2018

Town of Lamoine Maine Ordinances

Lamoine, Me.

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GUIDE TO THE USER

Every person planning a building project of any kind or a project that changes the existing use of buildings or land must follow the instructions in this ordinance. See Section 1. Scope on page 5.

Who Is Responsible for Following the Ordinance? The landowner is responsible. If he or she employs others, both the landowner and her/his designee are responsible for following the requirements.

How Is the Ordinance Organized?

I. Sections 1 - 9 provide the basic requirements for all building and land use in Lamoine. They cover such important information as what kinds of structures and land uses are permitted, from whom the permit must be obtained (Table H&I, pages 10 & 11), lot standards, construction standards, and fees.

II. Sections 10 – 16 spell out specific requirements for each of the major types of development permitted in Lamoine: Single and Two- Family Dwellings/Accessory Units; Multi-Family Dwellings; Subdivisions; Cluster Housing; and Commercial and Industrial uses. Multi-family dwellings and cluster housing require site plan review. Commercial, Industrial and Accessory Dwelling structures including Residential Accessory Structures uses require site plan review if the proposed development or structure exceeds 2,000 square feet or impacts over 10,000 square feet of land over a 5-year period. (See Lamoine Site Plan Review Ordinance for requirements.) If an applicant proposes building or land use that is not encompassed by one of these sections, the general requirements in Sections 1 - 9 apply.

III. Definitions: Section 17 defines terms used in all sections of this ordinance.

Where Can the Applicant Obtain Assistance? The Code Enforcement Officer and the Administrative Assistant to the Board of Selectmen for the Town of Lamoine are available to answer questions about the application process. Call 667-2242.

Applications. All applicants must use the “Building & Land Use Permit Application” Form. Other information is required for subdivisions, cluster housing, and commercial/industrial permits. The Code Enforcement Officer and the Planning Board may require further information as well. Applications may be obtained at the Town Office, 606 Douglas Highway, Lamoine, ME 04605.
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Part I. General Requirements for All Building and Land Use

SECTION 1. SCOPE

The provisions of this ordinance shall apply to the location of structures, including streets and driveways, on the land and to new construction, reconstruction, conversion to a different use, substantial additions, relocations, and replacement of any building or significant segment thereof, including all trailers, recreational vehicles, and/or manufactured homes when connected to any utility and/or used as a residence for a period of more than 30 days. This ordinance does not require that a permit be obtained for the construction or placement of a dog house, children's playhouse, tool shed, or similar small building having not more than 100 square feet providing such structures meet all other requirements of this ordinance. Such uses require a Shoreland permit if located in the Shoreland Zone.

SECTION 2. PURPOSE

The building and land use ordinance for the Town of Lamoine (hereinafter referred to as the Town) provides for the safety, health, and public welfare of the Town through the regulation of construction, expansion, conversion to a different use, relocation, or replacement of buildings, trailers, recreational vehicles and/or manufactured homes or significant segments thereof and their location on the lot.

SECTION 3. GENERAL REQUIREMENTS

All applications for construction permits shall be subject to the requirements of this ordinance. The Code Enforcement Officer and any municipal board described in this ordinance shall consider the following general requirements in reviewing applications for a building permit. In all instances, the burden of proof in assuring compliance with these requirements shall be upon the applicant and, in reaching a determination, the Code Enforcement Officer or municipal board may require the applicant to provide, at the applicant's expense, sufficient information to permit sound judgments regarding the applicant's compliance with these requirements.

A. Conformance with Other Laws and Regulations

The proposed development shall be in conformance with the Town's Comprehensive Plan and all pertinent local, state, and federal ordinances, statutes, laws, and regulations. The Maine Uniform Building and Energy Code (referred to as MUBEC), applies to construction in the Town of Lamoine but the Town does not perform inspections for compliance with it. Owners and builders are responsible for obtaining such inspections.
B. **Impact on Community Services**

1. The proposed structure or land use shall not have an unduly adverse impact on community services. Any proposed subdivision shall be reviewed by the Board with respect to its effect upon existing services and facilities. The Development Plan shall include a list of the construction items to be completed by the developer prior to the sale of lots, and an appraisal of construction and maintenance items that would be borne by the Town. This appraisal shall include, but not be limited to:

   a. Schools, including busing  
   b. Road maintenance, snow removal, and traffic control  
   c. Police and fire protection, including provision of water sources for fire control  
   d. Solid Waste Disposal  
   e. Recreation facilities  
   f. Runoff water disposal drainage ways and/or storm sewer enlargement with sediment traps  
   g. A water supply system.

2. The Board may further require the applicant to provide accurate cost estimates to the Town for the above services, and a projection of tax revenue from the structure or land use.

C. **Maintenance of Prescribed Building Lot Sizes and Set Backs**

All new buildings must conform to the standards contained in this and other applicable town ordinances.

D. **Land Not Suitable for Development**

The Code Enforcement Officer or the Planning Board shall not approve for the purpose of meeting lot size requirements portions of any proposed parcel or building lot that:

1. are situated below mean high water mark;  
2. are part of a right-of-way or easement, including utility easements, except for service feeds to two or fewer dwelling units;  
3. are located on land which must be filled or drained or on land created by diverting a watercourse. In no instance shall the Code Enforcement Officer approve any part of a lot located on wetlands or great ponds (natural bodies of water 10 acres or more in size);  
4. employ septic sewage disposal and do not meet or exceed the lot size guidelines for soil types (and slopes) as specified in (Appendix F of) "State of Maine Subsurface Wastewater Disposal Rules" as amended.

E. **Shoreland**

Wherever situated, in whole or in part, within 250 feet of the high water mark of any pond, lake, river, or tidal waters, a building lot, and all building and land uses on it, shall conform to the Shoreland Zoning Ordinance for the Town of Lamoine, Maine. A Shoreland Zone Permit must be obtained prior to any activity governed by the Building and Land Use Code on such a lot.
F. **Flood Plain**

The applicant will determine, and will provide sufficient evidence to the Board, that the proposed structure does not violate the Flood Plain Management Ordinance of the Town of Lamoine, Maine. Where required, a Flood Plain Permit must be obtained prior to any activities governed by the Building and Land Use Code.

G. **Ground Water Protection**

Groundwater, whether from the sand and gravel aquifer or from bedrock fractures, is a vital community resource and is currently the sole source of all drinking water in Lamoine. This ordinance endeavors to protect both the quality and quantity of this resource.

The applicant will provide sufficient evidence to the Board that the proposed use will not contaminate the quality of groundwater or threaten the quantity of uncontaminated groundwater available to other residents and land owners in the Town of Lamoine. Among uses subject to the requirements of this section are:

1. Tanks buried below the earth containing petroleum and other refined petroleum products.
2. All petroleum and hazardous chemical storage for commercial or industrial uses.
3. Engineered subsurface waste disposal systems as defined in Section 17 (definitions) unless the system is certified and approved by the State of Maine.
4. Septic systems serving three or more residential units unless the system is certified and approved by the State of Maine.
5. Commercial or Industrial uses not home occupations.
6. Salt/sand storage and loading areas.
7. Dumping of snow containing deicing chemicals.
8. Junkyards and automobile graveyards.
9. Sanitary landfills or demolition/stump dumps.
10. Commercial animal feed lots.
11. Metal plating.
12. Commercial motor vehicle repair or service.
15. Manufacture, storage, use, transportation or disposal of toxic or hazardous materials.
16. Mining operations
17. Sand and gravel extraction
18. Any use listed in Section 4, Table of Land Uses, of this Ordinance which, in the Planning Board’s judgment, may create a threat similar to the threats posed in 1. through 17. above.

When a proposed plan lacks sufficient information to enable the Planning Board to determine its impact on the quantity and/or quality of groundwater, the Planning Board shall require the applicant to submit a study by a certified professional hydrogeologist or registered professional engineer which shall evaluate the following (1 through 10 below) with respect to the proposed operation or use for which a permit is sought. The study shall provide sufficient detail to allow the Planning Board to determine whether the proposal creates a risk to Lamoine drinking water and, if so, whether that risk can be adequately contained.
Furthermore, the Planning Board may require an independent evaluation in addition to that submitted by the applicant. This evaluation shall be done by a certified professional hydrogeologist or registered professional engineer of the Board’s choosing. The hydrogeologist or engineer selected shall be required to estimate the cost of this evaluation and the applicant shall pay the Town of Lamoine the full estimated cost. At the completion of the review, any balance due shall be paid to the Town or any balance remaining shall be returned to the applicant.

The study must include:
1. A listing of all petroleum products, chemicals and agents to be used in the proposed operation.
2. The quantity of each such petroleum products, chemicals or agents to be used in a month.
3. Provisions for storage of the petroleum products, chemicals or agents before use.
4. The way in which the chemicals or agents will be used in the proposed operation.
5. The method of disposal of the chemicals or agents or any residue resulting from their use and provisions for storage prior to disposal.
6. Proposed containment structures or procedures for preventing escape of petroleum products, chemicals or agents.
7. The nature of any risk of escape from containment.
8. The potential damage to groundwater from an escape from containment.
9. Any set of regulations, standards or industry norms relating to the storage, use or disposal of the petroleum products, chemicals or agents which are directly applicable to the proposed use or represent industry or other “best use” standards. The required study shall contain citations to all regulations and standards of industry norms discussed.
10. A monitoring plan appropriate to the proposed project in sufficient detail to permit establishment of existing groundwater quality conditions (baseline) and continued assessment of threats to drinking water from the proposed project.

SECTION 4. LAND USE DISTRICT REQUIREMENTS

A. Establishment of Land Use Districts

To implement the provisions of this Ordinance and the Comprehensive Plan, the Town of Lamoine is hereby divided into the following Districts:

1. Residential Zone (RZ)
2. Development Zone (DZ)
3. Rural and Agricultural Zone (RAZ)

B. Location of districts

Said Districts are located and bounded as shown on the Official Land Use Map, entitled "Official Land Use Map of Lamoine, Maine", dated March 5, 1996, and on file in the office of the town clerk. The Official Map shall be signed by the town clerk and the chairman of the planning board at the time of adoption or amendment of this Ordinance certifying the date of such adoption or amendment. The Official Land Use Map is hereby made part of and incorporated into this Ordinance. A reduced copy of the Official Land Use Map is attached as an Exhibit to this Ordinance.

C. Uncertainty of boundary locations
Where uncertainty exists as to the boundary lines of Districts as shown on the Official Land Use Map, the following rules shall apply:

1. Boundaries indicated as approximately following the center lines of streets or highways, shall be construed to follow such center lines;

2. Boundaries indicated as approximately following established lot lines or town boundary lines shall be construed as following such lines;

3. Boundaries indicated as being parallel to or extensions of features listed above shall be so construed. Distances not specifically indicated on the Official Land Use Map shall be determined by the scale of the Map; and

4. Where physical or cultural features existing on the ground are at variance with those shown on the Official Land Use Map, or in other circumstances where uncertainty exists with respect to the location of a boundary, the Board of Appeals shall interpret the District boundaries and be the final local authority as to their location.

D. Division of lots by district boundaries

1. Where a District boundary line divides a lot or parcel of record, the regulations applicable to the less restricted portion of the lot may be extended not more than 50 feet into the more restricted portion of the lot. Less restrictive district requirements may not be applied to land areas under the jurisdiction of the Lamoine's Shoreland Zoning Ordinance. When less restrictive requirements are extended into a neighboring district, the proposed use shall be subject to Planning Board Review.

E. Purpose of the districts

1. Residential Zone: To preserve an area of relatively low cost housing and encourage new residences of all kinds (single family dwellings, two-family dwellings, and multi-family dwellings, and mobile and manufactured homes.) and home occupations convenient to the job market in Ellsworth. To prohibit new commercial and new strip development.

2. Development Zone: To encourage an area of mixed residential commercial and industrial uses.

3. Rural and Agricultural Zone: To encourage a mixture of residential, agricultural and limited commercial uses.

F. Basic requirements

1. For each land use district, uses are designated as either permitted with a land use permit from the Code Enforcement Officer, or permitted subject to Planning Board approval, and the issuance of a land use permit by the planning board. All proposed land uses must comply with the standards and criteria of Sections 5 & 6 of this Ordinance and all other sections pertinent to the specific proposed use.

2. For any type of land use not described in Table H, the Planning Board will determine the permissibility of that type of land use, and, if the use is found permissible, will make a determination to grant or not to grant a permit for the specific use proposed.
G. Table of land uses

Key to Table 1 (Section H):

<table>
<thead>
<tr>
<th>N</th>
<th>CEO</th>
<th>PB</th>
</tr>
</thead>
<tbody>
<tr>
<td>N</td>
<td>CEO</td>
<td>PB</td>
</tr>
</tbody>
</table>

- **N** = Not Allowed
- **CEO** = Use permitted with a land use permit from the code enforcement officer subject to all applicable standards, as found in the Lamoine Building and Land Use Ordinance and where applicable, the Lamoine Site Plan Review Ordinance.
- **PB** = Use permitted with a permit from the planning board. Subject to all applicable standards, as found in the Lamoine Building and Land Use Ordinance and where applicable, the Lamoine Site Plan Review Ordinance.

Dimensional and setback requirements for lots, dwelling units, and other principal or accessory structures are provided in Section 4.I. Lot Standards and Structure Setback Table.

The listing of uses permitted shall be either as defined in the ordinance or shall have their ordinarily accepted meaning.
### H. Table of Land Uses

#### Land Use Descriptions

<table>
<thead>
<tr>
<th>Land Use Description</th>
<th>Residential Zone (RZ)</th>
<th>Development Zone (DZ)</th>
<th>Rural &amp; Ag Zone (RAZ)</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. Campgrounds &amp; Travel Trailer Parks</td>
<td>N</td>
<td>PB</td>
<td>PB</td>
</tr>
<tr>
<td>2. Car Washing Establishments</td>
<td>N</td>
<td>PB</td>
<td>PB</td>
</tr>
<tr>
<td>3. Church, School, Library, or Public Buildings</td>
<td>N</td>
<td>PB</td>
<td>PB</td>
</tr>
<tr>
<td>4. Clinic or Office, Medical, Health, or Psychiatric</td>
<td>N</td>
<td>PB</td>
<td>PB</td>
</tr>
<tr>
<td>5. Cluster Housing</td>
<td>PB</td>
<td>PB</td>
<td>PB</td>
</tr>
<tr>
<td>6. Commercial - General</td>
<td>N</td>
<td>PB</td>
<td>PB</td>
</tr>
<tr>
<td>7. Commercial - Recreation</td>
<td>N</td>
<td>PB</td>
<td>PB</td>
</tr>
<tr>
<td>8. Dwelling - Single Family</td>
<td>CEO</td>
<td>CEO</td>
<td>CEO</td>
</tr>
<tr>
<td>9. Dwelling - Two Family</td>
<td>CEO</td>
<td>CEO</td>
<td>CEO</td>
</tr>
<tr>
<td>10. Dwelling - Multi Family</td>
<td>PB</td>
<td>PB</td>
<td>PB</td>
</tr>
<tr>
<td>11. Dwelling - Accessory Units</td>
<td>CEO</td>
<td>CEO</td>
<td>CEO</td>
</tr>
<tr>
<td>12. Home Occupations</td>
<td>CEO</td>
<td>CEO</td>
<td>CEO</td>
</tr>
<tr>
<td>13. Essential Services (non residential)</td>
<td>PB</td>
<td>PB</td>
<td>PB</td>
</tr>
<tr>
<td>15. Industries &amp; Business - Assembling &amp; Manufacturing Products Related to the Secondary Processing of Wood/Marine Products</td>
<td>N</td>
<td>PB</td>
<td>PB</td>
</tr>
<tr>
<td>16. Mineral Exploration&lt;sup&gt;2&lt;/sup&gt;</td>
<td>N</td>
<td>PB</td>
<td>N</td>
</tr>
<tr>
<td>17. Mobile Home Parks&lt;sup&gt;1&lt;/sup&gt;</td>
<td>N</td>
<td>N</td>
<td>PB</td>
</tr>
<tr>
<td>18. Motels, Hotels</td>
<td>N</td>
<td>PB</td>
<td>PB</td>
</tr>
<tr>
<td>19. Nurseries &amp; Garden Centers</td>
<td>N</td>
<td>PB</td>
<td>PB</td>
</tr>
<tr>
<td>20. Nursing Homes, Congregate Care</td>
<td>N</td>
<td>PB</td>
<td>PB</td>
</tr>
<tr>
<td>21. Other Uses Similar to Those Requiring Planning Board Review</td>
<td>PB</td>
<td>PB</td>
<td>PB</td>
</tr>
<tr>
<td>22. Petroleum Storage, and Distillation Facilities</td>
<td>N</td>
<td>N</td>
<td>N</td>
</tr>
<tr>
<td>23. Quarries</td>
<td>N</td>
<td>PB</td>
<td>N</td>
</tr>
<tr>
<td>24. Restaurants</td>
<td>N</td>
<td>PB</td>
<td>PB</td>
</tr>
<tr>
<td>25. Retail Business, Business &amp; Professional Offices</td>
<td>N</td>
<td>PB</td>
<td>PB</td>
</tr>
<tr>
<td>26. Salvage Yards, Junkyards, Scrap Metal Processing</td>
<td>N</td>
<td>PB</td>
<td>N</td>
</tr>
<tr>
<td>27. Sand/Gravel Pits, Etc.&lt;sup&gt;3&lt;/sup&gt;</td>
<td>N</td>
<td>PB</td>
<td>N</td>
</tr>
<tr>
<td>28. Service Stations, Vehicle</td>
<td>N</td>
<td>PB</td>
<td>N</td>
</tr>
<tr>
<td>29. Shops: Automobile Repair</td>
<td>N</td>
<td>PB</td>
<td>PB</td>
</tr>
<tr>
<td>30. Shops: Plumbing, Electrical, Carpentry</td>
<td>N</td>
<td>PB</td>
<td>PB</td>
</tr>
<tr>
<td>31. Signs</td>
<td>CEO</td>
<td>CEO</td>
<td>CEO</td>
</tr>
<tr>
<td>32. Small Lodging &amp; Tourist Bed &amp; Breakfast (5 Rooms or Less for Rent)</td>
<td>PB</td>
<td>PB</td>
<td>PB</td>
</tr>
<tr>
<td>33. Stand, Produce, Fruit &amp; Vegetables</td>
<td>CEO</td>
<td>CEO</td>
<td>CEO</td>
</tr>
<tr>
<td>34. Subdivisions</td>
<td>PB</td>
<td>PB</td>
<td>PB</td>
</tr>
</tbody>
</table>

<sup>1</sup> See Mobile Home Park Ordinance. Not permitted over Sand and Gravel Aquifer areas.

<sup>2</sup> See separate standards in the Lamoine Gravel Ordinance

<sup>3</sup> Land within the Rural and Agricultural Zone that had received or applied for a Site Plan Review permit for gravel operations before March 13, 2013, may continue to be eligible for gravel operations upon Planning Board approval of a gravel permit.

**NOTE:** If the applicant's lot lies within the Shoreland Zone or the Flood Management Zone, additional permits to those described above are required.
I. Lot Standards and Structure Setback Table

1. GENERAL

All land use activities within the Town of Lamoine shall conform with the following provisions if applicable. Additional specifications apply to specific uses and are detailed in Sections 10 - 15. Further, the Mobile Home Park Ordinance details standards and setbacks for mobile home parks. In shoreland areas, as defined, the Shoreland Zoning Ordinance shall apply. The standards of the Flood Plain Management Ordinance apply to all flood hazard areas identified in that ordinance.

2. LOT STANDARDS & STRUCTURE SETBACK TABLE

<table>
<thead>
<tr>
<th>Lot Standards &amp; Structure Setback Table</th>
<th>Residential Zone (RZ)</th>
<th>Development Zone (DZ)</th>
<th>Rural &amp; Agricultural Zone (RAZ)</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Minimum Lot Size (square feet)</strong></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>(per dwelling unit or principal structure(^2))</td>
<td>40,000(^1)</td>
<td>40,000(^1)</td>
<td>40,000(^1)</td>
</tr>
<tr>
<td><strong>Minimum Lot Public Road Frontage (ft)(^3)</strong></td>
<td>200(^4)</td>
<td>200(^4)</td>
<td>200(^4)</td>
</tr>
<tr>
<td>Minimum Front Yard Setback from the Centerline of a Public Road(^4,5)</td>
<td>75</td>
<td>75</td>
<td>75</td>
</tr>
<tr>
<td>Minimum Side &amp; Rear Yard Setback from a Lot Line (ft)</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Residential</td>
<td>25</td>
<td>25</td>
<td>25</td>
</tr>
<tr>
<td>Commercial -2000 sq ft or less</td>
<td>N/A</td>
<td>25(^4)</td>
<td>25(^4)</td>
</tr>
<tr>
<td>Large Commercial &amp; Industrial</td>
<td>N/A</td>
<td>See Note 5</td>
<td>See Note 5</td>
</tr>
<tr>
<td><strong>Maximum Lot Coverage including Driveways &amp; Parking Lots</strong></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Residential</td>
<td>25%</td>
<td>25%</td>
<td>25%</td>
</tr>
<tr>
<td>Commercial/Industrial</td>
<td>N/A</td>
<td>30%</td>
<td>30%</td>
</tr>
<tr>
<td>Subdivision (See BLUO Section 12.H)</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Maximum Building Height (ft)(^6)</td>
<td>35</td>
<td>35</td>
<td>35</td>
</tr>
</tbody>
</table>

\(^1\) Lot sizes can be reduced to 22,000 square feet if the lot is connected to a public water and sewer system.

\(^2\) Commercial and industrial usage (where allowed) requires 40,000 square feet of land for every 5,000 square feet of floor space or portion thereof in the building.

\(^3\) A dwelling unit or principal structure located within 200 feet of a Public Road and accessed from that road must have a minimum of 200 feet of frontage on that road.

\(^4\) Additional standards apply for subdivisions [see Sections 12(G) & 12(H)] and cluster housing [see Section 13 (B)].

