers.
6. The Farmington Water Department.

### C. Decision or Order

The purposes of this section, the term “decision or order” shall not include failure by the Code Enforcement Officer to take enforcement action with respect to a particular person, property or alleged violation, when the enforcement action has been requested by persons or organizations other than the municipal officers.

### D. Type of Review

An appeal from a decision or order may be taken to the Board of

Appeals under this section only where it is alleged that the decision or order concern is based on an error of law or misinterpretation of this Ordinance. All appeals to the Board of Appeals under this section shall be reviewed by the Board of Appeals as purely appellate matters, based on the administrative record made by the Code Enforcement Officer or Planning Board. No new evidence shall be received or considered by the Board of Appeals as to any matter appealed to the Board of Appeals under this section. No variance applications may be made to the Board of Appeals under the Wellhead Protection Ordinance.

#### E. Board's Procedure

The Board of Appeals, within twenty (20) days from receipt of an administrative appeal filing, shall determine a meeting date and advertise notice of appeal application in a newspaper of general circulation in the town, identifying the property involved, the nature of the appeal, and the time and place of the Board meeting on the matter. The meeting shall not be held earlier than ten (10) days after the publication date of such notice.

Within three (3) business days after the date of publication of the public hearing notice, the Board of Appeals shall mail by certified mail, return receipt requested, a copy of the notice of appeal to each of the property owners whose property physically abuts the property listed in the appeal. In addition, the Board shall mail the same notice, by first class mail, to the other property owners whose property is located within five hundred (500) feet of the subject property in rural areas (Tax Maps labeled "R"), and within two hundred and fifty (250) feet of the subject property in urban areas (Tax Maps labeled "U"). The owners of property shall be considered to be those against whom taxes are assessed. Failure of any property owner to receive a properly mailed notice of public hearing shall not necessitate another hearing and shall not invalidate any action of the Board.

All appeals under this section shall be reviewed and decided by the Board of Appeals within thirty (30) days following the Board's hearing on the application. The Board shall issue its decision as to any appeal in writing. The Board shall have authority to remand the matter to the Code Enforcement Officer or Planning Board in appropriate cases. The Board may reconsider its decision within thirty (30) days after the original decision date. , In reviewing a request for reconsideration, the Board shall not receive or consider any new evidence.

#### F. Appeals

Any party who is aggrieved by a decision of the Board of Appeals may appeal that decision to the Franklin County Superior Court, in accordance with Title 30-A M.R.S. § 2691 (3)(6) and Rule 80B, Maine Rules of Civil Procedure. By statute, Title 30-A M.R.S. § 2691 (3) (6), any appeal must be taken within 45 days of the vote on the original decision by the Board of Appeals. A decision on reconsideration does not extend this appeals period. The date of the Board's vote, and not the date of the written decision, starts the 45 day clock.

## ARTICLE III. LAND USE REQUIREMENTS

### SECTION 1. ESTABLISHMENT OF ZONES

The Wellhead Protection Zone consists of two (2) zones that are shown on the official Town of Farmington Wellhead Protection Area Map, or other official map. The two zones are defined:

#### A. Zone 1: Primary Recharge Area

Zone 1 includes the area immediately recharging the water supply, as shown on the official Town of Farmington Wellhead Protection Area Map, or other official map.

Zone 1 is delineated, as the area extending from the well(s) to the 2,500 day time of travel boundary.

#### B. Zone 2: Secondary Recharge Area

Zone 2 includes the primary recharge area shown on the official Town of Farmington Wellhead Protection Area Map, or other official map.

Zone 2 is delineated, as the area extending from the outer boundary of the Primary Recharge Area to the watershed's groundwater divide or Zone of Contribution, if delineated using technical studies.

### SECTION 2. LAND USE TABLE

The following Wellhead Protection Zone Table supplements the existing ordinances in the Town of Farmington. Where a land use is permitted in the existing ordinances, the Wellhead Protection Zone table shall control. Any proposed land use listed below is subject to the requirements of this section and applicable performance standards. Any proposed uses not listed are prohibited. All land uses and activities may be subject to requirements of other Town ordinances and State rules and regulations

Land Use	Zone 1	Zone 2	Applicable Performance Standards
Aboveground Oil Storage <sup>4</sup>	N	PB	Chemical Storage Chemical Use
Agricultural chemical spreading or spraying	N	PB	Chemical Storage Chemical Use

Land Use	Zone 1	Zone 2	Applicable Performance Standards
			Chemical Spreading/Spraying
Agricultural use of residuals	N	PB	Chemical Spreading/Spraying
Agriculture	N	PB	Chemical Storage Chemical Use Chemical Spreading/Spraying
Animal husbandry	N	PB	Chemical Storage Wastewater and Solid Waste
Auto graveyard <sup>4</sup>	N	N	Chemical Storage Chemical Use Vehicular Use and Storage
Auto parts/supply	N	PB	Chemical Storage
Auto recycling business <sup>4</sup>	N	N	Chemical Use Chemical Storage Vehicular Use and Storage
Auto repair/body shop <sup>4</sup>	N	N	Chemical Use Chemical Storage
Beauty parlor	N	PB	Chemical Use Wastewater and Solid Waste
Boat builders, refinisher, maintenance	N	PB	Chemical Storage Chemical Use
Bulk Fuel Oil Storage >275 gallons	N	PB	Chemical Storage
Car wash	N	PB	Chemical Use Wastewater and Solid Waste
Commercial hazardous waste facility <sup>4</sup>	N	N	Chemical Use Chemical Storage Chemical Spreading/Spraying
Commercial vehicular storage or parking; maintenance and refueling of vehicles and equipment <sup>1</sup>	N	PB	Vehicular Use and Storage
Concrete, asphalt, tar, coal company	N	PB	Chemical Storage Chemical Use
Dry cleaner <sup>4</sup>	N	N	Chemical Storage Chemical Use
Essential operations of the Water department	Y	Y	

Land Use	Zone 1	Zone 2	Applicable Performance Standards
Furniture stripper	N	PB	Chemical Storage Chemical use
Golf course	N	PB	Chemical Storage Chemical Use Chemical Spreading/Spraying
Graveyard/cemetery	N	PB	Chemical Spreading/Spraying
Herbicide/Pesticide/Fertilizer application <sup>2</sup>	N	PB	Chemical Storage Chemical Use Chemical Spreading/Spraying
Herbicide/Pesticide/Fertilizer dealer	N	PB	Chemical Storage
Hoop houses and greenhouses	N	PB	Chemical Use Chemical Spreading/Spraying
Junk or salvage yard	N	PB	Wastewater and Solid Waste Chemical Storage
Laundromat	N	PB	Chemical Use Wastewater and Solid Waste
Machine shop	N	PB	Chemical Storage Chemical Use
Medical, dental, veterinarian office	N	PB	Wastewater and Solid Waste
Metal finishing or plating <sup>4</sup>	N	N	Chemical Use Chemical Storage Chemical Spreading/Spraying
Mining (Sand & Gravel, Rock)	N	PB	Mining
Mortuary/funeral parlor	N	PB	Chemical Storage Chemical Use
Multi-unit/family housing	N	PB	Wastewater and Solid Waste
Municipal wastewater treatment plant	N	PB	Wastewater and Solid Waste
Nursery or garden shop	N	PB	Chemical Use Chemical Spreading/Spraying
Oil pipeline	N	PB	Chemical Use Chemical Spreading /Spraying

Land Use	Zone 1	Zone 2	Applicable Performance Standards
Painters, finishers	N	N	Chemical Use
Parking lot	N	PB	Stormwater Road maintenance
Photo processor	N	PB	Chemical storage Chemical use
Printer	N	PB	Chemical storage Chemical use
Railroad yard or line	N	PB	Chemical storage Chemical use
Recycling or processing center (other than beverages)	N	PB	Chemical storage Chemical use Wastewater and Solid Waste Storm water Fill
Research laboratory	N	PB	Chemical storage Chemical use Wastewater and Solid Waste
Rust proofer	N	PB	Chemical storage Chemical use Wastewater and solid waste
Salt pile or sand and salt pile (uncovered)	N	PB	Chemical storage
Septic system - New or Replacement < 1,000 gallons	CEO <sup>3</sup>	PB	Wastewater and solid waste
Sewer lines	PB	PB	Waste water Solid waste
Small engine repair shop	N	PB	Chemical use
Storm water impoundment or run-off area	N	PB	Storm water Road maintenance
Underground Oil Storage <sup>4</sup>	N	N	Chemical use Chemical storage
Utility Transmission Lines	PB	PB	Chemical Spreading/Spraying
Wastewater treatment plant, discharge	N	PB	Wastewater and solid waste

Land Use	Zone 1	Zone 2	Applicable Performance Standards
Notes	<sup>1</sup> - Short-term overnight parking may be allowed in connection with other activities receiving a CEO or PB permit. For example, short-term overnight parking of construction vehicles on new permitted construction projects.  <sup>2</sup> - Unless a greater public health concern warrants pesticide application. For example, Browntail Moth control.  <sup>3</sup> - With notification made to the Water Department.  <sup>4</sup> - Restrictions within Maine Revised Statute Title 38, Chapter 13-D: WELLHEAD PROTECTION		

#### Land use key

Y= permitted

N= not permitted

PB= permitted subject to Planning Board Review and use of Best Management

CEO= permitted subject to CEO Review and use of Best Management Practices

### SECTION 3. LOT SPECIFICATIONS

#### A. Minimum Lot Size

Areas not served by public sewer:

<u>Zone</u>	<u>Land Area per Dwelling Unit</u>
1	120,000 sq. ft.
2	80,000 sq. ft.

#### B. Maximum Lot Coverage

For portions of lots within the Wellhead Protection Area, the maximum lot coverage that can be covered by impermeable surfaces including parking areas, shall be limited as follows:



<u>Zone</u>	<u>Maximum Lot Coverage</u>
1	30%
2	50%

Notwithstanding other provisions of this Ordinance, lot coverage that exists as of the date of adoption of this ordinance that equal or exceed the applicable percentage limitation may be continued and may be expanded with Planning Board approval. Expansions of lot coverage shall be limited to no more than ten percent (10%) of the portion of the lot located in the Wellhead Protection Area. However, the Board shall not authorize expansion of impermeable surfaces of existing uses if the total coverage of all lot areas located in the Wellhead Protection Area is greater than fifty percent (50%) in Zone 1 or greater than sixty-five percent (65%) in Zone 2.

#### SECTION 4. APPLICATION REQUIREMENTS

The Planning Board may modify or waive any of the following submission requirements if it determines that, because of the size or nature of the project or circumstances of the site such requirement(s) would not be applicable or would be an unnecessary burden upon the applicant and would not affect or conflict with the purposes of this ordinance.

##### A. All Applications

All applications shall contain the following information.

##### (1) Written Information

- i. Name of development; municipality; tax map and lot numbers.
- ii. Location of Property: book and page ( from Registry of Deeds)
- iii. Location of Property: map and lot (from Assessor's Office)
- iv. Owner and applicant's names and addresses; name and addresses of person who prepared the application and/or plan.
- v. Name and address to which correspondence should be sent.
- vi. If applicant is a corporation, state whether the corporation is licensed to do business in Maine and attach a copy of Secretary of State's Registration.
- vii. Copy of recorded deed for property; verification of ownership of legal interest.

- viii. Interest the applicant has in any property abutting the parcel to be developed.
- ix. State whether the development covers the entire or contiguous holdings of applicant.
- x. On-site sewage disposal report from licensed site evaluator or information from local sewer district indicating capacity.
- xi. Special reports:
  - a. Soils assessment.
  - b. Engineering design.
  - c. Erosion and sediment control plan.
  - d. Stormwater management plan.
  - e. Long term maintenance provisions.
  - f. Traffic and parking assessment.
  - g. Hydrogeological assessment.
  - h. Necessary State and/or federal permits and date of application and approval (please list).
  - i. List of construction items, cost estimates.
  - j. Construction schedules.
  - k. Proposed method of performance guarantee.
  - l. Restrictions, conditions, covenants and easements.

(2) Plan Information

- i. Existing and proposed streets.
- ii. Outline of development and remaining portion of property scale; written and graphic date; north point.
- iii. Perimeter survey (bearings and distances; surveyor's seal; number of acres; existing and proposed monuments; abutters names).
- iv. Lot lines, numbers and sizes; building setback lines.
- v. Existing water bodies, watercourses, wetlands, and other significant natural features.
- vi. Public and private rights-of-way and easements.
- vii. Zoning boundaries.
- viii. Location of test pits keyed to site evaluator's or soil scientist's report.
- ix. Base flood elevation, if applicable.
- x. Written request for waivers or variances.
- xi. Contours of 5 feet or other interval; refer to USGS bench if within 500 feet.
- xii. Location and design of culverts, drains and other storm water control structures, existing and proposed.

- xiii. Location and design of proposed sewers and water lines.
- xiv. Typical engineering plan, profiles, and cross-sections.
- xv. Medium intensity or high intensity soils maps.
- xvi. Location of parking, open space, conservation and/or recreation areas.
- xvii. Landscaping plan and details.
- xviii. Surface drainage plan.
- xix. Soil erosion and sedimentation control features.
- xx. Locations, dimensions and profiles of underground utilities.
- xxi. Profile and typical cross-sections of streets and other public works.
- xxii. Location/identification of buffers, lots or areas to be restricted or dedicated for common or public use.

B. Additional Application Requirements for Planning Board Review for Certain Activities within the Wellhead Protection Area.

The following sections include categories which apply to land uses which may be potential sources of contamination. More than one of the categories listed below may apply to a particular use. Applicant should request assistance from the Planning Board should there be questions as to which categories apply.

- (1) Non-agricultural chemical use, storage and handling, (including petroleum products, fuels, solvents and lubricants)
  - i. Type and volume of chemical compounds handled and/or stored.
  - ii. Site plan showing all storage, handling and use areas for raw materials and wastes.
  - iii. For outside areas, details to contain spills including:
    - a. Drainage and contour information to prevent the flow of runoff from entering the storage area and which keep leaks or spills from flowing off site;
    - b. Provisions to contain and collect chemicals should they enter the drainage system;
    - c. Provisions to segregate underground systems to insure that there are no cross connections;
    - d. Provisions to prevent accidental containment breach by collisions;
    - e. Statement of emergency measures which can

- be implemented for surface drainage systems;
- iv. For inside areas, details to contain spill including the:
    - a. Design of dikes around rooms;
    - b. The location of floor drains and floor drain outlets;
    - c. the location of separators, holding tanks and/or drain outlets;
    - d. the specific location and design of underground storage structures;
    - e. the location and design of piping systems for wash waters and other waste liquids are discharged and that wastes are discharged to appropriate sewers or treatment systems.
  - v. A spill prevention and control and countermeasure (SPCC) plan detailing:
    - a. materials and equipment to be available;
    - b. a training plan and schedule;
    - c. a list of contacts (EPA/DEP/local fire officials) with phone numbers;
    - d. the inventory recording method and an inspection schedule.
  - vi. A containment system design for the bulk storage tanks prepared by a Professional Engineer registered in the State of Maine.
  - vii. A hydrogeological report. The report will vary in scope depending on the general nature of the geology, the size and design of the facility and the need for groundwater monitoring. At a minimum, the report should characterize the geology, determine the groundwater gradients, and analyze the potential for groundwater depredation from the activity. The analysis should contain a list of potential threats and recommend methods of controlling those threats.
  - viii. A report by an industrial engineer or other competent professional detailing:
    - a. Steps which have been taken to reduce the use of hazardous material;
    - b. actions which have been taken to control the amount of wastes generated;
    - c. any reports to provide information on the design theory or methodology for the above features.

(2) Agricultural chemical use, storage and handling, (including

petroleum products, fuels, solvents and lubricants)

- i. Type and volume of chemical compounds handled and/or stored.
- ii. Intended use.
- iii. An Integrated Pest Management Plan.
- iv. An on-site soils evaluation to assess nutrient holding capacity and leachability of the soils.
- v. Plans for control of surface water run-off and erosion in areas where chemicals will be applied.
- vi. Detailed report on type of chemical applied and rate of application.
- vii. Site plan showing all storage, handling and use areas for raw materials and wastes.
- viii. For outside storage, details to contain spills including:
  - a. Drainage and contour information to prevent the flow of runoff from entering;
  - b. The storage area and which keep leaks or spills from flowing off site;
  - c. Provisions to collect chemicals should they enter the drainage system;
  - d. Provisions to segregate underground systems to insure that there are no cross connections;
  - e. provisions to prevent accidental containment breach by collisions;
  - f. statement of emergency measures which can be implemented for surface drainage systems.
- ix. For inside storage, details to contain spill including the:
  - a. Design of dikes around rooms;
  - b. The location of floor drains and floor drain outlets;
  - c. The location of separators, holding tanks and/or drain outlets;
  - d. The specific location and design of underground storage structures;
  - e. The location and design of piping systems for wash water and other liquid wastes are discharged and that wastes are discharged to appropriate sewers or treatment systems.
- x. A spill prevention and control and countermeasure (SPCC) plan detailing:
  - a. Materials and equipment to be available;
  - b. A training plan and schedule;
  - c. A list of contracts (EPA/DEP/local fire

- officials) with phone numbers;
- d. An inspection schedule.
- xi. A containment system design for the bulk storage tanks prepared by a Professional Engineer registered in the State of Maine.
- xii. A hydrogeological report. The report will vary in scope depending on the general nature of the geology, the size and design of the facility and the need for groundwater monitoring. At a minimum, the report should characterize the geology, determine the groundwater gradients, and analyze the potential for groundwater degradation from the activity. The analysis should contain a list of potential threats and recommend methods of controlling those threats.
- xiii. A report by an industrial engineer or other competent professional detailing:
  - a. Steps which have been taken to reduce the use of hazardous material;
  - b. Actions which have been taken to control the amount of wastes generated;
  - c. Any reports to provide information on the design theory or methodology for the above features.

(3) Vehicular Use and Storage

- i. A site plan, drawn to scale, showing locations and designs of secondary containment for fuel and storage and refueling pads.

(4) Mining (Sand, Gravel and Rock)

- i. A location map and site plan, drawn to scale, showing property boundaries, stockpile areas, existing reclaimed and unreclaimed lands, proposed maximum acreage of all affected lands, erosion and sedimentation control all applicable private drinking water supplies or public drinking water sources and all existing or proposed solid waste disposal areas.
- ii. A detailed report by a Maine Certified Geologist with experience in hydrogeology attesting to the depth of the seasonal water table, and plan showing benchmarked elevations for depth of excavation.

(5) Subsurface Injection

- i. Subsurface injection activities are defined as types of subsurface wastewater disposal, including septic

systems and other on-site wastewater disposal. Provisions for subsurface injection and sewage disposal include:

- a. Soil evaluator's report and septic system design.
- b. For sites/uses in Zone 1 producing >1,000 gallons of sewage per day, a hydrogeologic analysis of nitrate concentrations at the property line.
- c. For sites/uses in Zone 2 producing more >2,000 gallons of sewage per day, a hydrogeologic analysis of nitrate concentrations at the property line
- d. Provisions and designs for all floor drains, grease traps, and holding tanks.
- e. Evaluation of public/private sewer system capacity and integrity of sewer lines serving the development by a Registered Engineer or the sewer system superintendent.

(6) Stormwater Management

- i. Narrative describing site layout, and on-site and off-site watershed hydrology, including all new and existing buildings and facilities, which may be affected by the site runoff. Provide total amount of impervious area created by the project.
- ii. Drainage plans showing all topographic features, such as buildings and other facilities, drainage ways, cover types, roads, drainage easements and subcatchment boundaries for pre-construction and post-construction conditions must be shown on the plan. Show all hydrologic flow lines and hydrologic soil groups boundaries on a plan and identify each subcatchment, reach and pond consistent with the runoff model. For post construction conditions, show all new stormwater management structures, changes to the hydrologic conditions, and new post development drainage areas delineations.
- iii. Stormwater runoff calculations designed to meet the standards listed in Performance Standards for Stormwater Management.
- iv. Designs, construction details and technical specifications for each stormwater management measure that will be constructed, installed or managed on the site, including, but not limited to:

- a. Design and capacity of subsurface collection facilities.
- b. Design of dry wells, storage, retention or detention facilities and other surface water impoundments.
- c. Stormwater system outlets.
- d. Ice control, road salt use, and snow removal.

#### (7) Utility Corridors

- i. Type and volume of chemical compounds applied, handled or stored.
- ii. Site plan showing all areas of use for chemical compounds.
- iii. A spill prevention and control and countermeasure (SPCC) plan detailing:
  - a. Materials and equipment to be available;
  - b. A training plan and schedule;
  - c. A list of contacts (EPA/DEP/local fire officials) with phone numbers;
  - d. An inspection schedule.
- iv. A report by an industrial engineer or other competent professional detailing:
  - a. Steps which have been taken to reduce the use of hazardous material;
  - b. Actions which have been taken to control the amount of wastes generated;
  - c. Any reports to provide information on the design theory or methodology for the above features.

#### (8) Other Water Supplies

This section pertains to all surface water or groundwater supplies other than domestic wells. Other water uses, except domestic, may also be included in this category.

- i. Hydrogeologic report identical to that required for State approval of new water supply.

#### (9) Monitoring Wells

This section pertains to all monitoring of observation wells. Other activities may also include monitoring wells.

- i. Location and construction specifications.
- ii. Intended purpose.



- iii. Sampling schedule.
- iv. Provisions for informing appropriate Town body of sampling.

## SECTION 5. PERFORMANCE STANDARDS

### A. General Provisions

All development located within the Wellhead Protection Area shall comply with the Performance Standards established in this section to protect the quality and quantity of the public water supply. Best Management Practices, as applied in the State of Maine, are management practices which will mitigate the impacts of the activity on water quality. In some instances, there may be more than one management practice which would accomplish the same result. In other instances, depending on the site location and on-site conditions, more than one management practice may be needed to fully mitigate the problem. Therefore, discretion is needed in determining which management practices to apply.

The Planning Board may adopt, by reference, as part of this section, additional Best Management Practices which have been published by or in conjunction with the Maine Department of Environmental Protection.

In doing so, the Planning Board shall hold a public hearing which shall be posted in the Town Office and advertised in a paper of general circulation at least twice with the first notice being at least seven days prior to the date of the hearing.

### B. Performance Standards for Chemical Use

- (1) The use of chemicals or residuals shall not cause or contribute to the cumulative, calculated or actual levels of any contaminants in the groundwater at the Water Department's property line to exceed 50% of the allowable Primary Public Drinking Water Standards as defined by the Federal Safe Drinking Water act, as amended.
- (2) Only fertilizers containing predominantly slow release nitrogen and manure are allowed. Fertilizers shall be applied at an agronomic rate based on annual soil test results. Permit applications must be on an annual basis. Permit applications shall include application materials and rates.
- (3) Only land application of pesticides with low leachability by

Maine licensed applicators is allowed. Provisions shall be made for control of surface run-off and erosion in areas where pesticides are being applied. Permit applications shall be submitted on an annual basis and shall include copies of the pesticide labels and materials safety data sheets and the proposed rate of application. In addition to a comprehensive Integrated Pesticide Management Plan certified by a groundwater hydrologist as having no unreasonable adverse effects on groundwater. Annual reports detailing the type and amount of substance reports as well as date and specific location of application shall be submitted to the CEO annually.

C. Performance Standards for Chemical Storage

- (1) New installation of underground storage tanks are prohibited within the Wellhead Protection Area.
- (2) All chemicals must be stored under cover and on an impervious surface, without floor drains.
- (3) Secondary containment of liquid chemicals equaling 110% of the stored product must be provided.
- (4) Tanks for liquid chemical storage must be equipped with automatic shut-off valves and high level alarms.
- (5) Any above-ground piping must be designed to prevent line breakage due to collision.
- (6) All containers and piping must be constructed of corrosion resistant materials.
- (7) All containers must be clearly labeled with the chemical name and date of purchase.
- (8) A Spill Prevention, Control and Countermeasures Plan (SPCC) must be submitted to the CEO, Farmington Fire Rescue, and the Water Department.

D. Performance Standards Chemical Spreading/Spraying

- (1) Pesticide and herbicide application should be the option of last resort. Any activity requiring the use of herbicides or pesticides must develop an Integrated Pest Management Plan that details the conditions under which agricultural chemicals are to be used. All pesticides shall be applied in accordance with label directions and the regulations of the Maine Board of Pesticides Control.
- (2) Herbicides and pesticides must be applied only by certified

applicators, who must be informed regarding the delineated area of wellhead protection.

- (3) A Nutrient Management Plan must be provided for all agricultural activities within the WHPA.
- (4) All agricultural fertilizers shall be applied in accordance with label directions, and must be applied in accordance with an approved Nutrient Management Plan
- (5) Fertilizer applications are to be tailored to the specific needs of the crop, as determined by soil suitability analyses. Use of slow-release fertilizers is preferred.
- (6) Irrigation schedules shall be coordinated with pesticide and nutrient application to minimize the possibility of leaching. Do not apply to frozen ground, or immediately before storm events.
- (7) Notice of intent to apply agricultural chemicals shall be given to the CEO and public water supplier prior to application.
- (8) Only Class "A" composted residuals may be used within WHPA. These residuals must have an approved Program License from the Maine Department of Environmental Protection, and must be used in strict accordance with all license provisions. Any non-composted residual or a residual not meeting the Class "A" pathogen reduction standard should not be spread within the WHPA.
- (9) Manures must be composted to Class "A" standards. Manure may be used within the WHPA, and must be applied in accordance with the nutrient management plan.
- (10) Residuals and manures shall not be applied over very shallow soils (less than 1 foot) or exposed bedrock.
- (11) Residuals and manure shall not be applied on frozen ground, or immediately before storm events.

#### E. Performance Standards for Vehicular Use and Storage

- (1) When draining oils or fluids from vehicles, precautionary measures such as portable drip pans, must be taken to ensure that no spills occur.
- (2) All fuel oil, waste oil, lubricants, antifreeze, or other potential contaminant must have secondary containment equal to 110% of the liquid volume stored.
- (3) No vehicle washing may occur.
- (4) Refueling vehicles must be equipped with a shovel, an impermeable container with a volume of no less than 35

gallons and a tight fitting lid, and at least two absorbent pads or pillows. An absorbent pad or portable drip catch must be in place beneath the fill tube at all times during the refueling operation.

- (5) Refueling must occur on a concrete pad or other impermeable surface.

F. Performance Standards for Mining (Sand, Gravel and Rock)

- (1) Separation must be maintained between any excavation and any public drinking water source as follows: (1) For systems serving a population of 500 persons or less, the minimum separation must be 300 feet; (2) For systems serving a population of 501 persons up to 1,000 persons, the separation must be 500 feet; (3) For systems serving a population of more than 1,000 persons, the separation must be 1,000 feet; and (4) For any system that holds a valid filtration waiver in accordance with the federal Safe Drinking Water Act, the separation must be 1,000 feet
- (2) Excavation may not extend below 5 feet above the seasonal high water table without the submission of detailed findings of the depth of the water table.
- (3) No equipment debris, junk, or other material is permitted on an extraction site. Any temporary shelters or buildings erected for such operations and equipment used in connection therewith must be removed within 30 days following completion of active extraction operations.
- (4) Within 6 months of the completion of extraction operations at any extraction site or any one or more locations within any extraction site, ground levels and grades must be established in accordance with the approved plans.
- (5) All debris, stumps, boulders, and similar materials must be removed or disposed of in an approved location or buried and covered with a minimum of two feet of soil.
- (6) The extent and type of fill must be appropriate to the use intended. The applicant must specify the type and amount of fill to be used.
- (7) At least 4 inches of topsoil or loam must be retained or obtained to cover all disturbed areas, which must be reseeded and property restored to a stable condition adequate to meet the provisions of the "Erosion and Sediment Control, Best Management Practices," published by the Maine Department of Environmental Protection.
- (8) Disused gravel pits within the Wellhead Protection District shall be reclaimed according to plans submitted to the

Municipality.

- (9) Gravel mining activities in Wellhead Protection District must have a spill prevention plan that is regularly maintained and updated as well as emergency spill response plans.
- (10) Haul roads shall be watered to control dust. Salting and oiling of roads is prohibited.
- (11) Storage of fuels is prohibited within WHPA's.
- (12) Rock crushers are prohibited within WHPA's.
- (13) There shall be no overnight storage of vehicles within the WHPA's, unless parked over a secondary containment area.

G. Performance Standards for Wastewater and Solid Waste

- (1) Municipal wastewater disposal facilities, chemical waste disposal sites of any kind, spreading of biosolids and incinerator ash except Class "A" residuals as described in Performance Standards for Chemical Spreading/Spraying of this document, solid waste landfills, log storage yards and lumber yards, and other direct discharges shall be prohibited in WHPA's.
- (2) Waste disposal areas shall be set back 75 feet from wetlands as defined in the Maine Natural Resources Protection Act (NRPA). Wastes shall be placed a minimum of 2 feet above the seasonal high groundwater table. Provide documentation from a laboratory that wastes are inert.
- (3) All new and replacement subsurface wastewater disposal systems shall submit evidence of site suitability prepared by a Maine licensed site evaluator in full compliance with the requirements of the State of Maine Subsurface Waste Water Disposal Rules and for the systems producing > 1,000 gallons per day of sewage, a hydrogeologic analysis of nitrate/nitrite impact study, with nitrate/nitrite concentrations limited to 5mg/L at the property line.
- (4) Sewer pipes shall be internally lined when buried within WHPS's.
- (5) Sewers and drainage systems should be designed to insure that stormwater does not enter sanitary sewers.
- (6) Construction of sewers and septic systems shall be carefully inspected to insure proper installation.
- (7) Provide provisions to maintain sewer and septic systems.

H. Performance Standards for Stormwater Management

- (1) Stormwater management system must include treatment measures that will mitigate for the increased frequency and

duration of channel erosive flows due to runoff from smaller storms, provide for effective treatment of pollutants in stormwater and mitigate potential temperature impacts. This shall be achieved by using one or more of the methods listed in this section to control runoff from no less than 95% of the impervious area and no less than 80% of the developed area associated with a project that is impervious or landscaped. The Planning Board may, on a case-by-case basis, consider alternate treatment measures to those described in this section. An alternate treatment measure must provide at least as much pollutant removal as the measures described in this section and, unless otherwise approved by the Planning Board, as much channel protection and temperature control.

- i. *Wetpond with detention above the permanent pool.* A stormwater management system using detention to control runoff must detain, above a wetpond's permanent pool, a runoff volume equal to 1.0 inch times the subcatchment's impervious area plus 0.4 inch times the subcatchment's landscaped area. The detained runoff must be discharged solely through an underdrained vegetated gravel filter having a single outlet having a diameter no greater than eight inches. A wetpond must have a storage volume below the permanent pool elevation at least equal to 1.5 inches times the subcatchment's impervious area plus 0.6 inch times the subcatchment's non-impervious developed area, a mean depth of at least three feet, and a length to width ratio of 2:1 or greater.
- ii. *Filter.* A detention structure using filters to control runoff must detain a runoff volume equal to 1.0 inch times the subcatchment's impervious area plus 0.4 inch times the subcatchment's developed area that is landscaped and discharge it solely through an underlined vegetated soil filter having a single outlet with a diameter no greater than eight inches, or through a proprietary filter system approved by the Planning Board.
- iii. *Infiltration.* A stormwater management system using infiltration to control runoff must retain a runoff volume equal to 1.0 inch times the subcatchment's impervious area plus 0.4 inch times the subcatchment's developed area that is landscaped and infiltrate this volume into the ground. Pre-treatment of stormwater must occur prior to discharge to the infiltration area.

The infiltration area must minimize discharge of soluble pollutants to groundwater, and must be maintained to assure that its capacity for infiltration and pollutant removal is unimpaired.

- iv. *Buffers.* A stormwater management system using buffers to control runoff must meet the design criteria listed in the Maine Department of Environmental Protection Stormwater Rules, 06-96 CMR 500, as amended.
  - (2) Drainage systems, including detention basins, drainage ways, and storm sewer systems, shall be maintained in order to insure they function properly.
  - (3) Chemicals and wastes shall be stored in such a manner to prevent rainfall from contacting them.
  - (4) Runoff and snowmelt from parking lots should be diverted to stormwater drains where possible.
  - (5) Parking lot cracks should be repaired on an annual basis.
- I. Performance Standards for Road Maintenance
- (1) Cover all sand and salt piles.
  - (2) Minimize use of salt in all cases. Sand/salt mixtures with the lowest effective proportion of salt should be used.
  - (3) Prohibit snow dumps or storage in areas of contribution.
- J. Performance Standards for Fill
- (1) Use only inert material (loam, sand, gravel, clay, rocks, bricks or concrete).
  - (2) Use only clean fill (non non-natural odors, no staining, and not originating at a known spill site).
  - (3) Implement erosion and sedimentation control measures.

## SECTION 6. CONTROL OF EXISTING THREATS

### A. Inspections

The CEO shall also have the right to inspect any property located in a Wellhead Protection Area, except building interior, at reasonable hours, without landowner permission, as provided in 30-A MRS § 4452, for the purpose of determining compliance with this Ordinance or any permit issued hereunder. The CEO may be accompanied by a representative of the Water Department. In the event the landowner denies or prevents access for this purpose, the CEO shall be authorized to apply for an administrative site inspection warrant pursuant to Rule

80E, Maine Rules of Civil Procedure.

B. Monitoring

Whenever the CEO finds that a use existing as of the date of adoption of this Ordinance, including but not limited to uses of the types identified in Article III, Section 2 of this ordinance, is located within a Wellhead Protection Area designated by this ordinance and poses an actual or potential threat to the safety or quality of a public groundwater supply, the Planning Board may order the property owner to grant permission for installation, or to install, groundwater monitoring wells and to conduct testing when the municipality or district can clearly show that groundwater monitoring in the area will serve to protect the public water supply from existing or potential threats as outlined in this Ordinance. Installation of monitoring wells and testing and monitoring of groundwater in such cases shall be at the sole cost of the municipality or the Water Department, provided that if such testing indicates that the use is found to cause or contribute to reduction of eighty percent (80%) or more of the State Primary or Secondary Drinking Water standards at the Water Department property line, the property owner shall reimburse the municipality or Water Department for all expenses incurred for installation, testing and monitoring.

C. Enforcement

If any use causes or contributes to a reduction of eighty percent (80%) or more of the State Primary or Secondary Water standards at the Water Department property line, the CEO may require the owner of the property on which the contaminating use occurs to cease activity, install or construct mechanisms, or enact appropriate procedures to reduce the contamination.



## **ARTICLE IV. DEFINITIONS**

### **Agriculture**

The cultivation of soil, producing or raising crops, including gardening, horticulture, and silviculture, as a commercial operation. The term shall also include greenhouse, orchards, nurseries, and versions thereof, but shall not include home gardens.

### **Airport Fire Fighter Training Area**

Area in which airport fire fighting training exercises take place, and where foams and often fire fighting chemicals are sprayed during such exercises.

### **Airport Fueling Area**

Area in which aircraft refueling occurs and in which aircraft fuel is stored.

### **Aquifer**

A permeable geologic formation, either rock or sediment, that is capable of transporting water through the formation.

### **Auto Chemical Supplies Wholesaler**

A commercial establishment which sells chemicals used for automobile operation, repair, or maintenance to retailers; an establishment where such chemicals are stored in bulk quantities.

### **Auto Repair Shop**

A business establishment engaged in general repair, engine rebuilding, parts replacement. Automotive repair shall not mean body, frame, or fender straightening and repair of painting and undercoating, nor the sale of gasoline, other motor fuels or motor oil.

### **Best Management Practice**

Procedures designed to minimize the impact of certain activities or land uses on groundwater quality and quantity, and shall include best management practices relating to groundwater quality as developed by the State of Maine departments of Agriculture, Forestry, Transportation and Development pursuant to 38 M.R.S.A. Section 410-J.

### **Board**

Refers to the Town of Farmington Planning Board.

**Body Shop**

A business establishment engaged in body, frame, or fender straightening and repair or painting and undercoating of automobiles and other vehicles.

**Chemical Bulk Storage**

Storage of a chemical or chemicals in a container or containers larger than those intended for normal homeowner or retailer purposes. Proper, non-commercial, homeowner use of chemicals is not included.

**Chemical Reclamation**

Commercial processing or storage of used chemicals intended for re-use.

**Code Enforcement Officer**

A person appointed by the municipal officers to administer and enforce this Ordinance.

**Commercial**

Any activity carried out for pecuniary gain.

**Conforming**

A building, structure, activity or land use which complies with the provisions of this Ordinance.

**Construction**

Includes building, erecting, moving or any physical operations on the premises which are required for construction. Excavating, filling, paving and the like shall be considered part of construction.

**Construction and Commercial Equipment & Vehicle Storage**

Storage of construction equipment or other commercial vehicles in excess of thirty (30) consecutive days in which the equipment is not used.

**Construction/Demolition of Uses Listed in This Table**

Construction or demolition of facilities, buildings, etc. associated with the land uses or activities listed in the Wellhead Protection Zone Table by a contractor or commercial operation.

**Developed Area**

“Disturbed area” (see definition below) excluding areas that are returned to a condition with the same drainage patterns and vegetative cover type that existed prior to the disturbance. An area is not considered developed if planting to restore the previous cover type and restoration of any altered drainage patterns occur within one calendar year of the disturbance.

**Disturbed Area**

All land areas that are stripped, graded, grubbed, filled or excavated at any time during the site preparation or removing vegetation for, or construction of, a project. Disturbed area does not include routine maintenance, but does include re-development and new impervious area.

**Drinking Water Standards, Primary and Secondary**

Standards for drinking water as stated in the State of Maine Rules Relating to Drinking Water, Maine Department of Human Services.

**District**

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

**Dump (see landfill)**

**Floor Drain**

An opening in the floor that leads to the ground and/or is not permitted under other State, federal, or local regulations. Work sinks which lead to such drains are included.

**Food Processor**

A commercial establishment which processes, treats, bottles, cans or otherwise modifies food in preparation for wholesale.

**Fuel Oil Distributor; Fuel Oil Storage**

The storage of fuel for distribution or sale. Storage of fuel oil not for domestic use, i.e., not in tanks directly connected to burners.

**Furniture Stripper**

A commercial operation which strips and/or refinishes furniture.

**Gas Station, Service Station**

Any place of business at which gasoline, other motor fuel or motor oil are sold to the public for use in a motor vehicle, regardless of

any other business on the premises.

**Golf Course**

An area developed and maintained specifically for playing golf including 9-hole and 18-hole laid-out courses and driving ranges, but excluding miniature golf courses in which no fertilizers, herbicides, pesticides, or other chemicals are used or stored.

**Groundwater**

The water contained within the interconnected pores, cracks or fractures located below the water table or a confined or unconfined aquifer.

**Hazardous Material**

Any gaseous, liquid or solid materials, or substances designated as hazardous by the Environmental Protection Agency and/or the Maine Department of Environmental Protection.

**Hazardous Waste**

Any substance identified under chapter 850, Identification of Hazardous Wastes, of the rules of the State of Maine, Department of Environmental Protection, effective date July 1, 1980, including revisions or amendments thereto, and any radioactive waste material which means any solid, liquid, or gas residue, including but not limited to spent fuel assemblies prior to processing, remaining after the primary usefulness of the radioactive material has been exhausted and containing nuclides that spontaneously disintegrate or exhibit ionizing radiations.

**Heat Treater, Smelter, Annealer, Descaler**

Commercial metal-working establishments involved with these processes on a regular basis.

**Heating Oil Storage (Consumptive Use)**

Storage for heating of heating oil in excess of 660 gallons. (Tanks with capacity between 50 gallons and 660 gallons are regulated by the Oil and Solid Fuel Board.)

**Identified New Well Site**

A test well or test well location located in the field and/or on a map by a qualified geologist, hydrogeologist, or engineer which is deemed to have high potential for serving as a public water supply.

**Impervious Area**

The total area of a parcel that consist of buildings and associate constructed facilities or areas that will be covered with a low permeability material, such as asphalt or concrete, and areas such as gravel roads and unpaved parking areas that will be compacted through design or use to reduce permeability.

**Industrial**

Any activity which includes the assembling, fabrication, servicing, manufacturing, storage, packaging, processing or shipping of goods, or the extraction of minerals.

**Industrial Waste**

Wastes resulting from the processes employed in industrial manufacturing, trade, or business establishments.

**Inert Fill**

Material placed on or into ground as fill that will not react chemically with soil, geologic material, or groundwater.

**Infiltration**

Any process specifically used to meet all or part of the stormwater standard of this chapter by actively directing all or part of the stormwater into the soil. Infiltration is the process by which runoff percolates through the unsaturated overburden and fractured bedrock to the water table. For the purposes of this ordinance, infiltration does not include:

1. Incidental wetting of soil in ditches, detention basins or the equivalent;
2. Wetting of underdrained basins, dry swales or similar filtration systems;
3. Wetting of buffers meeting the performance standards of this ordinance.

Discharge of runoff to areas of the site where the water will collect and percolate into the ground is considered infiltration if the volume, rate or quality of the discharge exceeds the runoff capacity of the area, such as a stormwater treatment buffer. Underdrained swales, underdrained ponds and similar practices that discharge to surface waters or to buffer strips meeting the requirements of this ordinance are not considered infiltration systems, although these may be used to treat runoff prior to discharge to an infiltration area.

**Integrated Pest Management Plan (IPM)**

Integrated Pest Management (IPM) is the coordinated use of physical, biological and cultural controls and least-toxic pest control products and techniques to prevent unacceptable levels of pest damage by the most economical means with the least possible hazard to people, property and the environment. Integrated Pest Management involves the monitoring of pest populations, establishment of injury levels, modification of habitats (to eliminate sources of food, water, harborage and entry), utilization of least-toxic controls, and keeping of records and evaluation of performance on an ongoing basis.

#### **Intensive Open Space Uses**

Uses of open space which have the potential, because of their duration, frequency, or nature, to significantly impact the environment, particularly the groundwater quality and quantity. Examples of intensive open space uses include, but are not limited to: automobile or all-terrain vehicle race tracks or ranges, power lines, golf courses, etc.

#### **Junk, Salvage Yard**

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

1. Discarded, worn-out or junked plumbing, heating supplies, household appliances and furniture.
2. Discarded, scrap and junked lumber.
3. Old or scrap copper, brass, rope, rags, batteries, paper trash, rubber or plastic debris, waste and all scrap iron, steel and other scrap or ferrous or non ferrous material.
4. Used tires, discarded tires, or worn-out tires which may or may not be usable now or in the future.
5. Town garbage dumps, waste dumps and sanitary fills will not be considered junkyards for the purpose of this Ordinance.

#### **Landfill**

An area used for the placement of solid waste, liquid waste or other discarded material on or in the ground.

#### **Landscaped Area**

An area of land that has been disturbed and re-planted or covered with one or more of the following: Lawn or other herbaceous plants, shrubs, trees or mulch; but including area that has reverted to natural, vegetated condition.

#### **Mining or Mineral Extraction**

The removal of geologic materials such as soil, topsoil, loam,

sand, gravel, clay, metallic ores, rock, peat or other like material from its natural location and transportation of the product removed, away from the extraction site.

**Mobile Home Park**

An area designed or planned for the placement of two or more mobile homes or manufactured housing units.

**Nonconforming Use**

A building, structure, use of land, or portion thereof, existing at the effective date of adoption or amendment of this Ordinance which does not conform to all applicable provisions of this Ordinance.

**Nursery (horticultural)**

Commercial establishment for cultivation of flowering plants, shrubs, trees, etc.

**Open Space**

Land that is free of buildings and other permanent structures.

**Park**

Land area set aside for public recreation, conservation, wildlife, or other similar purpose.

**Pesticide, Herbicide Wholesaler or Retailer**

Commercial establishment which sells pesticides and/or herbicides.

**Pesticide, Herbicide Bulk Storage**

Storage of herbicides or pesticides intended for sale or intended for application on commercial premises or intended for application on cash crops. Homeowner storage or storage by non-commercial gardeners is not included.

**Railroad Yard**

Area with multiple railroad tracks intended for transfer or storage of railroad cars or freight.

**Residential Dwelling Unit**

A room or group of rooms designed and equipped exclusively for use as permanent, seasonal, temporary living quarters for only one family. This term shall include mobile homes.

**Residential Home (see all Residential Dwelling Unit)**

A structure containing one or more residential dwelling units.

**Road**

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

**Salt or Sand/Salt Piles (covered)**

Storage of salt or sand/salt mix intended for municipal, commercial or other use except for homeowner sidewalks, steps, or driveways beneath a roof or other structure capable of preventing precipitation from reaching the salt or sand/salt.

**Salt or Sand/Salt Piles (uncovered)**

Storage of any amount of salt or sand/salt, for any purpose, without a roof or other structure capable of preventing precipitation from reaching the salt or sand/salt.

**Silviculture**

The art of cultivating a forest; forestry.

**Site Plan Review**

An applicant-prepared document and associated procedure for certain proposed new or expanded developments.

**Sludge**

Residual material produced by water or sewer treatment processes, industrial processes, or domestic septic tanks.

**Sludge Utilization**

The spreading of sludge on the ground or other use of sludge which might expose surface or groundwater to the sludge.

**Snow Dump**

A location to which snow is transported and dumped by commercial, municipal, or State snow-plowing operations.

**Solid Fill**

Material placed on or into the ground as fill; the material will not react chemically with soil, geologic material, or groundwater that may be present at the site.

**Solid Waste**

Discarded solid material with insufficient liquid contact to be free flowing. This includes but is not limited to rubbish, garbage,



scrap materials, junk, refuse, inert fill materials and landscape refuse.

**SPCC Plan**

Spill Prevention Control and Countermeasure Plan as described in 40CFR, Part 112 of Federal Oil Pollution Prevention Regulations.

**Stormwater Drainage**

A sewer or other system for conveying surface runoff due to storm events and unpolluted ground or surface water, including that collected by cellar drains, but excluding sanitary sewage and industrial waste.

**Stormwater Impoundment**

Any structure designed and constructed to contain stormwater runoff.

**Subdivision**

A subdivision shall mean the division of a tract or parcel of land as defined in Title 30A, M.R.S., § 4401 and as hereafter amended. The term subdivision shall also include such developments as mobile home parks, multiple-family dwelling(s), shopping centers, condominiums, and industrial parks where there are three or more units involved, and additional divisions and developments defined as subdivision in the Farmington Subdivision Ordinance.

**Subsurface Wastewater Disposal System (Subsurface Injection)**

A collection of treatment tank(s), disposal area(s), holding tank(s) and pond(s), surface spray system(s), cesspool(s), well(s), surface ditch(es), alternative toilet(s), or other devices and associated piping designed to function as a unit for the purpose of disposing of wastes or wastewater on or beneath the surface of the earth. The term shall not include any wastewater discharge system licensed under 38 M.R.S. § 414, any surface wastewater disposal system licensed under 38 MRSA section 413, Subsection 1-A, or any public sewer, sewerage system or wastewater treatment plant.

**Timber Harvesting**

The cutting and removal of trees from their growing site, and the attendant operation of cutting and skidding machinery.

**Time of Travel Boundary**

A boundary, beyond which, groundwater will take more than a set

period of time (i.e., 200 days) to travel to a given point (i.e., a pumping well). Pumping conditions for defining a time of travel boundary are defined in the Maine Wellhead Protection Program

**Transfer Station; Recycling Facility**

Facility designed for temporary storage of discarded material intended for transfer to another location for disposal, re-use, and/or processing.

**Utility Corridor**

Right-of-way, easement, or other corridor for transmission wires, pipes or other facilities for conveying energy, communication signals, fuel, water, wastewater, etc. Municipal water supply distribution mains, operational, or maintenance facilities, are excluded from restrictions in the Wellhead Protection Table.

**Underground Storage Tank**

As defined by State of Maine regulations published by the Maine Department of Environmental Protection.

**Variance**

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

**Waste Disposal, Industrial/Commercial - see Industrial Waste**

**Wastewater**

Any combination of water-carried wastes from institutional, commercial and industrial establishments, and residences, together with any storm, surface or groundwater as may be present.

**Wastewater Treatment Plant**

Any arrangement of devices and structures used for treating wastewater.

**Watershed**

Land lying adjacent to water courses and surface water bodies which creates the catchment or drainage area of such water

courses and bodies; the watershed boundary is determined by connecting topographic high points surrounding such catchment or drainage areas.

**Wellhead**

The specific location of a well (a hole or shaft dug or drilled to obtain water) and/or any structure built over or extending from a well.

**Wellhead Protection Area**

A zone, consisting of 2 districts, delineated according to Article III, Section 1 of this Ordinance.

**Well, Abandoned**

A shaft, casing, tile, hole, or pipe placed, drilled or dug in the ground for extraction or monitoring of groundwater that has not been used for a period of two consecutive years.

**Well, Existing or New**

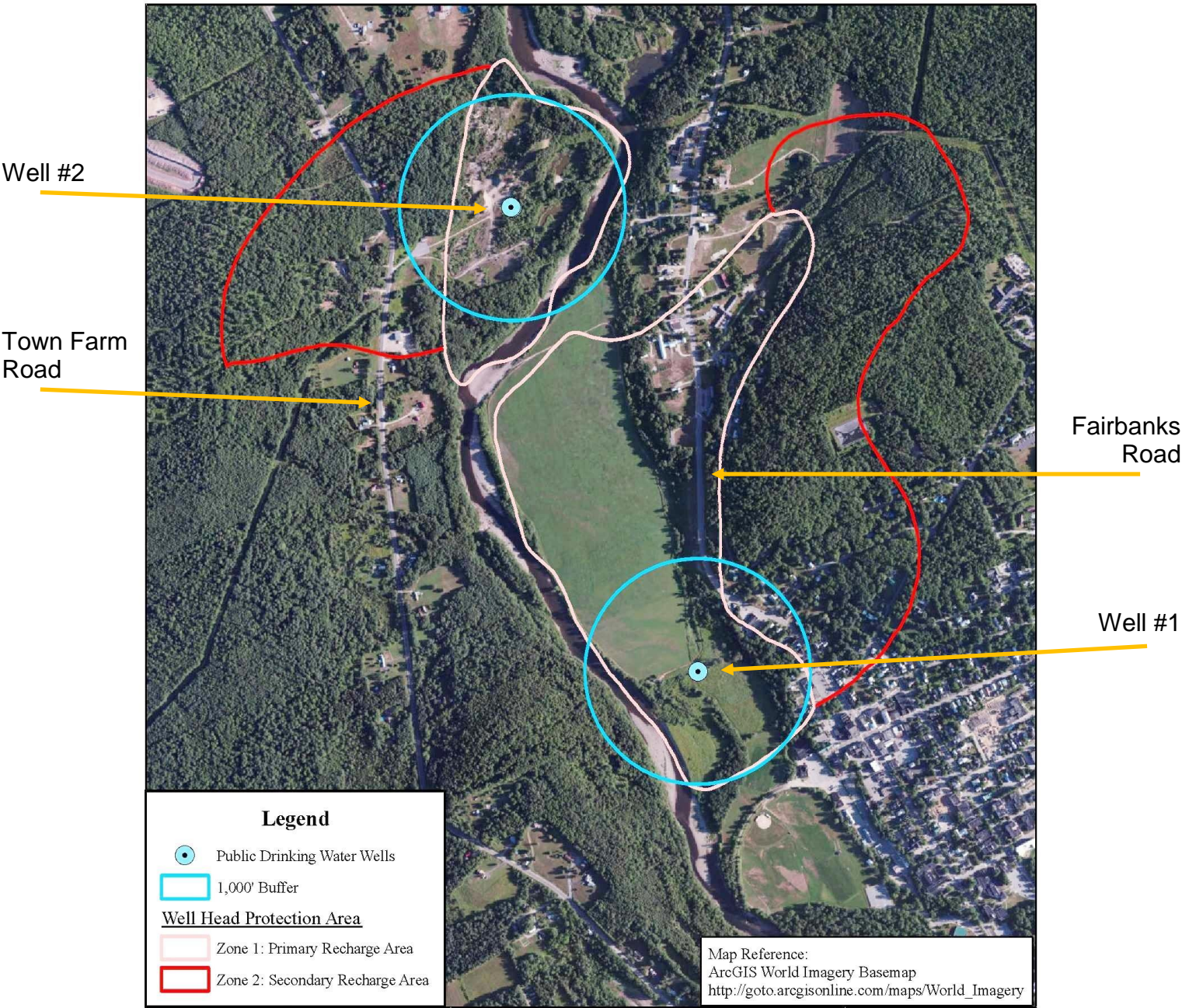
A shaft, casing, tile, hole, or pipe placed, drilled or dug in the ground for extraction or monitoring of groundwater.

**Well sites, identified - see identified new well site**

**Zone of Contribution**

The area from which groundwater flows to a pumping well.

# Town of Farmington Wellhead Protection Area Map



# TOWN OF FARMINGTON

## Wireless Telecommunications Facility Ordinance

ENACTED: November 18, 1999

AMENDED: July 19, 2004

CERTIFIED BY: Leanne E. Pinkham  
Name

Town Clerk  
Title

Affix Seal

# **Town of Farmington**

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**TOWN OF FARMINGTON**  
**Wireless Telecommunications Facility Siting Ordinance**  
**Chapter 11**  
**Land Use**

**11-11.1 Title:**

This ordinance shall be known and cited as the “Town of Farmington Wireless Telecommunications Facility Siting Ordinance” and will be referred to herein as “this Ordinance”. This Ordinance limits Wireless Telecommunication Facility Siting to the zoning district(s) specified under the Zoning Ordinance Table of Uses; prescribes definitions of wireless telecommunication terminology; provides for permitting and regulation; and provides for additional miscellaneous standards.

**11-11.2 Authority and Applicability:**

This Ordinance is adopted pursuant to the enabling provisions of Article VIII, Part 2, Section 1 of the Maine Constitution; the provisions of the Municipal Home Rule Authority (30A MRSA 3001 et. seq.) and the provisions of the Planning and Land Use Regulation Act, Title 30-A MRSA Section 4312 et. seq.

Persons or entities wishing to establish a Wireless Telecommunications Facility Siting within the Town of Farmington shall first obtain a permit from the CEO or Planning Board and shall be subject to the provisions of this Ordinance.

**11-11.3 Purpose:**

This Ordinance is designed and intended to balance the interests of the residents of the Town of Farmington, telecommunications providers, and telecommunications customers in the siting of telecommunications facilities within the Town.

**11-11.4 Conflict with Other Ordinances:**

Whenever a provision of this Ordinance conflicts with or is inconsistent with other provisions of this Ordinance, or of any other ordinance, regulation or standard, the more restrictive provision shall apply.

**11-11.5 Effective Date:**

The effective date of this Ordinance shall be the date this Ordinance is adopted by the voters at Town Meeting.

**11-11.6 Permits Required:**

No person shall construct or expand a wireless telecommunication tower without obtaining a permit from the Code Enforcement Officer (CEO) or the Planning Board as follows:

- A. Expansion of an Existing Tower, New Towers 75 Feet or Less, and Co-location.** Approval by the CEO is required for any expansion of an existing wireless telecommunications tower that increases the height of the tower by no more than twenty (20) feet; accessory use of an alternative tower structure; construction of new towers seventy-five (75) feet or less in height; or co-location on an existing wireless telecommunications tower.
- B. New Construction.** Approval of the Planning Board is required for construction of all new telecommunication towers exceeding seventy-five (75) feet; and any expansion of an existing wireless telecommunications tower that increases the height of the facility by more than twenty (20) feet.
- C. Approval Authority.** In accordance with Article 1, the CEO or Planning Board shall review applications for wireless telecommunications towers, and make written findings on whether the proposed facility complies with this Ordinance.

#### **11-11.7 Validity and Severability:**

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

#### **11-11.8 Definitions:**

As used in this Ordinance, unless the context otherwise indicates, the following terms have the following meanings:

**Alternative Tower Structure.** “Alternative Tower Structure” means clock towers, bell steeples, light poles and water towers, and similar alternative-design mounting structures and devices used in support of antennas and/or concealment of such.

**Antenna.** “Antenna” means any system of poles, panels, rods, reflecting discs or similar devices used for the transmission or reception of electromagnetic frequency signals.

**Antenna Height.** “Antenna Height” means the vertical distance measured from the base of the antenna support structure at grade to the highest point of the structure, even if said highest point is an antenna. Measurement of tower height shall include antenna, base pad, and other appurtenances and shall be measured from the finished grade of the facility site. If the support structure is on a sloped grade, then the average between the highest and lowest grades shall be used in calculating the antenna height.

**Co-location.** “Co-location” means the use of a wireless telecommunications facility by more than one wireless telecommunications provider.



**Commercial Mobile Services.** “Commercial Mobile Services” means any mobile service that is provided for profit and makes interconnected service available to the public or to such classes of eligible users as to be effectively available to a substantial portion of the public, as specified by regulation by the FCC.

**Expansion.** “Expansion” means the addition of antennas, towers, or other devices to an existing structure.

**FAA.** “FAA” means the Federal Aviation Administration, or its lawful successor.

**FCC.** “FCC” means the Federal Communications Commission, or its lawful successor.

**Height.** “Height” means, when referring to a tower or other structure, the distance measured from ground level to the highest point on the tower or other structure, even if said highest point is an antenna.

**Interconnected Service.** “Interconnected Service” means service that is interconnected with the public switched network (as such terms are defined by regulation by the FCC) or service for which a request for interconnection is pending.

**Mobile Service.** “Mobile Service” means a radio communication service conducted between mobile stations or receivers and land stations, and by mobile stations communicating among themselves, and includes both one-way and two-way radio communication services; a mobile service which provides a regularly interacting group of base, mobile, portable, and associated control and relay stations (whether licensed on an individual, cooperative, or multiple basis) for private one-way or two-way land mobile radio communications by eligible users over designated areas of operation; and any service for which a license is required in a personal communications service.

**Parabolic Antenna.** “Parabolic Antenna” (also known as a satellite dish antenna) means an antenna which is bowl-shaped, designed for the reception and/or transmission of electromagnetic radiation signals in a specific directional pattern.

**Personal Wireless Service Facilities.** “Personal Wireless Service Facilities” means facilities for the provision of personal wireless services.

**Personal Wireless Services.** “Personal Wireless Services” means commercial mobile services, unlicensed wireless services, and common carrier wireless exchange access services.

**Tower.** “Tower” means any structure, whether freestanding or in association with a building or other permanent structure, that is designed and constructed primarily for the purposes of supporting one or more antennas, including self-supporting lattice towers, guy towers, or monopole towers. The term includes radio and television transmission towers, microwave towers, common-carrier towers, and cellular telephone towers.

**Unlicensed Services.** “Unlicensed Services” means the offering of telecommunications services using duly authorized devices which do not require individual licenses, but does not mean the provision of direct-to-home satellite services.

**Wireless Telecommunications Facility.** “Wireless Telecommunications Facility” means any structure, antenna, tower, or other device which provides radio/television transmission, commercial mobile wireless services, unlicensed wireless services, cellular phone services, specialized mobile radio communications (SMR), common carrier wireless exchange phone services, specialized mobile radio communications (SMR), common carrier wireless exchange access services, and personal communications service (PCS) or pager services. Excluded from this definition are individual wireless electronic devices for personal use, either indoors or outdoors. (Examples: Wireless door and light controls, wireless computers and accessory equipment, cordless phones, “walkie talkies”, wireless entertainment systems, wireless security systems).

#### **11-11.9 Exemptions:**

The following are exempt from the provisions of this Ordinance:

- A. Emergency Wireless Telecommunications Facility.** Temporary wireless communication facilities for emergency communications.
- B. Amateur (ham) radio stations.** Amateur (ham radio stations licensed by the Federal Communications Commission [FCC]) if associated tower is 75 feet or less in height.
- C. Parabolic & Flat-Panel antennas.** Parabolic & flat-panel antennas less than seven (7) feet in diameter, that are an accessory residential 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. Residential antennas.** An antenna that is an accessory to a residential dwelling unit and is less than twenty (20) feet above roof peak or less than forty-five (45) feet above grade.
- G. Pre-existing Facility.** This Ordinance does not render illegal any structure, facility or use which legally existed or was under active construction at the effective date of this Ordinance.

### **11-11.10 Application Procedure:**

**A. Application.** An application for a Wireless Telecommunications Facility Siting Permit must include the following information:

1. Location of the proposed structure, including map/lot number and street address.
2. Name of owner or operator of the telecommunications facility and owner of property.
3. Date the telecommunication facility was initially constructed or is proposed to be constructed.
4. A description and construction detail of the telecommunication, facility, including: Plot plan identifying location of the tower on the property; dimensions of the tower; and structural supports, if any. This description shall also identify any accessory structures that are essential to operation of the telecommunication facility.
5. Certification that construction of the structure meets industry standards and satisfies all federal, State and local building code requirements.
6. Provide documentation of FCC approval and licensure.

### **B. Notice to Abutters.**

Abutting property owners shall be notified by certified mail, by the Town, at least fourteen (14) days prior to initial Planning Board or CEO consideration. The cost of notification shall be borne by the applicant. This notice shall indicate the time, date and place of Planning Board consideration, if applicable. Public hearings may be called at the discretion of the Planning Board or CEO.

### **C. Standards for Permit.**

1. A new permit shall be granted for a Wireless Telecommunications Facility Siting only in a district or zone in which such a facility is allowed.
2. Setbacks. All telecommunication towers shall be setback from abutting property lines by a distance equal to 105% of tower height. Towers, guys and accessory facilities shall meet the minimum zoning district requirements.
3. Building Codes & Safety Standards.
  - a. To ensure the structural integrity of telecommunications facilities, the owner shall ensure that it is designed, constructed and maintained in conformance with industry standards and applicable federal, State and local building,

electrical and safety codes.