\(^5\) For large commercial structures (over 2000 square feet of floor space) and industrial structures (where allowed) the setback will be at least 225 feet from the centerline of a Public Road, except that retail or service structures need only be set back at least 125 feet from the centerline of a Public Road. The setback from the side and rear adjoining lot lines will be at least 100 feet.

\(^6\) Auxiliary features of building and structures, such as chimneys, towers, ventilators, and spires may exceed the permitted maximum height of the structure, unless prohibited by other provisions of this ordinance.
SECTION 5. OTHER LOT REQUIREMENTS

A. Streets and Roads

Standards for the construction of streets and roads are found in Section 12-(F).

B. Locating street rights-of-way:

To locate the edge of a street right-of-way when no survey exists, find the apparent center of the traveled portion of the road and measure 25 feet to the assumed edge of the right-of-way.

C. Entrances to Roads & Streets:

A Lamoine Entry Permit is required from the Lamoine CEO or Road Commissioner prior to establishing access onto a public roadway in the Town of Lamoine except in cases where a State Entry Permit is required for a state road. Any access shall conform to Chapter 299 of the Maine Department of Transportation Highway, Driveway and Entrance Rules Part A Sections 1 & 2 and Part B Sections 1 & 2 and any subsequent revisions. Each lot shall be accessed by no more than one curb cut unless a waiver is granted by the Planning Board.

The following are the minimum standards for new or replacement driveway entrance culverts.

1. The culvert must be new, not used, and shall be supplied and installed by the permittee.
2. Culvert Diameter: minimum of 15" (12" if there is ledge, although with the smaller size, freezing is a strong concern). Final size is determined by the amount of runoff in a given location.
3. Length: minimum of 24' with a preference for 30' (30' helps prevent collapsing of the ends). A maximum length of 50' is allowed.
4. Materials: Aluminum Clad Corrugated Metal Pipe or plastic corrugated pipe are permitted. Plastic (HDPE) corrugated pipe must meet or exceed AASHTO specification M294. For 24" and larger diameters, 14 gauge material is required and below 24", 16 gauge is required. The use of bituminous coated corrugated metal pipe is prohibited.
5. Design Standards: Where the driveway is pitched upward from the road, the shoulder grade should be maintained as far as practical. The object is to help prevent water flowing down the driveway and onto the road where icing is a problem in winter. Where maintaining shoulder grade is not practical, some other means of diverting water flow should be provided.

D. Driveways: Widths and Setbacks

Each lot shall be provided with a driveway at least ten (10) feet in width. The edge of all driveways must be set back 15 feet from side and rear lot lines. Driveway setbacks may be less than 15 feet with the written agreement of all landowners abutting the proposed driveway.

E. Private Ways: Construction Standards

All private ways shall meet the requirements in Section 5.D above and the following:

a. Within every 500-foot section of a private way, an area twenty (20) feet in width and fifty (50) feet in length shall be constructed for the purpose of allowing two vehicles to pass.
b. Prior to final approval the private way shall receive written approval from the Lamoine Fire Chief or his designee.

c. Any proposal to increase the number of lots to be served by a private way to three (3) or more must include a plan to upgrade the private way to the Minimum Standards for Street Design and Construction as found in Section 12. F. of the Lamoine Building and Land Use Code, provided the proposed construction creates a subdivision as defined in the ordinance.

F. Off-Street Parking:
Off-street parking shall be provided with a minimum of 300 square feet per dwelling unit in the case of all residential structures; in the case of commercial and industrial structures, 600 square feet per each 5,000 square feet of floor space or portion thereof. This may be accomplished by driveway space, garage space, parking lot space, or any combination of the three.

G. Adequacy of Soils for Sewage Disposal:
All lots suitable for building purposes requiring sewage disposal must be served by septic systems which meet the standards prescribed in the Maine State Subsurface Wastewater Disposal (SSWD) Rules, Part II (most recent edition).

1. The Plumbing Inspector shall issue all septic system permits for all lots in the Lamoine Shorelands Zone.

H. Non-Conforming Lots of Record:
Any non-conforming lot of record existing before March 1976 and not adjoined by other land of the same ownership may be used if it is in accordance with all other provisions of this ordinance and state law. Any non-conforming lot of record established between March 1976 and May 1999, not adjoined by other land of the same ownership but conforming to prior law at its date of purchase, may be used if in accordance with all other provisions of this ordinance and state law and if the applicant demonstrates that steps will be taken to prevent water pollution.

I. Non-Conforming Structure:
If any portion of a structure does not meet the dimensional requirements of the Building and Land Use Ordinance, that portion of the structure shall not be expanded by more than 30% in floor area or volume.

SECTION 6. CONSTRUCTION STANDARDS

A. Height:
No principal or accessory conventional structure shall exceed two stories in height nor shall any structure exceed 35 vertical feet (See definition of building height), except for municipal buildings, steeples, silos, detached barns, water towers or other accessory structures not designed for human habitation.

B. Electrical Installation:
All buildings shall have a safe and adequate electrical service. All wiring shall meet the standards of the National Electrical Code.
C. Plumbing and Heating:

All plumbing and sewage disposal shall be in strict conformance with State of Maine legal requirements and the State of Maine Plumbing Code. No overboard discharges into surface waters are allowed. All heating shall be installed in conformance with applicable State of Maine laws and plumbing codes.

D. Signs

Signs and Billboard shall not exceed 16 square feet in area, 8 feet in height from grade and two signs per premise. A permit must be obtained from the Code Enforcement Officer and placement of signs on a premises must be approved by the Lamoine Road Commissioner or the Maine Department of Transportation.

SECTION 7. APPLICATIONS, REVIEW CRITERIA AND ADMINISTRATION

The Planning Board shall administer these provisions. The Planning Board shall retain oversight responsibilities for any construction or reconstruction while it is being proposed, during the construction work, and following its completion. The Planning Board shall call on the services of the Code Enforcement Officer for its administrative purposes.

A. Code Enforcement Officer

The Code Enforcement Officer shall be appointed by the Board of Selectmen and shall have the powers and responsibilities described in this ordinance and specifically designated by the Board of Selectmen under Maine statute.

B. Application Procedure

1. Before the construction, reconstruction, conversion to a different use, substantial addition, relocation, or replacement of any structure or significant segment thereof shall be commenced, the owner or lessee, or the architect, contractor, or builder employed by such owner or lessee shall obtain from the Code Enforcement Officer or Planning Board, as appropriate, a permit covering such proposed work.

2. Application in General:

   a. All applications for the permits shall be in writing and in such form as the Board may prescribe. (Consult the Town Office or Code Enforcement Officer to obtain the correct forms). All applications shall contain, at a minimum, a description of the proposed activity including size, location, setbacks and side and rear yard widths of all structures, roadways and parking areas and utilities associated with the building. The application shall also contain a statement of the uses to which any buildings or other structures will be put and shall be dated on the day of submission to the Code Enforcement Officer or Board.

   b. Specific application instructions are found in Sections 10 – 16 to cover the following uses:

      Section 10 - Single-Family and Two-Family Dwellings and Accessory Dwelling Units
3. Plumbing permit: A plumbing permit, when required, must be issued by the Lamoine Plumbing Inspector before a construction permit is issued. An internal plumbing permit is required for all new or relocated plumbing fixtures.

4. Review Criteria

The Planning Board and/or Code Enforcement Officer, as appropriate, shall consider the following criteria and before granting approval shall determine that the proposed building and land use will:

a. meet all lot size, density, and open space requirements;
b. meet all setback, side and rear yard width, and buffer requirements;
c. provide easements, road access, and utility installation as prescribed in this and other Town ordinances;
d. not result in undue water, soil, or air pollution. In making this determination the Board shall at least consider: The elevation of land above sea level and its relation to the floodplains; the nature of soils and subsoils and their ability to adequately support waste water disposal; the slope of the land and its effect on effluents; the availability of streams for disposal of adverse effluents; the applicable state and local health and water resources regulations; and the applicant's submission of required assessments by certified professionals;
e. not whenever situated in whole or in part within 250 feet of any pond, lake, river or tidal waters, adversely affect the quality of such body of water or unreasonably affect the shoreline of such body of water or the uses to which it is customarily put;
f. not, alone or in conjunction with existing activities, adversely affect the quality or quantity of groundwater or cause an unreasonable burden on any existing water supply;
g. have sufficient water available for the foreseeable needs of the subdivision;
h. not cause unreasonable soil erosion or reduction in the capacity of the land to hold water or support vegetation so that a dangerous or unhealthy condition may result;
i. meet street design standards as specified in Town ordinances;
j. not cause unreasonable highway or public road congestion or unsafe conditions with respect to use of the highways or public roads existing or proposed;
k. provide for adequate sewage, solid waste, and waste water disposal in a manner which does not cause an unreasonable burden on municipal services;
l. not have an unduly adverse effect on the scenic or natural beauty of the area, geographic or historic sites, rare and irreplaceable natural areas, or any public rights for physical or visual access to the shoreline;
m. not significantly alter the demand for any municipal service or facility without providing a means acceptable to the Board for supporting the Town's ability to provide the service or facility;
n. provide for an adequate supply of water for fire protection as specified herein;
o. not violate the Town's Floodplain Management or Shorelands Ordinances;
p. be in conformance with this ordinance and the Town's Comprehensive Plan.

5. Permit Approval: The Code Enforcement Officer or Planning Board, as appropriate, after proper examination of the application, shall either issue the requested permit or transmit notice of refusal within 30 days of the date of submission of a complete application and other information the Board or Code Enforcement Officer deems necessary to make a decision as to compliance. Notice of refusal shall be in writing and shall state the reasons therefore. Copies of the notice of refusal or of the permit shall be forwarded to the Board, the Board of Assessors, and the Board of Appeals.

6. Life of the Permit: All building permits shall be void unless work thereunder is commenced within one year from the date of issuance and completed sufficiently within two years, unless an extension is granted by the Planning Board.

7. Display of Permit: Every construction permit shall be displayed in a conspicuous place on the premises, clearly visible from the principal traveled street, and shall not be removed until all work covered by the permit has been approved.

C. Inspection

1. Inspection: The Code Enforcement Officer (or other municipal or licensed official as appropriate) shall inspect all projects for the purpose of administering and enforcing the provisions of this ordinance and all other applicable local and state laws affecting such activities. This shall include, but not be limited to, the inspection of placement of structures on the property to permit a determination that the building in fact conforms to the plans proposed in the application. Specifically, all construction shall be inspected at least at the following points by the appropriate town official:

   a. after the foundation forms or footings are placed, but prior to pouring concrete (contact the Code Enforcement Office to check for lot lines and road setbacks);
   b. after sewage disposal system is laid out but prior to covering (contact the Plumbing Inspector);
   c. After septic system is covered to assure site stabilization and seeding (contact the Plumbing Inspector for final inspection);
   d. after plumbing has been installed but prior to covering (contact the Plumbing Inspector to check waste and water line pressure).
   e. after completion for a certificate of completion if, upon inspection, the development is found to comply with this ordinance and other applicable ordinances of the Town of Lamoine. Certification or compliance with MUBEC is the responsibility of the developer, contractor, and/or owner.

2. Right of Entry: The Code Enforcement Officer, Plumbing Inspector, Addressing Officer, members of the Board of Assessors, members of the Planning Board, and other qualified officials in performance of their duties may enter any lot or building, with permission, for the purpose of making the inspection required by this ordinance.

D. Fees

1. An application for any permit required by this ordinance shall be accompanied by fee(s) as established by the Lamoine Board of Selectmen. No action shall be taken on any application
until the fee(s) have been received by the Town. The application fee(s) shall not be refundable. The fee(s) shall be paid to the Town of Lamoine and shall accrue to the Code Enforcement Fund to be used for the administration and enforcement of town ordinances. A Schedule of Fees is located at the Town Office.

2. Impact Fee: In the event that the Planning Board's findings indicate that the proposed development will create a significant burden on existing or future municipal services, the Board may levy a fee to offset the burden of capital improvement. The fee shall be calculated to apply against significant capital improvement costs required of the Town to service the development and its residents (see Section 3 above). The Board may require the applicant to provide accurate estimates of costs required to service the proposed development, and the expected revenue from the development.

3. In addition to the fees set out above, the applicant shall be required to pay the costs of independent evaluations of a proposed development, either as required in this ordinance or as the Planning Board may find such evaluations necessary or desirable in its deliberations. The Planning Board may require such evaluation in all appropriate situations, including those where the applicant has submitted a professional evaluation covering the subject matter. In any case in which a fee for independent evaluation is required the Planning Board will request from the applicant a reasonable additional sum, to be paid at a time determined by the Planning Board; and funds not expended for the specified uses will be returned to the applicant.

E. Certificate of Completion

No structure shall be occupied after its construction, conversion to another use, relocation, or replacement until a certificate of completion is issued by the Code Enforcement Officer. The Code Enforcement Officer shall issue said certificate after proper examination establishes that internal plumbing, septic disposal system, and placement of the structure on the property is in compliance with the provisions of this ordinance and consistent with the plans submitted by the applicant.

SECTION 8. APPEALS AND VARIANCES

A. Variance Appeals:

The Board of Appeals may grant a variance from the strict application of this ordinance provided that the applicant applies for such a variance within 30 days of a building permit decision and that the applicant can demonstrate that the strict application of the ordinance would result in undue hardship. No variance shall be granted which circumvents a prior subdivision ruling by the Planning Board. The fee for such application shall be $50.00.

B. Administrative Appeals:

The Board of Appeals, upon written application of an aggrieved party within 30 days of a Code Enforcement Officer or Planning Board determination, and after public notice, may hear appeals of such determinations on administrative grounds. Such hearing shall be held in accordance with state laws. Following such hearings, the Board of Appeals may reverse the decision of the Code Enforcement Officer or Planning Board only upon a finding that the decision is clearly
contrary to specific provisions of this ordinance. Appeals hearings will be conducted as an appellate hearing and review of the decision under appeal, except for variance appeals, or appeals made as a result of a tie vote of the Planning Board, which shall be heard and acted on de novo. The fee for such application shall be $50.

C. Appeal to Superior Court:
An appeal may be taken within 45 days after any decision is rendered by the Board of Appeals, by an aggrieved party, to Superior Court in accordance with state law.

SECTION 9. ENFORCEMENT
This code shall be administered by the Planning Board and enforced by the Code Enforcement Officer and Board of Selectmen. Any action needed to enforce the provisions of this ordinance shall be taken by the Selectmen of the Town of Lamoine on their own motion or on the recommendation of the Planning Board or the Code Enforcement Officer.

A. Code Enforcement Officer.

1. The office of Code Enforcement Officer is hereby created. The Code Enforcement Officer shall be appointed by the Board of Selectmen for the purposes of ensuring compliance with, and assisting the Planning Board in the administration of, all town ordinances and regulations. The Code Enforcement Officer shall perform administrative and enforcement activities as directed by the Board of Selectmen under the authority of town ordinances and regulations.

2. The Planning Board shall call on the services of the Code Enforcement Officer for its administrative purposes, and the Code Enforcement Officer shall be responsible to the Planning Board in the performance of Board-related duties. The Officer shall review all applications required to be submitted under this section and shall make findings and recommendations to the Planning Board. The Officer shall conduct such inspections and research as the Planning Board may request, and shall notify the Planning Board of any apparent violation of this section or any orders or conditions of the Planning Board. In addition, the Officer shall keep complete records of all applications submitted, applications approved or denied, appeals, court actions, and investigations of violations.

B. Violations.

Any building constructed or work performed in violation of the provisions of this Ordinance or of any permit issued by the Code Enforcement Officer or Planning Board, or any occupancy of any building constructed as a dwelling or of any commercial or industrial structure without the required certificate of completion, shall be considered a nuisance.

See Section 12 (N) for specific conditions covering violations in subdivisions, cluster housing, and commercial or industrial uses.

C. Fines.

1. Dwellings and Uses Other than Subdivisions, Cluster Housing, and Commercial/Industrial Uses: Any person found guilty of violating any provisions of the Ordinance, except those
governing subdivisions, cluster housing, and commercial/industrial uses, shall be subject to a fine of not more than $250 for each offense. Each day in which a violation is proved to exist shall constitute a separate offense under this section.

2. See Section 12(N) for specific conditions covering fines for Subdivisions, Cluster Housing, and Commercial/Industrial Uses:
PART II: APPLICATION PROCEDURES AND STANDARDS FOR SPECIFIC USES

SECTION 10. SINGLE FAMILY DWELLINGS, TWO-FAMILY DWELLINGS, AND ACCESSORY DWELLING UNITS

A. Single Family Dwellings
   Any structure containing only one (1) dwelling unit for occupation by not more than one (1) family must conform to the requirements described in Sections 1-9. Permits are issued by the Code Enforcement Officer and must follow procedures described in D. below.

B. Recreational Vehicles Used As Dwelling Units
   Recreational Vehicles used as dwelling units on a lot for more than 30-days must obtain a construction permit.

C. Two-Family Dwellings
   Any structure containing only two (2) dwelling units for occupation by not more than two (2) families must conform to the requirements described in Sections 1-9. Permits are issued by the Code Enforcement Officer and must follow procedures described in D. below.

D. Accessory Dwelling Units
   1. **Creation of an Accessory Dwelling Unit** - The purpose of this provision is to permit creation of a single, accessory dwelling unit within and incidental to an existing single-family dwelling. The creation of an accessory dwelling unit (see definition) within a new single-family dwelling shall also be permitted. Accessory dwelling units shall only be created where the single family character of the main building is maintained.

   2. **Requirements** - The following requirements shall be in addition to other requirements of the Building and Land Use Ordinance. No accessory dwelling unit is permitted where a variance to the Building and Land Use Ordinance is required. The Planning Board may permit creation of an accessory dwelling unit, subject to the applicant's compliance with the provisions of sections 6 and 7 of the Building and Land Use Ordinance. Accessory dwelling units shall be considered a single-family dwelling for purposes of compliance with sections 6 and 7. Additionally, accessory dwelling units shall meet the following provisions:

      a. A lot must have a minimum of 40,000 sq. ft. to be eligible for the addition of an accessory dwelling unit to an existing single-family home. The applicant shall have the burden to establish the lot area by a survey signed and sealed by a registered Maine surveyor. The applicant shall also demonstrate that the subsurface waste water disposal system complies with the State of Maine Plumbing Code.
b. An accessory dwelling unit may only be created in a single-family detached dwelling which has a total existing floor area of the structure, excluding garages, of 1,600 sq. ft. or more prior to the addition of the accessory dwelling unit.

c. The accessory dwelling unit shall occupy no more than twenty-five percent (25%) of the resulting floor area of the structure, as defined herein, excluding garages. In no event, however, shall the floor area of the accessory unit be less than a minimum of 400 sq. ft. An interior connecting doorway between the single-family dwelling and the accessory dwelling unit shall be provided that promotes commingling of the residents of the accessory unit. The doorway shall not permit the informal extension or expansion of the allowable dimensions of the accessory dwelling unit.

d. Any addition to the floor area of the single-family detached dwelling to create the accessory dwelling unit shall not exceed 15% of the floor area of the structure of the single-family dwelling prior to conversion.

e. One parking space shall be provided for the accessory dwelling unit in addition to parking for the single-family dwelling. The parking space must be located a minimum of fifteen feet (15') from the side and rear property lines. The parking areas for the lot shall be arranged and landscaped to be compatible with adjacent structures.

f. Any exterior alteration shall preserve the single-family appearance, architectural style, and character of the original structure and shall be in harmony with the design of the original structure and the general appearance of the neighborhood. Any exterior alteration shall preserve the formal, front entrance of the original structure in order to maintain the single-family appearance and architectural style of the structure, although a secondary entrance which serves the accessory dwelling unit may be permitted. Any secondary entrance shall not detract from the main entrance and shall not be located on the face of the building where the main entrance is located. A secondary entrance shall not negate the requirement for the interior connecting doorway described above D2c.

g. The single-family dwelling and the accessory dwelling unit installed therein shall be held in the same ownership. No rights shall accrue to the recipient of the accessory dwelling unit building permit unless the recipient records and attests copy of the building permit in the Hancock County Registry of Deeds within 90 days of final approval of the building permit for accessory dwelling unit. No rent may be charged by the owner of the single-family dwelling to the occupant of the accessory dwelling unit, but co-mingling of incomes for common household expenses is allowed. Upon vacancy of the accessory dwelling unit by a close, personal relative(s), the accessory dwelling unit may not be rented to the general public, and it may only be occupied by another close, personal relative as defined in (Section 17).

E. Application Procedures

1. All applications for permits shall be in writing and on such forms as the Board may prescribe.
2. Permit applications shall contain a description of the proposed activity including size, location, setbacks and side and rear yard widths of all structures, roadways and parking areas and utilities associated with the building. The application shall also contain a statement of the uses to which any buildings or other structures will be put and shall be dated on the day of submission to the Code Enforcement Officer or Planning Board.

3. See Section 7B for requirements regarding plumbing and other permits.

SECTION 11. MULTI-FAMILY DWELLINGS

New multi-family structures, including apartment houses, cluster housing, motels, campgrounds, and condominiums, shall conform to the permits, procedures and standards described in Section 12, Subdivisions and shall, where required, meet all standards described in Lamoine’s Site Plan Review Ordinance.

SECTION 12 SUBDIVISIONS

A. Scope

A subdivision shall be the division of a tract or parcel of land, as defined in the State Statutes, MRSA, Title 30, Section 4956, into 3 or more lots for the purpose of sale, development, or building. The terms, development and building, shall refer broadly to the establishment of buildings or developments for purposes including, but not limited to, cluster housing, mobile home parks, campgrounds, motels, and apartment or cooperative housing with multiple building or dwelling units. The establishment of 3 or more dwelling units, lodging units, and/or commercial, industrial, institutional, or retail establishments on any one tract or parcel of land shall constitute a subdivision. A subdivision shall, where required, meet all conditions described in the Lamoine Site Plan Review Ordinance. (See Section G of the Site Plan Review Ordinance)

Any residential subdivision which proposes for any purpose, including subdivision roads, to pave, strip, grade or remove earth materials from vegetated areas of more than ten thousand (10,000) square feet within a five (5) year period shall meet all applicable conditions described in the Lamoine Site Plan Review Ordinance.