- b. Unless it can be demonstrated that the tower is access secure and not a safety hazard a security fence or wall not less than eight (8) feet in height from the finished grade shall be provided around the tower. Access to the tower shall be through a locked gate.

#### 4. Other Requirements.

Towers shall not be artificially lighted, unless required by the FAA or other federal or State authority. If lighting is required, the Planning Board may review the available lighting alternatives and approve the design that would cause the least disturbance of the surrounding properties and views.

#### 5. Removal of Abandoned/Unused Facilities.

The owner of a telecommunications facility shall be required to remove the tower should it not be used for the use or uses approved for a period of twelve (12) consecutive months. Unless the owner of a telecommunication facility and the land owner are one and the same, the applicant for a permit under this section, shall post a performance guarantee with the Town prior to obtaining a permit that is equal to 125% of the cost of removing the structure.

The performance guarantee covering such removal shall be for a minimum term of five years. Requirement for renewal of the guarantee shall be at the discretion of the CEO or Planning Board. The guarantee must contain a mechanism, satisfactory to the Town, for review of the cost of removal of the structure every five years, and a mechanism for increasing the amount of the guarantee should the revised cost estimate so necessitate.

#### **11-11.11 Permit Fees:**

An application for a Wireless Telecommunications Facility Siting shall be accompanied by a fee of fifty dollars (\$50.00).

#### **11-11.12 Enforcement/Penalties:**

**A. Enforcement.** The Municipal Officers or their designees shall enforce this Ordinance.

**B. Penalties.** Whoever violates this Ordinance is subject to penalty under 30-A MRSA, Sec. 4452. Each day that the violation continues constitutes a separate offense with maximum fines of two thousand five hundred dollars (\$2,500.00) per offense. There is a twenty-five thousand dollar (\$25,000.00) maximum fine per offense upon the second conviction within two (2) years for violations under this Ordinance.

### **11-11.12 Appeals:**

Any person aggrieved by the action of the Code Enforcement Officer or Planning Board may appeal to the Board of Appeals by filing a notice of appeal within thirty (30) days after receipt of the Code Enforcement Officer's or Planning Board's notification. Administrative appeals and variance applications submitted under this Ordinance shall be subject to the standards and procedures established by the Town of Farmington Board of Appeals Ordinance.

### **11-11.13 Amendments:**

**A. Initiation of Amendments:** An amendment to this Ordinance may be initiated by:

1. The Board of Selectmen, provided a majority of the Board of Selectmen has so voted;
2. Written petition of a number of voters equal to at least 10% of the number of votes cast in the municipality at the last gubernatorial elections.

**B. Public Hearing:** The Board of Selectmen shall hold a public hearing on the proposed amendment. Notification of the hearing shall be posted and advertised in a newspaper of general circulation in the municipality at least seven (7) days prior to the hearing.

**C. Adoption of Amendment:** An amendment to this Ordinance shall be adopted by a majority vote of a Town Meeting.

# TOWN OF FARMINGTON

## Zoning Ordinance

ENACTED: November 18, 1999

AMENDED: March 12, 2001  
June 12, 2001  
March 11, 2002  
April 9, 2002  
August 5, 2002  
March 10, 2003  
July 19, 2004  
March 12, 2007  
September 25, 2007  
March 10, 2008  
March 19, 2012  
November 22, 2016  
March 26, 2018

CERTIFIED BY:

Joanne E. Dickey  
Town Clerk                      Affix Seal

**Town of Farmington  
Chapter 11 – Land Use  
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**Town of Farmington**  
**Zoning Ordinance**  
**Chapter 11**  
**Land Use**

**11- 8.1 Title:**

This Ordinance shall be known and cited as the Town of Farmington Zoning Ordinance and will be referred to herein as “this Ordinance”.

**11- 8.2 Authority and Administration:**

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

This Ordinance is pursuant to and consistent with the Comprehensive Plan adopted by the Town of Farmington.

A zoning map indicating each established zone is incorporated in this Ordinance.

The Planning Board of the Town of Farmington, herein after called “the Board”, shall administer this Ordinance.

**11- 8.3 Purposes:**

The purposes of this Ordinance are:

1. To implement the provisions of the Town's Comprehensive Plan;
2. To promote the health, safety and general welfare of the residents of the Town;
3. To encourage the most appropriate use of land throughout the Town;
4. To promote traffic safety;
5. To provide safety from fire and other elements;
6. To provide an allotment of land area in new developments sufficient for adequate enjoyment of community life; and
7. To conserve natural resources.

**11- 8.4 Applicability:**

The provisions of this Ordinance shall govern all use of land, buildings, or structures, and all construction of buildings or structures including the erection, relocation, modification, alteration, or expansion of such within the Town of Farmington. In addition, land, building, structures, and uses located within Shoreland areas as defined in 38 M.R.S. §435 are subject to the Town of Farmington Shoreland Zoning Ordinance.



### **11- 8.5 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.

### **11- 8.6 Effective Date:**

The effective date of this Ordinance shall be the date this Ordinance was originally adopted by the voters at Town Meeting, and is subsequently amended by the voters at Town Meeting.

### **11- 8.7 Validity and Severability:**

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

### **11- 8.8 Definitions:**

The definitions listed in this section 11-8.8 are an integral part of this Ordinance. Where the definitions include regulations, restrictions, limitations or prohibitions, the definitions shall constitute enforceable requirements of this Ordinance.

Unless specifically defined below, words and phrases used in this Ordinance shall have the same meaning as they have in common usage and shall be construed to give this Ordinance their 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, not discretionary.

**Abutting Property:** Any lot which is physically contiguous with the subject lot even if only at a point and any lot which is located directly across a street or right-of-way.

**Acceleration Lane:** A speed-change lane for the purpose of enabling a vehicle entering a roadway to increase its speed to a rate at which it can safely merge with through traffic.

**Access:** The ability to enter or leave a public street or highway from an adjacent driveway or another public street.

**Access Management:** The management of driveways and intersections to maintain highway safety and traffic carrying capacity of all highways/roads and to maintain the posted speed limit of arterials.

**Accessory Apartment:** An apartment created by converting part of an existing single family detached dwelling or accessory building into a separate dwelling unit containing not more than one bedroom and not more than five hundred and fifty (550) square feet of total space.

**Accessory Structure or Use:** A structure or use which is incidental and subordinate to the principal use or structure, allowed in the district in which it is located, and located on the same lot with such principal building or use. An accessory building is a structure detached from the principal building and containing the accessory use. A garage attached to the principal structure by roof or common wall is considered part of the principal structure.

**Agricultural Products Processing:** Establishments engaged in the processing and/or manufacturing and/or packaging of foods and all other plant and animal products, including but not limited to: forages and sod crops; grains and seed crops; dairy products; meat products (beef, poultry, pork, lamb, venison, etc.); fruits and vegetables; ornamental and greenhouse products; maple syrup products; commercial composting and storage of all the preceding.

**Agriculture and Agricultural Management Activities:** The production, keeping, or maintenance, for sale or lease, of plants and/or animals to include ornamental and greenhouse products; land clearing if the land topography is not altered; tilling, fertilizing, spreading and disposal of manure, liming, planting, pesticide application, harvesting or cultivating crops, pasturing of livestock, minor drainage; and other similar or related activities. Agriculture does not include forest management or timber harvesting activities.

**Air Transportation Dependent Use:** Facilities and uses associated with the functions and support of air transport activities, both cargo and passenger, including by way of example, but not limited to, hangers, terminals, refueling, control towers, repair and maintenance, and various accommodations for passengers and crews.

**Amusement Facility/Park:** A commercially operated premises which is maintained or operated primarily for the amusement, patronage, or recreation of the public. This includes, but is not limited to, activities for entertainment such as motorized rides, water slides, miniature golf, batting cages, indoor table sports, and the like.

**Animal Breeding and/or Care (Husbandry):** The breeding and raising of livestock for commercial purposes. Does not include a kennel, which is defined separately.

**Annual Average Daily Traffic (AADT):** The annual average two-way daily traffic volume that represents the total annual traffic on a road for the year, divided by three hundred and sixty-five (365).

**Aquifer:** A permeable geologic formation, either rock or sediment, that is capable of transporting water through the formation.

**Arterial:** A major/minor public roadway that serves long-distance through-traffic.

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

**Auto Body Shop:** A business establishment engaged in body, frame or fender straightening and repair, or painting and undercoating.

**Auto Repair Shop:** A business establishment engaged in general repair, engine rebuilding and parts replacement. Auto Repair shall not mean auto body repair or the sale of gasoline, other motor fuels or motor oil.

**Automobile Graveyard:** A yard, field or other area used to store three (3) or more unserviceable vehicles or discarded, worn-out or junked motor vehicles or parts of such motor vehicles. This does not include any area used for temporary [up to ninety (90) days] storage by an establishment or place of business that is primarily engaged in doing auto body repair work or in making repairs to render a motor vehicle serviceable. This does include an area used for automobile dismantling, salvage and recycling operations.

**Automobile Recycling Business:** 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 eighty percent (80%) of the property (or, in the case of multiple uses, eighty percent (80%) of the portion of the property used for the automobile recycling business) is devoted to recycling activities, as distinguished from disposal or storage of unserviceable, discarded, worn out or junked motor vehicles or parts of such motor vehicles.

**Automobile Sales:** Any site and/or facility where new and/or used vehicles are sold. This includes, but is not limited to, brand dealerships, used car dealerships, and any other locations where vehicles may be sold as a primary use or as an adjunct to other activities. This definition does not include the sale of personally owned registered vehicles.

**Backlot:** Any lot or parcel of land that does not have frontage (or lacks the minimum required thereof) on a public road (per the Town Street Ordinance) or on a privately owned road, or lacks the potential for legal access.

**Bed and Breakfast:** Any dwelling in which transient lodging or boarding and lodging are provided and offered to the public for compensation for less than one week. This dwelling shall also be the full-time, permanent residence of its owner. There shall be no provisions for cooking in any individual guest room.

**Boarding/Lodging:** Any residential structure where lodging, with or without meals, are provided for compensation for a period of at least one week, and where a family residing in the building acts as proprietor or owner. There shall be no provisions for cooking in any individual guest room.

**Boat Building, Sales and Repair:** The commercial construction or fabrication of boats. Boat building, as an activity, and the place in which boat building takes place, are distinct from a marina and/or boat storage facility. Wooden boats are those comprised primarily of wood and have wooden hulls. Non-wooden boats are those primarily comprised of materials such as fiberglass, ABS, carbon fiber, steel, concrete, etc.

**Building Materials:** Any and all materials which could be used in the construction of a building.

**Building:** Any three-dimensional enclosure by any building materials of any space for any use or occupancy, temporary or permanent, and shall include foundations and air-raid shelters in the ground, as well as all parts of any kind of structure above ground, except fences and field or garden walls or embankment retaining walls. "Building" shall include the phrase "manufactured housing unit", as defined in this section, and the word "structure", unless the context unequivocally indicates otherwise. "Building" shall not include any recreational trailer or tent that is a structure to provide temporary living quarters for recreational camping; travel, or other legally permitted use.

**Bulk Storage Plant or Terminal:** That portion of a property where liquid, semi-solid or solid materials (chemicals, grains, particulates, etc.) are received by tank vessel, pipelines, tank car, tank vehicle or container, and are stored or blended in bulk for the purpose of distributing such materials by tank vessel, pipeline, tank car, tank vehicle, portable tank, or container.

**Campground:** A plot of ground upon which two (2) or more campsites are located, established, or maintained for occupancy by camping units of the general public for recreational use as transient living quarters.

**Cemetery:** Land used for the internment of the dead and dedicated for cemetery purposes, including columbariums, crematories, mausoleums and mortuaries when operated in conjunction with and within the boundary of such cemetery.

**Chemical Dependency Treatment Facility:** A state-licensed facility for the treatment of chemical dependency.

**Church:** A place of worship, regardless of denomination. (See also synagogue)

**Civic, Convention Center:** A facility, either publicly or privately owned, designed and equipped to provide mass accommodation to the public for events such as, but not limited to; sports games, concerts, lectures, circuses, stunt shows, expositions (garden, home, auto, construction, trade etc.), large group meetings (business, government, special interest, etc.).

**Clinic, Medical, or Dental:** An establishment providing outpatient examination, treatment, or other care by a physician or dentist, excluding chemical dependency treatment facilities.

**Club:** Any volunteer association of persons organized for recreational, social, religious, benevolent, literary, scientific or political purposes, whose facilities, especially a clubhouse, are open to members and guests only and not the general public and not engaged in activities customarily carried on by a business for pecuniary gain.

**Code Enforcement Officer:** A person appointed by the municipal officers to administer and enforce the Town's land use ordinances.

**Collector Road:** A roadway that connects local streets to arterials.

**Commercial School:** A place or institution for teaching and learning, which place or institution is established for commercial or profit-making purposes, including, by way of example only, schools for dance, music, riding, gymnastics, photography, driving, business, etc.

**Communication Facility:** See Telecommunication Facility.

**Community Center:** A building owned and operated by the Town of Farmington for the benefit of the community, which provides a meeting place for activities such as Town Meetings, voting, recreational and institutional programs.

**Compact Zone:** The most recent designation by MDOT of the built-up urban area of Town known as the “Compact Zone”.

**Conference Center:** A facility designed for gatherings of groups of people for formal or informal meetings. It may also include a dining hall and overnight accommodation facilities.

**Congregate Housing:** A type of dwelling which is occupied by elderly and/or disabled persons and that provides shared community space and shared dining facilities and normally also provides its residents with housekeeping services, personal care and assistance, transportation assistance, recreational activities, and/or specialized shared services such as medical support services.

“Shared community space” is space designed to be used in common for the enjoyment and leisure of residents of the facility, such as, by way of example only, reading rooms, sitting rooms, recreational rooms, rooms for entertaining guests, and exercise rooms.

“Shared dining facilities” are a room or rooms designed for the serving of meals to residents sitting together, plus the kitchen and ancillary facilities required to prepare the meals.

A congregate housing development shall include either or both the following types of residential units: 1) Dwelling units, as defined by this ordinance, that is, single housekeeping units with living, sanitary, sleeping and permanent cooking facilities. 2) Residential care units, which do not meet the definition of dwelling unit because they have no cooking facilities within the units, but which normally consist of rooms with single or shared sleeping and sanitary facilities.

Additionally, the term congregate housing includes specialized facilities that provide long-term residential care, such as those designed specifically for persons with Alzheimer’s disease or other afflictions of the elderly for which specialized care outside of a nursing home may be appropriate. Congregate housing is distinct from “group home, hospice, nursing home, convalescent home, rest home or residential care facility”.

**Conservation Easement:** A non-possessory interest in real property imposing limitations or affirmative obligations, the purposes of which include retaining or protecting natural, scenic or open space use, protection of natural resources, or maintaining air or water quality.

**Corner Clearance:** The minimum dimension, measured parallel to a highway, between the curb, pavement or shoulder lines of an intersecting highway and the nearest edge of a driveway.

**Corner Lot:** A single lot with continuous frontage abutting two (2) intersecting roads.

**Cul-de-sac:** A dead-end road with a circular or T-shaped turnaround at the end, usually built to serve a small subdivision.

**Day Care Center:** A facility registered with or licensed by the State that provides care and/or instruction during the day to three (3) or more children, exclusive of children who may be living in the home that is serving as the day care center.

**Deceleration Lane:** A speed-change lane for the purpose of enabling a vehicle to leave the through traffic lane at a speed equal to or slightly less than the speed of traffic in the through lane and to decelerate to a stop or make a slow speed turn.

**Demolition Disposal:** See Waste Disposal.

**Design Hourly Volume:** The hourly traffic volume used to evaluate or design a roadway or driveway.

**Development:** Any alteration of existing land or structures.

**Driveway:** A vehicular access way serving one (1) or more land uses on a parcel or a lot of land. The design of a driveway may involve a single vehicular access point along the parcel or lot frontage providing two-way travel or may involve up to two (2) well marked/signed access points, one providing ingress to, and the other providing egress from, the roadway.

**Driveway/Entrance:** A vehicular access way serving one (1) or more land uses on a parcel or a lot of land. The design may involve a single vehicular access point along the parcel or lot frontage providing two-way or may involve up to two (2) well marked/signed access points, one providing ingress to, and the other providing egress from, the roadway.

**Driveway/ Entrance Volume:**

- a. Low volume driveway: A driveway with a traffic volume of less than one hundred (100) vehicle trips per day, or less than twenty-five (25) vehicle trips per peak hour.
- b. Medium volume entrance: An entrance with a traffic volume of one hundred (100) to less than fifteen hundred (1500) vehicle trips per day, or twenty five (25) to less than one hundred (100) vehicle trips per peak hour.
- c. High volume entrance: An entrance with a traffic volume of fifteen hundred (1500) or more vehicle trips per day, or one hundred (100) or more vehicle trips per peak hour.

**Driveway Width:** The narrowest width of the driveway, measured perpendicular to the highway right-of-way.

**Duplex:** A building containing only two (2) dwelling units for occupation by not more than two (2) families.

**Dwelling Unit:** A room or suite of rooms within a dwelling designed and equipped as living quarters for a person or for a family, including provisions for living, sleeping, cooking, bathing, and eating.

**Dwelling:** Any building or structure or portion thereof designed or used for residential purposes. The following types of dwellings are herein defined:

**Single Family Detached Dwelling:** A freestanding building exclusively for residential use by not more than one (1) family. The term shall include manufactured housing, as defined in this section. Where accessory apartments are listed as allowable uses, they shall not be deemed to turn a single family detached dwelling into a two (2) family dwelling. See also the definition of accessory apartment.

**Two Family Dwelling:** A building used for residential occupancy by two (2) families living independently of each other. See also the definition of duplex.

**Multi Family Dwelling:** A building used for residential occupancy by three (3) or more families, each living independently of each other.

**Enlargement or Expansion of a Structure:** An increase of the building footprint and/or increase in the volume and/or increase in the height of the structure including all extensions such as, but not limited to, attached decks, garages, porches, and greenhouses. Alterations of existing buildings which are required in order to meet the requirements of the Americans with Disabilities Act (ADA) and/or the State Fire Code are not considered to be enlargements or expansions of a structure and are not required to meet otherwise applicable setback requirements, provided the alterations are the minimum necessary to satisfy the ADA and/or State Fire Code as determined by the Planning Board pursuant to section 11-8.10 (B) (5).

**Enlargement or Expansion of Use:** Any intensification of use in time, volume, or function, whether or not resulting from an increase in the footprint, height, floor area, land area or cubic volume occupied by a particular use.

**Essential Services:** Essential Services include the following facilities, provided they primarily serve populations within the Town of Farmington or a neighborhood or structure within the Town: steam, fuel, gas, communication, emergency service, transportation, electric power, or water transmission, or distribution lines 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 poles, wires, mains, drains, pipes, conduits, cables, fire alarms, and police call boxes, traffic signals, hydrants, pumping stations, and similar accessories, but shall not include telecommunications facilities, or buildings which are necessary for the furnishing of such services.

**Extractive Industry:** Any extraction of water, sand, gravel, rock, topsoil, limestone, slate, granite, coal, gems, metallic or non-metallic ores, or other minerals or other like material which is removed from its natural location and transported from the extraction site.

**Family:** One (1) or more persons occupying a premise and living as a single housekeeping unit.

**Farm and Forest:** Areas that have been traditionally used for farming and forestry as rural areas, and areas of open space with limited amounts of residential development and appropriate businesses.

**Farm Stands:** A structure designed, arranged or used for the display and sale of agricultural products primarily grown or produced on the premises upon which such stand is located. A farm stand may be located on the premises that the products are not grown upon provided such premise is owned by the grower.

**Firewood Processing:** The cutting, splitting, handling and temporary storage of firewood for other than personal use.

**Forestry Activities:** Forest activities include timber cruising and other forest resource evaluation activities, pesticide or fertilizer application, timber and stand improvement, pruning, regeneration of forest stands, and other similar or associated activities, but not the construction, creation or maintenance of land management roads.

**Frontage:** The width of a single lot, measured parallel to the roadway right-of-way.

**Full Cut-Off Type Fixture:** A luminaire or light fixture that, by design of the housing, does not allow any light dispersion or direct glare to shine above a ninety degree (90°), horizontal plane from the base of the fixture. Full cut-off fixtures must be installed as designed.

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

**Gross Floor Area:** The sum of the gross horizontal areas of the several floors of a building or structure from the exterior face of the exterior walls, or from the center line of a wall separating two buildings, but excluding any space where the floor-to-ceiling height is less than six (6) feet.



**Group Home, Hospice, Nursing Home, Convalescent Home, Rest Home, Residential Care Facility:** A housing facility which is approved, authorized, certified or licensed by the State. This includes community living facilities, foster homes, intermediate care facilities, halfway correctional facilities, mentally handicapped facilities, adult daycare facilities, and facilities for the developmentally disabled.

**Heavy Equipment Sales & Service:** The sales and service of heavy equipment used in agriculture, construction and logging.

**Highway Capacity:** The maximum number of vehicles that a highway can handle during a specific unit of time at a given level of service.

**Home Occupation:** An occupation or profession which is customarily carried on in a dwelling unit or structure accessory to a dwelling unit which is clearly incidental and secondary to residential use and employs no more than one full-time equivalent outside employee. The home occupation must be carried on by the resident of the dwelling.

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

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

**Indoor Theater:** A facility operated for the showing of motion pictures or for dramatic or musical performances.

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

#### **Industrial Uses:**

**Heavy:** The use of real estate, building or structure, or any portion thereof, for assembling, fabricating, manufacturing, packaging or processing operations which are not defined as light industrial uses below.

**Light:** The use of real estate, building or structure, or any portion thereof, which will not create a nuisance by noise, smoke, vibration, odor or appearance. Industrial activity involving the manufacturing, packaging, assembly, or distribution of finished products from previously prepared material, including, by way of example only, and not limited to the following: bakeries, bottling, printing, publishing, pharmaceuticals, machine shops, precision instruments, watchmakers, musical instruments, toys, sporting goods, pottery/ceramics using only pulverized clay, wood products, jewelry, assembly of electrical components, canteen services, tool and die shops, and food packaging. Light industrial uses do not include the processing of raw materials or salvage operations.

**Junkyard:** Junkyard means a yard, field or other outdoor area of which eighty percent (80%) of the property used (or in the case of multiple uses, eighty percent (80%) of the portion of the property used) to store any and all of the materials listed below which may also be referred to as “junk”:

1. Discarded/worn-out plumbing, heating supplies, household appliances, furniture, machinery, equipment and trailers;
2. Discarded scrap and junked lumber and building materials;
3. Old/scrap copper, brass, rope, rags, batteries, paper trash, rubber debris, waste and all scrap iron, steel and other scrap ferrous or non-ferrous metallic material;
4. Garbage dumps, waste dumps and sanitary fills;
5. Any discarded/scrap conveyance originally designed to operate on land, water or air.

**Kennel:** An establishment to house dogs or other domesticated animals and where such animals are groomed, bred, boarded, trained, or sold.

**Lane:** The portion of a roadway for the movement of a single line of vehicles, which does not include the gutter or shoulder of the roadway.

**Larger vehicle:** A vehicle that has a larger length, width, or turning radius and/or lesser acceleration capability than standard passenger vehicles or pickup trucks including busses, commercial trucks, and recreational vehicles.

**Level of Service:** A description of traffic conditions along a given roadway or at a particular intersection. The level of service ranges from “A”, which is the best, to “F”, which is the worst. It reflects factors such as speed, travel time, freedom to maneuver, traffic interruptions, and delay.

**Library:** A building in which is housed literary and artistic materials, such as books, periodicals, newspapers, pamphlets and prints, kept for reading or reference. The building is maintained by an institution, foundation, or corporation which lends the contained materials for free or for a fee.

**Loading Facilities:** A principal-use loading site and/or facility where either short or long haul trucks are unloaded and/or loaded for local, regional or distant delivery. Examples of sites where these facilities are often located include, but are not limited to: trucking terminals, wholesale beverage distributors, bakery and other food distributors, etc., grain/feed distributors, bulk fertilizer plants, bulk cement plants (incl. concrete batch plants), paving batch plants, log/woodchip/biomass processing/production sites, milk processors, distribution warehouses, etc.

**Local Street:** A roadway that directly serves abutting properties.

**Manufactured Homes or Housing Units:** This category is inclusive of all transportable, factory-built single-family structures: “modular” (no permanent hitch or wheels/axles) which can be single or multi-section; and “mobile” (with permanent hitch and wheels/axles) which are single section (commonly known as “trailers”).

These structures are designed to be transported to a building site and used as dwellings when connected to the required utilities, including the plumbing, heating, electrical and air conditioning systems contained therein.

**Mobile Homes:** See Manufactured Homes or Housing Units.

**Mobile Home Park:** A parcel of land under unified ownership designed and/or used to accommodate three or more mobile homes.

**Mobile Home Park Lot:** An area of land on which an individual manufactured housing unit is situated within a mobile home park and which is reserved for use by the occupants of that unit. The Planning Board shall require that all mobile home park lots are delineated on a mobile home park plan.

**Modular Homes:** See Manufactured Homes or Housing Units.

**Museum:** A place or building in which works of artistic, historical, or scientific value are cared for and exhibited.

**Nursery:** The site of a commercial operation which grows young plants or trees for subsequent sale and transplanting.

**Offices: Business, Professional, Medical, Government:** The place, such as a building, room or suite, in which services, clerical work, professional duties of a business, medical practice, governmental body or professional service are carried out, including but not limited to finance, real estate, accounting, data processing, legal, insurance, counseling, design, engineering, and architecture, but expressly excluding any repair services, retail sales, chemical dependency treatment facility, or clinics.

**Open Space Residential Development or Open Space Subdivision:** An alternative form of residential development to the conventional residential subdivision, in which the buildings are clustered or grouped on a portion or portions of the site with remaining portions of the site permanently preserved as open space. All open space residential developments shall be subject to subdivision regulations and approvals. Dwelling units may be located on individual lots, may be leased, or may be in a condominium form of ownership.

**Parish House or Facility:** An independent structure or accessory space owned by a religious organization and used for various religious and secular functions.

**Parking, Commercial Facility:** A facility or lot, which provides parking for vehicles for a fee.

**Passenger Car Equivalents (at peak hour):** The number of passenger cars (or, in the case of non-passenger vehicles, the number of passenger cars that would be displaced by non-passenger vehicles) at the hour of the day during which the traffic volume generated by the development is higher than the volume during any other hour of the day. For purposes of this definition, one (1) tractor-trailer combination is the equivalent of two (2) passenger cars.

**Peak Hour Traffic:** The highest number of vehicles found to be passing over a section of a lane or roadway during any sixty (60) consecutive minutes. Typically, there is a peak hour condition in the A.M. and a peak hour condition in the P.M. for which the roadway or intersection is analyzed for capacity and level of service.

**Primarily:** Greater than fifty-one percent (51%).

**Principal Structure:** A building other than one which is used for purposes incidental or accessory to the use of another building or use on the same premises.

**Principal Use:** A use other than the one which is wholly incidental or accessory to another use on the same premises.

**Printing, Publishing:** An establishment engaged in producing and distributing printed products and materials for sale.

**Public Roadway:** Either a Town or State maintained roadway or highway with the appropriately designated right-of-way delineation defining its location and limits.

**Public Utility:** Facilities for the delivery of such public services as water, electricity, telephone, gas, and transportation, whether publicly or privately owned, which are regulated by such agencies as the Maine Public Utilities Commission, the Maine Department of Transportation, the Federal Communications Commission, or the Federal Aviation Administration, and which are intended to serve primarily populations or activities outside of the Town of Farmington. This term also includes buildings, other than those housing pumping stations, which are necessary for the furnishing of essential services, whether local or greater in scope.

**Recreation:** An activity pursued for leisure in order to refresh mind or body. A facility designed or equipped for such pursuit and/or the conduct of leisure time activities and other customary and usual recreational activities. Facilities like theaters are not included in this definition but those like video arcades are included.

**Recreational Vehicle:** A vehicle or an attachment to a vehicle designed to be towed, and designed for the temporary sleeping or living quarters for one (1) or more persons, and which may include a pickup camper, travel trailer, tent trailer, camp trailer, and motor home.

**Recycling Operations:** Any site where any materials, components, parts, remnants, containers, etc. are collected and/or sorted and/or processed for reuse. Examples include, but are not limited to: food, beverage and product container recycling; animal and vegetable fat rendering; auto recycling; etc. This does not include any bottle redemption accessory to a retail store.

**Residential:** Areas that are predominately residential, with very limited commercial use such as “home occupation” businesses located therein as regulated by performance standards. The Residential District is predominantly comprised of residential areas developed through subdivision or other similar historic development patterns. Generally these areas are less suitable for agricultural or forestry production.

**Residential/Light Commercial:** Areas that are predominantly rural and residential, primarily located along the arterial highways north and west of the town center, the Strong and Town Farm (Rte. 4) Roads, and the Fairbanks and New Vineyard (Rte. 27) Roads. Light commercial activities are allowed to intermix in this rural/residential area on a limited basis in a manner that will conserve the essential character of this district.

**Restaurant:**

**Fast Food:** An establishment which serves meals which are prepackaged or presented in a manner that can readily be eaten on or off the premises where sold and which may serve food and beverages directly to occupants of motor vehicles, or directly to pedestrian traffic.

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

**Retail:** A business primarily engaged in the sale of goods to the consumer for direct use or consumption and not for resale including, but not limited to: basic foods and beverages, motor vehicles, recreational vehicles, equipment, specialty items, gift items, tools, lumber, books, pharmaceutical/health products, jewelry, clothing, florists, photo studios, and similar retail businesses.

**Safe Sight Distances:** Minimum safe sight distances are specified by MDOT as a function of driveway traffic volumes and posted highway (roadway) speed.

**Sawmill:** An establishment which machine cuts wood logs into lumber.

**School, Public, Private:** A place or institution for teaching and learning, at which courses of study are taught sufficient to qualify attendance there as being in compliance with State compulsory education requirements.

**Service:** A business primarily engaged in providing services (useful labor that does not produce a commodity) for individuals and businesses including, but not limited to: laundries, beauty salons/nail techs, barber shops, advertising, equipment leasing, funeral parlors, auto washes, dry cleaners, furniture stripper, travel service, tradesmen's shops (see definition), well drilling, boat storage, self-storage, taxidermy, insurance agencies, attorneys, financial advisors, tattoo/piercing, bird sanctuaries, and similar service businesses.

**Service Road/Frontage Road:** A local street or road located parallel to an arterial for service to abutting properties for the purpose of controlling access to the arterial.

**Shared Driveway:** A single driveway serving two (2) or more lots. A shared driveway may cross a lot line or be on the lot line, and the owners may have an easement for the shared use.

**Shopping Center:** Any concentration of two (2) or more retail stores or service establishments under one (1) ownership or management containing fifteen thousand (15,000) square feet or more of gross floor space.