B. Purpose.

The purpose of this section is to provide the town with a review procedure for all subdivisions to assure the comfort, health, safety, and general welfare of the people. The section is designed to protect the environment, provide for the orderly development of a sound and stable community as described by its Comprehensive Plan, and control the density of its growth,
guarding it, for example, from overtaxing its municipal services, overburdening its soil with waste, or depleting or adversely affecting its groundwater, and assuring that water supplies and human and other waste disposal systems are adequate.

C. **General Requirements.**

In reviewing applications for the subdivision of land, the Planning Board (hereinafter called the Board) shall consider the following general requirements. In all instances, the burden of proof in assuring compliance with these requirements shall be upon the applicant for subdivision permit. In reaching a determination, the Board may require the applicant to provide sufficient information at the applicant's expense to ensure the application's compliance with these requirements.

1. **Impact on Community Services** (see section 3-B)

2. **Maintenance of Prescribed Building Densities and Setbacks.** To preserve the primarily residential character of the community as specified in the Town's Comprehensive Plan, no subdivision shall create a concentration of dwelling units exceeding one unit per 40,000 square feet within the subdivision parcel. For parcels of 12 units or more, an additional 20,000 square feet per unit must be provided for common recreational and open space uses. Further, all structures shall be located according to setbacks and side and rear yard widths prescribed in this and other Town ordinances.

3. **Preservation and Protection of Natural Resources.** The proposed subdivision shall not pose a threat to existing or future quality or quantity of water, air, soil, or geographic features. The Board may require the applicant to submit environmental impact studies by qualified experts acceptable to the Board. The applicant shall bear the costs of such studies.

4. **Retention of Open Space and Geographic or Historic Features.** The proposed subdivision shall provide sufficient open space for the use of residents of the subdivision and, if agreed upon by the subdivider and the Board, the use of the general public. In cases of the latter use, the Board may require the subdivider to provide public access to geographic or historic features which it deems to be significant public resources and shall require the subdivider to protect those features from damage and depreciation.

5. **Easements**

   a. Where a subdivision is traversed by a natural water course, drainage way, channel, or stream, there shall be provided a stormwater easement or drainage right-of-way that shall be not less than 30 feet in width and shall conform substantially with the lines of such water course.

   b. The Board may require easements for sewage, drainage, or other utilities.

6. **Utilities.** The size, type, and location of public utilities, such as street lights, electricity, telephones, gas lines, fire hydrants, etc., shall be acceptable to the appropriate utility and/or Town department.
7. **Land Not Suitable for Development.**

   a. In addition to those lands described in Section 3(D), the Board shall not approve for the purpose of meeting lot size requirements such portions of any proposed subdivision that:

      i. Are situated below mean high water;
      ii. Are part of a right-of-way or easement, including utility easements, except for service feeds to two or fewer dwelling units;
      iii. Are located on land which must be filled or drained or on land created by diverting a water course. In no instance shall the Board approve any part of a subdivision located on wetlands or great ponds (natural bodies of water 10 acres or more in size);
      iv. Employ septic sewage disposal and do not meet or exceed the lot size guidelines for soil types and slopes as specified in Appendix 1 of "State of Maine Subsurface Waste Water Disposal Rules," as amended.

   b. Wherever situated, in whole or in part, within 250 feet of the high water line of any pond, lake, river, or tidal waters, a proposed subdivision shall conform to the Shoreland Zoning Ordinance for the Town of Lamoine, Maine.

8. **Floodplain Management Requirements.** The subdivider shall determine, and provide sufficient evidence to the Board that the proposed subdivision does not violate the Floodplain Management Ordinance for the Town of Lamoine.

D. **Administration and Application Procedures**

1. The Planning Board shall administer the provisions of this Section. That is, all application procedures, consideration of plans and evidence to support them, collection of fees, and issuance of subdivision permits shall be conducted by the Board. Further, the Board shall retain oversight responsibilities for any parcel which is under consideration for subdivision development, undergoing such development, or in which such development has been completed. The purpose of Part D is to establish an orderly, equitable, and expeditious procedure for reviewing subdivisions. See also Sections 7, 8, and 9 of this ordinance.

2. Any and all proposed amendments to an already approved subdivision shall follow in full the application procedures outlined in this section.

3. **Pre-application Procedure**

   a. Applicants shall submit to the Chair of the Planning Board a completed pre-application and request to be placed on the Board's agenda at least 15 days before a regularly scheduled meeting. The pre-application shall contain, at a minimum, the name, address, phone number and company name of the applicant; location of the lot; identification of any subdivision abutting the proposed subdivision; a description of the
proposed activity, a statement of the uses to which any buildings will be put, and a preliminary map of the site showing the proposed uses including size, location, setbacks and side and rear yard widths of all structures, roadways and parking areas; a preliminary description of utilities, water, and sewage; and a description of any environmental, natural, or historic features on the site.

b. Applicants who attend a meeting but who are not on the Board's agenda may be heard, but only after all agenda items have been completed and a majority of the Board votes to hear the applicant.

c. The Board shall provide the applicant with an opportunity to describe the proposed subdivision and shall have an opportunity to question the applicant concerning the proposal. The Board shall also schedule an on-site inspection and designate who shall inspect the site on behalf of the Board.

d. Within 30 days of consideration of the completed pre-application form, the Board shall conduct the on-site inspection, and inform the applicant of any specific points to be covered in the Plan not required by Part E below.

4. Application and Development Plan

a. The Application for Subdivision with Development Plan (hereinafter called the Plan) is to be submitted by the applicant after the on-site inspection has taken place, subject to the power of the Board to require additional information as set out in Section 12C above.

b. The Board shall notify the applicant as to whether or not the application is a completed application, and shall note the date and give the applicant a receipt showing the date on which the application is complete. A completed application is one which contains all the elements required by Part E of Section 12 and is accompanied by the required application fee. Notice to the applicant that the application is complete shall not bar the Board from requesting further information from the applicant if such further information is required to determine whether the proposal meets the criteria for approval set out in Maine law or this ordinance.

c. The Board shall hold a public hearing on the application within 30 days of the date on which it receives the completed application. The Board shall notify by certified mail, return receipt requested, all owners of abutting properties listed in the application or Plan as to the date, time, and place of such review. Applicants are strongly encouraged to contact resident abutting landowners personally before this review. The notice required by this paragraph is in addition to all other notices required by law, and failure to give such notice shall not affect the validity of any Board action.

d. Within 30 days of the public hearing on the Plan, within 60 days of the receipt of the completed application, or within any other time limit agreed to by the Board and the
applicant, the Board shall notify the applicant, in writing, of its decision. The Board may approve, approve with conditions, or deny the Plan. The Board shall specify to the applicant its reasons for any conditions or for denial.

5. **Fees** - An application for any permit required by this ordinance shall be accompanied by fee(s) as established by the Lamoine Board of Selectmen. No action shall be taken on any application until the fee(s) have been received by the Town. The application fee(s) shall not be refundable. The fee(s) shall be paid to the Town of Lamoine and shall accrue to the Code Enforcement Fund to be used for the administration and enforcement of town ordinances. A Schedule of Fees is located at the Town Office.

6. **Evidence of Financial and Technical Capacity.** Before granting approval of a permit, the Board shall determine that the subdivider has provided written evidence of adequate financial and technical capacity to meet the standards stated in Section 12 and has paid the required fees and planning costs in a timely fashion.

7. **Expiration Date of Plan Approval.** Plan approval shall be void unless work thereunder is commenced within one year from the date of permit issuance and completed within two years from the date of issuance, unless an extension is granted by the Planning Board.

**E. Development Plan**

The Plan submitted by the applicant shall contain nine (9) copies of the Application for Subdivision and all other pertinent information (one each for the permanent file, the CEO and 7 Planning Board Members and Alternates). The proposal can best be presented using prints having a scale of 100 feet to the inch. There shall be an inked cloth or Mylar film tracing of 24” x 32” maximum. The Plan shall contain:

1. Title and purpose of the subdivision;
2. Scale, date, North Point, and geographical location;
3. Boundaries of the parcel to include remaining portions of owner's land;
4. Names of owner(s), engineer(s), and surveyor(s);
5. A statement specifying the land use proposed for the subdivision in general and each functional unit in particular, specifying any covenants imposed, with a description of the character of the structures and their location on the parcel, and drawings of elevations and floor plans for each proposed structure;
6. Names and addresses of owners of abutting properties and location of their abutting properties, including those located across roads and streets including entire subdivisions, indicating structures within 200 feet of the common boundary;
7. Existing and final proposed lines and dimensions of lots, streets, ways, fire zone parking areas, easements, and public or common areas within the subdivision. When indicating lot sizes for each lot on the Plan, the applicant shall specify total square footage and square footage of land suitable for building purposes (see Section 3D);
8. Sufficient data to determine the location, direction and length of every street and way line, lot line and boundary line, and to establish these lines on the ground;
9. Name, location, width, profile and cross-section, radius of curves of all existing and proposed streets, and the design for traffic control. This shall include profiles of the center lines of proposed streets separate from the plan diagram, at a horizontal scale of 1 inch.
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equals 5 feet, or adjusted to the standard-sized mylar, with all elevations referred to U.S.G.S., DATUM or other permanently established benchmark;

10. Kind, location, profile and cross-section of all existing and proposed drainage;

11. Location, with dimensions, of natural and man-made features, affecting the subdivision, such as water bodies, streams, swamps, wooded areas, ditches, highways, buildings, community recreational resources, historic sites, landscaping, wooden screens, vegetated buffers, amount of deforestation required, etc.;

12. Location, with dimensions, of utilities, electrical lines, existing right of ways, etc.;

13. Plans for water supply adequate to meet the needs of the proposed subdivision and the requirements of this ordinance;

14. Plans for fire protection (see Section 12-I);

15. Plans for needed waste water and sewage disposal along with all backup information to support the validity of the waste water and sewage disposal concepts. A statement from a certified geologist, registered civil engineer, or licensed soil evaluator is required for this purpose;

16. A topographical map of the site showing 10’ (ten foot) elevation contours;

17. A list of construction items (e.g. streets, streetlights, culverts, fire hydrants, fire zone parking areas, etc.) to be completed before the sale of any lot OR within the two year life of the permit.;

18. Suitable space to record, on the Plan, final approval by the Board, with conditions, if any, and also the date of approval;

19. Certification by a licensed surveyor or equivalent authority;

20. The following conditions, in writing, where appropriate:
   a. Water supply system proposals contained in the Plan shall be approved in writing by a) the servicing Water Department if existing water service is to be used, b) the State of Maine Department of Human Services if the applicant proposes to provide a central water supply system, or c) a civil engineer registered in the State of Maine if individual wells serving each building site are to be used. The Board may also require the applicant to submit the results of water quality tests as performed by the Department of Human Services.
   b. Sewage disposal system proposals contained in the Plan shall be properly endorsed and approved in writing by a) the State of Maine Department of Human Services if a central sewage collection system is to be used or if individual septic tanks are to be installed by the applicant or lot owners, or b) the Maine Department of Environmental Protection if the Town system to be used is inadequate by State standards and the waste generated is of a significant nature.
   c. If the proposed subdivision in any way falls within the jurisdiction of and is subject to review by the State of Maine Department of Environmental Protection, then approval of that agency shall be secured in writing before submission of the Plan.
   d. Approved fire protection plan;

21. Sufficient evidence that the proposed subdivision does not violate:
   a. The Town's Floodplain Management Ordinance;
   b. The DEP Storm Water Management Plan

22. Required fees;

23. Other information required by the Board.
The foregoing approvals may be listed as conditions to the approved Plan if the applicant demonstrates to the Board that it is impractical to obtain them before submission of the Plan. In no case shall work commence on the subdivision or any further permit or certificate be issued until all such conditions have been fulfilled.

F. Minimum Standards for Street Design and Construction

1. Roads shall be located, constructed, and maintained so that erosion is kept to a minimum. Adequate provisions shall be made to prevent soil erosion and sedimentation of surface waters to the maximum extent possible, as defined by the Maine Department of Transportation's Standards of Practice. The design of streets shall provide for proper continuation of streets from adjacent subdivisions and built-up areas, and proper projection of streets into adjacent un-subdivided and open land.

2. Where a proposed development involves the division of a tract or parcel of land into 3 or more lots within any five (5) year period, whether accomplished by sale, lease, development, buildings or otherwise, as defined by the Subdivision Law, Title 30-A MRSA sections 4401-4407 the following provisions shall apply. Direct lot-by-lot access to the existing public road is 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.

   Waiver – A waiver may be granted only if there will be no further subdivision of the parcel and the shape or physical condition of the parcel does not permit access to a street other than the public road, or the creation of a service/frontage road to allow that access.

3. All roads constructed shall conform to the following standards:
   a. Ditching shall be sufficient to prevent flooding of roadways, and bottoms of culverts shall be installed at streambed elevation;
   b. All cut and filled banks and areas of exposed mineral soil shall be revegetated or otherwise stabilized as soon as possible;
   c. The arrangement, character, extent, width, grade, and location of all roads shall provide for safe access and egress based on their relation to existing or planned roads, to topographical conditions, to public convenience and to safety, and their relation to the proposed use of the land to be served by such roads. Grades of roads shall conform as closely as possible to the original topography;
   d. Road intersections and curves shall be so designed as to permit safe access and egress for both pedestrian and vehicular traffic. That portion of any corner lot which is necessary to allow 25-foot sight lines between intersecting roads shall be cleared of all growth (except isolated trees) and obstructions above the level of 3 feet higher than the center line of the road. When necessary to achieve visibility, ground shall be excavated;
   e. Local streets shall be designed to discourage through traffic;
   f. Width of right-of-ways shall be a minimum of 50 feet;
   g. Width of streets shall be two (2) ten (10) foot traffic lanes and two (2) two (2) foot parking and delivery lanes abutted on the outer edges by a tapered, compacted soil with a 3 to 1 slope;
   h. The edge of all streets shall be set back at least 15 feet from abutting property lines.
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i. The radius of center line curve shall be 100 feet minimum;

j. Angle of street at intersection shall be not less than 60 degrees;

k. Street grades shall be a minimum of 0.5% and a maximum grade of 3% within 50 feet;

l. Cul-de-sac and dead-end streets shall have adequate provisions for turning at the closed end, with a minimum radius of 50 feet;

m. Property lines at intersections shall be rounded with a minimum radius of 20 feet;

n. All streets shall be properly excavated and have a base course of at least 18 inches of gravel and a wearing course in addition. On streets and ways which the developer intends to petition the Town for acceptance as a Town road, the wearing course shall be of a material equal to two coats of bituminous products as applied on State Aid roads. The wearing course on streets in a development which will remain private ways may have a wearing course of any material which insures safe travel and passing at all times. All streets shall be in accordance with good engineering practices and be provided with adequate drainage.

o. Sidewalks, guardrails or other safety measures may be required at the discretion of the Board.

G. Setbacks, Side and Rear Yard Widths, and Buffers

All subdivisions, except those created by division of land into lots for single-family dwellings, shall meet the following requirements. A subdivision with lots for single-family dwellings will conform to the requirements in Section 4(I).

1. All buildings and parking spaces must be set back at least 200 feet from any road right of way and at least 100 feet from any adjacent property boundaries.

2. The subdivision design shall minimize glare and noise pollution either from within or outside the development by providing and maintaining a vegetated buffer zone at least 20 feet wide along abutting property lines. Vegetation shall consist of non-deciduous trees at least 6 feet in height at the time of planting, and of sufficient density to fulfill the purpose of this requirement. Buffer zones shall be so constructed and maintained as not to obstruct visual access to areas of scenic value to the public or adjacent landowners, or as agreed to by the developer and all abutting landowners.

3. Screening shall buffer off-street parking areas from the public right of way and shall enhance the physical design of the buildings and site.

4. Residential Zone.
   a. All subdivisions established after April 16, 1999 having 12 or more units shall provide single entrances and screening of at least 50 feet in length along the road to which the entrance provides access.

5. Rural and Agricultural Zone. – To preserve the rural and agricultural nature of this area, all new subdivisions:
   a. shall have single entrances from the main road, and;
b. shall provide 50 foot depth of screening along such main road and wherever such development abuts existing main roads and;

c. may submit a cluster design for consideration

d. Subdivisions having 16 or more units shall:
   i. Present a cluster design (see section 13)
   ii. have single entrances from the main road, and
   iii. provide 50 foot depth of screening along such main road and wherever such development abuts existing main roads,
   iv. present a cluster design, and,
   v. provide 80,000 square feet of permanent commons for each 16 units or additional fraction thereof planned. Commons shall be held by the developer, a development association, or conveyed to the town and, however held, taxed appropriately proportionate to the degree of public access or public purpose served.

6. Where any of the foregoing is required, it shall be incorporated in the Plan and executed by the subdivider as construction of the subdivision proceeds. Plan approval shall be void unless work thereunder is commenced within one year from the date of issuance and completed within two years, unless an extension is granted by the board.

H. Lot Size and Density Standards

1. For subdivisions, the size and dimensions of lots and the location of structures shall meet the following requirements which may be in addition to those set forth in Section 4I (see Section 4I):

   a. Each lot in the subdivision shall be required to provide a minimum of 40,000 square feet of land suitable for development within the subdivision parcel;
   b. Any subdivision of 12 or more lots must provide an additional 20,000 square feet for each lot in the subdivision for common recreational and open space uses (see Section 12-K-1);
   c. Any subdivision having 16 or more units or portion thereof in the Rural and Agricultural Zone shall provide 80,000 square feet of permanent commons for each 16 units. (see page 48 Comprehensive Plan, 2d)
   d. Any lot within or partially within land classified as shorelands shall have a minimum frontage of 200 feet on the body of water.

2. Where a subdivision is created by division of land into lots for single-family dwellings, each lot shall have a minimum frontage on any road, street, or highway of 200 feet. Exceptions to this requirement may be made:

   a. only in the instance of lots situated on the curve of a cul-de-sac design, in which case the minimum frontage shall be 75 feet.
   b. in the instance that the subdivision is:
      i. in the Residential Zone;
      ii. is provided with public water and sewer connections and is connected to same;
      iii. and is provided with its own entrance road. In this instance the frontage requirement may be reduced to 100 feet per unit within the development
3. The Board may require greater minimum lot sizes when it deems such sizes necessary to protect natural resources or geographic and historic features, including the quantity and quality of soil, air and water in the town.

4. Certain lands designated as land not suitable for development in this and other town ordinances shall not be approved for the purpose of meeting lot size and density requirements (See Section 12,c,7).

I. Fire Protection

A fire protection plan indicating compliance with the appropriate parts of this sub-section shall be included in the Development Plan that is presented to the Planning Board for permit approval. The applicant shall develop a fire protection plan that meets the following requirements in consultation with the Chief of the Lamoine Fire Department and shall attach the Chief’s or his designee’s written approval of the plan.

1. Access roads, fire zone parking areas and any required water supply serving any subdivision, multi-family dwellings with 3 or more units or commercial/industrial buildings exceeding 5,000 square feet, shall be in place prior to the issuance of any building permit.

2. Access roads to multi-family dwellings with 3 or more units or commercial/industrial buildings exceeding 5,000 square feet must also have fire zone parking areas. Such parking areas shall be not less than 50 feet nor more than 150 feet from any such building(s). Each parking area shall be parallel to and abutting the access road, preferably on the right side approaching the building, and shall be not less than 15 feet wide and 50 feet long. The owner of the building(s) shall be responsible for keeping the area clear of snow or other obstruction so that the area is available at all times exclusively for emergency parking of fire equipment. The area shall be posted “No Parking, Fire Zone.”

3. Each subdivision shall supply a minimum of 10,000 gallons of water for fire suppression and related activities. The water supply shall:
   a. be held in tanks buried in the ground or in other properly engineered containment facility approved by the chief of the Lamoine Volunteer Fire Department or his/her designee;
   b. be located so that no lot is more than 2,000 feet from a tank or containment facility;
   c. meet all Fire Department and National Fire Protection Association (NFPA) construction requirements. (Current requirements are available from the NFPA.);
   d. be maintained by the Town.

There must be a fire zone parking area around the hydrant head. This area shall be set back no less than twelve feet from the edge of the road. The fire zone parking area shall extend five feet beyond the hydrant head, away from the road, and twenty-five feet in both directions along the road. The fire zone parking area around the hydrant head shall be built to the same standard as the subdivision access road.
A deeded right of way or easement shall be given to the Town granting the town the right, to be exercised at its sole discretion, to maintain and use the water supply system, including the hydrant head, access road and fire zone parking area. Acceptance of this right of way or easement shall not constitute acceptance of any part of the subdivision or its road system as town property, a town road, or a town facility. The Board of Selectmen is authorized to accept, on behalf of the Town, such deed(s) as are required to implement the purpose of this paragraph.

4. Each multi-family dwelling of three or more units or commercial/industrial building exceeding 5,000 square feet shall make a minimum of 10,000 gallons of water accessible for fire suppression and related activities. The water supply shall be held in a buried storage tank meeting all fire department and NFPA construction requirements (current requirements available from the Chief of the Lamoine Fire Department).

There must be a fire zone parking area around the hydrant head. This area shall measure no less than fifteen feet wide and fifty feet long and shall be built to the same standard as the access road.

The water supply shall be maintained by the property owner and shall pass inspection semi-annually by the Chief of the Lamoine Fire Department. The property owner shall be responsible for keeping the area around the hydrant head clear of snow or other obstruction so that the area is available at all times exclusively for emergency use. The area shall be posted “No Parking, Fire Zone.”

J. Groundwater Standards

No subdivision shall be permitted which either alone or in conjunction with existing activities would adversely affect the quality or quantity of groundwater in Lamoine, as stated below.

1. Where a proposed subdivision development is located in whole or in part on the Aquifer Map, Town of Lamoine, December 2002 and on file at the Town Office, the applicant shall provide documented assurance (deed covenants or other) barring the underground storage of fuel oil or activities involving the use and/or storage of hazardous materials as defined by the Resource Conservation and Recovery Act of 1976, 40 C FR, Part 261, as amended.