**Small Animal Veterinary Clinic:** A facility used for the diagnosis, care and medical and/or surgical treatment of small animals and the short-term boarding of such animals when incidental to care. The overnight boarding of healthy animals is defined as a kennel. Small animals refer to house pets such as dogs, cats, ferrets, rabbits, birds, etc. and excludes farm animals such as cows, horses, pigs, sheep and goats.

**Sports Activity Center:** A place enclosed by walls, roof, and floor, designed and equipped for the conduct of indoor sports, and operated by an entity other than a unit of government. These include, by way of example only, skating rinks, gymnasiums, bowling alleys, racquetball and tennis courts, swimming pools and the like. Facilities like fitness studios, martial arts centers, and video arcades are not included in this definition.

**Stable:** An establishment to house horses and other domesticated animals, where such animals are groomed, bred, boarded, pastured, trained, or sold.

**Storage Length:** Additional lane footage added to a turning lane to hold the maximum number of vehicles likely to accumulate during a peak period so as not to interfere with the through travel lanes.

**Store, Neighborhood Convenience:** A store intended to service the convenience of a residential neighborhood primarily with the sale of merchandise including such items as, but not limited to, basic foods, snacks, beverages, novelty ice cream items, sandwiches, newspapers and magazines.

**Strip Development:** A linear pattern of roadside development. Most commonly, it includes residential or commercial development, or mixed patterns of both.

**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. The term includes structures temporarily or permanently located, such as decks and swimming pools. "Structure" shall not include any recreational tent or trailer that is designed to provide temporary living quarters for recreational camping, travel or other legally permitted use.

**Subdivision:** The division of a tract or parcel of land into three (3) or more lots as defined in the "Town of Farmington Subdivision Ordinance" and applicable State statutes.

**Synagogue:** A place of worship.

**Telecommunications Facility:** 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 access services, and personal communications service (PCS) or pager services. Telecommunications Facility shall be considered a principal use. Pre-existing accessory use towers/antennas shall be exempt from this definition.

**Throat:** A portion of a driveway used to store queued vehicles without impeding vehicular circulation.

**Tower (Radio, Television, Communication):** Tower means any structure, whether freestanding or in association with a building or other permanent structure, that is designed and constructed primarily for the purposes of supporting one or more antennas, including self-supporting lattice towers, guy towers, or monopole towers. The term includes radio and television transmission towers, microwave towers, common-carrier towers, cellular telephone towers, alternative tower structures, and similar structures.

**Tradesman's Shop:** An establishment occupied by a craftsperson or a person in a skilled trade, including, by way of example only, and not limited to plumbing, carpentry, or electrical work. The term also shall include establishments engaged in the repair of electrical goods and appliances, watches, jewelry, equipment, furniture, or other goods, exclusive of motor vehicles, where such services are the primary use and not accessory to another use, such as retail sales. The shop may include workspace, storage space, and office space, but may not exceed two thousand (2,000) square feet of total floor area.

**Traffic Impact Study:** A report initiated in response to a proposed development that analyzes the anticipated roadway conditions with and without the development. The report may include an analysis of mitigation measures. Elements of the Study are specified in §11-5.11.E.3.c of the Site Review Ordinance.

**Transportation Facility:** A site and/or facility, either publicly or privately owned and operated, which provides access to the public for embarking and debarking from mass transit vehicles or infrastructure such as busses and trains. Air transportation is not included in this definition - see Air Transportation Dependent Use.

**Trip Generation:** The estimated volume of traffic going to and from a particular location.

**Truck:** Any vehicle with a GVW registered in excess of 18,000 lbs., such vehicles would include SU-30 (straight units), B-40 (most buses), WB-50's (semis) and larger tractor trailers.

**Trucking, Distribution Terminal:** See Loading Facilities.

**Turn Radius:** The radius of an arc that approximates the turning path of a vehicle.

**Uncontrolled Access:** The unlimited number, spacing and/or unstandardized design of driveways onto a street or road.

**Urban Compact Zone:** The most recent designation by MDOT of the built-up urban area of Town known as the "Urban Compact Zone".

**Variance:** A relaxation of terms as defined in 30-A M.R.S. §4353, and requiring satisfaction of the test for undue hardship, granted by the Board of Appeals.

**Vehicle Trip:** The vehicle moving from an origination point to a destination point.

**Veterinary Hospital or Clinic:** A facility used for the diagnosis, care, medical and/or surgical treatment of ailing or injured animals, and the short-term boarding of such animals when incidental to care. The overnight boarding of healthy animals is defined as a kennel.

**Village/Business (includes Historic Village/Business):** A compact, predominantly business area, mainly in and around the downtown "village" section of town, with a distinct historic character – both architectural and cultural. Future growth within and in addition to this district shall be compatible with this character.

**Village/Commercial:** A compact, predominantly commercial area, near the downtown "village" section of town, but distinct from both "village" districts. This is a transition district between the less restrictive General Purpose district and the more restrictive "village" districts.

**Village/Residential:** A compact, predominantly residential area, mainly in and around the downtown "village" section of town, with a distinct historic character – both architectural and cultural. Future growth within and in addition to this district shall be compatible with this character.

**Volume Warrants:** The conditions under which a traffic management technique, such as a left-turn or a right-turn lane, is justified. For example, the need for a left-turn lane will vary according to the volumes of advancing and opposing traffic, and the percentages of traffic turning left.

**Waiver:** A relaxation of the terms of this Ordinance, granted by the Planning Board.

**Warehousing/Storage:** The storage of goods, wares and merchandise in a warehouse.



**Waste Disposal:** A facility, including a landfill operated by a public, quasi-public or private entity, which purpose is to dispose of useless, unwanted or discarded solid material with insufficient liquid content to be free flowing, including by way of example, and not limited to, rubbish, garbage, scrap materials, junk, refuse, inert fill material, landscape refuse, and demolition debris. This definition does not, however, include commercial hazardous waste disposal facilities, recycling of products or composting for home use.

**Wholesale:** A business that primarily involves the sale of merchandise, in bulk or large quantities, to retailers for resale, or to industrial, commercial, or institutional users including, but not limited to, foods and beverages, building supplies, chemical supplies, plumbing supplies, electrical and heating supplies, and similar wholesale businesses.

**11- 8.9 Establishment of Districts:** To implement the provisions of this Ordinance, the Town of Farmington is hereby divided into the following districts:

**A. Growth Areas:**

**1. Village Districts:**

- a. Village/Residential**
- b. Village/Business (Includes the Historic Village Business)**
- c. Village/Commercial**

The purpose of the Village/Residential and Village/Business Districts is to preserve and build upon the existing village-like character of the downtown areas of Farmington, West Farmington, and Farmington Falls and to allow for growth that is compatible with the architectural/historic and cultural character of these areas by promoting the reuse of buildings therein and prohibiting incompatible uses such as heavy industrial uses.

The purpose of the Village/Commercial District is to provide a district to accommodate certain uses which are often found near Village/Business and Village/Residential Districts, but which would be detrimental to architectural, historic and cultural character if not prohibited from being within these districts.

The Village/Commercial District differs from the General Purpose District in that it is more restrictive than the latter, while at the same time being less restrictive than either the Village/Business or Village/Residential Districts.

By making the above distinction, the character of each of the town's economic trading areas – Village/Business, General Purpose, Village/Commercial, and Residential/Light Commercial – is kept in tact.

**2. General Purpose Districts:**

The purpose of the General Purpose Districts is to accommodate a variety of local and regional commercial, industrial, office, restaurant, motel, residential, and other uses in well-planned areas that are easily accessible. As commercial growth areas, General Purpose Districts will provide planned areas in which to concentrate highway dependent uses in order to limit sprawl as well as provide parking and service roads that result in the creation of attractive, efficient and marketable locations for businesses.

### **3. Residential/Light Commercial:**

The purpose of the Residential/Light Commercial District is for these areas to remain essentially as a rural, residential area with occasional light commercial operations intermixed. It is the intent that this district will not include heavy industry or commercial activities that are noisy or polluting or are unsightly in nature, or that cause undue traffic congestion.

### **4. Residential:**

The purpose of the Residential District is to accommodate residential growth in and around the village areas and adjacent neighborhoods and along with the primary roads near the village areas, to encourage residential growth in areas, which are less suitable for agricultural production and forestry. This district will permit uses compatible with the residential nature of the district, prohibit commercial uses, which are incompatible with residential uses, and prohibit strip commercial development.

## **B. Rural Areas: Farm and Forest District**

### **Farm and Forest District:**

The purpose of the Farm and Forest District is to maintain those areas that have traditionally been used for farming and forestry as rural areas, to preserve large areas of open space with limited amounts of residential development, and to allow appropriate businesses.

## **C. Overlay Districts: (Natural Resource Areas)**

In certain limited locations the Town's Natural Resource Areas may overlay, and compliment (or override if more stringent) the provisions of the Growth and Rural Areas.

- 1. Wellhead Protection District:** Areas regulated by the Town of Farmington Wellhead Protection Ordinance and accompanying map.
- 2. Shoreland Zoning District:** Areas regulated by the Town of Farmington Shoreland Zoning Ordinance and accompanying map.
- 3. Floodplain Management District:** Areas regulated by the Town of Farmington Floodplain Management Ordinance and accompanying map.
- 4. Conservation Areas:** Areas voluntarily placed into conservation land trusts, conservation easements or other vehicles for the purpose of the preservation of certain unique natural qualities as determined by criteria administered by the Planning Board.

## **D. Table of Uses:**

1. The Table below establishes the appropriateness of specific land uses in the seven (7) districts defined in Sections 11-8.9 (A)(B) and 11-8.8. Proposed uses in certain categories may only require reporting to the Code Enforcement Officer (CEO). Proposed uses in certain categories may be approved by the CEO if properly documented to prove minimal or no impact on abutting properties or resources. All other proposed uses must be approved by the Planning Board. The review process is defined in the Site Review Ordinance.
2. Proposed commercial or industrial uses not specifically listed in the Table or that would not be generally recognized by the Planning board as a subset of an existing use shall be referred to the Zoning Board for recommendations concerning the inclusion of the use in the Table.
3. Table: The uses allowed in each zoning district are set forth in the following Table:

**Key: Y = Yes, permitted, subject to land uses standards.**

**Y\* = Permitted, subject to land use standards and Planning Board approval.**

**\* = Permitted on a site-specific basis, subject to land use standards and Planning Board approval.**

**N = No, not permitted**

NOTE: Village Historic District is a sub-district within the Village Business District.

	General	Residential	Village	Village	Village	Residential	Farm &
	Purpose	Light	Comm.	Business	Residential	District	Forest
	District	Comm.		District	District		District
				(Incl Hist)			
Use/Structure							
<b>RESIDENTIAL</b>							
Accessory Use	Y	Y	Y	Y	Y	Y	Y
Open Space Residential Development	Y*	Y*	N	N	Y*	Y*	Y*
Congregate Housing	Y*	Y*	Y*	Y*	Y*	Y*	Y*
Duplex	Y	Y	Y	Y	Y	Y	Y
Home Occupation	Y	Y	Y	Y	Y	Y	Y
Manufactured Housing (except modular units)	Y	Y	N	N	N	Y	Y
Mobile Home Park	Y	Y	N	N	N	Y*	Y*
Multi-family Dwelling	Y*	Y*	Y*	Y*	Y*	Y*	Y*
Single-family Dwelling (incl. modular units)	Y	Y	Y	Y	Y	Y	Y
Wind Energy System	Y*	Y*	Y*	N	N	N	Y*
Solar Energy System - (PRSES only)	Y	Y	Y	Y	Y	Y	Y
<b>COMMERCIAL</b>							
Accessory Use	Y	Y	Y	Y	Y	Y	Y
Alternative Tower Structure	Y*	Y*	Y*	Y*	Y*	Y*	Y*
Amusement Facility	Y*	*	Y*	N	N	N	Y*
Auto Graveyard, Junkyard & Auto Recycling	Y	N	N	N	N	N	*
Auto Repair & Sales; Small Engine Repair	Y*	Y*	Y*	N	N	N	Y*
Bed & Breakfast	Y	Y	Y	Y	Y*	Y	Y
Boarding, Lodging	Y	Y	Y	Y	Y	Y	Y
Boat Building, Repair (Non- wooden)	Y	Y*	Y*	N	N	N	*
Boat Building, Repair (Wooden)	Y	Y	Y*	N	N	N	Y*

	General	Residential	Village	Village	Village	Residential	Farm &
	Purpose	Light	Comm.	Business	Residential	District	Forest
	District	Comm.		District	District		District
				(Includes			
				Historic)			
Use/Structure							
<b>COMMERCIAL (cont)</b>							
Building Materials, Retail Sales	Y*	Y*	Y*	N	N	N	*
Commercial School	Y	Y*	Y*	Y*	N	N	Y*
Conference Center	Y*	Y*	Y*	Y*	N	N	Y*
Firewood Processing	Y	Y*	N	N	N	N	Y
Gasoline Service Station	Y	*	*	N	N	N	*
Hotel/Motel: Multi-story	Y	*	Y*	Y*	N	N	Y*
Hotel/Motel: Single-story	Y	Y*	Y*	Y*	N	N	Y*
Indoor Theater	Y	Y*	Y*	Y*	N	N	*
Kennel, Stable, Veterinary Hospital	Y	Y*	N	N	N	N	Y
Neighborhood Convenience Store	Y	Y*	Y	Y	N	*	*
Commercial Parking Facility	Y	N	Y	Y	N	N	N
Loading Facilities	Y	*	Y	Y	N	N	Y*
Medical Marijuana Dispensary	*	*	*	*	N	N	N
Offices: Business, Professional, Medical, Gov't	Y*	Y*	Y*	Y*	Y*	Y*	Y*
Publishing, Printing	Y	Y*	Y*	Y*	N	N	*
Radio, T.V. Communication Tower	Y	*	N	N	N	N	Y*
Recreation	Y*	Y*	Y*	Y*	Y*	Y*	Y*
Restaurant (fast food)	Y*	*	*	N	N	N	N
Restaurant (family)	Y	Y*	Y	Y	N	N	Y*
Retail Business (not mentioned herein)	Y	Y	Y	Y	N	N	*
Sexually Oriented Business	Y*	N	N	N	N	N	N
Service Business (not mentioned herein)	Y	Y	Y	Y	*	*	*
Small Animal Veterinary Hospital	Y	Y*	Y*	Y*	Y*	Y*	*
Shopping Center	Y*	*	N	N	N	N	*
Sports Activity Center	Y*	Y*	Y*	Y*	N	N	Y*
Wholesale Business (not mentioned herein)	Y*	*	Y*	Y*	N	N	*
Wind Energy System	Y*	N	N	N	N	N	Y*
Solar Energy Systems (CSES only)	Y*	Y*	Y*	Y*	N	N	Y*
<b>INDUSTRIAL</b>							
Accessory Use	Y	Y*	Y*	Y*	N	N	Y*
Air Transportation Dependent Use	Y*	*	N	N	N	N	*
Bulk Storage Plant or Terminal	Y*	N	N	N	N	N	N
Demolition, Waste Disposal	Y	N	N	N	N	N	*
Heavy Industrial	Y*	N	N	N	N	N	N
Industrial Park	Y*	Y*	N	N	N	N	N
Light Industrial	Y	Y*	N	N	N	N	N
Recycling Operations	Y*	Y*	N	N	N	N	Y*
Sawmill	Y*	Y*	N	N	N	N	Y*
Transportation, Communication Facility	Y*	Y*	Y*	Y*	N	N	*
Trucking, Distribution Terminal	Y*	*	N	N	N	N	*
Warehousing and Storage	Y*	Y*	N	N	N	N	*
Solar Energy Systems (ISES only)	Y*	N	N	N	N	N	Y*
<b>EDUCATIONAL, INSTITUTIONAL, PUBLIC</b>							
Accessory Use	Y	Y	Y	Y	Y	N	*
Chemical Dependency Treatment Facility	*	N	N	N	N	N	N
Church, Synagogue, Parish House, Mosque etc	Y*	Y*	Y*	Y*	Y*	Y*	Y*
Civic, Convention Center	Y	N	N	N	N	N	*
Community Center	Y	Y	Y	Y	Y	N	*
Clubs	Y	Y	Y	Y	N	N	Y*
Day Care, Home	Y	Y	Y	Y	Y	Y*	Y
Day Care, Center	Y	Y	Y	Y	Y	Y	Y
Fire, Police, E.R. Service	Y	Y	Y	Y	Y	Y	Y

	General	Residential	Village	Village	Village	Residential	Farm &
	Purpose	Light	Comm.	Business	Residential	District	Forest
	District	Comm.		District	District		District
				(Includes Historic)			
Use/Structure							
<b><u>EDUCATIONAL, INSTITUTIONAL, PUBLIC (Continued)</u></b>							
Group Home, Hospice, Nursing Home, Residential Care Facility	Y*	Y*	Y*	Y*	Y*	Y*	Y*
Hospital/Medical Center	Y*	Y*	Y*	Y*	N	N	*
Museum, Library	Y	Y	Y	Y	*	*	Y*
Public, Private School	Y*	Y*	Y*	Y*	Y*	Y*	Y*
Public Utility Buildings	Y	Y	Y	N	N	Y	Y
<b><u>OUTDOOR, RESOURCE BASED USES</u></b>							
Accessory Structure	Y	Y	Y	Y	Y	Y	Y
Agriculture	Y	Y	N	N	N	Y*	Y
Agricultural Products Processing	Y*	Y*	N	N	N	N	Y*
Animal Breeding or Care	Y	Y	N	N	N	Y	Y
Campground	Y*	Y*	N	N	N	N	Y*
Cemetery	Y	Y	N	N	N	Y*	Y
Extractive Industry	*	*	N	N	N	N	Y*
Farm Stands	Y	Y	Y	N	N	N	Y
Forestry Activities	Y	Y	*	*	*	Y*	Y
Golf Course (excluding miniature golf)	Y	Y	N	N	N	N	Y
Nursery	Y	Y	Y	Y	N	N	Y
Parks and Recreation (non-commercial)	Y	Y	Y	Y	Y	Y	Y

### **E. Dimensional Requirements:**

Lots in all Zoning Districts outside the Shoreland Zoning District shall meet or exceed the following requirements:

	General	Residential	Village	Village	Village	Village	Residential	Farm &
	Purpose	Light	Comm.	Business	Business	Residential	District	Forest
	District	Comm.	District	District	Historic	District		District
					District (A)			
Minimum lot area SF (B)								
With public sewer	40,000	40,000	40,000	40,000	450	15,000	40,000	40,000
Without public sewer	60,000	60,000	50,000	50,000	N/A	25,000	50,000	50,000
Maximum residential density in OSRD (C)	4 units per acre after subtracting 50% open space	4 units per acre after subtracting 50% open space	N/A	N/A	N/A	4 units per acre after subtracting 50% open space	4 units per acre after subtracting 50% open space	4 units per acre after subtracting 50% open space
Minimum frontage (feet)	150 (D)	100 (D)	100	100	20	75	100 (D)	150 (D)
Minimum frontage on internal road serving OSRD (E)	75	75	N/A	N/A	N/A	75	75	75
Minimum setback (feet)								
Front	50	50	35	35	(F)	20	35	35
Side	25	15	15	15	0	10	15	15
Rear	25	15	15	15	15	15	20	20
Minimum front setback from edge of pavement for internal roads serving OSRD	20	20	N/A	N/A	N/A	20	20	20
Maximum lot coverage	75%	60%	70%	70%	99%	50%	40%	50%
Building height limits	56'	56'	56'	56'	(G)	56'	56'	56'

Height limits do not apply to towers, antennas, or agricultural silos. Side and rear setbacks shall be measured from property boundary lines. Front setbacks established above shall be measured from the Setback Starting Point as described below in the section entitled Setback Starting Point, except with regard to the front setback from internal roads serving an OSRD. Setbacks apply to all structures except signs, landscaping, fences, and parking lots. The minimum setback from property lines for driveways in all Districts shall be ten feet (10). Where abutters elect to share a single driveway on or near their common boundary line there shall be no setback required.

The performance standards, dimensional requirements, and definition specific to Open Space Residential Development (OSRD) are only applicable to those individuals or entities voluntarily choosing to submit an OSRD project application and plan to the Town of Farmington Planning Board per 11-8.11.1.4 (a) in the Town of Farmington Zoning Ordinance for OSRD approval and permit and, as such, said OSRD standards and requirements are entirely elective and self-imposed by said individuals or entities. The OSRD performance standards, dimensional requirements, and definition apply to no other types of land-use development or projects in Farmington, whether before the Planning Board or not.

- (A) The Village Business Historic District is a sub-classification within the Village Business District. Dimensional requirements in this category apply to properties with frontage in these areas: Main Street from Anson Street to Academy Street; Broadway from High Street to the 100-year floodplain boundary of the Sandy River; and Front Street from Park Street to Depot Street.
- (B) Minimum lot area does not apply in an Open Space Residential Development. See maximum residential density in OSRD.
- (C) A density bonus may be applied as provided in the Performance Standards, Section 11-8.11.1 (8).
- (D) Backlots with frontages between fifty feet (50) and these minimums may be built on if structures are set back a minimum of two hundred fifty feet (250).
- (E) Minimum frontage in OSRD applies only where individual lots are created.
- (F) No closer to the street than side-abutting buildings, except when a sidewalk exists, the setback shall be no closer than the building edge of said sidewalk (the edge of the sidewalk which lies farthest from the traveled way).
- (G) No taller than the highest existing building in this district as of enactment of these requirements.

## **SETBACK STARTING POINT:**

The appropriate front setback distance set forth in the Dimensional Requirements shall be measured perpendicularly from the **Setback Starting Point**. The **Setback Starting Point** shall be the greater of either the distance from the “Center Point” or the “Outer Edge of the Traveled Way” as listed in the **Setback Starting Point** Chart below:

<b>Front Setback Starting Point Chart</b>		
	<b>From “Center Point”</b>	<b>From “Outer Edge of Traveled Way”</b>
<b>Category 1</b>	<b>55’</b>	<b>22’</b>
<b>Category 2</b>	<b>40’</b>	<b>16’</b>
<b>Category 3</b>	<b>25’</b>	<b>15’</b>
<b>Category 4</b>	<b>20’</b>	<b>15’</b>
<b>Category 5</b>	<b>N/A</b>	<b>See Note 1</b>

**SEE ROAD CLASSIFICATIONS AND SETBACK STARTING POINT DIAGRAMS BELOW.** In the event there is any discrepancy between the diagrams below and the **Setback Starting Point Chart** above, the requirements set forth in the Chart shall prevail.

For paved roads, the term traveled way shall mean the edge of the pavement, regardless of whether or not the shoulder is paved. The existence of a sidewalk shall not affect the distances established in the chart above (see exception for Village Business Historic District below). For gravel roads, the term traveled way shall mean the outside edge of the gravel shoulder, not including vegetated areas or ditches.

**Note 1:** The front setback for any structure within the Village Business Historic District shall be no closer to the existing street than side-abutting buildings, except where a sidewalk exists the front setback shall be no closer than the outer edge of said sidewalk.

The Town of Farmington makes no representation regarding the setback standards or requirements which may be deeded restrictions or which may be mandated by any other governmental instrumentality.



## **ROAD CLASSIFICATIONS:**

**Category 5 Roads:** All roads within the Village Business Historic District which lie in the following area: Main Street from Anson Street to Academy Street; Broadway from High Street to the 100 year floodplain boundary of the Sandy River; Front Street from Park Street to Depot Street.

**Category 4 Roads:** Any private right of way or easement granted for the purpose of vehicular ingress and egress to two (2) or more dwellings on separate tax parcels. This category shall not apply to public roads or driveways to one dwelling or multiple dwellings on the same tax parcel.

**Category 3 Roads:** North Chesterville Road (Route 156), South Strong Road (Route 149), High Street, Anson Street and all other public roads not otherwise listed in a more restrictive Category. Any portion of High or Anson Street, which lie in the Village Business Historic District shall fall under Category 5.

**Category 2 Roads:** New Vineyard Road (Route 27), except any portion which lies within the Village Business Historic District (see Category 5)

Temple Road (Route 43 W) and Industry Road (Route 43 E), except any portion which lies within the Village Business Historic District (see Category 5)

Livermore Falls Road (Route 133)

Town Farm Road

Seamon Road

The portions of Wilton Road, Intervale Road and Main Street which begin at the intersection of Wilton Road and Oakes Street and extends northerly over Intervale Road and continues northerly over Main Street to the intersection of Belcher Road, except for the portions of Main Street which lie in the Village Business Historic District.

### **Category 1 Roads:**

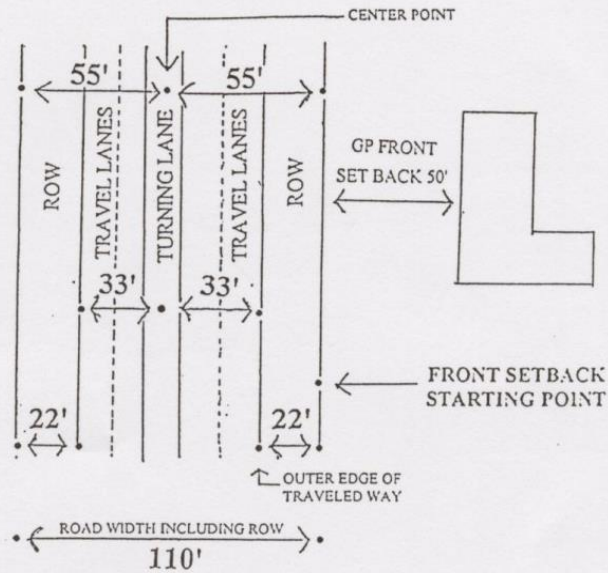
The portion of the Wilton Road (Routes 2 & 4) which begins at the Oakes Street intersection and extends southerly to the Wilton town line.

The portion of Fairbanks Road (Route 4) which begins at the Belcher Road intersection and extends northerly to the Strong town line.

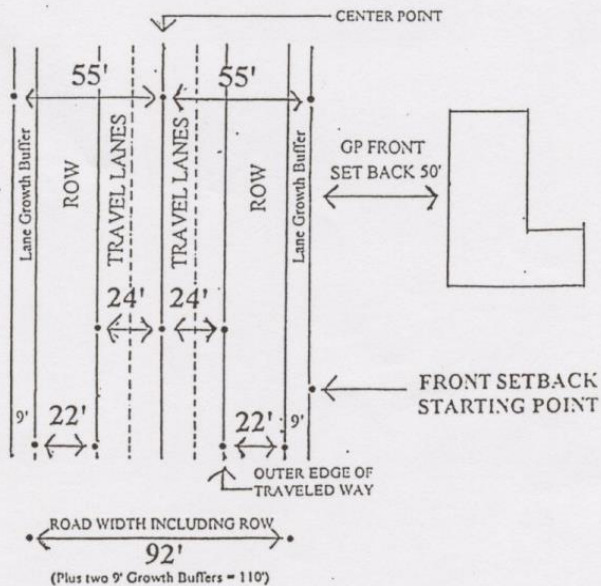
The portion of Farmington Falls Road (Route 2) which begins at the Intervale Road intersection and extends easterly to the New Sharon line.

# **CATEGORY 1 ROADS** **FRONT SETBACK STARTING POINT DIAGRAMS** (See Front Setback Starting Point Chart, Road Classification list and Minimum Front Setbacks established in Dimensional Requirements above)

## **FIVE LANE CROSS SECTION\***



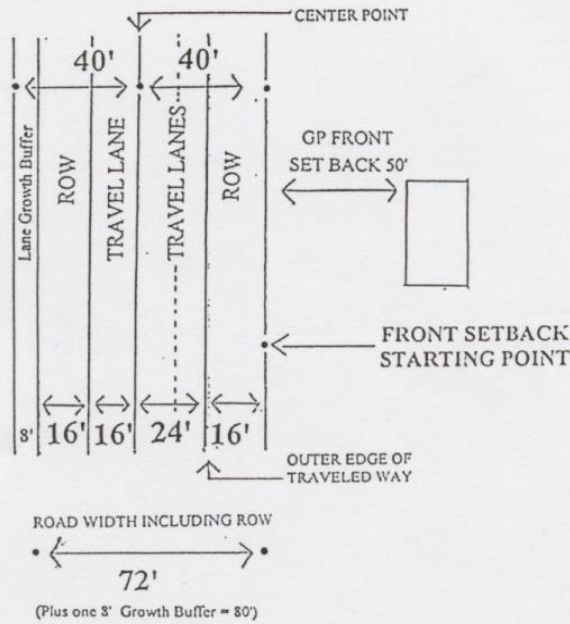
## **FOUR LANE CROSS SECTION\***



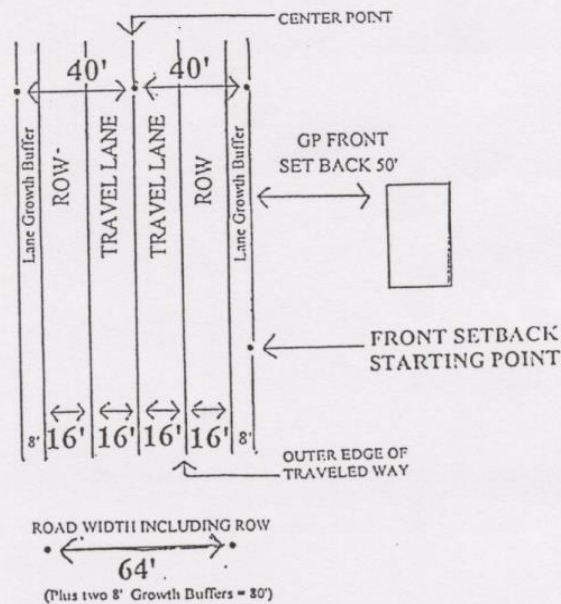
\*The configurations above are provided as examples only. Other lane designs may apply.

# **CATEGORY 2 ROADS** **FRONT SETBACK STARTING POINT DIAGRAMS** (See Front Setback Starting Point Chart, Road Classification list and Minimum Front Setbacks established in Dimensional Requirements above)

## **THREE LANE CROSS SECTION\***

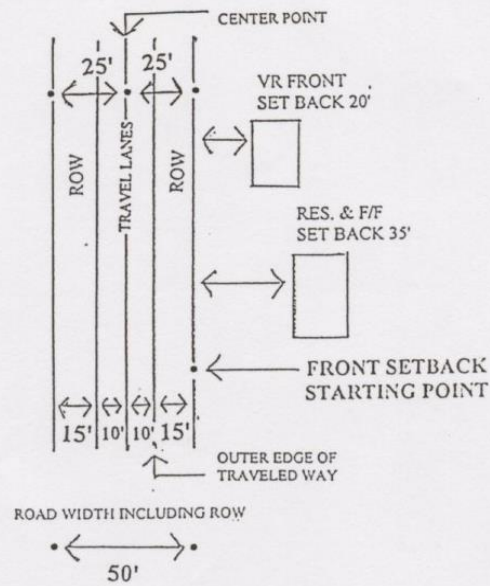


## **TWO LANE CROSS SECTION\***

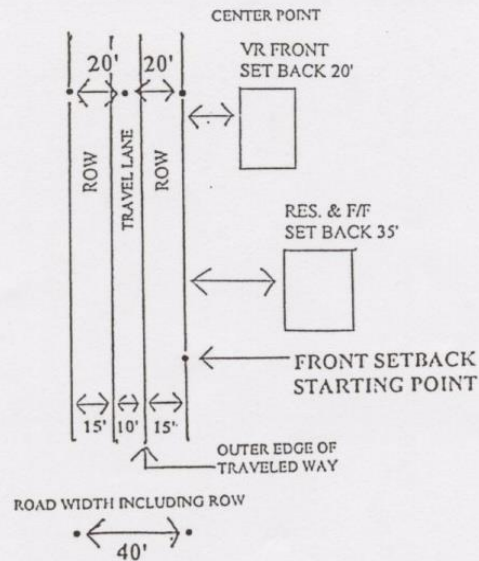


\*The configurations above are provided as examples only. Other lane designs may apply.

# **CATEGORY 3 ROADS** **FRONT SETBACK STARTING POINT DIAGRAMS** (See Front Setback Starting Point Chart, Road Classification list and Minimum Front Setbacks established in Dimensional Requirements above)



# **CATEGORY 4 ROADS** **FRONT SETBACK STARTING POINT DIAGRAMS** (See Front Setback Starting Point Chart, Road Classification list and Minimum Front Setbacks established in Dimensional Requirements above)



The configurations above are provided as examples only. Other lane designs may apply.



## **11- 8.10 Non-conformance:**

Non-conforming structures, lots and uses that existed before the effective date of this Ordinance or any applicable ordinance shall be allowed to continue, subject to the requirements set forth in this article. Nonconforming structures, lots and uses subject to the Town of Farmington Shoreland Zoning Ordinance and made nonconforming by the provisions of that Ordinance are governed by the provisions on nonconformance set forth in that Ordinance.

### **A. 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.

Existing permits which are strictly land use permits, including but not limited to site plan approval, zoning approval, special exceptions and variances (except certain disability variances granted pursuant to 5 M.R.S. §4553), are transferable. Existing permits which are an approval of person and place, including but not limited to liquor licenses, special amusement permits, automobile graveyard permits, automobile recycling permits and junkyard permits, are not transferable.

- 2. Repair and Maintenance:** This Ordinance shall allow, without permit, the normal upkeep and maintenance of non-conforming uses and structures including repairs or renovations which do not involve expansion of the non-conforming use or structure.

### **B. Non-conforming Structures:**

- 1. Expansions:** A non-conforming structure may be added to or expanded after obtaining a permit from the Planning Board if such addition or expansion has no greater impact than the existing structure.

#### **Further Limitations:**

- a.** If any portion of a structure is less than the required setback from the property line, that portion of the structure shall not be expanded in floor area or volume, by thirty percent (30%) or more, during the lifetime of the structure.
- b.** Construction or enlargement of a foundation beneath the existing structure shall not be considered an expansion of the structure provided: that the structure and new foundation are placed such that the setback requirement is met to the greatest practical extent as determined by the Planning Board, basing its decision on the criteria specified below in subsection 2, Relocation; that the completed foundation does not extend beyond the exterior dimensions of the structure; and that the foundation does not cause the structure to be elevated by more than three (3) additional feet.

- c. No structure, which is less than the required setback from the property line, shall be expanded toward the property line.
- 2. Relocation:** A non-conforming structure may be relocated within the boundaries of the parcel on which the structure is located provided that the site of relocation conforms to all setback requirements to the greatest practical extent as determined by the Planning Board, and provided that the applicant demonstrates that the present subsurface sewage disposal system meets the requirements of State law and the State of Maine Subsurface Wastewater Disposal Rules, 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 or have any greater adverse impact than the existing location.

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

- 3. Reconstruction or Replacement:** Any non-conforming structure, which is removed, or damaged or destroyed by more than fifty percent (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 two (2) years of the date of said damage, destruction or removal. In no case shall a structure be reconstructed or replaced so as to increase its non-conformity or have any greater adverse impact than the existing structure.

Upon application within the above two (2) year period, the Planning Board may grant an additional extension of any permit issued for such reconstruction or replacement so long as good faith progress has been demonstrated and a realistic plan for completion of construction is presented to and accepted by the Board. The Board may also require evidence of ability to complete the project in the allotted extension time, such as, but not limited to, bank letters of credit and/or written agreements with suppliers or contractors for goods and services required to complete reconstruction or replacement.

Any non-conforming structure which is damaged or destroyed by fifty percent (50%) or less of the market value of the structure, excluding normal maintenance and repair, may be reconstructed in place with a permit from the Code Enforcement Officer.

- 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 subject or adjacent properties and resources than that of the existing use. The determination of no greater adverse impact shall be made according to, but not limited to, the criteria listed in subsection C3 below.

- 5. Changes mandated by federal, State, and local Laws or Regulations:** Any expansion, relocation, reconstruction or replacement of any portion of a non-conforming structure which is mandated by federal, State or local building and safety codes, including, but not limited to the Americans with Disabilities Act and State Fire Code, shall require review and approval by the Planning Board regardless of whether the required changes are to be performed at the same time as other expansions, relocations, reconstruction or replacement of the non-conforming structure. The Planning Board shall not withhold approval for the mandated changes unless the contemplated changes create a health or safety hazard which is likely to affect the occupants and/or the public.
- 6. Written documentation required for no greater adverse impact:** In determining that no greater adverse impact will occur as a result of the expansion, relocation, reconstruction or replacement, or change of use of a non-conforming structure, the Planning Board shall also require written documentation from the applicant regarding the probable effects on public health and safety, if applicable, 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 functionally water-dependent uses.

### **C. Non-conforming Uses:**

- 1. Expansions:** Expansions of non-conforming uses are prohibited, except that the non-conforming use of a residential dwelling unit may, after obtaining a permit from the Planning Board, be expanded within existing residential structures or within expansions of such structures as permitted in Section B1 as above.
- 2. Resumption Prohibited:** A lot, building or structure in or on which a non-conforming use is discontinued for a period exceeding one (1) 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 (1) 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 unless conditions outlined in B3 exist.
- 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 Planning Board shall require written documentation from the applicant regarding the probable effects. The determination of no greater adverse impact shall be made according to, but not limited to, the criteria listed below:
  - a.** That the proposed use is of the same character or less noxious than the current nonconforming use;
  - b.** That the proposed use will not create a traffic hazard nor increase an existing traffic hazard;

- c. That the amount of parking required to meet the minimum requirements for the use that exists on the site or will be otherwise provided in accordance with the Town of Farmington Traffic Ordinance, Site Review Ordinance, and the Off-Street Parking and Loading Performance Standard in this Ordinance;
- d. That the extent of noise, odors, vibrations, smoke, dust and air discharges of the proposed use shall be equal to or less than the present use;
- e. That the rate of surface water run-off from the site will not be increased;
- f. That the hours of operation of the proposed use will be compatible with the existing, surrounding land uses;
- g. That the proposed use will have no greater adverse impact on surrounding properties; and
- h. That the proposed use will not create adverse effects on public health and safety, erosion and sedimentation, and if applicable, 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 functionally water-dependent uses.

#### **D. Non-conforming Lots of Record:**

1. **Non-conforming Lots of Record:** A non-conforming lot of record as of the effective date of this Ordinance or applicable amendment thereto may be built upon, without the need for a variance, provided that such lot is in compliance with State Minimum Lot Size Law and the State of Maine Subsurface Wastewater Disposal Rules and that all provisions of this Ordinance, except lot size and frontage, can be met. Variance relating to setbacks, or other dimensional requirements not involving lot size or frontage may only 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 lots are in conformance with the State Minimum Lot Size Law and the State of Maine Subsurface Wastewater Disposal Rules.

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 upon issuance of a written determination by the Code Enforcement Officer that each resulting lot is in compliance with the State Minimum Lot Size Law and the State of Maine Subsurface Wastewater Disposal Rules and conforms to the greatest extent possible with the dimensional requirements of this Ordinance.



## **11- 8.11. Performance Standards:**

### **A. Manufactured Housing:**

1. **Purpose:** It is the purpose of these performance standards to allow for and to regulate the use of manufactured housing in the Town of Farmington. Manufactured housing is important in the provision of moderate cost housing. Therefore, standards in this section are provided both to recognize the valid place of manufactured housing and to set forth necessary criteria on location and use of such housing.

It is also the purpose of the standards to establish a condition of safety that will allow the home to perform in a manner that will greatly reduce hazards that present an imminent and unreasonable risk of death or serious personal injury.

2. **Non-conformance:** See Article 11 – 8.10.
3. **Classifications of Manufactured Housing are defined as follows for purposes of these standards:**

**Type A:** A modular unit that is a new, factory-built, single-family structure that is manufactured under the authority of 42 U.S.C. 5401 et. seq. (the National Manufactured Housing Construction and Safety Standards Act of 1974), is transportable in one (1) or more sections, and is built on a permanent chassis; but that is not constructed with a permanent hitch or other device allowing transport of the unit other than for the purposes of delivery to a permanent site, and that does not have wheels or axles permanently attached to its body or frame.

**Type B:** New mobile homes certified as meeting US Department of Housing and Urban Development (HUD) Mobile Home Construction and Safety Standards, per 42 U.S.C. 3535(d).

**Type C:** Used mobile homes, whether or not certified as meeting HUD current or prior codes.

4. Allowable Locations for Manufactured Housing:
  - a. **Type A - Modular Homes:** Type A modular homes are an allowable dwelling unit type in those Zoning Districts where designated residential land uses are permitted. Such housing is subject to all standards in the Zoning Ordinance which apply to residential land uses, as well as the Subdivision Ordinance of the Town of Farmington.
  - b. **Type B - Mobile Homes:** Type B mobile homes are allowed in any mobile home development or park, or on their own individual lots in any district where allowed in the zoning Table of Uses.

**c. Type C - Mobile Homes:** Type C mobile homes are allowed in any mobile home development or park, or on their own individual lots in any district where allowed in the zoning Table of Uses. A Type C mobile home to be moved to a new location must meet the following standards, and this applies to units being moved within the Town or being moved into Town:

- 1) An application for approval to relocate shall be obtained from the Building Inspector prior to relocation.
- 2) Upon inspection, the Type C mobile home shall be found to be in compliance with all standards listed below under 4.E. prior to the move. After moving or relocation of the Type C mobile home, a second inspection shall be required to verify that the mobile home remains in compliance with all standards listed below under 4.E. The unit shall not be occupied until such conditions are met and a certificate of occupancy has been issued by the Building Inspector.

**5. Requirements for All Manufactured Housing Units – either being moved within Farmington or being moved into Farmington:**

- a. All new and used units must be installed by an installer licensed by the State in accordance with standards adopted by the State Manufactured Housing Board on March 1, 1993 or the most recent version thereof.
- b. All new units must meet construction and safety standards for manufactured homes adopted by the State Manufactured Housing Board in October 1991 or the most recent version thereof.
- c. All new units must meet the rules for State certification of manufactured housing adopted by the State Manufactured Housing Board on April 1, 1991 or the most recent version thereof.
- d. All new and used units must meet any applicable building code adopted by the Town of Farmington subsequent to the adoption of this section.
- e. All used units must meet the following minimum standards:
  - 1) Chapter 21 of the NFPA 101 Life-Safety Code, 1997 Edition.
  - 2) HUD Section 8 Standards – the most recent version available at the time of adoption of this section.
  - 3) Exterior Siding:

Exterior wall coverings shall be of moisture and weather resistant materials to resist wind, snow and rain, and shall be residential in appearance.

**4) Insulation:**

The minimum requirements for a home shall be as follows:

- a) Walls – R-11                      b) Roof – R-14                      c) Floor – R-11**

**5) Plumbing:**

The Town's Licensed Plumbing Inspector (LPI) shall inspect and verify that the following conditions are met:

- a)** The plumbing is of a durable material, free from defective workmanship that would cause a safety hazard.
- b)** All plumbing, fixtures, drains, appurtenances, and appliances designed or used to receive or discharge liquid waste or sewage are connected to the drain system in a manner that is consistent with the State Plumbing Code.
- c)** All piping and fixtures subject to freezing temperatures shall be insulated or protected with UL approved heat tape to prevent freezing under normal occupancy.
- d)** All dishwashing machines shall not be directly connected to any waste piping, but shall discharge its waste through a fixed air gap above the machine.
- e)** Clothes washing machines shall drain either into a properly vented trap, into a laundry tub tailpiece with watertight connections, into an open standpipe receptor, or over the rim of a laundry tub.
- f)** Toilets shall be designed and manufactured according to approved or listed standards and shall be equipped with a water flushing device capable of adequately flushing and cleaning the bowl, aid device to be adjusted to use a minimum quantity of water consistent with proper performance and cleaning.
- g)** Each shower stall shall be provided with an approved watertight receptor with sides and back at least 1 inch above the finished dam or threshold.
- h)** Water supply pumping systems shall be sized to provide an adequate amount of water to each plumbing fixture at a flow rate sufficient to keep the fixture in a clean and sanitary condition without any danger of backflow or siphonage.
- i)** Each home shall be equipped with a kitchen sink and bathtub and/or shower and be provided with a hot water supply system including a listed water heater.

- j) No part of a water system shall be connected to any drainage or vent piping.
- k) Any new copper plumbing shall be lead free with solder and flux containing not more than 0.2% percent lead and pipes and pipe fittings containing not more than 8.0% percent lead.

**6) Heating and Fuel Burning Systems:**

- a) Heating and fuel systems must meet NFPA-31 (Installation of Oil Burning Equipment). A person holding a master license issued by the State of Maine Oil and Solid Fuel Examining Board shall inspect and certify that the heating and fuel system is in a safe condition and meets the requirements of NFPA-31.
- b) Heat-producing appliances and vents, roof jacks and chimneys necessary for installation in manufactured homes shall be listed or certified by a nationally recognized testing agency for use in manufactured home.

**7) Electrical System:**

A person holding a master license issued by the State of Maine Electrician's Examining Board shall inspect and certify that the electrical system is safe and meets the National Electrical Code.

**8) Light and Ventilation:**

Each habitable room shall be provided with exterior windows and/or doors having a total glazed area of not less than eight percent (8%) of the gross floor area.

Each bathroom and toilet compartment shall be provided with artificial light and, in addition, be provided with external windows or doors having not less than one and one-half (1 ½) square feet of fully operable glazed area, except where a mechanical ventilation system is provided capable of producing a change of air every twelve (12) minutes. Any mechanical ventilation system shall exhaust directly to the outside of the home.

**9) Ceiling Height:**

Every habitable room shall have a minimum ceiling height of six (6) feet and six (6) inches.

**10) Exit Facilities – Exterior Doors:**

Home shall have a minimum of two exterior doors located remote from each other:

- a)** Required egress doors shall not be located where a lockable interior door must be used in order to exit.
- b)** Doors may not be less than twelve (12) feet from each other as measured in any straight line direction regardless of the length of the travel between doors.
- c)** One of the required exit doors must be accessible from the doorway of each bedroom without traveling more than thirty-five (35) feet.
- d)** All exterior swinging doors shall provide a minimum twenty-eight (28) inches wide by seventy-four (74) inches high clear opening. All exterior sliding glass doors shall provide a minimum twenty-eight (28) inches wide by seventy-two (72) inches high clear opening. Locks shall not require the use of a key for operation from the inside.

#### **11) Exit Facilities – Egress Windows and Devices:**

Homes shall have the following second means of escape or alternate emergency egress facilities:

- a)** Every room designed expressly for sleeping purposes, unless it has an exterior exit door, shall have at least one outside window operable from the inside without the use of tools and providing a clear opening of not less than twenty (20) inches in width, twenty-four (24) inches in height and 5.7 square feet in area. The bottom of the opening shall not be more than thirty-six (36) inches off the floor.
- b)** Locks, latches, operating handles, tabs and any other window, screen or storm or storm window devices, which need to be operated in order to permit exiting, shall not be located in excess of fifty-four (54) inches from the finished floor.

#### **12) Interior Doors:**

Each interior door, when provided with a privacy lock, shall have a privacy lock that has an emergency release on the outside to permit entry when the lock has been locked by a locking knob, lever, button or other locking devices on the inside.

#### **13) Room Requirements:**

Every home shall have sufficient space and functional arrangements to accommodate the normal activities of living in a manufactured home.

- a)** Every home shall have a least one common area with no less than one hundred fifty (150) square feet of gross floor area.
- b)** All bedrooms shall have at least fifty (50) square feet of floor area.

- c) Bedrooms designed for two or more people shall have seventy (70) square feet of floor area plus fifty (50) square feet for each person in excess of two (2).
- d) Every room designed for sleeping purposes shall have accessible clothes hanging space with a minimum inside depth of twenty-two (22) inches and shall be equipped with rod and shelf. Each such room shall have an operable door with a latch to separate the room from the common area.
- e) Each toilet compartment shall have a minimum of twenty-one (21) inches of clear space in front of each toilet.
- f) Hallways shall have a minimum horizontal dimension of twenty-eight (28) inches measured from interior finished surface to the opposite finished surface. Minor protrusions by doorknobs, trim, smoke detectors or light fixtures are permitted.

**14) Fire Detection Equipment:**

All manufactured homes, regardless of the date of manufacture, shall meet the following requirements:

At least one smoke detector (which may be a single station or alarm device) shall be installed in the home in the following locations:

- a) A smoke detector shall be installed on any wall in the hallway or space communicating with each bedroom area between the living area and the first bedroom door unless a door separates the living area from that bedroom area, in which case the smoke detector shall be installed on the living area side as close to the door as practical. Homes having bedroom area separated by any one or combination of communication areas such as kitchen, dining room, living room, or family room (but not a bathroom or utility room) shall have at least one smoke detector protecting each bedroom area.
- b) When located in hallways, the smoke detector shall be between the return air intake and the living area.
- c) The smoke detector shall not be placed in a location which impairs its effectiveness.
- d) Smoke detectors shall be labeled as conforming to the requirements or Underwriters Laboratory Standards No. 217, Third Edition, 1985, as amended through October 8, 1985, for single and multiple station smoke detectors.

- e) Each smoke detector shall be installed in accordance with its listing on a wall or ceiling. If installed on a wall, the top of a smoke detector shall be located four (4) inches to twelve (12) inches below the ceiling. However, when a smoke detector is mounted on an interior wall below a sloping ceiling, it shall be located four (4) inches to twelve (12) inches below the intersection on the connecting exterior wall and the sloping ceiling (cathedral ceiling).

Rental units only: The required smoke detector(s) shall be attached to an electrical outlet box and the smoke detector connected by permanent wiring method into a general electrical circuit. There shall be no switches in the circuit to the smoke detector between the over-current protection device protecting the branch circuit and the smoke detector.

The smoke detector shall not be placed on any circuit protected by a ground fault circuit interrupter.

#### **15) Kitchen Cabinet Protectors:**

All manufactured homes, regardless of the date of manufacture, will meet the following requirements:

- a) The bottom and sides of combustible kitchen cabinets over cooking ranges to a horizontal distance of six (6) inches from the outside edge of the cooking range shall be protected with at least 5/16-inch thick gypsum board or equivalent limited combustible material.

One-inch nominal framing members and trim are exempted from this requirement. The cabinet area over the cooking range or cooktops shall be protected by a metal hood with not less than a three (3) inch eyebrow projecting horizontally from the front cabinet face. The 5/16<sup>th</sup> inch thick gypsum board or equivalent material which is above the top of the hood may be supported by the hood. A 3/8<sup>th</sup> inch enclosed air space shall be provided between the bottom surface of the cabinet and the gypsum board or equivalent material. The hood shall be at least as wide as the cooking range.

- b) The metal hood will not be required if there is an oven installed between the cabinet and the range.
- c) Ranges shall have a vertical clearance above the cooking top of not less than twenty-four (24) inches to the bottom of combustible cabinets.

#### **16) Roof/Wind Loads:**

All homes with a roof added after construction must be inspected by a registered professional engineer to determine that the home can withstand a 30 #/SF roof load and a 15 #/SF wind load.

## **B. Home Occupation:**

- 1. Purpose:** It is the purpose of these performance standards to allow for and to regulate the establishment of a home occupation in a residential neighborhood. It is also the intent in this section to regulate the operation of a home occupation so that residential neighbors will not be adversely impacted by its existence.
- 2. Non-conformance:** See Article 11-8.10.
- 3. Standards:** A home occupation is allowable as an accessory use in a bona fide dwelling unit in any zone. All provisions of the Zoning Ordinance pertaining to the applicable zone shall be met. In addition, all of the following standards shall apply:
  - a.** The appearance of the structure or accessory structure may not be altered, except as provided under subsection B, below. The occupation within the residence must be conducted in a manner that would not cause the residence to differ from its residential character by means of colors, lights, sounds or odors;
  - b.** Additions to the residence or accessory structure for the express purpose of a home occupation shall be constructed and finished such that the character and appearance of the principal structure is maintained;
  - c.** There must be adequate off-street parking on the premises for customers' or clients' use. The total number of vehicles including the vehicles associated with the dwelling must continue to give an appearance in keeping with the character of the zone;
  - d.** For home occupations located in residential or village district zones, the home occupation shall not generate vehicular traffic in greater volume than would normally be expected in those zones;
  - e.** The home occupation shall not generate any nuisance, waste discharge, offensive noise, vibration, smoke, dust, odors, heat, glare, radiation, fumes or electro-magnetic disturbance. All waste material from the home occupation shall be removed promptly from the premises, according to State laws and local ordinances; and
  - f.** There shall be no exterior storage or display of materials or products related to the home occupation, no display of products visible and in any manner from the outside of the dwelling nor any visible evidence of the conduct of a home occupation except for signage which shall comply with the Town of Farmington Sign Ordinance.



### **C. Extractive Industry:**

- 1. Purpose:** It is the purpose of these performance standards to allow for and regulate the commercial extraction of certain natural materials within the Town of Farmington. These materials are utilized in many land use activities and these standards are established for the general benefit, safety and welfare of the public.
- 2. Non-conformance:** See Article 11-8.10.
- 3. Permit required:** Topsoil, soil, loam, rock, sand, gravel, clay, silt, mineral deposits or fill and similar earth materials may be removed from locations where permitted under the Zoning Ordinance Table of Uses, and site plan review for such operations is required from the Planning Board except as exempted below.
- 4. Extraction not requiring site plan review:**
  - a. The following extraction activities shall be allowed without a site plan review from the Planning Board:
    - 1) The removal or transfer of less than fifty (50) cubic yards of material from or onto any lot in any twelve (12) month period.
    - 2) The removal or transfer of material on site incidental to construction, alteration or repair of a building or in the grading and landscaping incidental thereto.
    - 3) The removal or transfer of material on site incidental to construction, alteration or repair of a public or private way or essential service.
    - 4) Extraction activities requiring review and approval under the Town's Shoreland Zoning Ordinance.
    - 5) Extraction activities requiring review and approval by the Maine Department of Environmental Protection under the Natural Resource Protection Act.
  - b. All other extraction, processing and storage shall require site plan review from the Planning Board.
- 5. Application Procedure:**
  - a. Applications to the Planning Board for a site plan review for the excavation, screening, removal or storage of topsoil, soil, loam, rock, sand, gravel, clay, silt, mineral deposits or fill and similar earth materials shall be accompanied by a plan conforming to performance standards herein and in compliance with applicable State laws and accompanied by all required State permits or licenses.
  - b. The applicant shall submit a site review permit application to the Planning Board on a form provided by the Code Enforcement Office and all applicable requirements and standards of the Site Review Ordinance shall apply. A fifty (\$50.00) application filing fee shall be submitted with the completed application.

- c. Submitted plans of the proposed extraction site shall show the property lines and names of abutting owners and ways, indicating by not greater than five-foot contour intervals, related to United States Geodetic Survey date, the location and slope of the grades, existing and as proposed upon completion of the extraction operation; and detailing proposed fencing, buffer strips, signs, lighting, parking and loading areas, entrances and exits; together with a written statement of the proposed method, regularity, working hours and total proposed rehabilitation and restoration of the site upon completion of the operation.

## **6. General Requirements:**

- a. No part of any extraction operation shall be permitted within seventy-five (75) feet of any property or street line or within one hundred and fifty (150) of any established dwelling, except that drainage ways to reduce runoff into or from the extraction area may be allowed up to one hundred (100) feet of such line. Natural vegetation shall be left and maintained on the undisturbed land. (Note: Exception to this allowed if and only if an abutter's release form is executed and recorded in the Franklin County Registry of Deeds).
- b. No slopes steeper than two horizontal to one vertical (2:1) shall be permitted at any extraction site.
- c. Any topsoil and subsoil suitable for purposes of re-vegetation shall, to the extent required for restoration, be stripped from the location of extraction operations and stockpiled for use in restoring the location after extraction operations have ceased. Such stockpiles shall be protected from erosion, according to the erosion prevention performance standards of this section.
- d. Sediment shall be trapped by diversions, silting basins, terraces and other appropriate measures.
- e. The sides and bottom of cuts, fills, channels, and artificial watercourses shall be constructed and stabilized to prevent erosion or failure. All such structures are to be designed and built according to the Maine Erosion and Sediment Control Handbook on Construction – Best Management Practices (BMP's).
- f. The hours of operation at any extraction site may be limited as the Planning Board deems advisable to ensure operational compatibility with residents of the Town.
- g. Where loads may be prone to blowing or spills, loaded vehicles shall comply with State law regarding covered loads.
- h. All access/egress roads leading to/from the extraction site to public ways shall be treated with suitable materials to reduce dust and mud.
- i. No equipment debris, junk or other material shall be permitted on an extraction site except those directly related to active extraction operations, and any temporary shelters or buildings erected for such operations and equipment used in connection therewith shall be removed within thirty (30) days following completion of active extraction operations.

- j. Where a potential safety hazard to children would be likely to arise, physical screening sufficient to deter small children from entering the premises shall be provided and maintained in good condition.
- k. Within twelve (12) months following the completion of extraction operations at any extraction site (or any one (1) or more locations within 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 approved plans filed with the Planning Board so that:
  - 1) All debris, stumps, and similar on-site organic materials shall be removed and disposed of in an approved location. Only inorganic natural on-site materials (boulders, etc.) may be buried (cover with a minimum of two (2) feet of soil).
  - 2) The extent and type of fill shall be appropriate to the use intended. The applicant shall specify the type and amount of fill to be used.
  - 3) Storm drainage and watercourses shall leave the location at the original natural drainage points and in a manner such that the amount of drainage at any point is not significantly increased.
  - 4) The final slope shall be two horizontal to one vertical (2:1) slope or flatter. Sufficient topsoil or loam shall be retained or obtained to cover all disturbed areas, which shall be re-seeded and properly restored to a stable condition adequate to meet the provisions of the Maine Erosion and Sediment Control Handbook on Construction – Best Management Practices (BMP's).
- 7. **Permit approval:** All plans and supporting material shall be submitted with respect to the above standards and the standards and requirements in the Town's Site Review Ordinance in order for an application to be considered for permit approval.

**D. Off-Street Parking and Loading:**

- 1. **Purpose:** It is the purpose of this section to require that off-street parking areas are provided for all new uses of land so that all uses will have adequate parking for the occupants, employees, visitors, customers, and/or patrons and they will not have to rely on the public rights-of-way for this function. Off-street loading areas are required for all uses (except residential) to provide adequate space off the Town's right-of-way for the temporary parking of motor vehicles (primarily trucks) while loading or unloading.
- 2. **Non-conformance:** See Article 11–8.10.
- 3. **General Requirement:** No building or structure in any district shall be subdivided, erected or enlarged, nor shall any building, structure or land be used, designed or arranged for any purpose without provisions for such off- street parking and/or loading facilities as required by this Ordinance nor shall any off-street parking or loading area, whether required by the this Ordinance or voluntarily provided, be developed other than in the manner set forth in this Ordinance.

- a. For the purpose of these standards, one hundred sixty-two (162) square feet of area, shall be deemed a parking space for one (1) vehicle. The minimum dimensions for each parking space shall be nine (9) feet wide by eighteen (18) feet long. The maximum permitted dimensions for each parking space (except for designated handicapped spaces) shall be ten (10) feet wide by twenty (20) feet long. In no case shall any off-street parking space be allowed to back out directly onto any public right-of-way.
  - b. The access aisles within any off-street parking area shall be a minimum of twenty-four (24) feet wide.
  - c. All parking spaces and access driveway shall be graded and drained so as to dispose of surface water which might accumulate within or upon such area. No surface water from any parking area shall be permitted to drain onto adjoining property.
  - d. Required loading spaces shall not be construed as supplying off-street parking space.
- 4. Timing of the Provision of Required Off-Street Parking and Off-Street Loading Spaces:** Off-street parking and loading spaces shall be provided at the time any use of land is established; or at the time any building, structure, or land is altered or enlarged in any manner to increase the amount off-street parking or loading spaces as required by this Ordinance. However, when the use of any building or land existing at the time of adoption of this Ordinance is changed to a use in which the parking requirements are calculated differently from the method of calculation for the former use, only such additional parking as may result by reason of the different calculation need be provided for the changed use.
- 5. Requirement to Retain Off-Street Parking and Loading Space:** The requirements for off-street parking and loading shall be a continuing obligation of the owner or any assignee of the real estate on which any use is located as long as the use continues, and is a use that requires off-street parking or loading. It shall be unlawful for an owner of any building or land use activity affected by the off-street parking and loading requirements to discontinue, change, reduce or dispense with, or cause the discontinuance, change, or reduction of the required off-street parking or loading space. It shall be unlawful for any individual, firm, or corporation to use such building or land without acquiring such area as is required and permitted to fulfill the off-street parking and loading requirements.
- 6. Permitted Reduction in Off-Street Parking Requirements:** Off-street parking space required under these standards may be reduced at the time the capacity or use of a building is changed in such a manner that the new use or capacity would require less space than before the change. Such reduction may not be below the requirements set forth in these standards.
- 7. Location of Off-Street Parking and Loading Areas:** The required off-street parking and loading areas shall be located on the same lot or parcel of land they are intended to serve, except as provided in subsection 10 below.