2. Applications for subdivisions proposing lots for individual dwellings shall conform to Part E (15) and (20) of this Section.

3. Applications for subdivisions proposing multi-family dwellings or commercial/industrial establishments shall contain a hydrological assessment by a certified geologist or registered professional engineer of the impact of the development on the quality and quantity of groundwater.

   a. That assessment shall be based upon and provide the following:

      i. Soil data for entire site including soil test pits and percolation test results
ii. The depth to the water table at representative points throughout the subdivision
iii. Drainage conditions throughout the subdivision
iv. Proposed water source and the method of waste water treatment disposal for the subdivision with reference to distance from roads, boundaries, and wells
v. Data on the existing groundwater quality, either from test wells in the subdivision or from existing wells on neighboring properties
vi. Projections of resultant nitrate-nitrogen concentrations, possible salt water intrusions and, within the watershed of a pond, phosphate impacts.

b. Projections of groundwater quality shall be made at any wells within the subdivision, and at the subdivision boundaries or at a distance of 500 feet from potential contamination sources, whichever is a shorter distance.

c. Projections of groundwater quantity shall be based on the assumption of drought conditions (assuming 60% of annual average recharge from precipitation).

4. No subdivision shall increase any contaminant concentration in the groundwater, within or outside the subdivision, to more than one half of the Primary Drinking Water Standards. No subdivision shall increase any contaminant concentration in the groundwater to more than the Secondary Drinking Water Standards.

a. If existing groundwater quality does not meet Primary Drinking Water Standards and the subdivision is to be served by on-site groundwater supplies, the applicant shall demonstrate how water quality will be improved in order to meet the standards.

b. If existing groundwater quality does not meet the secondary standards, the subdivision shall not cause the concentration of the parameters in question to exceed 150% of the ambient concentration.

5. Subsurface wastewater disposal systems and drinking water wells shall be constructed as shown on the Plan submitted with the assessment. If construction standards for drinking water wells are recommended in the assessment, those standards shall be included as a note on the Plan and as restrictions in the deeds to the affected lots.

6. Subdivisions for multi-family dwelling units shall provide a minimum of either 400 gallons per day or 4 gallons of water per minute per lot. A certified geologist or registered professional engineer shall certify that this minimum and that amount required by Section 12 I above, Fire Protection, can be provided without exceeding the recharge capacity of the aquifer or unduly diminishing the quantity of groundwater available to adjacent properties.

K. Open Space and Geographic or Historic Features Standards

In any subdivision, the Board may require the subdivider to designate up to 10 per cent of the total area as open space. In subdivisions of 12 or more lots, at least 1/3 of the parcel shall be reserved for open space for common use. Where common use dedicated to the general public is indicated, the subdivider, with the approval of the Board, may make a commensurate payment in to a municipal land acquisition fund in lieu of such designation.
1. Land reserved for open space purposes shall be of a character, configuration, and location suitable for the particular use intended. A site intended to be used for active recreation purposes, such as a playground or a play field, should be relatively level and dry, have a total frontage on one or more streets of at least 200 feet, and have no major dimensions of less than 200 feet. Sites selected primarily for scenic or passive recreation purposes shall have suitable private access and no less than 25 feet of road frontage. To be acceptable, the configuration of such sites shall be deemed adequate by the Board with regard to scenic, geographic, and historic attributes to be preserved (including sufficient space and conditions for trails, lookouts, parking, storage, and maintenance where necessary).

2. The Board may request that reserved land in the parcel acceptable to the Board and subdivider be dedicated to the Town for open space for public use.

3. The Board may require the preservation of scenic or natural beauty, geographic or historic sites, rare and irreplaceable natural areas, and physical or visual access to the shoreline.

4. Where the proposed subdivision is located on a lake, pond, river, stream, or shoreline, a portion of the waterfront area, when feasible, shall be included in the reserved land.

L. **Review Criteria**

No subdivision permit shall be issued until the Board has approved or approved with conditions the complete application. Approval signifies that:

1. the application has met all the requirements of Section 12; and
2. the application and applicant have met the Review Criteria spelled out in Section 7B4 of this code.

M. **Separability**

If any provision of this ordinance is held to be invalid for any reason, such invalidity shall not affect the remaining provisions of this ordinance, which remain in full force and effect.

N. **Enforcement**

1. Any action needed to enforce the provisions of this ordinance shall be taken by the Selectmen of the Town of Lamoine on their own motion or on the recommendation of the Planning Board or the Code Enforcement Officer (see Section 7 of this code).

2. No person, firm, corporation or other legal entity may convey, offer or agree to convey, lease, develop, or build upon any land in a subdivision in Lamoine which has not been approved by the Board and recorded in the Hancock County Registry of Deeds. Approval for the purposes of recording must appear in writing on the plat or plan. No public utility company of any kind shall serve any lot in a subdivision unless written authorization
attesting to the validity and currency of all local permits required by this ordinance has been issued by the appropriate municipal officials.

3. Any violation of this ordinance shall be deemed to be a nuisance. If the Code Enforcement Officer shall find that any provision of this ordinance is being violated, he 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, structures, or work being done, removal of illegal buildings or structures, and abatement of nuisance conditions. A copy of such notices shall be maintained as a permanent record.

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

5. Any person, firm or corporation or other entity who conveys, offers or agrees to convey, leases, develops, or builds upon any land in a subdivision which has not been approved as required by this section shall be punished by a fine of not more than $2,500.00 for each violation. Any person, firm, corporation, or other entity who continues to violate any provision of this ordinance after receiving notice of such violation shall be guilty of a civil violation subject to a minimum fine of $100.00 and up to a maximum fine of $2,500.00 for each violation, as provided in 30-A MRSA §4452. Each day such a violation is continued is a separate offense.

**SECTION 13. CLUSTER DEVELOPMENT STANDARDS**

A. **Purpose**

The purpose of the cluster development standards is to encourage new concepts of housing development with maximum variations of design that will result in:

1. permanently protected open space and recreation areas;
2. a pattern of development that preserves trees, outstanding natural topography, rare natural features, and prevents soil erosion;
3. an environment in harmony with surrounding development;
4. a more creatively designed development than would be possible through strict application of other sections of the ordinance; and
5. uses of land that promote efficiency in public services and facilities with small networks of utilities and streets.

B. **Basic Requirements**

1. The use of the land shall not differ from uses permitted in the district in which the plan is located.
2. All procedures, standards, and permits for Cluster Housing shall meet all requirements of Section 12, Subdivisions.

3. The minimum area of land in a planned unit development or cluster development shall be 10 acres.

4. Any lot abutting a public road shall have a frontage and area no less than normally required in the district. On other than public roads, road frontage may be reduced by not more than 30% from the requirements of the district (or to 100 feet in the Residential Zone) in which the proposed development is located provided that other dimension requirements are met. A minimum frontage of 75 feet is allowed on lots fronting on a circular turn-around.

5. The Planning Board may reduce side and rear setback requirements at its discretion.

6. The total area of common land within the development shall equal or exceed the sum of the areas by which any building lots are reduced below the minimum lot area normally required in the district.

7. Further subdivision of common land or its use for other than non-commercial recreation or conservation, except for easements for underground utilities, shall be prohibited. Structures and buildings accessory to non-commercial recreational or conservation uses may be erected on the common land.

8. Each building shall be an element of an overall plan for site development. The plan shall identify the location of all proposed roads, structures, parking areas, footpaths, common open space, and private yard space related to individual dwelling units. Only developments having a total site plan for structures, spaces, paths, roads, services and parking will be considered for a permit. In presenting such a plan, the developer shall take into consideration all requirements of this section and of other relevant sections of this ordinance.

9. The planning board may approve or deny the proposal. Approval does not eliminate the necessity for planning board approval based on the subdivision regulations or the necessity for town government to approve the provision for the maintenance and upkeep of common or public land and faculties within the cluster project. Any development contrary to the approved unit plan shall constitute a violation of this ordinance.

C. Site Considerations

The developer shall take into consideration the following points (1) through (8), and shall illustrate the treatment of space, paths, roads, service and parking areas and other features required in his/her proposal.

1. Orientation: buildings and other improvements shall respect scenic vistas, natural features, and potential solar access.

2. Streets: access from public ways, internal circulation, and parking shall be designed to provide for vehicular and pedestrian safety and convenience, emergency and fire equipment, snow clearance, street maintenance, delivery and collection service.

3. Drainage: adequate provision shall be made for management of stormwater runoff, with particular concern for the effects of effluent draining from the site. Erosion resulting from any improvements on the site shall be prevented by landscaping or other means.

4. Sewage Disposal: Sewage disposal must connect with municipal sewage disposal and treatment facilities.

5. Water Supply: The water supply must derive from the municipal water system and provide for both ordinary use and any special needs for fire protection as approved by the Fire Chief.
6. Utilities: all utilities shall be installed underground unless specifically waived by the planning board. Transformer boxes, pumping stations and meters shall be located so as not to be unsightly or hazardous to the public.
7. Buffering: planting, landscaping, disposition and form of buildings, fencing, and screening shall be used to integrate the proposed development with the landscape and the character of any surrounding development.
8. Dedicated Open Space: the following provisions shall apply:
   a. Where a planned unit development or cluster development abuts a water body, a portion of the shoreline as well as reasonable access to it, shall be a part of the common land.
   b. The common open space shall be accessible to the residents of the development.
   c. Common green space may include but is not limited to areas for recreational use (playing fields, snowmobile, hiking, or skiing trails, playgrounds, etc.), ornamentation (garden, park areas, etc.), protection of natural resources (deer yards, wetlands, eagle nest sites, timber stands, etc.), or scenic views, or common access to the coast, or common protection such as a fire pond. The use of any open space may be further limited or controlled at the time of final subdivision approval where necessary to protect adjacent properties.
   d. The minimum acreage land dedicated as common space shall not include land not suitable for development as described in Section 3.D of this ordinance.
   e. Whenever possible, at least a portion of the open space shall be located adjacent to the existing public road(s) serving the development so as to preserve a rural appearance from such roads.

SECTION 14. HOME OCCUPATIONS

A. Purpose:
The purpose of this section is to ensure that business uses in Lamoine are conducted safely and in a manner compatible with the residential nature of the surrounding neighborhood. More intensive commercial uses than those described in this section require a Commercial or Industrial permit. (See Section 15.)

B. Definition:
A Home Occupation is a business, profession, occupation or trade undertaken for gain or profit which: a) is clearly incidental and secondary to the use of the dwelling unit for residential purposes; b) is wholly carried on within a dwelling unit or other structure accessory to a dwelling unit; and c) utilizes no more than fifty (50) percent of the dwelling unit or of the total combined floor area of the dwelling unit and accessory structure(s) up to a limit of 1,500 square feet.

C. General Requirements:
1. Home Occupations conducted only by family members do not require a permit
2. Home Occupations employing no more than one full time equivalent employee at any one time, other than residents of the home, are required to complete an application and secure a permit from the Code Enforcement Officer.
3. All Home Occupations, whether requiring a permit or not, are subject to the review criteria (see D below).
4. If more than one full time equivalent employee other than residents of the home are employed at any one time, a Commercial or Industrial use permit must be obtained
5. All licensed Day Care Centers must apply for a permit.
6. Fees - An application for any permit required by this ordinance shall be accompanied by fee(s) as established by the Lamoine Board of Selectmen. No action shall be taken on any application until the fee(s) have been received by the Town. The application fee(s) shall not be refundable. The fee(s) shall be paid to the Town of Lamoine and shall accrue to the Code Enforcement Fund to be used for the administration and enforcement of town ordinances. A Schedule of Fees is located at the Town Office.

D. Review Criteria:

1. Exterior effects. Any exterior display, exterior storage of equipment or materials and other exterior indication of a Home Occupation must be in keeping with the residential nature of the neighborhood. A sign is permitted if in conformance with Section 15 F 16 of this ordinance. However, outdoor activity areas are allowed for home child day care providers and home adult day service programs.

2. Nuisances. A home occupation must not generate any noise, vibration, smoke, fumes, dust, odors, heat, light, glare, electrical interference or other effects such that levels common to a residential are exceeded beyond the property lines or beyond the walls of the dwelling unit if the unit is part of a multifamily dwelling.

3. Traffic. The level of vehicular traffic generated by a home occupation must not significantly exceed that generated by a residence, except for home child day care providers or home adult day service programs.

4. Parking. Adequate off-street parking must be provided for vehicles of employees and other visitors of the home occupation during peak operating hours.

5. Hazardous wastes. A home occupation must not generate or store quantities of hazardous wastes that exceed the amounts set for “Small Quantity Generators” by the Maine Department of Environmental Protection (DEP) and must meet the requirements of DEP rules, Chapter 850 DEP rules, Section 3(A)(5)(d)(vii) if applicable.

SECTION 15. COMMERCIAL AND INDUSTRIAL USES

A. Scope
This section governs the establishment of buildings, developments, or other structures for commercial/industrial uses and the use of lands, building, or structures, for purposes of producing income from the buying and selling of goods and/or services. This section does not apply to home occupations and the rental of residential buildings and/or dwelling units.
B. Purpose.
The purpose of this section is to provide the town with a review procedure for all commercial/industrial uses to assure the comfort, health, safety, and general welfare of the people. The section is designed to protect the environment, provide for the orderly development of a sound and stable community as described by its Comprehensive Plan, and control the density of its growth, guarding it, for example, from overtaxing its municipal services, overburdening its soil with waste, or depleting or adversely affecting its groundwater, and assuring that water supplies and human and industrial waste disposal systems are adequate. Large commercial (greater than 2000 sq. ft.) and all industrial uses must meet all conditions mandated by the Lamoine Site Plan Review Ordinance.

C. General Requirements
In reviewing applications for the commercial/industrial use of land, the Planning Board (hereinafter called the Board) shall consider the following general requirements. In all instances, the burden of proof in assuring compliance with these requirements shall be upon the applicant for commercial/industrial permit. In reaching a determination, the Board may require the applicant to provide sufficient information at the applicant's expense to ensure the application's compliance with these requirements.

1. Impact on Community Services (see section 3-B)

2. Preservation and Protection of Natural Resources. The proposed development shall not pose a threat to existing or future quality or quantity of water, air, soil, or geographic features. The Board may require the applicant to submit environmental impact studies by qualified experts acceptable to the Board. The applicant shall bear the costs of such studies.

3. Retention of Open Space and Geographic or Historic Features. The proposed development shall provide sufficient open space for the use of residents of the development and, if agreed upon by the developer and the Board, the use of the general public. In cases of the latter use, the Board may require the developer to provide public access to geographic or historic features which it deems to be significant public resources and shall require the developer to protect those features from damage and depreciation.

4. Easements
   a. Where a development is traversed by a natural water course, drainage way, channel, or stream, there shall be provided a stormwater easement or drainage right-of-way that shall be not less than 30 feet in width and shall conform substantially with the lines of such water course.

   b. The Board may require easements for sewage, drainage, or other utilities.

5. Utilities. The size, type, and location of public utilities, such as street lights, electricity, telephones, gas lines, fire hydrants, etc., shall be acceptable to the appropriate utility and/or Town department.

6. Land Not Suitable for Development
a. In addition to those lands described in Section 3(D), the Board shall not approve for the purpose of meeting lot size requirements such portions of any proposed development that:

i. Are situated below mean high water;

ii. Are part of a right-of-way or easement, including utility easements;

iii. Are located on land which must be filled or drained or on land created by diverting a water course. In no instance shall the Board approve any part of a development located on wetlands or great ponds (natural bodies of water 10 acres or more in size);

iv. Employ septic sewage disposal and do not meet or exceed the lot size guidelines for soil types and slopes as specified in Appendix 1 of "State of Maine Plumbing Code, Part II, Private Sewerage Disposal Regulations," as amended.

b. Wherever situated, in whole or in part, within 250 feet of the high water line of any pond, lake, river, or tidal waters, a proposed development shall conform to the Shoreland Zoning Ordinance for the Town of Lamoine, Maine.

7. Floodplain Management Requirements. The developer will determine, and will provide sufficient evidence to the Board that the proposed development does not violate the Floodplain Management Ordinance for the Town of Lamoine.

D. Commercial Structures Administration and Application Procedures.

Structures designed principally for any business, excluding home occupations, housed in a permanent structure, engaged primarily in the sale of goods or services and/or use and/or resale shall be subject to all provisions of this Building and Land Use Ordinance and to the following standards. Where the standards of this section conflict with those in the previous sections, those in this section shall apply.

1. Application and Permits:

a. Before the construction, reconstruction, conversion to a different use, substantial addition, relocation, or replacement of any structure or significant segment thereof that is designed for commercial or industrial use, the owner or lessee, or the architect, contractor, or builder employed by such owner or lessee, shall obtain from the Board a permit covering such proposed work. In considering an application for such use, the Board shall investigate the potential impacts of the proposed structure and use on the residential character of the town and customary uses of the land and neighborhood. (see 14c)

b. Before any permit is approved, applicants must submit a preapplication form for the structure followed by a complete application as required. A complete application is one that includes all the information required by this ordinance.

c. Fees - An application for any permit required by this ordinance shall be accompanied by fee(s) as established by the Lamoine Board of Selectmen. No action shall be taken on any application until the fee(s) have been received by the Town. The application fee(s)
shall not be refundable. The fee(s) shall be paid to the Town of Lamoine and shall accrue to the Code Enforcement Fund to be used for the administration and enforcement of town ordinances. A Schedule of Fees is located at the Town Office.

d. Application procedures for commercial groundwater extraction

i. Applicants seeking a permit for a commercial use which will require the extraction of groundwater may be required, at the discretion of the Planning Board, to install a water meter and to record on a monthly basis the amount of water extracted and provide a written record of the same annually to the Code Enforcement Officer.

ii. Applicants seeking a permit for a commercial use which will require the extraction of groundwater in excess of 122,000 gallons in any month of a year must provide a written hydrogeological study conducted by a certified professional hydrogeologist or registered professional engineer. Such a hydrogeological study shall include the following information:

1. A map of the aquifer contributing to the spring(s), well(s) or excavations(s) from which water is to be extracted in sufficient detail to support a calculation of sustained yield during a drought of three consecutive months with a probability of occurrence of once in ten years, as well as an estimate of any potential interaction between this aquifer and adjacent aquifers.

2. The aquifer characteristics, the rates of drawdown and recovery, the sustainable yearly and monthly (by month) extraction rates and the cone of depression which may develop about the proposed facility.

3. Any other impacts on the water table in the contributing aquifer and any other private or public wells within 1,000 feet of the proposed extraction facilities.

4. A monitoring plan appropriate to the proposed project in sufficient detail to permit establishment of existing groundwater quality conditions (baseline) and continued assessment of threats to the quality and quantity of potable water available in the affected aquifer and any aquifer adjacent to the proposed project.

See Section F 10 for Review Criteria for Water Extraction.

2. Pre-application Procedure.

a. Applicants shall submit to the Chair of the Board a completed preapplication form and request to be placed on the Board's agenda at least 30 days before a regularly scheduled meeting.

The preapplication shall contain, at a minimum, the name, address, phone number and company name of the applicant; location of the lot; a description of the proposed activity, a statement of the uses for all buildings and structures, and a preliminary sketch of the proposed uses including size, location, setbacks and side and rear yard widths of all structures, roadways and parking areas; a preliminary description of utilities, water, and sewage; and a description of any environmental, natural, or historic features on the site.
c. Applicants who attend a meeting but who are not on the Board's agenda may be heard, but only after all agenda items have been completed and a majority of the Board votes to hear the applicant.

d. The Board shall provide the applicant with an opportunity to describe the proposed commercial structure and the Board shall have an opportunity to question the applicant concerning the proposal. The Board shall also schedule an on-site inspection and designate who shall inspect the site on behalf of the Board.

e. Within 30 days of consideration of the completed preapplication form, the Board's representatives shall conduct the on-site inspection. The Board at its next meeting shall inform the applicant of any additional specific points to be covered in the application.

3. Application procedures for commercial building structures 2000 square feet of floor space and under: the application shall be the same as required by Section 7 of this code (single family residence) with any additional information requested by the Board.

4. Application procedures for large commercial building structures (over 2000 square feet of floor space): this application will be the same as that required for industrial structures under Section 14E and be subject to the Lamoine Site Plan Review Ordinance.

5. Application timetable.

a. The Board shall notify the applicant as to whether or not the application is a completed application, and shall note the date and give the applicant a receipt showing the date on which the application is complete. A completed application must be accompanied by the required application fee. Notice to the applicant that the application is complete shall not bar the Board from requesting further information from the applicant if such further information is required to determine whether the proposal meets the criteria for approval set out in Maine law or this ordinance.

b. The Board shall hold a public hearing on the application within 30 days of the date on which it receives the complete application. The Board shall notify at applicant expense by certified mail, return receipt requested all owners of abutting properties listed in the application as to the date, time, and place of such review. Applicants are strongly encouraged to contact resident abutting landowners personally before this review. The notice required by this paragraph is in addition to all other notices required by law, and failure to give such notice shall not affect the validity of any Board action.

c. Within 30 days of the public hearing on the application, within 60 days of the receipt of the completed application, or within any other time limit agreed to by the Board and the applicant, the Board shall notify the applicant in writing of its decision. The Board may approve, approve with conditions, or deny the application. The Board shall specify to the applicant its reasons for any condition or for denial.
6. **Expiration of Permit** - Plan approval shall be void unless work thereunder is commenced within one year from the date of issuance and completed within two years from the date of issuance, unless an extension is granted by the Board.

**E. Industrial Structures Administration and Application Procedures.**

Those structures designed principally for any use connected with the assembling, fabrication, finishing, manufacturing, packaging, or processing of goods, or the extraction of minerals shall be subject to all provisions of this ordinance (see Section 4), The Lamoine Site Plan Review Ordinance and to the following standards. Where the standards of this section conflict with those in the other sections, those in this section shall apply.