- 8. Limitations on Vehicular Storage:** Except as otherwise provided in this Section, off-street parking spaces required herein may be occupied by the occupants, employees, or patrons of the property or by visitors, or by delivery vehicles incidental to the principal use, but not by vehicles being repaired, stored or displayed for sale or hire.
- 9. Determination of Seating Capacity at Places of Assembly:** In stadiums, sport arenas, houses of worship and other places of assembly in which patrons or spectators occupy benches, pews, or other similar seating facilities, each twenty (20) inches of such seating facilities shall be counted as one (1) seat for the purpose of determining requirements for off-street parking facilities.
- 10. Collective Off-Street Parking Provisions:** Nothing in these standards shall be construed to prevent the collective provision of off-street parking facilities for two (2) or more structures or uses, provided that the total of such off-street parking spaces supplied collectively shall not be less than the sum of the requirements for the various uses computed separately; provided also that the requirements set forth hereinbefore as to maximum distances between parking facilities and principal structures or uses served shall apply to each structure or use participating in the collective provisions for parking.
- 11. Development and Maintenance of Off-Street Parking Areas:** For every parcel subject to these requirements, off-street parking shall be developed and maintained by the owner in accordance with the following requirements:
- a. Minimum Distances and Setbacks:** No part of any parking area, for five (5) or more vehicles, shall be closer than ten (10) feet to any dwelling, school, hospital, or other institution for human care. If on the same lot with a principal structure, the parking area shall not be located within the front yard or side yard setback area required for such structure.
  - b. Bumper Guard and/or Bollard Requirements:** There shall be provided a bumper guard and/or bollard of either wood, metal or concrete not more than two (2) feet in height and securely anchored into the ground on all sides of the parking area where there is required a protective fence or wall. Any required bumper guard and/or bollard shall be located at such distance so that automobiles will not strike the protective fence or wall. As an alternative, a concrete beam serving the same purpose may be provided.
  - c. Off-Street Parking Area and Driveway Surfacing Requirements:**
    - 1)** The Planning Board (or CEO when applicable) shall determine off-street parking area and driveway surfacing requirements on a case-by-case basis. Factors such as, but not limited to, location, topography of the site, drainage issues, extent of use, and soil stability shall be evaluated when making this determination. Cross sections and profiles of the site may be required.

- 2) When it has been determined that area surfacing is required, the off-street parking area or driveway shall be surfaced with an asphaltic, bituminous, cement, or other properly bound pavement, or a combination of stone or brick pavers so as to provide a durable and dustless surface, and shall be graded and drained so that no surface water will accumulate within the off-street parking or driveway area.
- d. Lighting: Any lighting used to illuminate any off-street parking area shall be so arranged as to reflect the light away from adjoining premises used for residential purposes in any district.
  - e. Entrance, Exit, and Maneuvering Space: Vehicular drives providing entrance and exit to the street system from the off-street parking area shall have a minimum width of twelve (12) feet or a greater width specified by the Planning Board if project is subject to site review. This requirement shall not apply to single family detached residences. The width of high-volume entrances is determined by the Access Management Performance Standards. The radii on the sides of the driveway exposed to entry or exit shall be a minimum of seventeen (17) feet. Maneuvering areas shall be sufficient to permit vehicles to enter and leave the parking lot in a forward motion except for single family detached dwelling units.
  - f. Other Design Requirements:
    - 1) Off-street parking areas for all developments shall be designed so that sanitation, emergency, and other public service vehicles can serve such developments without the necessity of backing up unreasonable distances, or making other dangerous or hazardous turning movements.
    - 2) Circulation areas for off-street parking lots shall be designed so that vehicles can proceed safely without posing a danger to pedestrians or other vehicles, and without adversely interfering with the normal functioning of the parking lot.
    - 3) The parking spaces shall be appropriately demarcated with painted lines or other markings.
    - 4) Off-street parking areas shall be properly maintained in all respects and kept in good condition.
    - 5) Handicapped parking spaces shall be provided in accordance with federal and State laws.
    - 6) No speed-bumps shall be installed within one hundred (100) feet of the point of access from the off-street parking lot to the street.

**12. Plan Requirement:** A plan shall be submitted to the Planning Board with every site review or subdivision application for any building or use that is required to provide off-street parking and loading. The plan shall accurately depict the required number and location of parking spaces, other spaces in designated for trash collection, off-street loading spaces (if required), the distance of the off-street parking facilities to the structure or uses they are intended to serve, as well as the relationship of the parking lot to the street system into which the motor vehicles utilizing the parking areas will discharge.

**13. Minimum Required Off-Street Parking Spaces:** The minimum number of required off-street parking spaces are specified in Section 16 "Off Street Parking Requirements", below. Requirements for any use not specifically mentioned shall be the same as the most similar to the one sought. When units of measurement determining the required off-street parking spaces result in a fractional space, then such fraction equal to or greater than one-half (1/2) shall be interpreted as one (1) off-street parking space.

**14. Off-Street Loading Space Requirements:**

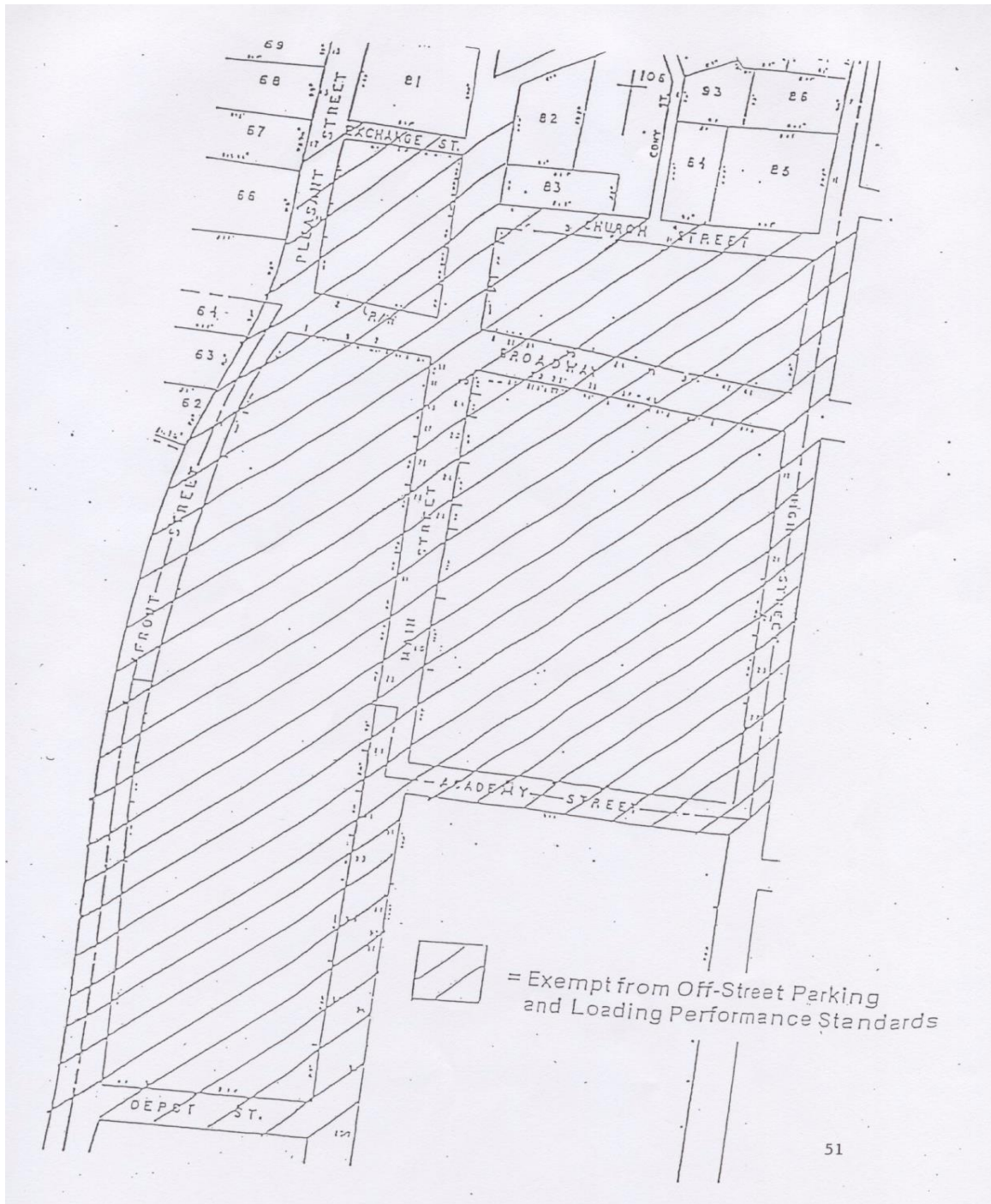
- a. On the same premises with every building, structure or part thereof erected and occupied for manufacturing, storage, warehousing, goods display, department store, wholesale store, retail sales outlet, hotel, hospital, mortuary, laundry, dry cleaning or other uses similarly involving the receipt and distribution of vehicles, materials, or merchandise, there shall be provided and maintained on the lot adequate space for standing, turning, loading and unloading services to avoid interference with the public use of the streets and alleys.

Each such loading and unloading space shall be an area at least twelve (12) by fifty (50) feet within a fifteen (15) foot height clearance, and shall be provided as specified below for gross non-residential (motel rooms shall be defined as residential floor area for the purpose of this requirement) floor area, except that:

- 1) No spaces are required for structures with less than ten thousand (10,000) square feet of gross floor area, or less;
  - 2) One (1) space is required for structures with more than ten thousand (10,000) but less than twenty thousand (20,000) square feet or increment thereof;
  - 3) Additional off-street loading spaces shall be provided at a rate of one (1) space for each additional twenty thousand (20,000) square feet or major fraction thereof; and
  - 4) No more than seven (7) loading spaces shall be required, except for warehouse and industrial buildings.
- b. Loading and unloading areas shall be so located and designed that the vehicles intended to use them can maneuver safely and conveniently to and from the roadway serving the property, and the loading/unloading operations can be completed without obstructing or interfering with any roadway traffic or any off-street parking space or parking lot aisle.

- c. No area allocated to loading/unloading facilities may be used to satisfy the area requirements for off-street parking, nor shall any portion of any off-street parking area be used to satisfy the area requirements for off-street loading/unloading facilities.

**15. Exempt Areas:** This Ordinance shall not apply to the exempt areas bordered by the Streets of High, Church, Broadway, Academy, Main, Exchange, Pleasant, Depot, and Front. (See map below).





## **16. Off-Street Parking Requirements:**

### **a. Residential Development:**

- 1) Single Family Dwelling** - two (2) spaces per dwelling unit.
- 2) Two-Family Dwelling** - two (2) spaces per dwelling unit, except that one bedroom units shall require one (1) space per unit.
- 3) Attached Housing** – two (2) spaces per dwelling unit, except that one bedroom units shall require 1 space per unit.
- 4) Multiple-Family Dwelling** - one (1) space per one bedroom unit, or two (2) spaces for each two (2) to four (4) bedroom unit.
- 5) Residential Facilities** – three (3) spaces for each five (5) beds, except for uses exclusively serving children under sixteen (16) years of age, in which case one (1) space for every three (3) beds shall be required.
- 6) Boarding/Rooming Houses** – one (1) space per bedroom.
- 7) Dormitories** – one (1) space for each four (4) beds.

### **b. Motels/Hotels and Similar Uses Providing Overnight Accommodation:**

- 1) One space for each room available for rent, plus one (1) space for each two (2) employees working at any one time.**

### **c. Retail Commercial Establishment:**

- 1) Convenience Stores** – one (1) space per two hundred (200) square feet of gross floor Area.
- 2) Grocery Stores/Super Market Drug Store/General Merchandise** – one (1) space per two hundred fifty (250) square feet of gross floor area (Amended 6-12-01).
- 3) Other Retail Sales Establishment** - one (1) space per two hundred fifty (250) square feet of gross floor area (Amended 6-12-01).
- 4) Eating and Drinking Places (no Drive-In or Fast Food)** – one (1) space per two hundred (200) square feet of gross floor area.
- 5) Drive In or Fast Food Restaurant** - one (1) space per two hundred fifty (250) square feet of gross floor area.
- 6) Auto Service Station** – one (1) space per two hundred (200) square feet of gross floor area, plus sufficient space to accommodate vehicles at pumps without interfering with other parking spaces.

- 7) Auto Repair/Maintenance/Tire Replacement – one (1) space per two hundred (200) square feet of gross floor area.
  - 8) Auto Sales (Display/Showroom Area Only) – one (1) space per one thousand (1,000) square feet of gross floor area.
- d. Business/Professional Offices/Banks:
- 1) One (1) space per two hundred (200) square feet of gross floor area.
- e. Educational Facilities:
- 1) Pre-Schools/Day Care – one (1) space per classroom, plus one (1) space for each ten (10) students (based on the rated capacity of the facility).
  - 2) Primary and Middle Schools – one and three quarters (1.75) spaces per classroom, plus one (1) space for each eight (8) students (based on the rated capacity of the facility).
  - 3) Secondary Schools – five (5) spaces per classroom, plus one (1) space for each (5) students (based on the rated capacity of the facility).
  - 4) Colleges/Universities – one (1) space per one hundred fifty (150) square feet of schools gross floor area Business/Trade/Vocational – one (1) space per two hundred (200) square feet of schools gross floor area.
- f. Public and Institutional Facilities:
- 1) Hospitals – one (1) space per bed, or one (1) space per two hundred fifty (250) square feet of gross floor area, whichever is greater.
  - 2) Nursing, Resting, Convalescent Homes – one (1) space for every one (1) bed.
  - 3) Penal/Correctional Facilities - one (1) space for every four (4) inmates, based on the rated capacity of the facility.
  - 4) Post Offices - one (1) space per fifty (50) square feet of gross floor area.
  - 5) Government Offices/Court – one (1) space per two hundred fifty (250) square feet of gross floor area.
  - 6) Public Safety Facilities - one (1) space per two hundred (200) square feet of gross floor area.
  - 7) Houses of Worship/Places of Assembly – one (1) space for every four (4) seats (fixed), one (1) space for each one hundred (100) square feet gross floor area (non-fixed).

- 8) Libraries - one (1) space per five hundred (500) square feet of gross floor area.

**g. Recreational Facilities:**

- 1) Parks, Trails, and Conservation Areas - The Planning Board shall determine the parking space requirements on a case-by-case basis. Factors such as, but not limited to, planned use of property, size of property in relation to intended use, and specific use restrictions and limitations imposed upon a given property shall be evaluated when making this determination.
- 2) Recreational Areas – one (1) space per five thousand (5,000) square feet of land area, plus one (1) bus parking space for any facility over two (2) acres that contains active recreation elements including public swimming pools, ball fields, basketball courts and play equipment.
- 3) Golf Course – four (4) spaces per hole, plus one (1) space for each two hundred (200) square feet for office/lobby/pro-shop/health club/clubhouse/lounge/snack bar/dining/meeting room areas, and fifty percent (50%) of maximum occupancy for exterior recreation uses including swimming pools, golf driving ranges, and tennis courts.
- 4) Sports Stadiums - one (1) space for every three (3) seats, plus ten (10) bus parking spaces.

**h. Other Facilities/Development:**

- 1) Veterinarians/Kennels/Animal Hospitals – one (1) space per three hundred (300) square feet of gross floor area.
- 2) Health Care Facilities – one (1) spaces for each two hundred (200) square feet of gross floor area.
- 3) Museums/Art Galleries – one (1) space for each three hundred (300) square feet of floor area open to the general public.
- 4) Dry Cleaners/Laundromat – one (1) space per two hundred (200) square feet of gross floor area.
- 5) Manufacturing/Assembling/Fabrication Operation – one (1) space for every two (2) employees on maximum shift, or one (1) space per four hundred (400) square feet of gross floor area, whichever is greater.
- 6) Greenhouse/Nursery Operations – one (1) space per one thousand (1,000) square feet of lot area used for storage, display, or sales, plus one (1) space per four hundred (400) square feet of gross floor area.

- 7) Warehousing/Storage/Wholesale – one (1) space for every two (2) employees on maximum shift, but not less than one (1) space per two thousand (2,000) square feet of gross floor area.

## **17. Planning Board Review:**

- a. Applicable only to projects and properties that have previously received Site Review by the Planning Board and have previously developed parking according to the performance standards herein as part of Site Review approval(s):
  - 1) In conducting Site Review of subsequent expansions of such projects or additional development of such properties, the Planning Board may determine that a lesser number of parking spaces is warranted rather than that nominally required under the parking performance standards, based on existing sufficiency (or oversupply) of parking, alternative parking options, or other mitigating factors for subject property or project.

## **E. Landscaping:**

### **Districts: General Purpose, Residential/Light Commercial, Farm and Forest**

1. **Purpose:** It is the purpose of these performance standards to improve the appearance of certain set-back and yard areas, including off-street parking and open-lot sales and service areas and to protect and preserve the appearance, character, and value of the surrounding neighborhoods; and to thereby promote the general welfare by providing for installation and maintenance of landscaping for screening and aesthetic qualities, since the Town of Farmington finds that the characteristics and qualities of Farmington justify such requirements to perpetuate its aesthetic appeal.
2. **Non-conformance:** See Article 11-8.10.
3. **Landscaping Requirements for Certain Commercial Yard Areas and Off-Street Parking and Other Vehicular Use Areas:** These standards apply to all commercial areas used for the display or parking of any and all types of vehicles, boats, or heavy construction equipment, whether such vehicles, boats, or equipment are self-propelled or not; and all land upon which vehicles traverse the property as a function of the primary use (drive-thru), including but not limited to activities of a drive-in nature, such as gasoline filling and/or service stations, grocery stores, banks, restaurants, and the like. The development of these and other commercial activities shall conform to the minimum landscaping requirements hereinafter provided.

While it is the intention of these performance standards to encourage appropriate landscaping on all developed parcels, these performance standards are not mandatory for parcels which engage in the following for their primary activities: Agriculture, Agricultural Management, Agricultural Products Processing, Animal

Breeding and/or Care, Churches or Synagogues, except that any retail or wholesale business on such property which offers for sale any products not produced or manufactured through the activities conducted on the parcel or other property under the same ownership within the Town of Farmington, shall be subject to these performance standards.

- a. Installation:** All landscaping shall be installed in a sound, professional manner with the quality of plant materials as hereinafter described. All elements of landscaping shall be installed so as to meet all other applicable code requirements.
- b. Maintenance:** The owner, tenant, and/or manager or agent of any property that is required to be developed in accordance with these standards shall be jointly and severally responsible for the maintenance of all landscaping which shall be maintained in good condition so as to present a healthy, neat, and orderly appearance, and shall be kept free from refuse and debris. Dead or diseased plants shall be replaced as soon as climatically possible with plants which meet the minimum size requirements established herein.
- c. Plant Material:**
  - 1) Quality:** Plant materials used in conformance with the provisions of these standards shall be in good condition at the time of planting. All plant materials shall be examined yearly from the date of their installation and any ground cover, shrubs, or trees found to be in less than acceptable condition by the Code Enforcement Officer shall be replaced by the owner, developer, or their agent. Plants used in landscape design pursuant to this section shall, to the greatest extent possible be:
    - a)** Appropriate to the conditions/climate in which they are to be planted;
    - b)** Have non-invasive growth habits;
    - c)** Encourage low maintenance, high quality design;
    - d)** If landscaping is utilized for screening of mechanical or electrical equipment, or service areas including those which contain such items as trash dumpsters and propane tanks, vegetation used shall be equally effective at all times of the year, but should not be planted in such a way as to obstruct or inhibit emergency access;
    - e)** Landscaping shall be designed so that it will not obstruct sightlines necessary for the safe vehicular and pedestrian circulation, and will not interfere with public utilities;
    - f)** Landscaping plans shall consider the full growth of the vegetation;
    - g)** Parking lots shall contain plantings and walkways that help direct pedestrians safely and comfortably to their destinations;

h) All landscaped areas must incorporate use of ground cover. Use of vegetative ground cover is expected and use of gravel, rock, or bark, may be allowed if determined appropriate based upon the proposed landscape theme, and present a finished appearance; and

i) Be otherwise consistent with the intent of these standards.

2) **Trees:** Deciduous trees shall be a minimum of nine (9) feet measured from the top of the root collar at the time of planting. Evergreen trees shall be a minimum of six (6) feet measured from the top of the root collar at the time of planting. Dwarf trees or unique specimens or species are exempted from this requirement when used as accents. Trees of species whose roots are known to cause damage to roadways and other public works shall not be planted closer than twelve (12) feet to any roadway, water line or sewer line.

a) **Tree Species Mix:** When more than ten (10) trees are required to be planted, a mix of species shall be provided. The number of species to be planted shall vary according to the total number of trees required. The minimum number of species to be planted are indicated in the following Table. Species shall be planted in proportion to the required mix.

**Required Species Mix for New Site Development**

<i>Required Number of Trees</i>	<i>Minimum of Species</i>
11 – 20	2
21 – 30	3
31 – 40	4
41 or more	5

(1) **Shrubs:** Shrubs shall be a minimum of twelve to eighteen (12–18) inches in height when measured at the time of planting.

(2) **Ground Covers:** Ground covers used in lieu of grass shall be planted in such a manner as to present a finished appearance.

(3) **Lawn Grass:** Grass areas shall be planted in species normally grown as permanent lawns. Grass areas may be sodded, plugged, or seeded, except that solid sod, hydro-seeding or commercially available erosion control methods shall be used in areas subject to erosion. Lawn grass should be kept regularly mowed during the summer growing season.

(4) **Prohibition of Pre-Cleared Lots:** Clearing land of trees, vegetation, and/or soil prior to submission of a Site Review Application is prohibited. (See Town of Farmington Site Review Ordinance, and Soil Erosion Control and Storm Water Management Ordinance).

#### **d. Landscaping Design Standards:**

The following standards shall be considered the minimum requirements for the installation of all plant materials in the Town of Farmington.

##### **1) Minimum Tree and Shrub Planting or Preservation Requirements:**

- a)** General: Trees shall not be placed so as to interfere with site drainage, or where they shall require frequent pruning to avoid interference with overhead power and utility lines. Unless otherwise provided in these standards, a minimum number of trees shall be planted or preserved on each site, as follows:
- b)** One (1) tree shall be planted or preserved for every two thousand (2,000) square feet of lot area or fraction thereof. Square footage shall include the total area of the tax parcel to be developed minus the square footage of the cumulative area of all existing buildings and any permanent buildings to be constructed within one (1) year following the landscaping.
- c)** Trees required to be planted or preserved by these standards may be used to satisfy requirements of other sections of this Ordinance including interior parking or other vehicular use areas, perimeter of parking or other vehicular use areas, and perimeter buffers.
- d)** Planning Board may determine that a lesser number of trees is required based on adjacent development, lot design, topography or any other mitigating factors. A minimum of fifty percent (50%) of all required trees shall be shade trees.

#### **e. Required Landscape Plan:**

**1) General:** Prior to the review of a Site Review application for development, a landscape plan shall be submitted to the Planning Board for review. Clearing of land prior to submission of a Site Review Application to the Planning Board is prohibited.

##### **2) Contents of Landscape Plans:** Landscape plans shall:

- a)** Be drawn to scale and include dimensions and distances;
- b)** Delineate existing and proposed parking spaces and/or other vehicular use areas;
- c)** Designate by name, including common names, and location all plant material to be installed or preserved in accordance with these or any other applicable standards;
- d)** Identify and describe all other landscape material and elements proposed to be used;

- e) Show all landscape features, including areas of vegetation to be preserved in relationship to all existing or proposed building and/or any other improvements to the site; and
- f) Include a tabular summary clearly indicating the relevant statistical information necessary to determine compliance with the provisions of these standards. This information shall include gross acreage, square footage of vegetation preservation areas, the number of trees to be planted or preserved, square footage of paved areas, and other such information.

### **3) Required Landscaping:**

- a) **Adjacent to Public Right-of-Way:** On the site of a building providing an off-street parking area or other vehicular use area, where such area will not be entirely screened visually by an intervening building or structure from any abutting right-of-way, there shall be provided landscaping between such area and such right-of-way, as follows:

A strip of land at least fifteen (15) feet in width, located between the abutting right-of-way and the off-street parking areas or other vehicular use area, which is exposed to an abutting right-of-way, shall be landscaped. This requirement shall apply to all frontage which borders a public right-of-way. Such landscaping shall include one (1) tree for every thirty (30) lineal feet or fraction thereof with one dimension being at least five (5) feet. Such trees shall be set back at least twelve (12) lineal feet from the edge of the pavement of the public road. Any landscaping of a mature height of up to three (3) feet shall be set back a minimum of eight (8) feet from the edge of the pavement of the public road. Mature vegetation which does not exceed two (2) feet in height may be planted within eight (8) feet but no closer than three (3) feet from the pavement. The portion of the planted area extending three (3) feet from the pavement may only be vegetated with grass, ground cover or other minimal height landscape treatment.

Roadside tree plantings should consider the following criteria:

- (1) Cast moderate to dense shade in summer;
- (2) Be long-lived, i.e., over sixty (60) years;
- (3) Be tolerant of pollution and direct or reflected heat;
- (4) Require little maintenance, be mechanically strong and insect and disease resistant; and
- (5) Be of native origin, provided that they meet the above criteria.



All property abutting a right-of-way, other than the required landscaped strip lying between the right-of-way and off-street parking or other vehicular use areas, shall be landscaped with, at a minimum, grass or other ground cover.

Necessary access ways from the public right-of-way through all such landscaping shall be permitted to service the parking or other vehicular use area. Such access ways, however, may not be subtracted from the lineal dimension used to determine the number of trees required.

Where stone walls exist, care should be taken to disturb these as little as possible, since they also act to retain the character of country roads.

- b) Parking Area Interior Landscaping:** Trees and landscaping shall be included in all parking lot designs. A differentiation between perimeter landscaping and interior landscaping is made in these requirements. The purpose of perimeter landscaping is to screen parking areas from the street and/or adjacent residential uses. The purpose of interior landscaping is to provide shade within the parking area, reduce heat generated by paved parking spaces in the summer months, assist in on-site circulation and improve the general appearance of the site.

Planting areas for interior landscaping shall be designed so as to maximize provision of shade throughout the parking area during the summer months. For new construction or expansion of existing parking lots by fifty percent (50%) or more, the minimum area for interior landscaping shall be calculated as follows:

Ten percent (10%) of the total parking area, including drive aisles shall be landscaped. Generally a minimum of one (1) tree shall be provided in the interior landscaping areas for every five (5) parking spaces.

Developments requiring less than five (5) parking spaces are exempt from the interior landscaping standard. Perimeter landscaping may count for up to fifty percent (50%) of required interior landscaping if site conditions dictate.

Planting areas for perimeter landscaping shall be designed so as to maximize effectiveness of the landscaping as a visual screen. Planting areas for perimeter landscaping shall be a minimum of five (5) feet wide. Shrub materials used in perimeter landscaping areas shall be a minimum of four (4) feet high at the time of planting. Perimeter planting areas shall be required when screening of parking areas from the street or adjacent residential use is required.

- c) Sight Distance for Landscaping Adjacent to Public Rights-of-Way and Points of Access:** When an access way intersects a public right-of-way, or when a subject property abuts the intersection of at least two (2) or more public right-of-ways, all landscaping shall provide unobstructed cross-visibility at a level between two (2) and ten (10) feet, provided however, that trees shall have their limbs and/or foliage trimmed in such a

manner that no visual impediment exists within the cross-visibility area. Trees shall not be located in such a manner as to create a traffic hazard. Landscaping, except required grass or ground cover, shall not be located closer than three (3) feet from the edge of any access way pavement or impervious material.

- d) Credit for Existing Plant Material: In instances where healthy plant material exists on a site prior to its development, the Planning Board may adjust the application of these standards to allow credit for such plant material if such an adjustment is in keeping with and will preserve the intent of these standards.

#### **4) Other Applicable Requirements:**

- a) The provisions of these standards shall apply to new off-street parking or other vehicular uses areas and to expansion of existing parking lots by fifty (50%) or more (based on the parking lot size on the date of the adoption of this standard) in the General Purpose and Residential/Light Commercial districts.
- b) The provisions of these standards shall be subject to other applicable codes and regulations where such regulations are more restrictive and are not otherwise inconsistent with the provisions of these standards.

#### **F. Private Outdoor Lighting:**

1. **Purpose:** It is the purpose of these performance standards to assure that in all zoning districts, all outdoor lighting shall be located, shielded and directed in a manner which prevents excessive illumination levels, prevents glare on nearby streets and sidewalks, and prevents light trespass beyond the property lines. In furtherance of this standard, the following requirements shall apply:
  - a. All freestanding and façade mounted lighting shall utilize full cut-off type fixtures or equivalent shielding to prevent excessive lighting levels, minimize glare and shall be installed in a manner that does not direct light beyond the lot lines of the premises on which the light fixture(s) is located.
  - b. All parking area lighting shall be full cut off type fixtures.
  - c. The IESNA (Illuminating Engineering Society of North America) "Maintained Horizontal Illuminance Recommendations" shall be followed for a multifamily and/or non-residential project site. (See Table A) The minimum light level specified in Table A shall not be exceeded by more than .2 foot candles.
  - d. Maximum height of freestanding lights shall be twenty-five (25) feet.
  - e. Canopy lighting. Light fixtures mounted on/in canopies shall be recessed so that the lens cover is recessed or flush with the ceiling surface. Lights shall not be mounted on the top, sides or front face of the canopy nor shall any such side or face of the canopy be illuminated.

- f. Lighting plan. When compliance to these standards is in question, the Code Enforcement Officer may require the submission of a detailed lighting plan showing type of fixtures, shielding, and level of wattage and fixture height.

**2. Non-conformance:** See Article 11-8.10.

**TABLE A**

IES Maintained Horizontal Illuminance

**Levels of Activity & Foot-candle Recommendations**

Vehicle Travel Area

Parking & Pedestrian

**High**

<u>Avg.</u>	<u>Min.</u>	<u>U.Ratio</u>
2.0	.67	3:1

<u>Avg.</u>	<u>Min.</u>	<u>U.Ratio</u>
3.6	.9	4:1

Major League Athletic Events  
Major Cultural or Civic Events  
Regional Shopping Centers  
Fast Food Restaurants with drive-thru facilities  
Convenience Stores with Gas Pumps  
Other facilities with drive-thru

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**Medium**

<u>Avg.</u>	<u>Min.</u>	<u>U.Ratio</u>
1.0	.33	3:1

<u>Avg.</u>	<u>Min.</u>	<u>U.Ratio</u>
2.4	.6	4:1

Community Shopping Centers  
Cultural, Civic or Recreational Events  
Office Parks/Building  
Hospital Parking  
Transportation Parking (Airports, Commuter Lots, etc.)  
Residential Complex Parking (Multi-Family)

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**Low**

<u>Avg.</u>	<u>Min.</u>	<u>U.Ratio</u>
.5	.13	4:1

<u>Avg.</u>	<u>Min.</u>	<u>U.Ratio</u>
.8	.2	4:1

Neighborhood Shopping  
Industrial Employee Parking  
Educational Facility Parking  
Church Parking

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**Level of Activity**

Regional shopping center containing retail

High

space of three hundred thousand (300,000) square feet or greater.

Community shopping centers containing retail space of five thousand (5,000) to two hundred ninety-nine thousand and nine hundred ninety-nine (299,999) square feet.	Medium
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Neighborhood shopping containing retail space of less than five thousand (5,000) square feet.	Low
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Automotive dealerships	High
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Entertainment theaters, sports arenas	High
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Convenience stores with gas pumps/canopies	High
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Gas Stations	High
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## **G. Transportation: Access Management**

**1. Purpose:** It is the purpose of these performance standards to:

- a. Keep traffic flowing smoothly and safely on the roads, including arterials, within the Town of Farmington; and
- b. Minimize traffic problems associated with uncontrolled strip development.