1. Environmental Impact Study: The complete application for a permit to build a large commercial (over 2000 square feet) or industrial structure shall include a plat and building plan and an environmental impact study by a licensed professional satisfactory to the Board. Such plan and study must support a positive finding that the proposed use:

   a. will not result in unsafe or unhealthful conditions;
   b. will not result in erosion or sedimentation;
   c. will not result in water pollution;
   d. will not result in damage to spawning grounds, fish, aquatic life, bird and other wildlife habitat;
   e. will conserve vegetation;
   f. will conserve visual points of access to waters and other scenic views as viewed from public facilities;
   g. will conserve actual points of public access to waters and public lands:
   h. will conserve natural beauty and natural and historic sites;
   i. will avoid problems associated with flood plain development and use;
   j. is in conformance with the provisions of the Town's Shoreland Zoning Ordinance, Section 13, Land Use Standards., and section 3B of this ordinance.

2. **Application and permits:**
   a. Building permits issued for industrial structures shall be issued by the Board. Before any permit is approved, applicants must submit a preapplication form for the structure, followed by a complete application. The Board shall issue a permit upon finding that the proposed structure and use as described in a complete pre-application and application, submitted according to the regulations of this ordinance, will meet the Review Criteria in Sections 15E and 15F.
   b. **Fees** - An application for any permit required by this ordinance shall be accompanied by fee(s) as established by the Lamoine Board of Selectmen. No action shall be taken on any application until the fee(s) have been received by the Town. The application fee(s) shall not be refundable. The fee(s) shall be paid to the Town of Lamoine and shall accrue to the Code Enforcement Fund to be used for the administration and enforcement of town ordinances. A Schedule of Fees is located at the Town Office.
   c. Applicants seeking a permit for an industrial use which will require the extraction of groundwater may be required, at the discretion of the Planning Board, to install a water meter and to record on a monthly basis the amount of water extracted and provide a written record of the same annually to the Code Enforcement Officer.
i. Applicants seeking a permit for an industrial use which will require the extraction of groundwater in excess of 122,000 gallons in any month of a year must provide a written hydrogeological study conducted by a certified professional hydrogeologist or registered professional engineer. Such a hydrogeological study shall include the following information:

ii. A map of the aquifer contributing to the spring(s), well(s) or excavations(s) from which water is to be extracted in sufficient detail to support a calculation of sustained yield during a drought of three consecutive months with a probability of occurrence of once in ten years, as well as an estimate of any potential interaction between this aquifer and adjacent aquifers.

iii. The aquifer characteristics, the rates of drawdown and recovery, the sustainable yearly and monthly (by month) extraction rates and the cone of depression which may develop about the proposed facility.

iv. Any other impacts on the water table in the contributing aquifer and any other private or public wells within 1,000 feet of the proposed extraction facilities.

d. A monitoring plan appropriate to the proposed project in sufficient detail to permit establishment of existing groundwater quality conditions (baseline) and continued assessment of threats to the quality and quantity of potable water available in the affected aquifer and any aquifer adjacent to the proposed project.

See Section F 10 for Review Criteria for Water Extraction.

3. Pre-application procedure:

a. Applicants shall submit to the Chair of the Planning Board a complete preapplication form and request to be placed on the Board's agenda at least 15 days before a regularly scheduled meeting.

b. The pre-application shall contain, at a minimum, the name, address, phone number and company name of the applicant; location of the lot; a description of the proposed activity, a statement of the uses for all buildings and structures and a preliminary sketch of the proposed uses including size, location, setbacks and side and rear yard widths of all structures, roadways and parking area; a preliminary description of utilities, water and sewage; and a description of any environmental, natural or historic features on the site.

c. Applicants who attend a meeting but who are not on the Board's agenda may be heard, but only after all agenda items have been completed and a majority of the Board votes to hear the applicant.

d. The Board shall provide the applicant with an opportunity to describe the proposed industrial structure(s) and the Board shall have an opportunity to question the applicant concerning the proposal. The Board shall also schedule an on-site inspection and designate who shall inspect the site on behalf of the Board.
 Part II – Application Procedures & Standards

e. Within 30 days of consideration of the completed preapplication, the Board's representatives shall conduct the on-site inspection. The Board at its next meeting shall inform the applicant of any additional specific points to be covered in the application and Development Plan not required by Section 14E5 below.

4. Application and Development Plan

a. The Application with Development Plan (hereinafter called the Plan) is to be submitted by the applicant after the on-site inspection has taken place, and subject to the power of the Board to require additional information as set out in Section 14E3d above.

b. Application timetable. The Board shall notify the applicant as to whether or not the application is a completed application, and shall note the date and give the applicant a receipt showing the date on which the application is complete. A completed application is one which contains all the elements required by Sections 14E3d and 14E5 of this ordinance and is accompanied by the required application fee. Notice to the applicant that the application is complete shall not bar the Board from requesting further information from the applicant if such further information is required to determine whether the proposal meets the criteria for approval set out in Maine law or this ordinance. Sections 14D5b and 14D5c also apply.

5. Development Plan

The Plan submitted by the applicant shall contain nine (9) each of the application form and any and all prints, etc. The proposal must include: 1) a plat with the appropriate size and scale to allow convenient review of the proposal 2) a written description of proposed plans for (a) to (r) of this subsection as appropriate. The final plan shall be a Mylar film tracing of 24" x 32" maximum. The plan shall contain:

a. Title and purpose of the building.

b. Scale, date, north point, and geographical location.

c. Boundaries of the parcel and a plat including information on lot standards (see Section 3D & 4I).

d. Names of owner(s), engineer(s), and surveyor(s).

e. A statement specifying the character of the structures and their location on the parcel, and drawings of elevations and floor plans for each proposed structure, with front and side views.

f. Names and addresses of owners of abutting properties, including those across public or private roads and rights of way and location of their abutting properties, indicating structures within 200 feet of the common boundary.

h. Location, with dimensions, of natural and man-made features, affecting the industrial building, such as water bodies, streams, swamps, wooded areas, ditches, highways, buildings, community recreational resources, historic sites, landscaping, wooden screens, vegetated buffers, amount of deforestation required, etc.

i. Plans for water supply adequate to meet the needs of the proposed industrial building and the requirements of this ordinance.

j. Plans to meet all groundwater standards as set forth in Section 12, J.
k. Plans for needed waste water and sewage disposal along with all backup information to support the validity of the waste water and sewage disposal concepts. A statement from a certified geologist, registered civil engineer, or licensed soil evaluator is required for this purpose.

l. A topographical map.

m. Suitable space to record, on the Plan, final approval by the Board, with conditions, if any, and also the date of approval.

n. Certification by a licensed surveyor or equivalent authority.

o. The following conditions, in writing, where appropriate:

1. Water supply system proposals contained in the Plan shall be approved in writing by the servicing Water Department if existing water service is to be used, the State of Maine Department of Human Services if the applicant proposes to provide a central water supply system, or c) a civil engineer registered in the State of Maine if individual well(s) serving each building site are to be used. The Board may also require the applicant to submit the results of water quality tests as performed by the Department of Human Services.

2. Sewage disposal systems proposals contained in the Plan shall be properly endorsed and approved in writing by the State of Maine Department of Human Services if a central sewage collection system is to be used or if individual septic tank systems are to be installed by the applicant, or the Maine Department of Environmental Protection if the Town system to be used is inadequate by State standards and the waste generated is of a significant nature.

3. Approval in writing by the State of Maine Department of Environmental Protection if the proposed industrial structure falls in any way within its jurisdiction.

4. Approved fire protection plan (see Section 14E6).

p. Sufficient evidence that the proposed industrial structure does not violate the Town's Floodplain Management Ordinance.

q. The required fee.

r. Other information required by the Board.

The foregoing approvals may be listed as conditions to the approved Plan if the applicant demonstrates to the Board that it is impractical to obtain them before submission of the Plan. In no case shall work commence on the industrial structure or any further permit or certificate be issued until all such conditions have been fulfilled.

6. Fire Protection

A fire protection plan indicating compliance with the appropriate parts of this sub-section shall be included in the Development Plan that is presented to the Planning Board for permit approval. The applicant shall develop a fire protection plan that meets the following requirements in consultation with the Chief of the Lamoine Fire Department and shall attach the Chief’s or his designee’s written approval of the plan.
a. Access roads, fire zone parking areas and any required water supply serving any subdivision, multi-family dwellings with 3 or more units or commercial/industrial buildings exceeding 5,000 square feet, shall be in place prior to the issuance of any building permit.

b. Access roads to multi-family dwellings with 3 or more units or commercial/industrial buildings exceeding 5,000 square feet must also have fire zone parking areas. Such parking areas shall be not less than 50 feet nor more than 150 feet from any such building(s). Each parking area shall be parallel to and abutting the access road, preferably on the right side approaching the building, and shall be not less than 15 feet wide and 50 feet long. The owner of the building(s) shall be responsible for keeping the area clear of snow or other obstruction so that the area is available at all times exclusively for emergency parking of fire equipment. The area shall be posted “No Parking, Fire Zone.”

c. Each subdivision shall supply a minimum of 10,000 gallons of water for fire suppression and related activities. The water supply shall:
   a. be held in tanks buried in the ground or in other properly engineered containment facility approved by the chief of the Lamoine Volunteer Fire Department or his/her designee;
   b. be located so that no lot is more than 2,000 feet from a tank or containment facility;
   c. meet all Fire Department and National Fire Protection Association (NFPA) construction requirements. (Current requirements are available from the NFPA.);
   d. be maintained by the Town.

There must be a fire zone parking area around the hydrant head. This area shall be set back no less than twelve feet from the edge of the road. The fire zone parking area shall extend five feet beyond the hydrant head, away from the road, and twenty-five feet in both directions along the road. The fire zone parking area around the hydrant head shall be built to the same standard as the subdivision access road.

A deeded right of way or easement shall be given to the Town granting the town the right, to be exercised at its sole discretion, to maintain and use the water supply system, including the hydrant head, access road and fire zone parking area. Acceptance of this right of way or easement shall not constitute acceptance of any part of the subdivision or its road system as town property, a town road, or a town facility. The Board of Selectmen is authorized to accept, on behalf of the Town, such deed(s) as are required to implement the purpose of this paragraph.

d. Each multi-family dwelling of three or more units or commercial/industrial building exceeding 5,000 square feet shall make a minimum of 10,000 gallons of water accessible for fire suppression and related activities. The water supply shall be held in a buried storage tank meeting all fire department and NFPA construction requirements (current requirements available from the Chief of the Lamoine Fire Department).
There must be a fire zone parking area around the hydrant head. This area shall measure no less than fifteen feet wide and fifty feet long and shall be built to the same standard as the access road.

The water supply shall be maintained by the property owner and shall pass inspection semi-annually by the Chief of the Lamoine Fire Department. The property owner shall be responsible for keeping the area around the hydrant head clear of snow or other obstruction so that the area is available at all times exclusively for emergency use. The area shall be posted “No Parking, Fire Zone.”

7. Expiration of Permit – Plan approval shall be void unless work thereunder is commenced within one year from the date of issuance and completed within two years from the date of issuance, unless an extension is granted by the board.

F. Review Criteria

No building permit for a commercial or industrial structure shall be issued until the Board has approved or approved with conditions the complete application taking into consideration, in addition to the requirements of other sections of this ordinance, the following:

1. Traffic. The proposed development shall provide for 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. The proposed development plan shall not have an unreasonably adverse impact on the town road system, and shall assure safe interior circulation within its site, by separating pedestrian and vehicular traffic and providing adequate parking and loading areas.

2. Noise. Excessive noise at unreasonable hours shall be required to be muffled so as not to be objectionable due to intermittence, beat frequency, shrillness, or volume (please refer to table below). The maximum permissible sound pressure level of any continuous, regular or frequent source of sound produced by any activity regulated by this ordinance shall be established by the time period and type of land use listed below. Sound pressure levels shall be measured on a sound level meter at all major lot lines of the proposed site, at a height of four (4) feet above the ground surface.

<table>
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<th>7 a.m. - 8 p.m.</th>
<th>8 p.m. - 7 a.m.</th>
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<tr>
<td>Commercial and Institutional Establishments</td>
<td>65dB</td>
<td>55dB</td>
</tr>
<tr>
<td>Industrial Establishments</td>
<td>70dB</td>
<td>65dB</td>
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On a site abutting any residential use, construction activities occurring between 8:00 p.m. and 7:00 a.m. shall be subject to the maximum permissible sound level specified for industrial establishments.

3. Dust, Fumes, Vapors, and Gases. Emission of dust, dirt, fly ash, fumes, vapors or gases which could damage human health, animals, vegetation, or property, at any point beyond the
lot line of the commercial or industrial establishment creating that emission, shall be prohibited. All such activities shall comply with applicable Federal and State regulations.

4. Odor. No non-farming land use or establishment shall be permitted to produce offensive or harmful odors perceptible beyond their lot lines, measured either at ground or habitable elevation.

5. Glare. No land use or establishment shall be permitted to produce a strong, dazzling light or reflection of that light beyond its lot lines onto adjacent properties, or onto any town way so as to impair the vision of the driver of any vehicle upon that town way. All such activities shall comply with applicable Federal and State regulations.

6. Storm Water Run-Off. Surface water run-off shall be minimized and detained on-site if possible or practicable. If it is not possible to detain water on-site, downstream improvements to the channel may be required of the developer to prevent flooding caused by the project. The natural state of watercourses, swales, floodways, or right-of-ways shall be maintained as nearly as possible.

7. Erosion Control. Erosion of soil and sedimentation of watercourses and waterbodies shall be minimized by employing the following "best management" practices:

   a. Stripping of vegetation, soil removal, and regarding or other development shall be minimized as far as is practical, and shall be done in such a way as to minimize erosion.

   b. The duration of exposure of the disturbed area shall be kept to a practical minimum.

   c. Temporary vegetation and/or mulching shall be used to protect exposed critical areas during development.

   d. Permanent (final) vegetation and mechanical erosion control measures shall be in accordance with the most stringent of the standards set by the County Soil and Water Conservation District, the Maine Soil and Water Conservation Commission and the Maine Department of Environmental Protection (DEP) and shall be installed as soon as practicable after construction starts.

   e. Until disturbed areas are stabilized, sediment in run-off water shall be trapped by the use of debris basins, sediment basins, silt traps, or other acceptable methods as determined by the Board.

   f. During grading operations, methods of dust control shall be employed.

8. Setbacks and Screening. Exposed storage areas, exposed machinery installation, sand and gravel extraction operations, and areas used for the storage or collection of discarded automobiles, auto parts, metals or any other articles of salvage or refuse, shall have sufficient setbacks and screening to provide a visual buffer sufficient to minimize their adverse impact on other land uses and surrounding properties (such as dense evergreen hedge, 6 feet or more in height). 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.

9. Explosive Materials. No highly flammable or explosive liquids, solids, or gases shall be stored in bulk above ground, unless they are located at least 100 feet from any lot line and 200 feet from any town way or interior roadway. For underground storage of the above materials, the minimum setback distances shall be 50 feet and shall meet all state and federal regulations for such storage.

10. Ground Water Protection. The plan shall meet all groundwater standards set forth in Section 12J. All outdoor storage facilities for liquid fuel (containing 500 gallons or more) shall be located on impervious pavement, and shall be completely enclosed by an approved safety fence at least 6 feet in height. Such fence shall be set on top of an impervious dike which shall be high enough to contain the total volume of liquid kept within the storage area, plus the rain falling into this storage area during a 25-year storm, so that such liquid shall not be able to spill onto or seep into the ground surrounding the paved area. All storage facilities for liquid fuel must meet state regulations and statutes pertaining to underground and above ground storage.

Performance Standards for the Extraction of Water for Commercial and Industrial Purposes.

No permit for extraction of water for commercial or industrial purposes shall be issued until the Planning Board has made a positive finding that, with respect to the proposed use:

1. The quantity of water to be taken from groundwater sources will not substantially lower the groundwater table, advance saltwater intrusion, cause unreasonable changes in groundwater flow patterns or cause unreasonable ground subsidence based on the conditions of a drought of three (3) consecutive months with a probability of occurrence of once in ten years.
2. The proposed use will not cause water pollution or other diminution of the quality of the aquifer from which the water is to be extracted.
3. Safe and healthful conditions will be maintained at all times within and about the proposed use.
4. The proposed use will not cause sedimentation or erosion.
5. The proposed use is not within the defined aquifer recharge area of a public water supply unless notice is given to the operator thereof and the Board has considered any information supplied by the operator of the public water supply and finds that no adverse effect on a public water supply will result.
6. The extractor will make monthly operating records of the quantity of water extracted, stored and removed from the site available to the Code Enforcement Officer or a designee.

11. Flood Protection. No structure shall be permitted until satisfactory evidence has been presented of conformity to all applicable provisions of the Flood Plain Management Ordinance of the Town.
12. Soil Suitability for Construction. In any instance where the Planning Board doubts the capability of the soil to adequately accommodate proposed construction, they may require that a soil test be made, at the owner's expense, in order to identify the soil type(s), by a soil scientist registered in the state of Maine. If the soil type which is identified is classified as having "poor" or "very poor" suitability for the proposed use, according to the "Soil Suitability Guide for Land Use Planning in Maine," the Planning Board may require the developer to submit written evidence from a professional engineer, registered in the State of Maine, that the soil will be able to support all proposed pavement, structures, and utilities. This report may include recommended engineering measures to ensure that cracking, subsidence, or other failures will not result.

13. Subsurface Waste/Water Disposal. No plumbing permit shall be issued for a subsurface wastewater disposal system unless the soil conditions meet the criteria contained in the State Subsurface Wastewater Disposal Rules, latest edition. Further, the disposal of waste water by means other than a public system must comply with the laws of the state of Maine and the Town concerning water pollution.

14. Other On-Site Waste Water Disposal Systems. No overboard discharges into surface waters are allowed.

15. Land Use. Commercial or industrial operations designed for retail trade requiring access to the public may be permitted by authorization of the Board within 200 feet but not closer than 100 feet of any Town road. Such operations shall provide the same frontage required of residences, a septic system sufficient for their public use, and adequate storage facilities. The character of the buildings and their landscaping shall not be unduly out of keeping with the neighborhood in which they are located. Except as permitted by existing ordinances, commercial or industrial uses not designed for retail trade nor requiring access to the public for commercial purposes shall be restricted to Open Space as designated by the Town's Comprehensive Plan (i.e., not within 200 feet of a Town road nor within the Shoreland Zone). Such operations shall be appropriately located and adequately landscaped or screened from the public view so as not to affect adversely the existing quality of life or property values of adjoining land owners.

16. Signs and Billboards: Signs and billboards relating to commercial or industrial use of the premises, including home occupations, shall not exceed 16 square feet in area, 8 feet in height from grade, and two signs per premise. A permit must be obtained from the Code Enforcement Officer and placement of signs on a premise must be approved by the Lamoine Road Commissioner or the Maine Department of Transportation. Signs and billboards related to commercial or industrial uses not on the premises shall be prohibited except as permitted under state law.
SECTION 16. AUTOMOBILE GRAVEYARDS AND JUNKYARDS

A. GENERAL

No automobile graveyard or junkyard as defined in this ordinance shall be established or operated without first obtaining site plan approval from the Planning Board and a non-transferable permit issued by the Selectmen in accordance with State licensing and local requirements complying with provisions in Section 16B and 16C.

Fees - An application for any permit required by this ordinance shall be accompanied by fee(s) as established by the Lamoine Board of Selectmen. No action shall be taken on any application until the fee(s) have been received by the Town. The application fee(s) shall not be refundable. The fee(s) shall be paid to the Town of Lamoine and shall accrue to the Code Enforcement Fund to be used for the administration and enforcement of town ordinances. A Schedule of Fees is located at the Town Office.

B. SITE REQUIREMENTS OF AUTOMOBILE GRAVEYARDS AND JUNKYARDS

1. Automobile graveyards and junkyards shall be located a minimum of two hundred feet (200’) from the edge of the rights-of-ways; and shall be set back one hundred feet (100’) from all side and rear lot lines.

2. Automobile graveyards and junkyards shall be located a minimum of three hundred feet (300’) from any public park, facility or grounds.

3. Automobile graveyards and junkyards shall be entirely screened from view by earth berms, plantings or fences which shall be well constructed and properly maintained at a minimum height of twelve feet (12’) and sufficient to accomplish the complete screening from ordinary view.

C. OPERATING REQUIREMENTS FOR AUTOMOBILE GRAVEYARDS AND JUNKYARDS

1. Upon arrival at the automobile graveyard, all fuel, engine oil, radiator, battery, transmission fluids etc. shall be drained from all vehicles, disposed of in accordance with applicable state and federal laws and appropriate safety precautions such as the removal of door and trunk locks shall be taken to avoid injury and accidents. The fluid removal must take place on an impermeable pad of sufficient size to handle 25% of the vehicles permitted on the lot.

2. No vehicles may remain intact in the yard for more than thirty (30) days and complete processing of vehicles into salvage materials shall be accomplished within four (4) months.

3. All junk and salvage materials shall be stored within the screened/fenced areas and the operation shall be conducted in such a manner as to prevent unsightliness to the adjacent area.
4. No open burning of salvage material or junk shall be permitted on the premises.
5. Waste fluids and unusable solid waste materials shall be disposed of in compliance with Maine’s solid waste laws.
PART III DEFINITIONS COVERING ALL SECTIONS

Section 17. Definitions

A. Construction of language

In the interpretation and enforcement of this Ordinance, all words other than those specifically defined in the Ordinance shall have the meaning implied by their context in the Ordinance or their ordinarily accepted meaning.

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

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

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

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

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

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

The words "Town" or "municipality" mean the Town of Lamoine, Maine.

B. Definitions of key terms

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

Access: The ability to enter or leave a public street or highway from an adjacent driveway or another public street.

Accessory Structure or use: a use or structure which is incidental and subordinate to the principal use or structure on the same lot. 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.

Administer: to execute the review and approval process stipulated by an ordinance and serve as consultant in any action by the Selectmen and/or Code Enforcement Officer necessary to ensure compliance with its provisions.

Aggrieved party: shall include the following: a person whose land is directly or indirectly affected by the grant or denial of a permit or variance under an ordinance, a person whose land abuts land for which a permit or variance has been granted, or a group of 5 or more citizens of the Town who represent an interest adverse to the grant or denial of such permit or variance.
Agriculture: The commercial cultivation of soil, producing or raising crops or livestock. The term shall also include greenhouses, nurseries and versions thereof, but these two terms, when used alone, shall refer specifically to a place where flowers, plants, shrubs, and/or trees are grown for sale.

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

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

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

Applicant: The person applying for a permit under this ordinance who demonstrates legal standing or interest to apply by means of ownership, authorized agent, or option or purchase and sale agreement or the like.

Aquifer: A geologic formation composed of rock or sand and gravel that stores and transmits significant quantities of recoverable water, as identified by the Bureau of Geology and Natural Areas, Maine Geological Survey with the Department of Conservation.

Aquifer Recharge Area: A primary or secondary recharge area composed of porous material or rock sufficiently fractured to allow infiltration and percolation of surface water and transmission of it to aquifers.

Area of Special Flood Hazard: The land in the floodplain having a one percent or greater chance of flooding in any given year.

Authorized Agent: A person having written authorization to act on behalf of a property owner. The authorization shall be signed by the property owner(s).

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.

Automobile Repair Shop: A business establishment engaged in general repair, engine rebuilding, or parts replacement. Automobile repair shall not mean body, frame, or fender straightening and repair or painting and undercoating, nor the sale of gasoline, other motor fuels or motor oil.

Automobile Graveyard, Junkyard: A yard, field, or other area used to store three or more unserviceable, discarded, worn-out, or junked motor vehicles as defined in 29A MRSA §101, subsection 42, or parts of such vehicles; includes an area for dismantling of motor vehicles for the purpose of reselling the component parts of the vehicles, for rebuilding or repairing salvage vehicles for the purpose of resale, or for selling the basic materials in salvage vehicles. Auto graveyard does not include any area used for temporary storage by an establishment or place of business which is primarily engaged in doing auto body repair work to make repairs to render a motor vehicle serviceable.
Average Daily Traffic (ADT): The average number of vehicles per day that enter and exit the premises or travel over a specific section of road.

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

Basement: Any area of the building having its floor subgrade (below ground level) on all sides.

Bed and Breakfast: Any dwelling in which transient lodging or boarding and lodging are provided and offered to the public by the owner for compensation for less than 30 days. This dwelling shall also be the full-time, permanent residence of its owner; otherwise, it shall be classified as a hotel/motel. There shall be no provisions for cooking in any individual guest room.

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

Buffer zone: trees, hedges, fencing, or other vegetative barrier in keeping with the character of the natural surroundings which provides a visual and auditory screen between a structure or lot and another structure, lot, or street.

Building: Any 3 dimensional structure or enclosure by any building materials or any space for any use or occupancy, temporary or permanent, including but not limited to swimming pools, foundations or pilings in the ground and all parts of any kind of structure above ground including decks, railings, dormers, and stairs, and excluding sidewalks, fences, driveways, electrical transmission and distribution lines, and field or garden walls or embankment retaining walls.

Building Height: The vertical distance between the highest point of the structure and the average final grade around the foundation, or the average grade of the original ground adjoining the building, whichever is greater.

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

Campground: Land upon which one or more tents are erected or trailers or other shelter are parked for temporary use for a fee or two or more sites on the same property arranged specifically for that purpose.

Cemetery: Property used for the interring of the dead.

Church, Synagogue and Mosque: A building or structure, or group of buildings or structures, designed, primarily intended and used for the conduct of religious services.

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

**Cluster Development:** A development consisting of residential dwelling units, or commercial businesses, or mixed residential and commercial uses planned, developed as a whole or in a programmed series of developments, and controlled by one developer on a tract of 10 or more lots, or one tract with 10 or more principal uses or dwelling units, which contemplates an innovative, more compact grouping of uses. Cluster developments treat the developed area as an entirety to promote flexibility in design, architectural diversity, the efficient use of land, a reduction in the size of road and utility systems, the creation of permanent, common open space, and the permanent retention of the natural characteristics of the land.

**Coastal Wetlands:** See wetland.

**Code Enforcement Officer:** A person appointed by the municipal officers to administer and enforce the Lamoine Building and Land Use Ordinance.

**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.

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

**Complete Application:** An application shall be considered complete upon submission of the required fee and all information required by this ordinance or by the Planning Board.

**Condominium:** As defined in the "Maine Condominium Act of 1983," the term means real estate, portions of which are designated for separate ownership and the remainder of which is designated for common ownership solely by the owners of those portions under a declaration, duly recorded pursuant to this Act. A condominium is a legal form of ownership, not a land development type. Real estate is not a condominium unless the undivided interests in the common elements are vested in the unit owners.

**Condominium Conversion:** A building that at any time before creation of the condominium was occupied wholly or partially by one or more persons other than purchasers and persons who occupy with the consent of purchasers.

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

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

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

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

Construction: creation, alteration, relocation, replacement of a structure, including excavation, fill, drainage, roads, services and other physical operations on the parcel.

Conversion to a different use: any change of dominant purpose to which a structure is put (e.g., from residential to commercial or from retail to industrial).

Cul-de-sac: A local street, one end of which is closed and consists of a circular turn-around.

Curb Cut: The opening along the curb line at which point vehicles may enter or leave the roadway.

Day Care: A building in which day care is provided for three or more children under the age of 16, a nursery school, or an adult day care program registered by the Maine Department of Human Services in accordance with M.R.S.A. Title 22, §7701 et. seq., as amended.

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

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

Developed Area: Any area on which a site improvement or change is made, including buildings, landscaping, parking areas, and roads or driveways.

Dimensional Requirements: Numerical standards relating to spatial relationships including but not limited to setback, lot area, shore or road frontage and height.

Direct Watershed of a Great Pond: That portion of the watershed which drains directly to the great pond without first passing through an upstream great pond. For the purposes of these regulations, the watershed boundaries shall be as delineated in the comprehensive plan. Due to the scale of the map in the comprehensive plan there may be small inaccuracies in the delineation of the watershed boundary. Where there is a dispute as to exact location of a watershed boundary, the Board or its designee and the applicant shall conduct an on-site investigation to determine where the drainage divide lies. If the Board and the applicants cannot agree on the location of the drainage divide based on the on-site investigation, the burden of proof shall lie with the applicant to provide the Board with information from a registered land surveyor showing where the drainage divide lies.

District: A specified portion of Lamoine, delineated on the official land use map, within which certain

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

Driveway Width: The narrowest width of the driveway, measured parallel to the highway of right-of-way.
Dwelling: Any building or structure or portion thereof designed or used for residential purposes.

1. **Dwelling Unit** - A room or group of rooms used by a family as a habitation which is separate from other such rooms or suites of rooms, containing independent living, cooking, sleeping, bathing and sanitary facilities.

2. **Single-Family Dwelling** - Any structure containing only one (1) dwelling unit for occupation by not more than one (1) family.

3. **Two-Family Dwelling** - A building containing only two (2) dwelling units, for occupation by not more than two (2) families.

4. **Multi-Family Dwelling** - A building containing three (3) or more dwelling units, such buildings being designed exclusively for residential use and occupancy by three (3) or more families living independently of one another, with the number of families not exceeding the number of dwelling units.

5. **Accessory Dwelling Unit** - A dwelling unit within and incidental to an existing single-family dwelling.

**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.

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

**Erosion**: The detachment and movement of soil or rock fragments by water, wind, ice, or gravity.

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

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

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

1. The excavation of material incidental to and at the site of approved construction of buildings, driveways or parking areas;

2. The excavation of material incidental to and at the site of construction or repair of streets; and

3. The excavation, processing or storage of less than ten (10) cubic yards of material on a lot within a one year period.

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

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

**Filling Station:** (see Service Station)

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

**Floodplain Management:** 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:** Zoning ordinances, subdivision regulations, building codes, health regulations, special purpose ordinances (such as 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.

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

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

**Foundations:** The supporting substructure of a building or other structure including but not limited to basements, slabs, sills, posts or frost walls.

**Freshwater Wetland:** See 'Wetland'

**Frontage, Road:** The distance between the intersections of the side lot lines with the road right-of-way or the existing tarred or gravel road.

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

**Gasoline Service Station:** Any place of business at which gasoline, other motor fuels or motor oil are sold, and put into a motor vehicle on the premises, regardless of any other business on the premises.

**Greenhouse:** A building whose roof and sides are made largely of glass or other transparent or translucent material and in which the temperature and humidity can be regulated for the cultivation of delicate or out-of-season plants for subsequent sale or for personal enjoyment.
Part III – Definitions

Groundwater: All water found beneath the surface of the ground. For purposes of aquifer protection, this term refers to the slowly moving subsurface water present in the aquifers and recharge areas.

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

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

Home occupation: is a business, profession, occupation or trade undertaken for gain or profit which: a) is clearly incidental and secondary to the use of the dwelling unit for residential purposes; b) is wholly carried on within a dwelling unit or other structure(s) accessory to a dwelling unit; and: d) utilizes no more than fifty (50) percent of the dwelling unit or of the total combined floor area of the dwelling unit and accessory structure(s) up to a limit of 1,500 square feet.

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, each rental unit having its own private bathroom and its own separate entrance leading either to the outdoors or to a common corridor or hallway. A hotel may include restaurant facilities where food is prepared and meals served to its guests and other customers.

Hydric Soils: Those soils characterized by the presence of wetland vegetation, hydrology, and to wet soils as defined within the current effective edition of the Federal Manual for identifying and delineating jurisdictional wetlands and as shown as being part of or adjacent to the hydric soils delineated within the Soil Conservation Services Medium Intensity Soil Survey.

Impervious Surface: Any material that substantially reduces or prevents the infiltration of stormwater into previously undeveloped land. Impervious surface shall include graveled driveways and parking areas as well as compacted sand and most conventionally surfaced streets, roofs, sidewalks, parking lots, and other similar structures.

Industrial: The assembling, fabrication, finishing, manufacturing, packaging or processing of goods, or the extraction of minerals except when conducted as part of a home occupation or conducted wholly within an existing structure where no utility modifications are required, the operation has no more than three employees, and no more than 2000 square feet. Proposed uses beneath the above thresholds may be reviewed as commercial uses.

Industrial Park: An area of land developed exclusively to industrial and associated uses.

Infrastructure: The basic facilities and utilities needed for the functioning of a community (in this ordinance, a subdivision) such as roads, common use sewage systems, common usage water supplies & lines, fire protection systems, communication and power lines and poles, street lighting, and other services and facilities used in common.

Institutional structure: a structure devoted to public, governmental, educational, charitable, medical, or similar purpose.
Junkyard: A yard, field or other area used to store discarded, worn-out or junked plumbing, heating supplies, household appliances, furniture, scrap or junked lumber, scrap copper, brass, rope, rags, batteries, paper trash, rubber debris, waste, scrap iron, steel, other scrap ferrous or nonferrous materials and garbage dumps, waste dumps and sanitary fills.

Kennel: An establishment in which more than six (6) dogs or six (6) cats are sold, bred, boarded, or trained for a fee.

Landsaping: The addition or retention of lawns, fields, trees, plants, and other natural and decorative features to the land. The preservation, care and maintenance of existing native vegetation of a size and character.

Cultivated Landscaping shall mean manmade planted areas that require pruning, fertilizing and tending on a more frequent basis.

Level of Service: A description of the operating conditions a driver will experience while traveling on a particular street or highway calculated in accordance with the provisions of the Highway Capacity Manual, 1985 edition, published by the National Academy of Sciences, Transportation Research Board. There are six levels of service ranging from Level of Service A, with free traffic flow and no delays to Level of Service F, with forced flow and congestion resulting in complete failure of the roadway.

Lodging unit: a room or group of rooms in which sleeping accommodations are furnished for compensation and meals or other services may be furnished by the owner or operator to any individual not a family member. Lodging units shall include bed and breakfasts, inns, boarding houses, rooming houses, hotels, or motels.

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

"New" Lot: A lot created after the effective date of this ordinance.

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

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

Lot, Coverage: The percentage of a lot covered by all buildings or structures including impervious non-vegetated surfaces.

Lot Line: A line bounding a lot which divides one lot from another or from a street or any other public or private space, as defined below:

Lot Line, front: In the case of a lot abutting only one street, the street line separating such lot from such street; in the case of a double frontage lot, each street line separating such lot from a street shall be considered to be the front lot line, except where the rear yard requirement is greater than the front yard requirement in which case one of two opposing yards shall be a rear yard. In the case of a lot with no road frontage the front lot line shall be considered to be the line parallel to the front of the building.
Lot Line, Rear: That lot line which is parallel to and most distant from the front lot line of a lot. In the case of an irregular, triangular, or gore-shaped lot, a line twenty feet (20') in length, entirely within the lot, parallel to and at the maximum distance from the front lot line shall be considered to be the rear lot line. In the case of lots which have frontage on more than one road or street, the rear lot line shall be opposite the lot line along which the lot takes access to the street.

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

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

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

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

Manufactured Housing: A structural unit or units designed for occupancy and constructed in a manufacturing facility and transported, by the use of its own chassis or an independent chassis, to a building site. The term includes any type of building which is constructed at a manufacturing facility and transported to a building site where it is used for housing and may be purchased or sold by a dealer in the interim. For purposes of this section, two types of manufactured housing are included. Those two types are:

Mobile Homes
1. Those units constructed after June 15, 1976, commonly called "newer mobile homes," which the manufacturer certifies are constructed in compliance with the United States Department of Housing and Urban Development standards, meaning structures transportable in one or more sections, which in the traveling mode are 14 body feet or more in width and are 750 or more square feet, and which are built on a permanent chassis and designed to be used as dwellings, with or without permanent foundations, when connected to the required utilities including the plumbing, heating, air conditioning or electrical systems contained in the unit;

   a. This term also includes any structure which meets all the requirements of this subparagraph, except the size requirements and with respect to which the manufacturer voluntarily files a certification required by the Secretary of the United States Department of Housing and Urban Development and complies with the standards established under the National Manufactured Housing Construction and Safety Standards Act of 1974, United States Code, Title 42, Section 5401, et seq.; and the Maine State Manufactured Housing Board.

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

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

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 like material from its natural location and to transport the product removed, away from the extraction site.

Mobile Home Park: A parcel of land under unified ownership approved by the municipality for the placement of 3 or more mobile homes.

Mobile Home Subdivision: A parcel of land approved by the town for the placement of three or more mobile homes on individually owned lots.

Multi-Unit or Multi-Family Residential: See Dwelling, Multi-Family.

Municipal facilities: provisions established and maintained by the town to serve the well-being of the public including but not limited to schools, town roads, solid waste disposal, fire protection, parks, water supplies, and sewage disposal systems.

Net Acreage: The area of a lot or lots that is usable for determining allowable densities after land not suitable for development (as defined in this ordinance) has been subtracted from the total acreage.

Net Maximum Density: The ratio of principal structures allowed in relation to available acreage.

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

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

Non-Conforming Use: The use of buildings, structures, premises, land or parts thereof which is not permitted in the zoning 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.

Nuisance: Any property or use existing in violation of a municipal land use ordinance or regulation.

Nursery: Land or greenhouses used to raise flowers, shrubs, and plants for sale.

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

Open space: land unencumbered with structures.

Open space for common use: open space applicable to the development but not restricted to individual occupants. Such space may be dedicated for public use, whether for general or a specified use.

Permanent Foundation: Shall mean all of the following:
1. A full, poured concrete or masonry foundation;
2. A poured concrete frost wall or a mortared masonry frost wall, with or without a concrete floor;
3. A reinforced, floating concrete pad for which the municipality may require an engineer's certification if it is to be placed on soil with high frost susceptibility; and
4. Concrete, masonry, or stone piling.
5. Any foundation which, pursuant to the building code of the municipality, is permitted for other types of single-family dwellings.

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

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

Phased Development: A development of land that is under unified control and is planned and developed as a whole in a single development operation of programmed series of development stages. The development often includes a mixture of uses and may include streets, buildings, open space, and other site features.

Plat: a plan, map, or chart drawn to scale describing a parcel of land indicating actual or proposed structures and uses.

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

Planning Board: The Planning Board of the Town of Lamoine.

Preliminary Plan: The preliminary drawings indicating the proposed layout of a development to be submitted to the Planning Board for its consideration.

Principal Structure or Use: The primary use and chief purpose of a lot or structure.

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

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

Public Parks and Recreation: Non-commercially operated recreation facilities open to the general public including, but not limited to playgrounds, parks, monuments, green strips, open space, mini-parks, athletic fields, boat launching ramps, piers and docks, picnic grounds, swimming pools, and wildlife and nature preserves, along with any necessary accessory facilities, restrooms, bath houses, and the maintenance of such land and facilities. The term shall not include campgrounds, or commercial recreation and amusement facilities.
Public Utility: Any person, firm, corporation, municipal department, board or commission authorized to furnish gas, steam, electricity, waste disposal, communication facilities, transportation or water to the public.

Quarry: a place where rock is excavated.

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

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

Replacement System: A subsurface wastewater disposal 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.

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

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

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

Road frontage: that portion of a parcel or lot contiguous to any road, street, or right of way.

School: An institution for education or instruction including a college, university, and public or private school conducting classes pursuant to a program approved by the State Board of Education or similar government agency, but not including commercially operated schools of beauty, culture, business, dancing, driving, music, or recreation which shall be deemed retail businesses.

Septic System: See 'Subsurface Waste Water Disposal System'

Service Drop: Any utility line extension which does not cross or run beneath any portion of a water body that conforms to the standards of the National Fire Protection Association “Number 70” and:

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

Service Station: An establishment where motor fuels are stored and dispensed into the fuel tanks of
motor vehicles. This use may include facilities for the retail sale of other products.

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

Shoreland Zone or Shoreland Area: All land areas under the jurisdiction of the Shoreland Zoning
Ordinance.

Sight Distance: The length of an unobstructed view from a particular access point to the farthest
visible point of reference on a roadway.

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

Sketch Plan: Conceptual maps, renderings, and supportive data describing the project proposed by the
applicant for initial review prior to submitting an application for planning board or code enforcement
officer approval. May be used by the applicant as the basis for preparing the development plans and as
part of the application for development approval.

Slope: See 'Sustained Slope'

Start of Construction: For the purposes of this Ordinance, the date the construction permit was issued,
provided the actual start of construction, repair, reconstruction, 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 columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. Permanent construction includes: land
preparation, such as clearing, grading and filling; the installation of streets and/or walkways; the
excavation for basement, footings, piers, or foundations or the erection of temporary forms; and 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.

Street: Public and private ways such as alleys, avenues, highways, roads, and other rights-of-way, as
well as areas on subdivision plans designated as rights-of-way for vehicular access other than
driveways. The center of all streets shall be set back at least 25 feet from abutting property lines.

Structure: Anything constructed or erected, the use of which requires a fixed location on or in the
ground or in the water, or an attachment to something having a fixed location on the ground, including
buildings, billboards, signs, commercial park rides and games, carports, porches, and other building
features, including stacks and antennas, but not including sidewalks, fences, driveways, parking lots,
and field or garden walls or embankment retaining walls.
Subdivision: The division of a tract or parcel of land into three (3) or more lots within a five (5) year period whether accomplished by sale, lease, development, buildings or otherwise and as further defined in the Lamoine Subdivision Ordinance and the Maine State Statutes, Title 30-A, MRSA, Section 4401, as amended.

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

Substantial addition: an increase of 20% of the area and/or of the assessed value.

Subsurface Waste Water Disposal System: A collection of treatment tank(s), disposal area(s), holding tank(s) and pond(s), surface spray system(s), cesspool(s), well(s), surface ditch(es), alternative toilet(s), or other devices and associated piping designed to function as a unit for the purpose of disposing of wastes or wastewater on or beneath the surface of the earth. The term shall not include any wastewater discharge system licensed under 38 MRSA Section 414, any surface wastewater disposal system licensed under 38 MRSA Section 413 Subsection 1-A, or any public sewer. The term shall not include a wastewater disposal system designed to treat wastewater which is in whole or in part hazardous waste as defined in 38 MRSA Chapter 13, subchapter 1.

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

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

Tract or Parcel of Land: All contiguous land in the same ownership, whether or not the tract is separated at any point by: an intermittent or non-navigable stream, tidal waters where there is no flow at low tide, or a private road established by the abutting land owners.

Two stories: 2 full floors, one at or above grade.

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

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

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

Water Extraction for Commercial Purposes: Substantial (up to or over 122,000 gallons per month) extraction of water from the aquifer or bedrock fractures for use in the production of income from the buying and selling of goods and/or services, exclusive of rental or residential buildings and/or dwelling units.

Water Extraction for Industrial Purposes: Substantial (up to or over 122,000 gallons per month) extraction of water from the aquifer or bedrock fractures for use in the assembling, fabrication, finishing, manufacturing, packaging or processing of goods or the extraction of minerals except when conducted as part of a home occupation or conducted wholly within an existing structure where no
utility modifications are required, the operation has no more than three employees and utilizes no more than 2000 square feet of area.

**Water Table:** The upper surface of groundwater, or that level below which the soil is seasonally saturated with water.

**Wetlands:** any swamp, marsh, bog, beach, flat, or other land above extreme low water which is subject to tidal action; also, areas enclosed by the normal high water mark of inland waters and areas otherwise identified on the basis of soils, vegetation, or other criteria as inland wetlands including but not limited to swamps, marshes, and bogs as defined by the Maine State Statutes.

**Wetland Coastal & Freshwater:** "Coastal Wetlands" are all tidal and sub-tidal lands including all areas below any identifiable debris line left by tidal action, all areas with vegetation present that is tolerant of salt water and occurs primarily in a salt water or estuarine habitat, and any swamp, marsh, bog, beach, flat or other contiguous lowland which is subject to tidal action during the maximum spring tide level as identified in tide tables published by the National Ocean Service and as defined by the Maine State Statutes.