Access management, in the context of these standards, is the management of driveways/entrances and intersections to maintain highway safety and traffic carrying capacity of all highways/roads and to maintain the posted speed limit of arterials.

**2. Applicability:**

- a. These standards shall apply to all development proposals requiring review under the “Town of Farmington Site Review Ordinance”, adopted March 11, 2002, as said Ordinance may be subsequently revised or updated, and the “Town of Farmington Subdivision Regulations,” adopted April 3, 1978, and any subsequently adopted Town of Farmington Subdivision Ordinance.
- b. For these standards, Routes 2, 4, 27, and the Town Farm Road are defined as Arterials, all within the Urban Compact Zone.

For these standards, Routes 133, 149, 156, and 41 are defined as Major Collectors, and Route 43 is defined as a Major Collector to Industry and a Minor Collector to Temple, all within the Urban Compact Zone.

For these standards, Knowlton Corner Road, Whittier Road, and Seamon Road are defined as Minor Collectors, all within the Urban Compact Zone.

The segments of these roadways that lie outside of the Urban Compact Zone are under State jurisdiction, and therefore classifications and standards may vary for these.

- c. Grandfathered Access: All lots are presumed to have at least one (1) driveway/entrance. Driveways/entrances in existence at the time of adoption of these standards are grandfathered. Farming and forestry access points in existence at the time of adoption of these standards are grandfathered.

**3. Non-conformance: See Article 11-8.10.**

**4. General Access Management Standards for Local Roads:**

This subsection pertains to access management relative to all public roadways within the Town of Farmington. If planned access is to a State highway arterial or collector route within the Urban Compact Zone, also see subsection 5.

The proposed site layout shall take into account existing traffic flow and safe vehicular access to and from public collectors and local roadways within the Town of Farmington.

**a. Road capacity:**

Vehicular access to the site shall be on roads that have the capacity to accommodate the additional traffic generated by the project. The applicant shall assume financial responsibility for the off-site roadway improvements, if necessary, to accommodate the additional traffic.

Road improvements shall be completed before the project is operational or, in the case of a subdivision, before any lot is sold.

**b. Classification of driveways/entrances by traffic volume:**

Driveways are classified as low volume; entrances are classified as either medium, or high volume. See Definitions.

**c. Minimum sight distance:**

- 1) Sight distance is the length of unobstructed sight line of motor vehicle drivers in normal daylight conditions. Sight distance shall be measured from the perspective of a hypothetical person seated in a vehicle from three vantage points: 1) sitting in the access viewing vehicles traveling on the highway (both left and right), 2) traveling on the highway viewing a vehicle sitting in an access, and 3) traveling on the highway viewing a vehicle turning into the access (both ahead and behind). In case of discrepancy between these measurements, the lesser measurement shall be used to determine whether the sight distance standard is met. Sight distance shall be measured to and from the point on the centerline of the proposed access that is located ten (10) feet from the edge of traveled way. The height of the hypothetical person's view shall be three and one-half (3½) feet above the pavement and the height of the object being viewed shall be four and one-half (4½) feet above the pavement.
- 2) Any exit driveway/entrance or driveway/entrance lane shall be so designed in profile and grading, and so located as to provide a minimum sight distance in each direction. Minimum sight distances depend on the speed of traffic on the road (posted speed limit or a traffic speed study) and the volume of traffic entering and leaving the driveway/entrance.

Tables 1 and 2 specify minimum sight distances for non-arterials and non-collectors as a function of posted highway speed for low volume driveways, medium volume entrances, and high volume entrances respectively. See subsection 5.a.1, for minimum sight distances for arterials.

- 3) This section shall not apply to driveways serving residential lots in residential zones that will be served by a newly constructed street, or residential areas served by an existing public street, when such street has a posted speed limit of twenty-five (25) miles per hour or less. The Planning Board shall in the review of subdivision proposals ascertain that sight distances at individual driveways ensure safe conditions.

**Table 1. Minimum sight distances for low volume driveways and medium volume entrances**

Posted Speed (MPH)	Low Volume Driveways Minimum Sight Distance (Feet)	Medium Volume Entrances Minimum Sight Distance (Feet)
20	125	125
25	150	150
30	200	200
35	225	250
40	275	325
45	325	400
50	400	475
55	450	550

*Maine Highway Design Guide – MDOT 1994*

**Table 2. Minimum safe sight distances for high volume entrances**

Posted Speed (MPH)	Minimum Sight Distance (Feet)
20	155
25	200
30	250
35	305
40	360
45	425
50	495
55	570

*AASHTO – Green Book*

**d. Exceptions and other conditions for minimum sight distances:**

- 1) Where larger vehicle traffic from the development is expected to be thirty percent (30%) or more of the daily peak traffic, the sight distance shall be increased as specified in Tables 3 and 4.

**Table 3. Minimum sight distances for low volume driveways and**

**medium volume entrances with large vehicle traffic of  
thirty percent (30%) or more of daily peak traffic**

Posted Speed (MPH)	Low Volume Driveways Minimum Sight Distance (Feet)	Medium Volume Entrances Minimum Sight Distance (Feet)
20	160	160
25	190	190
30	250	250
35	280	300
40	340	400
45	400	500
50	500	600
55	560	690

*Based on Maine Highway Design Guide – MDOT 1994*

**Table 4. Minimum safe sight distances for high volume entrances with large vehicle traffic of thirty percent (30%) or more of daily peak traffic**

Posted Speed (MPH)	Minimum Sight Distance (Feet)
20	190
25	250
30	300
35	380
40	450
45	530
50	620
55	710

*Based on AASHTO – Green Book*

- 2) Where more than one business or structure is located on a single parcel, all vehicular access to and from a public or private road shall be via a common access or entranceway serving all businesses and structures.
- 3) If the intersection of any access driveway/entrance or proposed street in the development is expected to have an increase of one hundred (100) or more passenger car equivalents per hour to the roadway, the Planning Board may require that the intersection be designed by a Professional Engineer licensed by the State of Maine.
- 4) For lots with shared access, the driveway/entrance may be located along the property line. The minimum spacing to property line may be varied, if:
  - a) The safest point of access to the site is closer to the property line; and
  - b) There is at least fifty (50) feet of separation between driveways/entrances serving adjacent properties.

- 5)** When the proposed project is to be located on the opposite side of the road from an existing development, the driveway/entrance shall be directly opposite the existing driveway/entrance, or else separated from it by a minimum of seventy-five (75) feet whenever possible.

**e. Driveway/Entrance characteristics:**

- 1)** Low volume driveways and medium volume entrances shall have the following characteristics:
  - a)** A single two-way operation for low volume driveways only;
  - b)** Intersect the road at an angle as close to ninety (90) degrees as site conditions permit, but at no less than forty-five (45) degrees;
  - c)** For medium volume entrances, all angles between forty-five (45) degrees and ninety (90) degrees shall be channelized;
  - d)** No median; and
  - e)** Slope upward from the gutter line or shoulder break on a straight slope of no more than three percent (3%) for the first fifty (50) feet.
- 2)** High volume entrances shall have the following characteristics:
  - a)** Have two-way operations separated by a raised median of at least six (6) feet in width and fifty (50) feet to one hundred (100) feet in length depending upon necessary storage length for queued vehicles;
  - b)** Intersect the road at an angle as close to ninety (90) degrees as site conditions permit, but at no less than forty-five (45) degrees. All angles between forty-five (45) degrees and ninety (90) degrees shall be channelized;
  - c)** Be striped for two (2) to four (4) lanes, each lane twelve (12) feet wide;
  - d)** Slope upward from gutter line on a straight line of no more than three percent (3%) for the first seventy-five (75) feet; and
  - e)** Signalization and appropriate sign controls may be required depending on traffic conditions.
- 3)** All driveways and entrances shall adhere to the following drainage standards:
  - a)** Culvert Size: The Town Public Works Director shall determine the length and diameter of culverts within the highway right-of-way depending on local conditions; and



b) Construction and Maintenance Standards: Driveways, entrances, on-site ditches, swales, pipes and other structures that direct runoff toward public highway ditches or drainage systems shall be constructed, crowned, stabilized and maintained with stable materials and appropriate erosion control measures such as permanent vegetation or stone, as approved by the Town Public Works Director.

4) All driveways and entrances shall adhere to the following turnaround/parking standard:

Driveways and entrances shall be designed such that all maneuvering and parking of any vehicles shall take place outside of the highway right-of-way and such that vehicles may exit the premises without backing onto the highway traveled way or shoulder. The Planning Board may require a turnaround area to accommodate larger vehicles that are expected to use the driveway/entrance on a regular basis.

## **5. Arterial/Collector Access Management Standards:**

Vehicular access to State highway arterial and collector routes within the Urban Compact Zone shall comply with the following performance standards, in addition to those specified in subsection 4. Where conflicts exist between this subsection and subsection 4, this subsection shall apply. For these standards, Routes 2, 4, 27, and the Town Farm Road are defined as Arterials, all within the Urban Compact Zone.

For these standards, Routes 133, 149, 156, and 41 are defined as Major Collectors, and Route 43 is defined as a Major Collector to Industry and a Minor Collector to Temple, all within the Urban Compact Zone.

For these standards, Knowlton Corner Road, Whittier Road, and Seamon Road are defined as Minor Collectors, all within the Urban Compact Zone.

The segments of these roadways that lie outside of the Urban Compact Zone are under State jurisdiction, and therefore classifications and standards may vary for these.

The Planning Board shall review the Site Review application in light of the following provisions, giving precedence to minimum sight distance, minimum driveway/entrance spacing, and maximum number of driveways/entrances per lot, in that order.

### **a. Sight Distance:**

Driveways/entrances, intersecting roads, and other accesses shall be located to achieve the required sight distance measured in each direction along the arterial, while maintaining adequate distances from adjacent driveways, entrances and intersections as specified in subparagraph 1) and 2) below.

In the event that there is a conflict between sight distance and minimum driveway and entrance spacing standards, the sight distance standard should take precedence. Sight distance shall be in accordance with the following standards:

- 1) Low volume driveways, and medium and high volume entrances – driveway/entrance and intersection road placement shall be such that a driver of an exiting vehicle has an unobstructed sight distance in each direction as specified in Table 5.

**Table 5. Minimum sight distances for low volume driveways and medium and high volume entrances**

Posted Speed (MPH)	Minimum Sight Distance (Feet)
20	155
25	200
30	250
35	305
40	360
45	425
50	495
55	570

*AASHTO – Green Book*

- 2) If more than thirty percent (30%) of the traffic projected to use the proposed driveway/entrance will be large vehicles, the minimum sight distances shall be increased as specified in Table 6.

**Table 6. Minimum sight distances for large vehicles**

Posted Speed (MPH)	Minimum Sight Distance (Feet)
25	300
30	370
35	455
40	540
45	635
50	740
55	855

**b. Minimum driveway spacing:**

- 1) New lots - The minimum distance between nonresidential driveways/entrances served by an arterial shall be a function of posted highway speed according to Table 7. The minimum distances shall apply to nonresidential driveways/entrances on the same lot or on adjoining lots. Measurement of minimum distance between driveways/entrances shall be from the centerline of the driveways at the right-of-way line.

Any new nonresidential lot created after the effective date of these standards shall contain a minimum frontage equal to the minimum spacing requirement as stated in Table 7, unless the applicant can demonstrate to the Planning Board that:

- a) The access to the property will be provided by a frontage road, service road or local road;
- b) The placement of a driveway/entrance on a lot with a smaller frontage will not prohibit abutting property owners from meeting the minimum spacing requirements contained in Table 7; or
- c) The lot will be accessed by a shared driveway/entrance with an abutter.

**Table 7. Minimum distance between driveways/entrances**

Posted Speed (mph)	Minimum Spacing (feet)
25 or less	90
30	105
35	130
40	175
45	265
50	350

- 2) Access to lots with nonconforming frontages - Lots which are served by an arterial and which are nonconforming with respect to required frontage as of the effective date of these standards are prohibited from developing more than a total of one (1) access point. Nonconforming nonresidential frontage lots that, as of the effective date of these standards are improved with structures, are prohibited from expanding or converting such structures, where such activity will result in:

- a) The need for new access points; or
- b) A significant increase in the anticipated peak hour traffic such that the driveway/entrance volume moves from one category to another, e.g., from low volume driveway to medium volume entrance.

Where adjoining lots are owned in common and do not meet the frontage requirements specified in Table 7, an access permit may be granted provided that access is shared by adjoining lots.

- 3) Maximum number of driveways/entrances per lot - The maximum number of driveways from the roadway to the site to be developed shall be governed by the following:
- a) No low volume traffic generator shall have more than one (1) two-way access onto a single roadway;
  - b) No medium or high volume traffic generator shall have more than two (2) two-way accesses, or three (3) accesses in total, onto a single roadway; and
  - c) All driveways/entrances shall comply with the spacing requirements in Table 7.

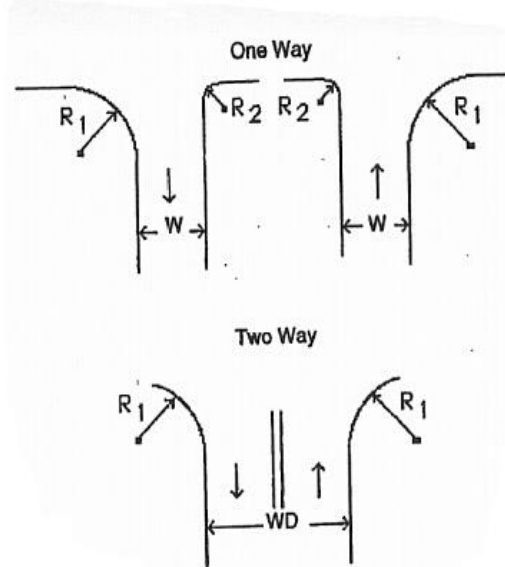
- 4) Entrances and exits - Where a proposed development is to be located at the intersection of an arterial and a collector or local road, entrance(s) to and exit(s) from the site shall be located only on the collector or local road. This requirement may be waived where the applicant demonstrates that existing site conditions preclude the location of a driveway/entrance on the collector or local road, or that the location of the driveway/entrance on a collector or local road would create safety-related problems within a predominantly residential neighborhood.
- 5) Corner clearances – Minimum distance from the nearest edge of driveway/entrance corner (point of tangency) to edge of intersection corner (point of tangency) for all types of driveways/entrances shall be one hundred twenty-five (125) feet for signalized intersections and seventy-five (75) feet for non-signalized intersections.
- 6) Curb opening widths and design shall conform to the following standards:
  - a) Low volume driveways
    - 1) Have a two-way operation;
    - 2) Intersect the road at an angle as close to ninety degrees (90°) as site conditions permit, but at no less than sixty degrees (60°);
    - 3) Not require a median; and
    - 4) Comply with the geometric standards specified in Table 8.
  - b) Medium volume entrances
    - (1) Have either two-way or one-way operation;
    - (2) Intersect the road at an angle as close to ninety degrees (90°) as site conditions permit, but at no less than sixty degrees (60°);
    - (3) Not require a median; and
    - (4) Comply with the geometric standards specified in Table 8.

**Table 8. Curb opening design for low-volume driveways and medium-volume entrances:**

Dimension	Desired Value (ft.)	Minimum Value (ft.)	Maximum Value (ft.)
<u>ONE-WAY</u>			
R1 (radius)	30	25	40
R2 (radius)	5	5	10
W (driveway width)	20	20	24

<u>TWO-WAY</u>			
R1 (radius)	30	25	40
WD (driveway width)	26*	24	30*

\*Where separate left and right exit lanes are desirable.



**c) High volume entrances:**

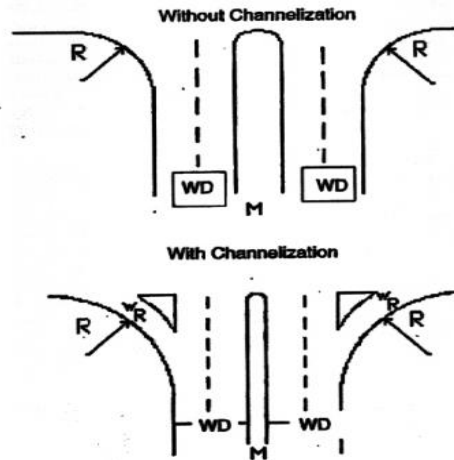
- (1) Have two-way operations separated by a raised median of six (6) feet to ten (10) feet in width and fifty (50) to one hundred (100) feet in length, depending upon necessary storage length for queued vehicles;
- (2) Intersect with the road at an angle as close to ninety degrees (90°) possible, but at not less than sixty degrees (60°);
- (3) Be striped for two (2) lanes to four (4) lanes with each lane twelve (12) feet wide; and
- (4) Signalization and appropriate sign controls may be required depending on traffic conditions. Level of service and traffic signal warrants should be conducted for all high volume driveways, and comply with the geometric standards specified in Table 9.

**Table 9. Curb opening design for high-volume entrances:**

Dimension	Desired Value (ft.)	Minimum Value (ft.)	Maximum Value (ft.)*
<u>Without Channelization</u>			
R (radius)	50		
WD (drive width)	24	30	50
M (median width)	4	20	26
		4	10

<u>With</u> <u>Channelization</u>			
R (radius)	100	75	100
WD (drive width)	24	20	26
M (median width)	4	4	10
WR	20	16	20

\*For industrial developments with a high percentage of larger vehicle traffic, maximum values are required.



## 6. Subdivision:

The performance standards specified in this subsection are applicable to subdivisions specified in 30-A M.R.S. §4452, as administrated through the “Town of Farmington Subdivision Ordinance”. These standards complement all preceding standards. Where conflicts exist between this subsection and any preceding standard, this subsection shall supersede.

**a.** Access to frontage road/service road. Where such project abuts an existing arterial or a proposed arterial, the following provisions shall apply:

**1)** Direct Arterial Access to Individual Lots Prohibited - Direct access to any individual lot, or to a single place of business, shall be prohibited unless the Planning Board determines that physical conditions particular to the parcel justify the granting of a waiver from this requirement. A waiver shall be granted only if there will be no further division of the parcel and one of the following conditions is met:

- a)** There is too little road frontage to reasonably allow creation of a new way;
- b)** The shape or physical condition of the parcel does not permit access to, or creation of, a street other than the arterial; or
- c)** Common access will be utilized which will allow all proposed lots to be serviced by one (1) new curb opening.

**2)** Permitted access:

Access to the development may include one of the following:

- a)** A common frontage road running parallel to the arterial provided that such frontage road shall be located at least fifty (50) feet from the right-of-way



- c. There is no feasible alternative; and
- d. In determining practicability and feasibility, the Board shall consider the nature and extent of negotiation for a shared driveway/entrance and the availability and cost of alternative driveway/entrance locations and designs in relation to the proposed use.

#### **H. Facades in the Village Business Historic District:**

All new facades and any renovated facades in the Village Business Historic District shall be designed and built in a manner that compliments the predominant visual character and quality exhibited by the existing buildings in this district.

The aim is to have all such façade work done in a manner that does not detract from its immediate neighbors or from the overall historic impression of the Village Business Historic District. While individual facades can and will possess their own distinct appearances, the goal is for the collective impact of these appearances to be harmonious and not conflicting.

#### **I. Open Space Residential Development:**

1. **Purpose:** This section is intended to promote integrated, creatively-designed residential development that results in the preservation of open space and natural resources, the reduction of infrastructure and site development costs, and the promotion of attractive standards of appearance consistent with town and neighborhood project character.
2. **Permit Authority:** The Board shall have the authority to approve an Open Space Residential Development (“OSRD”) in the Residential, Village Residential, Residential Light Commercial, and Farm and Forest Districts where the applicant demonstrates compliance with the requirements of this section.
3. **OSRD Permit Applications:**
  - a. Any proposed development that would create ten (10) or more single-family, duplex, or multi-family dwelling units on a parcel of land or a set of contiguous parcels of land, containing at least ten (10) acres, may submit an application or an OSRD permit. Parcels separated by roadways shall be considered contiguous.
  - b. Any application submitted under this section that involves a subdivision of land shall also be subject to the approval of the Planning Board under the Town of Farmington Subdivision Ordinance.
4. **Submittal Requirements:** All applicants for an OSRD permit shall submit the following to the Planning Board:



- a. An application supplied by the Code Enforcement Office, and the appropriate fee set by the Board of Selectmen;
  - b. An OSRD plan addressing the general features of the land, configurations of lots and roadways, and all information required by the Planning Board under Section 8; and
  - c. The plans required by this Section 4 shall be prepared by a licensed civil engineer, a land surveyor, or other licensed professional approved by the Planning Board.
- 5. Procedures for Approval:** Applicants seeking an OSRD permit are encouraged to arrange for a pre-application meeting with the Code Enforcement Officer to discuss the proposed OSRD.
- 6. Open Space Requirements:**
- a. A minimum of fifty percent (50%) of the OSRD shall be dedicated as permanent open space. Qualifying open space under this section is all non-impervious common area in the development which is devoid of structures, and shall either be left in its undisturbed, natural condition, or developed to assure its use as an area for recreation, or a visual amenity, landscaped, or managed for forestry or used for agriculture in accordance with Best Management Practices. A utility corridor that is permitted to be used for recreational trail purposes shall be deemed to qualify as open space within an OSRD despite the existence of utility structures, provided that no other structures shall be permitted within such corridors.
  - b. The open space shall be subject to a recorded deed restriction. The restriction shall provide that the open space will remain in an open state, will be used solely for the purposes allowed by this section, and will be maintained in a manner that will ensure its suitability for its intended purpose.
- 7. Density Bonus:** The applicant shall be entitled to a twenty percent (20%) density bonus (i.e. 20% more dwelling units) if the applicant proposes to preserve at least seventy percent (70%) of the land in the OSRD as open space.
- 8. OSRD Design Requirements:** An applicant shall determine the layout of streets, open space, and lots or building areas in the proposed OSRD in compliance with the following:
- a. Identify open space area(s);
  - b. Identify the developable area of the site. The developable area must consist only of land outside the open space area(s);
  - c. Identify dwelling sites within the developable area(s) and delineate any private yards and shared amenities;

- d. Delineate the streets that will provide access to the house sites, and any desirable trails or walkways; and
- e. Delineate lot lines, except where condominium ownership is used.

#### **9. OSRD Development Standards:**

- a. Underground utilities shall be located so as to not interfere with the Town's highway drainage facilities, including but not limited to, culverts, catch basins, underdrainage, interceptors, swales, etc. and the maintenance thereof by the Town.
- b. Where multi-dwelling units are proposed, individual buildings shall contain no more than eight (8) dwelling units.
- c. There shall be no unbroken building facades longer than sixty (60) feet. For purposes of this standard, an "unbroken façade" means a façade that is lacking in such features as irregularities, recessed entries, "bump outs," and the like that serve to create visual interest along its length.
- d. Where townhouse dwellings are proposed, the development shall provide for varied roofline articulation that stresses New England village-style architecture, and the use of building materials and colors that are compatible with other quality buildings of similar scale in the vicinity.
- e. Individual building lots or building locations must be laid out to achieve the following objectives, as applicable. Where the Planning Board finds that objectives conflict, the objectives shall be achieved in the order listed:
  - 1) On soils suitable for subsurface wastewater disposal where on-site wastewater disposal is to be used;
  - 2) In a manner that preserves, as part of the required open space, environmentally sensitive areas, such as wetlands, steep slopes, floodplains, wildlife habitat rated by the Maine Department of Inland Fisheries and Wildlife as high value, and unique natural features;
  - 3) In a manner that preserves or allows the establishment of a vegetated buffer to serve as an effective visual screen from adjacent properties;
  - 4) In a manner that maximizes the amount of contiguous, usable area for agriculture or forest production or outdoor recreation included as part of the required open space; and
  - 5) In a manner that each dwelling unit has as direct access as possible to the open space, as appropriate based on the nature and use of the open space.

## **10. Common Open Space:**

- a.** The open space should be capable of being used and enjoyed by residents of the development for the purpose of informal and unstructured recreation and relaxation, or a visual amenity, or managed for forestry or used for agriculture in accordance with Best Management Practices.
- b.** The applicant shall propose that the common open space shall be controlled by one (1) or more of the following methods:
  - 1)** Common ownership by the owners of the units within the project through a corporation or trust comprising a homeowners' association with the additional option of a conservation easement granted to a recognized conservation organization. The developer shall include in the deed to such owners beneficial rights in the open space, and shall grant a perpetual open space deed restriction to insure that it will remain in an open state in accordance with these performance standards. Such restriction shall be reviewed and approved by the Planning Board.
  - 2)** Transfer, with permanent restrictions, to a land trust or other recognized conservation organization; or
  - 3)** Ownership or lease by a private party for agricultural or other natural resource use provided that permanent restrictions are in place to provide for its continued use for this purpose.
- c.** Any and all conveyances, transfers, easements, covenants, deed restrictions, and instruments executed in the process of effectuating 10.b.1-3 above shall contain the following:
  - 1)** Assurance(s) that the open space will be protected from all forms of development except as shown on an approved OSRD site plan and described in the recorded deed restriction, and shall never be changed to another use.
  - 2)** Identification(s) of the proposed allowable use(s) of the dedicated open space.
  - 3)** Requirement(s) that the dedicated open space be maintained by parties who have an ownership or lease interest in the open space.
  - 4)** Provision(s) of standards for scheduled maintenance by parties who have an ownership or lease interest in the open space.

## **11. Professional Review:**

### **a. Professional Services:**

The Board may require that a fully qualified consultant(s) review one or more submissions of an application and report as to compliance or noncompliance with this Ordinance and recommend, if possible, procedures which will result in compliance. The consultant(s) shall be determined by the Board to be competent in a field relevant to the issue under consideration and shall be

mutually acceptable to the Board and the applicant. The consultant shall estimate the cost of such review and the applicant shall deposit with the Town the full estimated cost which the Town shall place in an escrow account. The Town shall pay the consultant from the escrow account and reimburse the applicant if funds remain after payments are completed. If escrowed funds are insufficient, the applicant shall deposit additional funds with the Town, based on the consultant's estimate, sufficient for completion (if said completion is still desired).

**b. Additional Studies:**

The Board may require the applicant to undertake any study which the Board deems necessary to insure that the requirements of the Ordinance are met. The costs of all such studies shall be borne by the applicant.

**J. Wind Energy Systems**

- 1. Purpose:** It is the purpose of these performance standards to enable the Town to: regulate the permitting of commercial and residential wind energy systems; be informed of the placement of residential and commercial wind energy systems; preserve and protect public health and safety; allow for the orderly development of land; and protect property values in the Town of Farmington.
- 2. Permits Required:** No person shall construct a wind energy system without obtaining a permit from the Code Enforcement Officer (CEO) or the Board as follows:
  - a.** For residential use, approval by the CEO is required for the construction and/or expansion of all such wind energy systems.
  - b.** For commercial use, approval by the Board is required for the construction and/or expansion of all such wind energy systems.
- 3. Application Procedure:** Applications for residential and commercial wind energy system permits shall be filed on forms provided by the Code Enforcement Office and must include the following information:
  - a.** Name of owner and operator of the wind energy system, and owner of property.
  - b.** Location of proposed wind energy system, including map/lot number, and street address. Plot plan identifying location of wind energy system on the property and physical dimensions of the property.
  - c.** Location of any public road or right-of-way that is contiguous with the property.
  - d.** Any overhead utility lines, commercial wind energy system permits will also require the following information:
  - e.** Wind system specifications, including manufacturer and model, rotor dimension, tower height, and tower type (freestanding or guyed).
  - f.** Tower and tower foundation blueprints or drawings.

Commercial wind energy system permits will also require the following information:

- g.** Certification that construction of the tower complies with all industry standards, all applicable State construction and electrical codes, the National Electrical Code, the Federal Aviation Administration (FAA), and any other standards applicable to commercial wind generators at the time of permit application.
- 4. Notice to Abutters:** Abutting property owners shall be notified by certified mail, by the Town, at least fifteen (15) days prior to the initial Board or CEO consideration. The cost of notification shall be borne by the applicant. The notice shall indicate the time, date and place of the Board or CEO consideration, if applicable. Public hearings may be called at the discretion of the Board or CEO. If a public hearing is scheduled, a notice of such shall be published in a newspaper of general circulation in the municipality at least fifteen (15) days prior to the hearing and shall include the date, time and place of the hearing. The cost of advertising shall be borne by the applicant.
- 5. Onsite Visit:** All applications shall have an onsite visit by the CEO. An additional site visit(s) may be scheduled by the Board.
- 6. Standards for Residential Wind Energy System Permit:**

  - a.** For residential use, a permit for a new wind energy system, including all components that comprise the system, shall be granted only in a zoning district in which such a facility is allowed [See Town of Farmington Zoning Ordinance – Section 11-8.9(D) Table of Uses].
  - b.** All wind energy systems shall be setback from abutting property lines, utility lines, and/or public roads or right-of-way by a distance equal to 105% of the tower height including all components. This distance from property lines may be reduced by a written, recorded mutual agreement of the property abutter(s) whose property line(s) is within said distance of the tower base. In no case may the setback be less than the standard setback distance for the zone in which the wind energy system is constructed. Best Engineering Practices should be utilized in determining the optimal placement.
  - c. Access:** All ground mounted electrical and control equipment shall be labeled or secured to prevent unauthorized access. The tower shall be designed and installed so as not to provide step bolts or a ladder readily accessible to unauthorized persons.
  - d.** Wind energy systems shall not exceed 60 dB(A), as measured at the closest property line. The level, however, may be exceeded during short-time events such as utility outages and/or severe weather events.
  - e.** The wind energy system generators and alternators shall be constructed so as to prevent the emission of radio and television signals. The applicant shall correct any signal disturbance problem that is identified within ninety (90) days. Upon identification of a signal disturbance problem, the wind energy system

shall not be operated until corrected. If the problem is not corrected within ninety (90) days, the applicant shall be in violation and subject to the enforcement provisions in the Town of Farmington Zoning Ordinance, which may result in wind energy system removal.

- f. The supporting tower shall also be enclosed with a six (6) foot tall fence or the base of the tower shall not be climbable for a distance of ten (10) feet.
- g. The owner of a wind energy system shall be required to remove the tower if it hasn't produced power for a period of twelve (12) consecutive months unless otherwise waived by the CEO or the Planning Board.

## **7. Standards for Commercial Wind Energy System Permit:**

- a. Location: For commercial use, a permit for a new wind energy system, including all components that comprise the system, shall be granted only in a zoning district in which such a facility is allowed (see Town of Farmington Zoning Ordinance – Section 11-8.9 (D) (Table of Uses), and only upon proof of ownership, easement or purchase option, for the location under consideration.