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

1. of ten or more contiguous acres; or of less than 10 contiguous acres and adjacent to a surface water body, excluding any river, stream or brook such that in a natural state, the combined surface area is in excess of 10 acres; and

2. inundated or saturated by surface or ground water at a frequency and for a duration sufficient to support, and which under normal circumstances do support, a prevalence of wetland vegetation typically adapted for life in saturated soils.

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

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

**SECTION 18. EFFECTIVE DATE**

This Building Code shall become effective immediately after it has been accepted by a legally called Town Meeting and shall supersede any and all previous building codes.

Original Building Code enacted March, 1976
Adopted in town meeting March, 1988
Revised in special town meeting, September, 1988
Revised in special town meeting, May 8, 1993
Revised by special town meeting, November 5, 1996
Current version originally adopted April 16, 1999
Amended by special town meeting May 25, 1999
Amended by special town meeting June 27, 2002
Amended at regular town meeting March 9, 2005
Amended at special town meeting April 28, 2005
Amended at annual town meeting April 8, 2009
Amended at annual town meeting April 7, 2010

**Repealing and replacing all previous versions at town meeting April 10, 2014.**
Section 19. Map

This map is a photograph of the official zoning map on file at the Lamoine Town Office. Because of the resolution and size, we urge you to consult the official map.
Signature Page

This ordinance was amended on May 25, 1999 in open Town Meeting after initial adoption on April 16, 1999 by a properly held annual meeting of the Town of Lamoine in a referendum vote.

/s/Glenn Crawford, Chair
/s/Arthur Alley
/s/Richard A. Davis, Sr.

Selectmen, Town of Lamoine

This ordinance was amended on June 27, 2002 in open town meeting

/s/ Thomas Spruce
/s/ S. Josephine Cooper, Chair
/s/ Glenn Crawford

Selectmen, Town of Lamoine

This ordinance was amended on March 9, 2005 in open town meeting

/s/Perry Fowler
/s/S. Josephine Cooper
/s/Cynthia Donaldson
/s/Richard Fennelly Jr.
/s/Brett Jones

Selectmen Town of Lamoine

This ordinance was amended on April 28, 2005 at a special town meeting

/s/ S. Josephine Cooper    /s/ Perry Fowler    /s/ Cynthia Donaldson
/s/ Richard Fennelly, Jr.  /s/ Brett Jones

The Lamoine Board of Selectmen
This ordinance was amended on April 8, 2009 at the annual town meeting

/s/ S. Josephine Cooper
/s/ Richard E. Fennelly, Jr.
/s/ Kermit Theall
/s/ Gary McFarland
/s/ Cynthia Donaldson

_{The Lamoine Board of Selectmen}_

This ordinance was amended at the annual town meeting on April 7, 2010

/s/ Cynthia Donaldson
/s/ S. Josephine Cooper
/s/ Richard E. Fennelly, Jr.
/s/ Gary McFarland
/s/ William Brann

_{The Lamoine Board of Selectmen (signed April 15, 2010)}_

This ordinance was amended at the annual town meeting on March 16, 2011

/s/ Cynthia Donaldson
/s/ S. Josephine Cooper
/s/ Richard E. Fennelly, Jr.
/s/ Gary McFarland
/s/ William Brann

_{The Lamoine Board of Selectmen (signed April 7, 2011)}_

This document adopted at the Annual Town Meeting on April 10, 2014

/s/ Gary McFarland
/s/ S. Josephine Cooper
/s/ Bernard Johnson
/s/ Nathan Mason
/s/ Heather Fowler

_{The Lamoine Board of Selectmen}_

This document was amended by referendum vote at a special town meeting on June 10, 2014

/s/ Gary McFarland
/s/ S. Josephine Cooper
/s/ Bernard Johnson
/s/ Nathan Mason
/s/ Heather Fowler
This document was amended at a Special Town Meeting on May 16, 2018

_____________________  Nathan Mason, Chair
______________________  Gary McFarland
_______________________  S. Josephine Cooper
______________________  Robert Christie
______________________  Kathleen Rybarz

The Lamoine Board of Selectmen – Current Version Signed June 7, 2018

Attest: A True Copy  ______________________________
                  Stuart Marckoon, Deputy Town Clerk
FRANCHISE AGREEMENT

This Franchise Agreement ("Franchise") is between the Town of Lamoine, ME, hereinafter referred to as the "Grantor" and Time Warner Cable Northeast LLC, locally known as CHARTER COMMUNICATIONS, hereinafter referred to as the "Grantee."

WHEREAS, the Grantor finds that the Grantee has substantially complied with the material terms of the current Franchise under applicable laws, and that the financial, legal and technical ability of the Grantee is sufficient to provide services, facilities and equipment necessary to meet the future cable-related needs of the community, and

WHEREAS, having afforded the public adequate notice and opportunity for comment, Grantor desires to enter into this Franchise with the Grantee for the construction and operation of a cable system on the terms set forth herein; and

WHEREAS, the Grantor and Grantee have complied with all federal and State-mandated procedural and substantive requirements pertinent to this franchise renewal;

NOW, THEREFORE, the Grantor and Grantee agree as follows:

SECTION 1
Definition of Terms

1.1 Terms. For the purpose of this franchise the following terms, phrases, words and their derivations shall have the meaning ascribed to them in the Cable Communications Policy Act of 1984, as amended from time to time (the "Cable Act"), unless otherwise defined herein. When not inconsistent with the context, words used in the present tense include the future, words in the plural number include the singular number, and words in the singular number include the plural number. The word "shall" is mandatory and "may" is permissive. Words not defined shall be given their common and ordinary meaning.

A. "Cable System," "Cable Service," and "Basic Cable Service" shall be defined as set forth in the Cable Act.

B. "Board/Council" shall mean the governing body of the Grantor.


D. "FCC" shall mean the Federal Communications Commission and any successor governmental entity thereto.

E. "Franchise" shall mean the non-exclusive rights granted pursuant to this Franchise to construct operate and maintain a Cable System along the public ways within all or a specified area in the Service Area.
F. "Gross Revenue" means any revenue, as determined in accordance with generally accepted accounting principles, received by the Grantee from the operation of the Cable System to provide Cable Services in the Service Area, including pay-per-view and home shopping, provided however, that such phrase shall not include: (1) any taxes, fees or assessments collected by the Grantee from Subscribers for pass-through to a government agency, including, without limitation, the FCC user fee, the franchise fee, or any sales or utility taxes; (2) unrecovered bad debt; (3) credits, refunds and deposits paid to Subscribers; (4) any exclusions available under applicable State law.

G. "Person" shall mean an individual, partnership, association, organization, corporation, trust or governmental entity.

H. "Service Area" shall mean the geographic boundaries of the Franchise Authority, and shall include any additions thereto by annexation or other legal means, subject to the exception in subsection 6.1 hereto.

I. "State" shall mean the State of Maine.

J. "Street" shall include each of the following located within the Service Area: public streets, roadways, highways, bridges, land paths, boulevards, avenues, lanes, alleys, sidewalks, circles, drives, easements, rights of way and similar public ways and extensions and additions thereto, including but not limited to public utility easements, dedicated utility strips, or rights-of-way dedicated for compatible uses now or hereafter held by the Grantor in the Service Area, which shall entitle the Grantee to the use thereof for the purpose of installing, operating, repairing and maintaining the Cable System.

K. "Subscriber" shall mean any Person lawfully receiving Cable Service from the Grantee.

SECTION 2
Grant of Franchise

2.1 Grant. The Grantor hereby grants to the Grantee a nonexclusive Franchise which authorizes the Grantee to erect, construct, operate and maintain in, upon, along, across, above, over and under the Streets, now in existence and as may be created or established during its terms; any poles, wires, cable, underground conduits, manholes, and other conductors and fixtures necessary for the maintenance and operation of a Cable System. Nothing in this Franchise shall be construed to prohibit the Grantee from offering any service over its Cable System that is not prohibited by federal, State or local law.

2.2 Term. The Franchise and the rights, privileges and authority hereby granted shall be for an initial term of fifteen (15) years, commencing on the Effective Date of this Franchise as set forth in Section 15.12.

2.3 Police Powers and Conflicts with Franchise. The Grantee agrees to comply with the terms of any lawfully adopted generally applicable local ordinance necessary to the safety, health, and welfare of the public, to the extent that the provisions of the ordinance do not have the effect of
limiting the benefits or expanding the obligations of the Grantee that are granted by this Franchise. This Franchise is a contract and except as to those changes which are the result of the Grantor's lawful exercise of its general police power, the Grantor may not take any unilateral action which materially changes the explicit mutual promises in this contract. Any changes to this Franchise must be made in writing signed by the Grantee and the Grantor. In the event of any conflict between this Franchise and any Grantor ordinance or regulation that is not generally applicable, this Franchise shall control.

2.4 **Cable System Franchise Required.** No Cable System shall be allowed to occupy or use the streets or public rights-of-way of the Service Area or be allowed to operate without a Cable System Franchise.

### SECTION 3
**Franchise Renewal**

3.1 **Procedures for Renewal.** The Grantor and the Grantee agree that any proceedings undertaken by the Grantor that relate to the renewal of the Grantee’s Franchise shall be governed by and comply with the provisions of Section 626 of the Cable Act, or any such successor statute.

### SECTION 4
**Indemnification and Insurance**

4.1 **Indemnification.** The Grantee shall, by acceptance of the Franchise granted herein, defend the Grantor, its officers, boards, commissions, agents, and employees for all claims for injury to any Person or property caused by the negligence of Grantee in the construction or operation of the Cable System and in the event of a determination of liability shall indemnify and hold Grantor, its officers, boards, commissions, agents, and employees harmless from any and all liabilities, claims, demands, or judgments growing out of any injury to any Person or property as a result of the negligence of Grantee arising out of the construction, repair, extension, maintenance, operation or removal of its wires, poles or other equipment of any kind or character used in connection with the operation of the Cable System, provided that the Grantor shall give the Grantee written notice of its obligation to indemnify the Grantor within ten (10) days of receipt of a claim or action pursuant to this section. In the event any such claim arises, the Grantor shall tender the defense thereof to the Grantee and the Grantee shall have the right to defend, settle or compromise any claims arising hereunder and the Grantor shall cooperate fully herein. If the Grantor determined in good faith that its interests cannot be represented by the Grantee, the Grantee shall be excused from any obligation to represent the Grantor. Notwithstanding the foregoing, the Grantee shall not be obligated to indemnify the Grantor for any damages, liability or claims resulting from the willful misconduct or negligence of the Grantor or for the Grantor's use of the Cable System, including any PEG channels.

4.2 **Insurance.**

A. The Grantee shall maintain throughout the term of the Franchise insurance in amounts at least as follows:
Workers' Compensation          Statutory Limits

Commercial General Liability  [$1,000,000] per occurrence,
                              Combined Single Limit (C.S.L.)
                              [$2,000,000] General Aggregate

Auto Liability including coverage on all owned, non-owned hired autos  [$1,000,000] per occurrence C.S.L.

Umbrella Liability           [$1,000,000] per occurrence C.S.L.

B. The Grantor shall be added as an additional insured, arising out of work performed by Charter, to the above Commercial General Liability, Auto Liability and Umbrella Liability insurance coverage.

C. The Grantee shall furnish the Grantor with current certificates of insurance evidencing such coverage upon request.

SECTION 5
Service Obligations

5.1 No Discrimination. Grantee shall not deny service, deny access, or otherwise discriminate against Subscribers, channel users, or general citizens on the basis of race, color, religion, national origin, age or sex.

5.2 Privacy. The Grantee shall fully comply with the privacy rights of Subscribers as contained in Cable Act Section 631 (47 U.S.C. § 551).

SECTION 6
Service Availability

6.1 Service Area. The Grantee shall make Cable Service distributed over the Cable System available to every residence within the Service Area where there is a minimum density of at least twenty (20) residences per linear strand mile of cable as measured from Grantee's closest trunk line or distribution cable that is actively delivering Cable Service as of the date of such request for service. If such residence is located within one hundred twenty five (125) feet of Grantee's feeder cable, the Cable Service will be provided at Grantee's published rate for standard installations. Notwithstanding the foregoing, the Grantee shall have the right, but not the obligation, to extend the Cable System into any portion of the Service Area where another operator is providing Cable Service, into any annexed area which is not contiguous to the present Service Area of the Grantee or to any area which is financially or technically infeasible. Grantee at its discretion may make Cable Service available to businesses within the Service Area. Cable Service offered to Subscribers pursuant to this Franchise shall be conditioned upon Grantee having legal access to any such Subscriber's dwelling unit or other units wherein such Cable Service is provided. Nothing herein shall be construed to limit the Grantee's ability to offer or provide bulk rate discounts or promotions.
6.2 **Subscriber Charges for Extensions of the Cable System.** No Subscriber shall be refused service arbitrarily. However, if an area does not meet the density requirements of Section 6.1 above, the Grantee shall only be required to extend the Cable System to Subscribers in that area if the Subscribers are willing to share the capital costs of extending the Cable System. The Grantee may require that payment of the capital contribution in aid of construction borne by such potential Subscribers be paid in advance. Subscribers shall also be responsible for any standard/non-standard installation charges to extend the Cable System from the tap to the residence.

6.3 **New Development Underground.** In cases of new construction or property development where utilities are to be placed underground, the Grantor agrees to require as a condition of issuing a permit for open trenching to any developer or property owner that such developer or property owner give Grantee at least thirty (30) days prior written notice of such construction or development, and of the particular dates on which open trenching will be available for Grantee’s installation of conduit, pedestals and/or vaults, and laterals to be provided at Grantee’s expense. Grantee shall also provide specifications as needed for trenching. Costs of trenching and easements required to bring service to the development shall be borne by the developer or property owner; except that if Grantee fails to install its conduit, pedestals and/or vaults, and laterals within five (5) working days of the date the trenches are available, as designated in the written notice given by the developer or property owner, then should the trenches be closed after the five day period, the cost of new trenching is to be borne by Grantee.

6.4 **Annexation.** The Grantor shall promptly provide written notice to the Grantee of its annexation of any territory which is being provided Cable Service by the Grantee or its affiliates. Such annexed area will be subject to the provisions of this Franchise upon sixty (60) days’ written notice from the Grantor, subject to the conditions set forth below and Section 6.1 above. The Grantor shall also notify Grantee in writing of all new street address assignments or changes within the Service Area. Grantee shall within ninety (90) days after receipt of the annexation notice, pay the Grantor franchise fees on revenue received from the operation of the Cable System to provide Cable Services in any area annexed by the Grantor if the Grantor has provided a written annexation notice that includes the addresses that will be moved into the Service Area in an Excel format or in a format that will allow Grantee to change its billing system. If the annexation notice does not include the addresses that will be moved into the Service Area, Grantee shall pay franchise fees within ninety (90) days after it receives the annexed addresses as set forth above. All notices due under this section shall be sent by certified mail, return receipt requested to the addresses set forth in Section 15.8 with a copy to the Director of Government Relations. In any audit of franchise fees due under this Franchise, Grantee shall not be liable for franchise fees on annexed areas unless and until Grantee has received notification and information that meets the standards set forth in this section.

**SECTION 7**

**Construction and Technical Standards**

7.1 **Compliance with Codes.** All construction practices and installation of equipment shall be done in accordance with all applicable sections of the National Electric Safety Code.
7.2 **Construction Standards and Requirements.** All of the Grantee’s plant and equipment, including but not limited to the antenna site, head end and distribution system, towers, house connections, structures, poles, wire, cable, coaxial cable, fixtures and appurtenances shall be installed, located, erected, constructed, reconstructed, replaced, removed, repaired, maintained and operated in accordance with good engineering practices and performed by experienced maintenance and construction personnel.

7.3 **Safety.** The Grantee shall at all times employ ordinary care and shall use commonly accepted methods and devices preventing failures and accidents which are likely to cause damage.

7.4 **Network Technical Requirements.** The Cable System shall be designed, constructed and operated so as to meet those technical standards adopted by the FCC relating to Cable Systems contained in part 76 of the FCC’s rules and regulations as may be amended from time to time, regardless of the transmission technology utilized.

7.5 **Performance Monitoring.** Grantee shall test the Cable System consistent with the FCC regulations.

**SECTION 8**

**Conditions on Street Occupancy**

8.1 **General Conditions.** Grantee shall have the right to utilize existing poles, conduits and other facilities whenever possible, and shall not construct or install any new, different, or additional poles, conduits, or other facilities on public property without obtaining all legally required permits of the Grantor.

8.2 **Underground Construction.** The facilities of the Grantee shall be installed underground in those Service Areas where existing telephone and electric services are both underground at the time of system construction. In areas where either telephone or electric utility facilities are installed aerially at the time of system construction, the Grantee may install its facilities aerially with the understanding that at such time as the existing aerial facilities are required to be placed underground by the Grantor, the Grantee shall likewise place its facilities underground. In the event that any telephone or electric utilities are reimbursed by the Grantor or any agency thereof for the placement of cable underground or the movement of cable, Grantee shall be reimbursed upon the same terms and conditions as any telephone, electric or other utilities.

8.3 **Construction Codes and Permits.** Grantee shall obtain all legally required permits before commencing any work requiring a permit, including the opening or disturbance of any Street within the Service Area. The Grantor shall cooperate with the Grantee in granting any permits required, providing such grant and subsequent construction by the Grantee shall not unduly interfere with the use of such Streets. The Grantee shall adhere to all building and zoning codes currently or hereafter applicable to construction, operation or maintenance of the Cable System in the Service Area, provided that such codes are of general applicability and such codes are uniformly and consistently applied by the Grantor as to other public utility companies and other entities operating in the Service Area. Notwithstanding the above, the Grantee may set off any administrative permit fees or other fees required by the Grantor related to the Grantee’s use of
Grantor rights-of-way against the franchise fee payments required under Section 10.1 of this Franchise.

8.4 System Construction. All transmission lines, equipment and structures shall be so installed and located as to cause minimum interference with the rights and reasonable convenience of property owners and at all times shall be kept and maintained in a safe, adequate and substantial condition, and in good order and repair. The Grantee shall, at all times, employ ordinary care and use commonly accepted methods and devices for preventing failures and accidents which are likely to cause damage, injuries, or nuisances to the public. Suitable barricades, flags, lights, flares or other devices shall be used at such times and places as are reasonably required for the safety of all members of the public. Any poles or other fixtures placed in any public way by the Grantee shall be placed in such a manner as not to interfere with the usual travel on such public way.

8.5 Restoration of Public Ways. Grantee shall, at its own expense, restore any damage or disturbance caused to the public way as a result of its operation, construction, or maintenance of the Cable System to a condition reasonably comparable to the condition of the Streets immediately prior to such damage or disturbance.

8.6 Removal in Emergency. Whenever, in case of fire or other disaster, it becomes necessary in the judgment of the Grantor to remove any of the Grantee's facilities, no charge shall be made by the Grantee against the Grantor for restoration and repair, unless such acts amount to gross negligence by the Grantor.

8.7 Tree Trimming. Grantee or its designee shall have the authority to trim trees on public property at its own expense as may be necessary to protect its wires and facilities.

8.8 Relocation for the Grantor. The Grantee shall, upon receipt of reasonable advance written notice, to be not less than ten (10) business days, protect, support, temporarily disconnect, relocate, or remove any property of Grantee when lawfully required by the Grantor pursuant to its police powers. Grantee shall be responsible for any costs associated with these obligations to the same extent all other users of the Grantor rights-of-way are responsible for the costs related to the relocation of their facilities.

8.9 Relocation for a Third Party. The Grantee shall, on the request of any Person holding a lawful permit issued by the Grantor, protect, support, raise, lower, temporarily disconnect, relocate in or remove from the Street as necessary any property of the Grantee, provided that the expense of such is paid by any such Person benefiting from the relocation and the Grantee is give reasonable advance written notice to prepare for such changes. The Grantee may require such payment in advance. For purposes of this subsection, "reasonable advance written notice" shall be no less than ten (10) business days in the event of a temporary relocation and no less than one hundred twenty (120) days for a permanent relocation.

8.10 Reimbursement of Costs. If funds are available to any Person using the Streets for the purpose of defraying the cost of any of the foregoing, the Grantor shall reimburse the Grantee in the same manner in which other Persons affected by the requirement are reimbursed. If the funds are controlled by another governmental entity, the Grantor shall make application for such funds on behalf of the Grantee.
8.11 **Emergency Use.** If the Grantee provides an Emergency Alert System ("EAS"), then the Grantor shall permit only appropriately trained and authorized Persons to operate the EAS equipment and shall take reasonable precautions to prevent any use of the Grantee's Cable System in any manner that results in inappropriate use thereof, or any loss or damage to the Cable System. The Grantor shall hold the Grantee, its employees, officers and assigns harmless from any claims or costs arising out of use of the EAS, including, but not limited to, reasonable attorneys’ fees and costs.

SECTION 9
Service and Rates

9.1 **Phone Service.** The Grantee shall maintain a toll-free telephone number and a phone service operated such that complaints and requests for repairs or adjustments may be received at any time.

9.2 **Notification of Service Procedures.** The Grantee shall furnish each Subscriber at the time service is installed, written instructions that clearly set forth information concerning the procedures for making inquiries or complaints, including the Grantee’s name, address and local telephone number. Grantee shall give the Grantor thirty (30) days prior notice of any rate increases, channel lineup or other substantive service changes.

9.3 **Rate Regulation.** Grantor shall have the right to exercise rate regulation to the extent authorized by law, or to refrain from exercising such regulation for any period of time, at the sole discretion of the Grantor. If and when exercising rate regulation, the Grantor shall abide by the terms and conditions set forth by the FCC.

9.4 **Continuity of Service.** It shall be the right of all Subscribers to continue receiving Cable Service insofar as their financial and other obligations to the Grantee are honored, and subject to Grantee’s rights under Section 15.1 of this Franchise.

9.5 **Service to Public Buildings.** Subject to applicable law, Grantee shall provide, without charge, Standard Installation and one outlet of basic Cable Service to the locations listed in Exhibit A hereto. The Cable Service provided pursuant to this Section 9.5 shall not be used for commercial purposes. The Grantor shall take reasonable precautions to prevent any inappropriate use or loss or damage to the Grantee’s Cable System.