A location map shall be provided which describes the boundaries of the proposed facility site, all property boundary lines, and all contiguous properties under the total or partial control of the applicant, any scenic resource or historic site within ½ mile of the proposed development site and any significant wildlife habitat which may be impacted.

There shall be written evidence that the Environmental Coordinator of the Maine Department of Inland Fisheries and the Maine Natural Resources Program have both been notified of the pending application and the location and tower height of all components covered by the application.

- b. Setbacks: All wind energy systems shall be setback from abutting property lines, utility lines, overhead utility lines (not associated with the facility), and/or public roads or right-of-way by a distance equal to one hundred five percent (105%) of the tower height including all components. This distance from property lines may be reduced by a written, recorded mutual agreement of the property abutter(s) whose property line(s) is within said distance of the tower base. In no case may the setback be less than the standard setback distance for the zone in which the wind energy system is constructed. Best Engineering Practices shall be utilized in determining the optimal placement within the above requirements.

The application shall include a description of the proposed facility to include the manufacturer's specifications for each wind turbine including make, model, tower height, maximum generating capacity, sound emission levels, over speed controls, normal and emergency shutdown procedures, and the number and aggregate generating capacity of the total system. A description of all associated facilities shall also be included.

- c. Visual Appearance: Wind energy systems shall maintain a finish appropriate to and compatible with the surroundings unless Federal Aviation Administration (FAA) standards require otherwise, or if the owner is attempting to conform the

tower to the surrounding environment and architecture, in which case it may be painted to reduce visual obtrusiveness. The Board may require photos of the existing proposed site from various locations and similar photos from the same locations with the wind energy system superimposed to aid in evaluating the visual appearance.

- d.** Access: All ground mounted electrical and control equipment shall be fenced and labeled or secured to prevent unauthorized access. The tower shall be designed and installed so as to not provide step bolts or a ladder readily accessible to the public. Access to the tower shall be through a locked gate.
- e.** Wiring: All electrical wires associated with a wind energy system, other than wires necessary to connect the wind generator to the tower wiring, the tower wiring to the disconnect junction box, and the grounding wires, shall be located to meet the National Electrical Code (NEC), also known as NFPA 70.
- f.** Lighting: Wind energy systems shall not be artificially lighted unless required by the FAA or other federal or State authority. If lighting is required, the Planning Board may review available lighting alternatives and approve the design that would cause the least disturbance of the surrounding properties and view
- g.** Signage: All signs, other than the manufacturer's or installer's identification, appropriate warning signs, or owner identification on a wind generator, tower, building, or other structure associated with a wind energy system shall be prohibited. No wind tower should have any signage, or writing or pictures that may be construed as advertising placed on it at any time. In addition, no flags, streamers or decorative items may be attached to the wind energy system tower or turbine.
- h.** Sound Pressure: Wind energy systems shall not exceed 60 dB(A), as measured at the closest property line. The level, however, may be exceeded during short- time events such as utility outages and/or severe weather events.
- i.** The applicant shall provide evidence that the proposed height of the wind energy system tower does not exceed the height recommended by the manufacturer or distributor of the system.
- j.** The applicant shall certify that they will comply with the utility notification requirements contained in the Maine net metering law and accompanying regulations through the Maine Public Utility Commission, unless the applicant intends, and so states on the application, that the system will not be connected to the electricity grid.
- k.** Tower construction of a commercial wind energy system shall be appropriate to the surroundings and shall be located according to Best Engineering Practice. The application shall include site line, photographic and, if applicable, screening information to aid the Planning Board in evaluation of the environmental and visual impact of the construction and operation of the wind energy system. The supporting tower shall also be enclosed with a six (6) foot tall fence or the base of the tower shall not be climbable for a distance of ten (10) feet.

- l. The wind energy system generators and alternators shall be constructed so as to prevent the emission of radio and television signals. The applicant shall correct any signal disturbance problem that is identified within ninety (90) days. Upon identification of a signal disturbance problem, the wind energy system shall not be operated until corrected. If the problem is not corrected within ninety (90) days, the applicant shall be in violation and subject to the enforcement provisions in the Town of Farmington Zoning Ordinance, which may result in wind energy system removal.
    - m. The owner of a wind energy system shall be required to remove the tower and other system components if it hasn't produced power for a period of twelve (12) consecutive months. Unless the owner of a tower and the landowner are one and the same, the applicant for a permit under this Section shall post a performance guarantee with the Town prior to obtaining a permit that is equal to one hundred twenty-five (125%) of the cost of removing the tower and other system components. The performance guarantee covering such removal shall be for a minimum term of five (5) years. Requirement for renewal of the guarantee must contain a mechanism, satisfactory to the Town, for review of the cost removal of the structure and other system components every five (5) years, and a mechanism for increasing the amount of the guarantee should the revised cost estimates so necessitate.
    - n. Shadow Flicker – Computer modeling tools, such as WindPro, or any other such tool, shall be used to generate the predictions of shadow flicker. The application shall include evidence the system will avoid unreasonable adverse effects of shadow flicker at any occupied building located on a near by property.
    - o. Visual Screening – The Planning Board shall have the authority to require applicants to consider visual screening if appropriate to minimize visual impact.
    - p. Tower/Turbine Color and Finish – Tower /turbine and turbine blades shall be painted a non-obtrusive, non-reflective color such as white or gray to minimize negative visual impacts.
- 8. Permit Fees:** Application for a Residential Wind Energy System Permit shall be accompanied by a fee of fifty (\$50.00) dollars. An application for a Commercial Wind Energy System Permit shall be accompanied by a fee of five-hundred (\$500.00) dollars for each wind tower.
- 9. Expiration:** A permit issued pursuant to this Ordinance shall expire if:
  - a. The wind energy system is not installed and functioning within twenty-four (24) months from the date the permit was issued; or
  - b. The wind energy system is out of service or not producing power for a continuous twelve (12) month period.
- 10. Exemptions:** All wind energy systems preexisting to the enactment of these



standards will be considered exempt. Wind energy systems used for pumping water or air or used for operating equipment will be exempt from all requirements for a residential wind energy system.

## **11. Definitions:**

**Best Engineering Practice:** Best Engineering Practice – Equipment specifications, site preparation, construction materials, turbines, blades, and support structures will be of sufficient quality that when completed the existing windmill structure will meet all applicable mechanical, electrical, and industrial engineering standards appropriate for said windmill, as well as any and all codes, standards, requirements, and regulations applicable to said windmill in the State of Maine. In domestic construction, the standards set by the manufacturers of the windmill components will suffice with regard to health and safety requirements.

In commercial applications the windmills must meet all standards as determined by a licensed professional, industrial, or mechanical engineer who is hired by the Town at the developer's expense. A mutually agreeable time-table of quality control and quality assurance will be developed and adhered to prior to and during construction/placement of the commercial windmills as applicable in Maine.

**Commercial:** Commercial means the use of tower structures, the intent and result of which activity is the production of income from the buying/or selling of tower generated energy, with the exception of residential energy contracts with local electrical energy supply companies such as Central Maine Power. "Commercial" shall not include agricultural, educational, institutional, and governmental facilities.

**dB(A):** dB(A) means the sound pressure level in decibels. Refers to the "a" weighted scale defined by American national Standards Institute (ASNSI). A method for weighting the frequency spectrum to mimic the human ear.

**Decibel:** Decibel means the unit of measure used to express the magnitude of sound pressure and sound intensity.

**Historic Site:** Historic site means any site, structure, or archaeological site which has been officially included in the National Registry of Historic Places and/or Maine Historic Resource Inventory, or which has been established by qualified testimony as being of historic significance.

**Rotor:** Rotor means an element of a wind energy system that acts as a multi-bladed airfoil assembly, thereby extracting through rotation, kinetic energy directly from the wind.

**Rotor diameter:** Rotor diameter means the cross sectional dimension of the circle swept by the rotating blades.

**Scenic Resource:** Scenic resource means either a scenic resource of state or national significance, as defined in 35 M.R.S. §3451(9) or a scenic resource of local significance located within the town and identified as such in a Comprehensive Plan, Open Space Plan, or Scenic Inventory adopted by the Board of Selectmen.

**Shadow Flicker:** Shadow flicker means the alternating changes in light intensity caused by the movement of wind turbine blades casting shadows on the ground or a stationary object. Shadow Flicker is not the sun seen through a spinning wind turbine blade, nor what an individual might view moving through the shadows of a wind farm.

**Sight Line:** Sight line means a line of sight extending from the observer's eye to the lowest point visible on the proposed tower as depicted in a profile drawing showing prominent features including, but not limited to, topography, buildings, and trees.

**Significant Wildlife Habitat:** Significant wildlife habitat means Significant Wildlife Habitat as defined in 38 M.R.S. §480-B (10).

**Tower height:** Tower height means the height above grade of the fixed portion of the tower, excluding the wind turbine itself.

**Turbine:** Turbine means the parts of a wind system including the blades, generator, and tail.

**Wind energy system:** Wind energy system means equipment that converts and then stores or transfers energy from the wind into usable forms of energy. This equipment includes any base, blade, foundation, generator, nacelle, rotor, tower, transformer, vane, wore, inverter, batteries or other component used in the system. This does not include wiring to connect the wind energy system to the grid.

**Wind generator:** Wind generator means blades and associated mechanical and electrical conversion components mounted on top of the tower.

**Wind tower:** Wind tower means the monopole, freestanding, or guyed structure that supports a wind turbine generator.

## **K. Solar Energy Systems**

**1. Purpose:** It is the purpose of these performance standards to enable the Town to: regulate the permitting of residential, commercial, and industrial solar energy systems; be informed of the placement of residential and commercial solar energy systems; preserve and protect public health and safety; allow for the orderly development of land; and protect property values in the Town of Farmington.

### **2. Classification:**

- a. Private Residential Solar Energy Systems (PRSES):** An area of land or other area used for a solar collection system principally used to capture solar energy, convert it to electrical energy or thermal power, and supply electrical or thermal power, primarily or solely for on-site residential use, and consisting of one or more free-standing, ground mounted, solar arrays or modules, or solar related equipment, intended to primarily reduce on-site consumption of utility power and/or fuels. Solar arrays or modules that are flush-mounted on the roofs or walls of private residences shall not be subject to PRSES performance standards or permit requirements for same. PRSES can be up to two thousand (2,000) square feet in surface area, with a rated nameplate capacity of up to 20kW.

- b. Commercial Solar Energy Systems (CSES): An area of land or other area used by a business for a solar collection system principally used to capture solar energy, convert it to electrical energy or thermal power, and supply electrical or thermal power, primarily or solely for on-site commercial use, and consisting of one or more free-standing, ground or roof mounted, solar arrays or modules, or solar related equipment, intended to primarily reduce on-site consumption of utility power and/or fuels. CSES can be up to twenty thousand (20,000) square feet in surface area, with a rated nameplate capacity of up to 250 kW.
- c. Industrial Solar Energy Systems (ISES): An area of land or other area used by a property owner and/or corporate entity for a solar collection system principally used to capture solar energy, convert it to electrical energy or thermal power, and supply electrical or thermal power, primarily or solely for off-site utility grid use, and consisting of one or more free-standing, ground-mounted, solar arrays or modules, or solar related equipment, intended to primarily reduce off-site consumption of utility power and/or fuels. ISES are a minimum of twenty thousand (20,000) square feet in surface area, and can be up to eight hundred (800) acres in surface area, and there is no limit on the rated nameplate capacity of an ISES.

### **3. Permits Required:**

- a. No person shall construct a PRSES, CSES, or ISES without obtaining a permit from the Code Enforcement Officer (CEO) or Planning Board as follows:
  - 1) For PRSES, approval by the CEO is required for the construction and/or expansion of all such solar energy systems.
  - 2) For CSES and ISES, approval by the Planning Board is required for the construction and/or expansion of all such solar energy systems.

### **4. Application Procedure:**

- a. Applications for PRSES, CSES, and ISES permits shall be filed on forms provided by the Code Enforcement Office and must include the following information:
  - 1) Name of owner and operator of the solar energy system, and owner of property.
  - 2) Location of proposed solar energy system, including map/lot number, and street address. Plot plan identifying location of the solar energy system on the property and physical dimensions of the property.
  - 3) Location of any public road or right-of-way that is contiguous with the property.
  - 4) Location of overhead utility lines.
- b. CSES and ISES permit applications will also require the following supplemental information:
  - 1) Solar system specifications, including manufacturer and model.

- 2) Array/module design and site plans.
- 3) Certification that layout, design, and installation conform to and comply with all applicable industry standards, such as the National Electrical Code (NEC)(NFPA-70), the American National Standards Institute (ANSI), the Underwriter's Laboratories (UL), the American Society for Testing & Materials (ASTM), the Institute of Electric & Electronic Engineers (IEEE), the Solar Rating & Certification Corporation (SRCC), the Electrical Testing Laboratory (ETL), and other similar certifying organizations, the Federal Aviation Administration (FAA), the Maine Uniform Building & Energy Code (MUBEC), fire and life-safety codes (NFPA 1 & 101), and any other standards applicable to solar energy systems. The manufacturer specifications for the key components of the solar energy system shall be submitted the application.
4. **Notice to Abutters:** Abutting property owners shall be notified by certified mail, by the Town, at least fifteen (15) days prior to the initial Board or CEO consideration. The cost of notification shall be borne by the applicant. The notice shall indicate the time, date and place of the Board or CEO consideration, if applicable. Public hearings may be called at the discretion of the Board or CEO. If a public hearing is scheduled, a notice of such shall be published in a newspaper of general circulation in the municipality at least fifteen (15) days prior to the hearing and shall include the date, time and place of the hearing. The cost of advertising shall be borne by the applicant.
5. **Onsite Visit:** All applicants shall facilitate onsite visits by the CEO and/or the Board as requested.
6. **Standards for PRSES Permits**
  - a. A permit for a new PRSES, including all components that comprise the system, shall be granted only in a zoning district in which such a facility is allowed (per §11-8.9.D - Table of Uses).
  - b. All PRSES shall be setback from abutting property lines, utility lines, and/or public roads or right-of-way by a distance no less than the standard structural setback distance applicable in the zoning district where the system is to be installed. Best Engineering Practices shall be utilized in determining the optimal placement within the above requirements.
  - c. All PRSES, whether ground or building mounted, shall comply with the structural height restrictions applicable in the zoning district where the system is to be installed. Best Engineering Practices shall be utilized in determining the optimal placement.
  - d. All ground-mounted electrical and control equipment for PRSES shall be labeled and secured to prevent unauthorized access.
  - e. All PRSES shall not exceed 50 dB(A), as measured at the closest property line.
  - f. All PRSES shall be installed so as not to cause any wire or wireless communication signal disturbance.

- g. The owner of a roof-mounted PRSES shall provide evidence certified by a TPI that the roof structure is capable of supporting the additional load of the PRSES.
- h. All PRSES shall be situated to eliminate concentrated glare onto abutting structures and roadways.
- i. The owner of a PRSES shall be required to remove all components if it hasn't produced power for a period of twelve (12) consecutive months, unless otherwise waived by the CEO or the Board.

## **7. Standards for CSES and ISES Permits:**

- a. A permit for a CSES or ISES, including all components that comprise the system, shall be granted only in a zoning district in which such a facility is allowed (per §11-8.9.D - Table of Uses), and only upon proof of right, title, or interest, such as ownership, easement, lease, or purchase option for the location being considered.
- b. A site location map shall be provided which shows the boundaries of the proposed facility, property boundary lines, contiguous properties under the total or partial control of the applicant, scenic resources or historic sites within one mile of the proposed development, and any significant wildlife habitat (per MeDEP under the Site Location of Development Act and/or the Natural Resource Protection Act) which may be impacted.
- c. There shall be written evidence in the form of letter copies that all applicable State regulatory agencies with jurisdiction over the project have been notified of the pending application and the location of all system components covered by the application.
- d. All CSES and ISES panel arrays and/or modules shall be setback from abutting property boundaries by a distance of seventy-five (75) feet. In no case may the setback be less than the required setback distance in the zoning district, shoreland area, or floodplain where the system is to be installed. Best Engineering Practices shall be utilized in determining the optimal placement within the above requirements.
- e. All CSES and ISES, whether ground or building mounted, shall comply with the structural height restrictions in the applicable zoning district.
- f. The application shall include a description of the proposed CSES or ISES facility to include all non-proprietary manufacturer's specifications for the solar panels, components, controls, and other equipment, sound emission levels, normal and emergency operational shutdown procedures, the number and individual ratings of panels in the array and/or modules, and the aggregate generating capacity of the total system. A description of all associated facilities shall also be included.

- g.** To the greatest practical extent, CSES and ISES shall possess a manufactured finish appropriate to and compatible with the surroundings, with reflective characteristics that minimize negative visual impacts. The Board may require photos of the existing proposed site from various locations and similar photos from the same locations with the system superimposed to aid in evaluating the visual impact, and will take into consideration the limitations of available manufactured finishes.
- h.** All ground-mounted electrical and control equipment for CSES and ISES shall be fenced and labeled or secured to prevent unauthorized access. The solar array and/or modules shall be designed and installed to prevent access by the public, and access to same shall be through a locked gate.
- i.** To the greatest practical extent, all electrical wires and utility connections for CSES and ISES shall be installed underground, except for transformers and controls. The Board will take into consideration prohibitive costs and site limitations in making their determination.
- j.** Exterior lighting for CSES and ISES shall be limited to that required for safety and operational purposes, and shall meet the performance standards for same in §11-8.11.F.
- k.** All signs, other than the manufacturer's or installer's identification, appropriate warning signs, or owner identification on a solar panel array and/or modules, building, or other structure associated with a CSES and ISES shall be prohibited. No CSES or ISES shall have any signage, or writing or pictures that may be construed as advertising placed on it at any time.
- l.** The CSES or ISES applicant shall certify that they will comply with the utility notification requirements contained in Maine law and accompanying regulations through the Maine Public Utility Commission, unless the applicant intends, and so states on the application, that the system will not be connected to the electricity grid.
- m.** All CSES and ISES shall not exceed 60 dB(A), as measured at the property line.
- n.** The installation of a CSES or ISES shall be appropriate to the surroundings and shall be located according to Best Engineering Practices. The application shall include site line, photographic and, if applicable, screening information to aid the Board in evaluation of the environmental and visual impact of the construction and operation of the system. The system site shall also be enclosed within an eight (8) foot tall fence with locking gate.
- o.** All CSES and ISES shall be installed so as not to cause any wire or wireless communication signal disturbance.
- p.** Ground-mounted CSES and ISES shall be screened from view by any abutting residential property, using vegetation, topography, or fencing.
- q.** The owner of a roof-mounted CSES or ISES shall provide evidence certified by a TPI that the roof structure is capable of supporting the additional load of system.

- r. All CSES and ISES shall be situated to eliminate concentrated glare onto abutting structures and roadways.
- s. Decommissioning of the entire facility will begin if twelve (12) consecutive months of no generation occurs at the facility.

In order to facilitate and ensure appropriate removal of the energy generation equipment of a CSES or ISES when it reaches the end of its useful life, or if the applicant ceases operation of the facility, applicants are required to file a decommissioning plan which details the means by which decommissioning will be accomplished. This plan must include a description of implementing the decommissioning, a description of the work required, a cost estimate for decommissioning, a schedule for contributions to its decommissioning fund, and a demonstration of financial assurance.

In the event of a force majeure or other event which results in the absence of electrical generation for twelve months, by the end of the twelfth (12) month of non-operation the applicant must demonstrate to the Town that the project will be substantially operational and producing electricity within twenty-four (24) months of the force majeure or other event. If such a demonstration is not made to the Town's satisfaction, the decommissioning must be initiated eighteen months after the force majeure or other event. The Town considers a force majeure to mean fire, earthquake, flood, tornado, or other acts of God and natural disasters, and war, civil strife or other similar violence.

The applicant will provide financial assurance for the decommissioning costs in the form of a performance bond or a surety bond, for the total cost of decommissioning. The applicant will have the financial assurance mechanism in place prior to construction and will re-evaluate the decommissioning cost and financial assurance at the end of years five, ten and fifteen. Every five (5) years after the start of construction, updated proof of acceptable financial assurance must be submitted to the Town for review. Proof of acceptable financial assurance will be required prior to the start of commercial operation.

- 8. Permit Fees:** Application for a PRSES shall be accompanied by a fee of fifty (\$50.00) dollars. An application for a CSES or ISES permit shall be accompanied by a fee of five-hundred (\$500.00) dollars.
- 9. Expiration of Approval:** All PRSES, CSES, and ISES approvals shall expire within one (1) year of the date of issuance unless work thereunder is commenced. Normally, if work is not completed within two (2) years from the date of issuance, a new application must be made (See 11.). The CEO shall make determinations regarding commencement and completion. All CSES and ISES approvals shall expire upon decommissioning (See 7.s).

- 10. Extension of Approval:** PRSES, CSES, and ISES approvals may be extended for one (1) year from the date of issuance by the CEO for projects not commencing within one (1) year of initial Board approval. Written extension requests must be submitted to the CEO at least forty-five (45) days before the one (1) year expiration. Proposal approvals which are granted a one (1) year extension from the date of issuance shall also have their completion date extended by one (1) year.

Before extending an approval, the CEO must determine that extenuating circumstances beyond the control of the applicant exist. Extenuating circumstances may include but are not limited to: procurement of financing; legal issues; availability of materials; availability of qualified contractors; and adverse weather conditions.

- 11. Extension of Completion Date:** The CEO may extend the completion date of a commence approved project by one (1) year beyond the allotted two (2) years. In determining this extension the CEO shall consider factors such as, but not limited to: financial hardship; legal difficulties; site condition problems; contract delay; disruption in supply of labor and/or materials; or personal issues.
- 12. Exemptions:** All solar energy systems constructed prior to the effective date of these performance standards (November 22, 2016) shall not be required to meet the terms and conditions of same. Any physical modification that expands a PRSES, CSES, or ISES, whether or not existing prior to the effective date of these performance standards, shall require approval. Routine maintenance or replacements do not require a permit.

**13. Definitions:**

**Commercial Solar Energy Systems (CSES):** An area of land or other area used by a business for a solar collection system principally used to capture solar energy, convert it to electrical energy or thermal power, and supply electrical or thermal power, primarily or solely for on-site commercial use, and consisting of one or more free-standing, ground or roof mounted, solar arrays or modules, or solar related equipment, intended to primarily reduce on-site consumption of utility rated nameplate capacity of up to 250 kW.

**Industrial Solar Energy Systems (ISES):** An area of land or other area used by a property owner and/or corporate entity for a solar collection system principally used to capture solar energy, convert it to electrical energy or thermal power, and supply electrical or thermal power, primarily or solely for off-site utility grid use, and consisting of one or more free-standing, ground-mounted, solar arrays or modules, or solar related equipment, intended to primarily reduce off-site consumption of utility power and/or fuels. ISES can be up to eight hundred (800) acres in surface area, with no limit on the surface area or the rated nameplate capacity of an ISES.



**Private Residential Solar Energy Systems (PRSES):** An area of land or other area used for a solar collection system principally used to capture solar energy, convert it to electrical energy or thermal power, and supply electrical or thermal power, primarily or solely for on-site residential use, and consisting of one or more free-standing, ground or roof mounted, solar arrays or modules, or solar related equipment, intended to primarily reduce on-site consumption of utility power and/or fuels. PRSES can be up to two thousand (2,000) square feet in surface area, with a rated nameplate capacity of up to 20kW.

## **L. Odor Nuisance Control & Abatement**

**1. Purpose.** The Town finds that because most odorous pollutants have a complex chemical composition and may elicit a broad spectrum of responses by the receptors, special methods must be employed in their measurement and characterization. Although analytical data are more precise and may be useful in identifying a source, it is the human response or the sensory data that is most critical in determining the necessary degree of odor control. Analytical data may be used to specify permissible emission levels from a source, but sensory data must be employed to assess the impact in the surrounding community. The latter is the Town's primary concern.

**2. Administration and Enforcement.** The Code Enforcement Officer of the Town of Farmington shall initially and primarily administer and enforce this Performance Standard until such time any violation is forwarded to the Town's Attorney to force compliance.

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

**4. Farm Odors.** Nothing in this performance standard shall be construed to limit any protection afforded to odor generating farming practices under either State or Town Right-To-Farm law and ordinance, as long as said farming practices are in compliance with said Right-To-Farm law and ordinance.

**5. Objectionable Odor Determination.** An odor will be deemed objectionable and a public nuisance when any of the following occurs:

- a. It creates a public nuisance at common law; or
- b. The erection, continuance or use of any building or place for the exercise of trade, employment or manufacture which, by noxious exhalations or offensive smells, become injurious and dangerous to the health, comfort or property of individuals or the public; or
- c. All members of a panel consisting of the Code/Planning Department and four (4) residents of the Town, appointed by the Board of Selectmen to assist the Code/Planning Department in investigating complaints and who are not aggrieved by the source, determine following concurrent personal observation, that the odor at the property line of the source based on Town Tax Maps or

elsewhere in the Town is objectionable, and/or negatively impacts public health and/or welfare, and/or interferes with enjoyment of life and/or property use of affected parties, taking into account its nature, and/or concentration, and/or location, and/or volume, and/or level, and/or character, and/or degree, and/or duration, and are able to identify the source.

**6. Observation Procedures.** Odor observation shall be undertaken to arrive at a determination that an objectionable odor exists at or beyond the property line, or at or near places where people live or work.

**7. Compliance.** No odor source, land use, facility, or activity shall be exempt from complying with the odor management standards contained in this Performance Standard because of grandfathering or because of being an existing use, facility, or activity at the time the standards were enacted. The odor standards apply to all existing and future odor sources, land uses, facilities, and activities in the Town, except as otherwise provided herein.

**8. Enforcement.** In the event that the Code/Planning Department receives complaints that smells or odors are detectable beyond the property line, the following process shall be used to correct the odor problem:

- a. Within seven (7) days of receiving a complaint, the Code/Planning Department shall investigate the property to assess the situation and discuss odor compliance with the business operator, including but not limited to asking the business operator what is being done to mitigate odors. If the Code/Planning Department detects odor beyond the property lines and/or the operator indicates that its own odor management provisions are not being followed, the Code/Planning Department shall provide verbal notice of violation to the operator and instructions to comply with odor management provisions and require the operator to notify the Code/Planning Department of conformance within ten (10) days.
- b. If complaints persist and/or the Code/Planning Department continues to observe an odor issue, the Code/Planning Department shall assemble the panel authorized as described above to investigate the complaints. If the Code/Planning Department and the panel observe odor issues after the ten (10) day period as described above, the Code/Planning Department shall notify the operator of violation in writing and require notification of conformance within ten (10) days.
- c. If complaints persist and/or the Code/Planning Department and the panel continue to observe odor issues after the ten (10) day period described above, the Code/Planning Department shall provide a second written notice of violation, and require the operator to submit a written report from a mechanical engineer with recommendations for modification/improvement of the ventilation system within forty-five (45) days and installation of recommendations and notice of compliance within sixty (60) days.

- d. If the operator has not submitted the required report within forty-five (45) days, or if the operator has not submitted evidence of compliance within sixty (60) days described above, the Code/Planning Department shall provide a third written notice of violation.
- e. If the operator has not submitted required report within sixty (60) days described above or if the operator has not submitted evidence of compliance within seventy-five (75) days, the Code /Planning Department shall forward the matter to the Town's Attorney, in order to obtain a court order forcing compliance by the operator, including temporary cessation of the business operations and the imposition of fines and/or penalties.

#### **11- 8.12. Appeals:**

Administrative appeals and variance applications submitted under this Ordinance shall be subject to the standards and procedures established by the Town of the Farmington Board of Appeals Ordinance.

Any person aggrieved by the action of the Code Enforcement Officer or the Board may appeal to the Board of Appeals by filing a notice of appeal within thirty (30) days after receipt of the Code Enforcement Officer or the Board's notification.

#### **11 – 8.13. Amendments:**

**A. Initiation of Amendments:** An amendment to this Ordinance may be initiated by:

1. The Board of Selectmen, provided a majority of the Board of Selectmen has so voted; or
2. Written petition of a number of voters equal to at least ten percent (10%) of the number of votes cast in the municipality at the last gubernatorial elections.

#### **B. Hearings:**

Board of Selectmen shall hold a public hearing on the proposed amendment in accordance with 30-A M.R.S. §4352 (9). Notification of the hearing shall be posted and advertised twice in a newspaper of general circulation in the municipality. The date of the first publication must be at least fourteen (14) days before the hearing and the second notification must be at least seven (7) days before the hearing. Notice of the hearing must be posted in the municipal office building at least fourteen (14) days before the hearing. Notice must be also sent to the owner(s) of the property to be rezoned and to the owners of all property abutting the property to be rezoned at the owners' last known address. Additional notification is required if the area to be rezoned is in the Wellhead Protection Zone or is to be re-zoned as resource protection (Shoreland Zoning).

### **C. Source Water Protection Area:**

If the area to be re-zoned is in the Wellhead Protection area, the public drinking water supplier shall be notified by regular mail.

### **D. Resource Protection Area (Shoreland Zoning):**

If the area to be re-zoned is resource protection, the municipality shall provide written notification to landowners whose property is being considered by the municipality for placement in a resource protection zone. Notification to landowners must be made by first-class mail to the last known addresses of the persons against whom property tax on each parcel is assessed fourteen (14) days before the Board of Selectmen votes to establish a public hearing on adoption or amendment of a zoning ordinance or map that places the landowners' property in the resource protection zone.

Once a landowner's property has been placed in a resource protection zone, individual notice is not required to be sent to the landowner when the zoning ordinance or map is later amended in a way that does not affect the inclusion of the landowner's property in the resource protection zone.

The municipal officers shall prepare and file with the municipal clerk a sworn, notarized certificate indicating those persons to whom notice was mailed and at what addresses, and when, by whom and from what location notice was mailed.

### **E. Adoption of Amendment:**

An amendment of this Ordinance shall be adopted by a majority vote of a Town Meeting.

## **11 – 8.14. Enforcement:**

### **A. Nuisances:**

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

### **B. Code Enforcement Officer:**

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 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.
2. 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 the Ordinance.

3. 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.

#### **C. Legal Actions:**

When the above action does not result in the correction or abatement of the violation or nuisance condition, the Municipal Officers, upon receiving written notification from the CEO, are hereby directed to institute any and all actions and proceedings, either legal or equitable, including injunctions of violations and the impositions of penalties and/or fines in order to enforce the provisions of this Ordinance.

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.

#### **D. Penalties/Fines:**

Any person, including but not limited to a landowner, a landowner's agent or a contractor, who orders or conducts any activity in violation of this Ordinance, or upon failure to comply with any of its requirements, shall be penalized in accordance with title 30-A M.R.S. §4452. The owner or tenant of any building, structure, premises, or part thereof and any architect, builder, contractor, agent, or other person who commits, participates in, or maintains such violation may be found guilty of a separate offense and be subject to the penalties herein provided.

# Town of Farmington Zoning Map