SECTION 10
Franchise Fee

10.1 **Amount of Fee.** Grantee shall pay to the Grantor an annual franchise fee in an amount equal to three percent (3%) not to exceed five percent (5%) of the annual Gross Revenue. Such payment shall be in addition to taxes of general applicability owed to the Grantor by the Grantee that are not included as franchise fees under federal law. Franchise fees may be passed through to Subscribers as a line item on Subscriber bills or otherwise as Grantee chooses, consistent with federal law.

10.2 **Payment of Fee.** Payment of the fee due the Grantor shall be made on an annual basis, within forty-five (45) days of the close of each calendar year. The payment period and the collection of
the franchise fees that are to be paid to the Grantor pursuant to the Franchise shall commence sixty (60) days after the Effective Date of the Franchise as set forth in Section 15.13. In the event of a dispute, the Grantor, if it so requests, shall be furnished a statement of said payment, reflecting the Gross Revenues and the applicable charges.

10.3 Accord and Satisfaction. No acceptance of any payment by the Grantor shall be construed as a release or as an accord and satisfaction of any claim the Grantor may have for additional sums payable as a franchise fee under this Franchise.

10.4 Limitation on Recovery. The period of limitation for recovery of any franchise fee payable hereunder shall be three (3) years from the date on which payment by the Grantee was due.

SECTION 11
Transfer of Franchise

11.1 Franchise Transfer. The Franchise granted hereunder shall not be assigned, other than by operation of law or to an entity controlling, controlled by, or under common control with the Grantee, without the prior consent of the Grantor, such consent not to be unreasonably withheld or delayed. No such consent shall be required, however, for a transfer in trust, by mortgage, by other hypothecation, or by assignment of any rights, title, or interest of the Grantee in the Franchise or Cable System to secure indebtedness. Within thirty (30) days of receiving a request for transfer, the Grantor shall notify the Grantee in writing of any additional information it reasonably requires to determine the legal, financial and technical qualifications of the transferee. If the Grantor has not taken action on the Grantee's request for transfer within one hundred twenty (120) days after receiving such request, consent by the Grantor shall be deemed given.

SECTION 12
Records, Reports and Maps

12.1 Reports Required. The Grantee's schedule of charges for regular Subscriber service, its policy regarding the processing of Subscriber complaints, delinquent Subscriber disconnect and reconnect procedures and any other terms and conditions adopted as the Grantee's policy in connection with its Subscribers shall be filed with the Grantor upon request.

12.2 Records Required.

The Grantee shall at all times maintain:

A. A record of all written complaints received regarding interruptions or degradation of Cable Service, which record shall be maintained for one (1) year.

B. A full and complete set of plans, records and strand maps showing the location of the Cable System.

12.3 Inspection of Records. Grantee shall permit any duly authorized representative of the Grantor, upon receipt of advance written notice, to examine during normal business hours and on a non-disruptive basis any and all of Grantee's records maintained by Grantee as is reasonably
necessary to ensure Grantee’s compliance with the Franchise. Such notice shall specifically reference the subsection of the Franchise that is under review so that the Grantee may organize the necessary books and records for easy access by the Grantor. The Grantee shall not be required to maintain any books and records for Franchise compliance purposes longer than three (3) years, except for service complaints, which shall be kept for one (1) year as specified above. The Grantee shall not be required to provide Subscriber information in violation of Section 631 of the Cable Act. The Grantor agrees to treat as confidential any books, records or maps that constitute proprietary or confidential information to the extent Grantee make the Grantor aware of such confidentiality. If the Grantor believes it must release any such confidential books or records in the course of enforcing this Franchise, or for any other reason, it shall advise Grantee in advance so that Grantee may take appropriate steps to protect its interests. Until otherwise ordered by a court or agency of competent jurisdiction, the Grantor agrees that, to the extent permitted by State and federal law, it shall deny access to any of Grantee’s books and records marked confidential, as set forth above, to any Person.

12.4 Performance Bond. Grantee shall obtain and maintain during a major construction project exceeding $50,000 at its sole cost and expense, and file with Town, an irrevocable performance bond running to the Town with a surety authorized to do business as a surety in the State of Maine, to guarantee the faithful performance by Company. Such performance bond shall be in the amount of at least ten thousand dollars ($10,000). Upon completion of the major construction project, the Town shall cooperate with Grantee to provide any consent required by the surety to release the bond.

SECTION 13
Public Education and Government (PEG) Access

13.1 PEG Access. Grantee shall continue to provide two channels on the Cable System for use by the Grantor non-commercial, video programming for public, education and government (“PEG”) access programming. The PEG channel may be placed on any tier of service available to Subscribers. Grantee will continue to provide the existing return feeds located at the Town office, 606 Douglas Highway and the Lamoine Consolidated School located at 53 Lamoine Beach Road.

13.2 PEG Support. In support of the PEG Channel(s), Grantee will provide a Capital Grant of $5,000 to upgrade existing equipment.

SECTION 14
Enforcement or Revocation

14.1 Notice of Violation. If the Grantor believes that the Grantee has not complied with the terms of the Franchise, the Grantor shall first informally discuss the matter with Grantee. If these discussions do not lead to resolution of the problem, the Grantor shall notify the Grantee in writing of the exact nature of the alleged noncompliance (the “Violation Notice”).

14.2 Grantee’s Right to Cure or Respond. The Grantee shall have thirty (30) days from receipt of the Violation Notice to (i) respond to the Grantor, contesting the assertion of noncompliance, or (ii) to cure such default, or (iii) if, by the nature of default, such default cannot be cured within
the thirty (30) day period, initiate reasonable steps to remedy such default and notify the Grantor of the steps being taken and the projected date that they will be completed.

14.3 Public Hearing. If the Grantee fails to respond to the Violation Notice received from the Grantor, or if the default is not remedied within the cure period set forth above, the Board shall schedule a public hearing if it intends to continue its investigation into the default. The Grantor shall provide the Grantee at least twenty (20) days prior written notice of such hearing, which specifies the time, place and purpose of such hearing, notice of which shall be published by the Clerk of the Grantor in a newspaper of general circulation within the Grantor in accordance with subsection 15.9 hereof. The Grantee shall have the right to present evidence and to question witnesses. The Grantor shall determine if the Grantee has committed a violation and shall make written findings of fact relative to its determination. If a violation is found, the Grantee may petition for reconsideration before any competent tribunal having jurisdiction over such matters.

14.4 Enforcement. Subject to applicable federal and State law, in the event the Grantor, after the hearing set forth in subsection 14.3 above, determines that the Grantee is in default of any provision of the Franchise, the Grantor may:

A. Seek specific performance of any provision, which reasonably lends itself to such remedy, as an alternative to damages; or

B. Commence an action at law for monetary damages or seek other equitable relief; or

C. In the case of a substantial default of a material provision of the Franchise, seek to revoke the Franchise itself in accordance with subsection 14.5 below.

14.5 Revocation.

A. Prior to revocation or termination of the Franchise, the Grantor shall give written notice to the Grantee of its intent to revoke the Franchise on the basis of a pattern of noncompliance by the Grantee, including one or more instances of substantial noncompliance with a material provision of the Franchise. The notice shall set forth the exact nature of the noncompliance. The Grantee shall have sixty (60) days from such notice to either object in writing and to state its reasons for such objection and provide any explanation or to cure the alleged noncompliance. If the Grantor has not received a satisfactory response from Grantee, it may then seek to revoke the Franchise at a public hearing. The Grantee shall be given at least thirty (30) days prior written notice of such public hearing, specifying the time and place of such hearing and stating its intent to revoke the Franchise.

B. At the hearing, the Board shall give the Grantee an opportunity to state its position on the matter, present evidence and question witnesses, after which it shall determine whether or not the Franchise shall be revoked. The public hearing shall be on the record and a written transcript shall be made available to the Grantee within ten (10) business days. The decision of the Board shall be made in writing and shall be delivered to the Grantee. The Grantee may appeal such determination to an appropriate court, which shall have the power to review the decision of the Board de novo. The Grantee may continue to operate the Cable System until all legal appeals procedures have been exhausted.
C. Notwithstanding the above provisions, the Grantee does not waive any of its rights under federal law or regulation.

D. Upon revocation of the Franchise, Grantee may remove the Cable System from the Streets of the Grantor, or abandon the Cable System in place.

SECTION 15

 Miscellaneous Provisions

15.1 Force Majeure. The Grantee shall not be held in default under, or in noncompliance with the provisions of the Franchise, nor suffer any enforcement or penalty relating to noncompliance or default, where such noncompliance or alleged defaults occurred or were caused by circumstances reasonably beyond the ability of the Grantee to anticipate and control. This provision includes, but is not limited to, severe or unusual weather conditions, fire, flood, or other acts of God, strikes, work delays caused by failure of utility providers to service, maintain or monitor their utility poles to which Grantee’s Cable System is attached, as well as unavailability of materials and/or qualified labor to perform the work necessary.

15.2 Minor Violations. Furthermore, the parties hereby agree that it is not the Grantor’s intention to subject the Grantee to penalties, fines, forfeitures or revocation of the Franchise for violations of the Franchise where the violation was a good faith error that resulted in no or minimal negative impact on the Subscribers within the Service Area, or where strict performance would result in practical difficulties and hardship to the Grantee which outweighs the benefit to be derived by the Grantor and/or Subscribers.

15.3 Action of Parties. In any action by the Grantor or the Grantee that is mandated or permitted under the terms hereof, such party shall act in a reasonable, expeditious and timely manner. Furthermore, in any instance where approval or consent is required under the terms hereof, such approval or consent shall not be unreasonably withheld.

15.4 Equal Protection. If any other provider of cable services or video services (without regard to the technology used to deliver such services) is lawfully authorized by the Grantor or by any other State or federal governmental entity to provide such services using facilities located wholly or partly in the public rights-of-way of the Grantor, the Grantor shall within thirty (30) days of a written request from Grantee, modify this Franchise to insure that the obligations applicable to Grantee are no more burdensome than those imposed on the new competing provider. If the Grantor fails to make modifications consistent with this requirement, Grantee’s Franchise shall be deemed so modified thirty (30) days after the Grantee’s initial written notice. As an alternative to the Franchise modification request, the Grantee shall have the right and may choose to have this Franchise with the Grantor be deemed expired thirty (30) days after written notice to the Grantor. Nothing in this Franchise shall impair the right of the Grantee to terminate this Franchise and, at Grantee’s option, negotiate a renewal or replacement franchise, license, consent, certificate or other authorization with any appropriate government entity.
15.5 **Customer Service Standards.** - Grantee will comply with the customer service standards promulgated by the FCC in accordance with the Cable Act, 47 CRF 76.309, for as long as such standards are in effect.

15.6 **Subscriber Complaint Practices**

1. Grantee shall maintain adequate telephone lines and personnel to respond in a timely manner to schedule service calls and answer Subscriber complaints or inquiries. Grantee shall follow all applicable federal and state regulations in responding to complaints by subscribers.

2. Grantee shall render efficient service, make repairs promptly and interrupt service only for good cause and for the shortest time possible.

15.7 **Parental Control Option** — Grantee shall provide subscribers with the capability to control reception of Cable Services, at a reasonable cost, pursuant to Section 641 of the Cable Act.

15.8 **Notices.** Unless otherwise provided by federal, State or local law, all notices, reports or demands pursuant to this Franchise shall be in writing and shall be deemed to be sufficiently given upon delivery to a Person at the address set forth below, or by U.S. certified mail, return receipt requested, nationally or internationally recognized courier service such as Federal Express or electronic mail communication to the designated electronic mail address provided below. Grantee shall provide thirty (30) days' written notice of any changes in rates, programming services or channel positions using any reasonable written means. As set forth above, notice served upon the Grantor shall be delivered or sent to:

- **Grantor:** Town of Lamoine
  Town Administrator
  606 Douglas Highway
  Lamoine, ME 04605

- **Grantee:** Charter Communications
  Government Relations
  400 Old County Road
  Rockland, ME 04841

- **Copy to:** Charter Communications
  Attn: Vice President, Government Affairs
  12405 Powerscourt Drive
  St. Louis, MO 63131

15.9 **Public Notice.** Minimum public notice of any public meeting relating to this Franchise or any such grant of additional franchises, licenses, consents, certificates, authorizations, or exemptions by the Grantor to any other Person(s) to provide Cable Services, video services, or other television services utilizing any system or technology requiring use of the public rights of way shall be by publication at least once in a newspaper of general circulation in the area at least ten (10) days prior to the meeting and a posting at the administrative buildings of the Grantor.
15.9.1 Grantor shall provide written notice to Grantee within ten (10) days of Grantor's receipt from any other Person(s) of an application or request for a franchise(s), license(s), consent(s), certificate(s), authorization(s), or exemption(s) to provide Cable Services, video services, or other television services utilizing any system or technology requiring use of the public rights of way. Any public hearings to consider such application or request shall have the same notice requirement as outlined in Paragraph 15.6 above.

15.10 Severability. If any section, subsection, sentence, clause, phrase, or portion of this Franchise 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 of this Franchise.

15.11 Entire Agreement. This Franchise and any Exhibits hereto constitute the entire agreement between Grantee and the Grantor and they supersede all prior or contemporaneous agreements, representations or understandings (whether written or oral) of the parties regarding the subject matter hereof.

15.12 Administration of Franchise. This Franchise is a contract and neither party may take any unilateral action that materially changes the explicit mutual promises and covenants contained herein. Any changes, modifications or amendments to this Franchise must be made in writing, signed by the Grantor and the Grantee. Any determination by the Grantor regarding the interpretation or enforcement of this Franchise shall be subject to de novo judicial review.

15.13 Effective Date. The Franchise granted herein will take effect and be in full force from such date of acceptance by Grantee recorded on the signature page of this Franchise. If any fee or grant that is passed through to Subscribers is required by this Franchise, other than the franchise fee, such fee or grant shall go into effect sixty (60) days after the Effective Date of this Franchise.
15.13 **Effective Date.** The Franchise granted herein will take effect and be in full force from such date of acceptance by Grantee recorded on the signature page of this Franchise. If any fee or grant that is passed through to Subscribers is required by this Franchise, other than the franchise fee, such fee or grant shall go into effect sixty (60) days after the Effective Date of this Franchise.

Considered and approved this 21st day of June, 2018.

Town of Lamoine, ME
Signature: [Signature]
Name/Title: [Name/Title]

Accepted this 10th day of July, 2018, subject to applicable federal and State law.

Time Warner Cable Northeast, LLC
LKA Charter Communications
Signature: [Signature]
Name/Title: Paul Abbott, VP Government Affairs & Franchising
EXHIBIT A

SERVICE TO PUBLIC BUILDINGS

Lamoine Fire Department
Lamoine Town Hall
Lamoine Consolidated School

43 Lamoine Beach Road
606 Douglas Highway
53 Lamoine Beach Road
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Enacted: March 10, 1979
Amended: March 16, 2011
TOWN OF LAMOINE, MAINE
TRAVEL TRAILER, MOTORIZE HOME PARK
AND CAMPGROUND ORDINANCE

Section 1: Enactment Clause

There be and is hereby established the following regulations governing travel trailers, motorized homes and camping grounds in the Town of Lamoine.

Section 2: Short Title.

This ordinance shall be known and may be cited as the “Travel Trailer, Motorized Home Park and Campground Ordinance of the Town of Lamoine, March 10, 1979.”

Section 3: Purpose

The provisions of this Ordinance are enacted for the purpose of protecting public health, safety and general welfare of residents and transients in this Town, to prevent overcrowding and unsanitary conditions on real estate and to establish minimum requirements for the construction and operation of motorized home parks, travel trailer parks, or tenting campgrounds in the Town of Lamoine. The standards and requirements of this Ordinance are intended to provide wholesome community environment, adequate public services, to conserve natural resources, which construction will provide a desirable recreational facility.

Section 4: Application, Non-conformance and Saving Clause.

Any lawful motorized home park, travel trailer park, or campground existing at the time of adoption of this Ordinance or amendments thereto, may be continued although such park or campground does not conform to the provisions of this Ordinance. Any non-conforming use which has been discontinued for a continuous period of one year shall not be re-established except in conformity with this Ordinance.

A lawful non-conforming park or campground shall have an operating permit, renewed every year, subject to conformity with the regulations in effect at the time the park was established. No non-conforming park or campground may be expanded, added to, or changed except in conformity with this Ordinance. In cases where a park or campground is expanded, added to or changed, only the area expanded, added to or changed must conform with this ordinance.

If any section, subsection, paragraph, sentence, clause or phrase of this Ordinance, should be declared invalid by Court action, for any reason whatsoever, such decision shall
not affect the remaining portions of this Ordinance, which shall remain in full force and effect; and to this end the provisions of this Ordinance are hereby declared to be severable.

Section 5: Definitions

A. **Travel Trailer** – A vehicle designed to be moved on wheels and intended as a temporary dwelling for travel, recreation or vacation use. This term shall also include campers, camper-trailers, motorized homes, vans and other short term sheltered vehicles and devices.

B. **Travel Trailer, Motorized Home Park or Campground** – Any parcel of land which contains or is designed, laid out or adapted to accommodate travel trailers, motorized homes, tents or devices.

Section 6: Permit Required

No person, firm or corporation shall construct a new travel trailer, motorized home park or campground or alter or expand an existing travel trailer, motorized home park or campground unless such person, firm or corporation holds a valid travel trailer, motorized home park or campground construction permit. Such permit shall be issued by the code enforcement officer after approval of the Lamoine Planning board. All parks shall have a minimum of thirty (30) sites.

A. **Fees** – An application for any permit required by this ordinance shall be accompanied by fee(s) as established by the Lamoine Board of Selectmen. No action shall be taken on any application until the fee(s) have been received by the Town. The application fee(s) shall not be refundable. The fee(s) shall be paid to the Town of Lamoine and shall accrue to the Code Enforcement Fund to be used for the administration and enforcement of town ordinances. A Schedule of Fees is located at the Town Office.

B. **Application** – The application shall be submitted in triplicate to the Planning Board at least thirty (30) days prior to a regular Planning Board meeting. Said application shall contain a proposed plan of the park or campground drawn to scale at 50 feet to the inch showing the following:
   1. Name and address of the applicant and of the landowner.
   2. Name and address of the abutting property owners.
   3. Number, description and dimension of each site.
   4. The locations and size of all proposed buildings.
   5. The width, length, location and construction of all roads.
   6. The location of utility lines, size of all water and sewer lines, and electrical lines and connections.
   7. The location and capacity of sewage disposal stations.
   8. The results of tests of soil suitability
9. Other pertinent information as requested by the Planning Board to assist them in the proposed application.
10. Information showing compliance with minimum standards.
11. All plumbing and sewage treatment facilities must comply with the Maine State Plumbing code.

C. Within sixty (60) days of the next regular Planning Board meeting after the submission of a complete application for the proposed campground construction permit, the Planning Board shall hold a public hearing on the application, said notice shall be published in an area newspaper at least twice, date of first publication to be at least 7 days prior to the hearing.

D. Within thirty days of said hearing the Planning Board shall complete its evaluation of the application and notify in writing its decision to approve or deny said permit.

E. The Planning Board shall consider whether to approve, approve with conditions, or deny issuance of a construction permit with regard for the following:
   1. The location and adequacy with respect to the existing land use in the area, the effect on the natural environment to sustain such use, and the effect on other applicable ordinances of the Town of Lamoine.
   2. The designs of the facilities with respect to the adequacy of the sites to assure favorable conditions for the safety, health and convenience of campground users.

Section 7: Standards.

A. Campgrounds shall be located on a single parcel of land having a minimum of twenty (20) acres.
B. A minimum of thirty (30) sites shall be completed and provided with all utilities and facilities before occupancy.
C. There shall be no unit within fifty (50) feet of any campground boundary nor within twenty-five (25) feet from any campground road.
D. All campgrounds shall be located on well drained ground, properly graded to insure rapid drainage and be free from stagnant pools of water. The area shall not be exposed to objectionable smoke, noise, odors or any adverse influences which would expose persons or property to hazards.
E. A park or campground shall provide water and sewage systems, sanitary stations, and convenience facilities in accordance with the regulations of the State Plumbing Code and the State of Maine Department of Human Services. In no case shall fewer than one toilet, lavatory and shower be provided for each sex for every ten (10) camping and tent sites. Water system shall be capable of delivering 100 gallons per day per lot.
F. Electrical distribution systems including electrical connections for trailers shall be installed and maintained in accordance with applicable state and local codes.

G. Streets – Design and construction of all park or campground streets shall be in accordance with the specifications established in the Planning Board Subdivision Regulation.

H. Landscaping – Lawns and other ground cover shall be installed on all areas not covered by buildings, roads, parking lots, driveways or walkways; planting beds woods and ravines to be preserved in their natural state.

I. Screening – Where no natural vegetative buffering exists, buffering will be developed at least 15 feet wide and not less than eight feet high containing trees, shrubs, fences, walls, berms, or any combination thereof to screen boundaries visible from town roads or existing houses.

J. Refuse Disposal – The storage, collection and disposal of refuse shall be so conducted as to create no health hazards, rodents, insect breeding areas, accidents, fire hazards, or air pollution. All refuse containers are to be fly-proof, rodent-proof, water tight and in sufficient numbers to serve the needs and convenience of all tenants. All such containers shall be disposed of by the park management by transporting to an approved disposal area and emptied daily.

K. Fire Protection -- Fire extinguishers capable of dealing with both electrical and wood fires shall be kept in all service buildings. A campground shall provide suitable ingress and egress so that every site may be readily serviced in emergencies.

L. Service Buildings – Service buildings intended for the sale of food, supplies, wood, etc. shall be for the paying patrons of the park or their guests and not for the general public.

Section 8: Site Standards

A. Each recreational vehicle, tent or shelter site shall contain a minimum of 3,000 square feet, not including roads and driveways, except it shall be 5,000 square feet when within 250 feet of normal high water elevation of a body of water. Minimum frontage along the traveled way shall be 75 feet, and minimum frontage along any shore shall be 100 feet.

B. All sites shall be arranged so that there will be a minimum of 30 feet between each travel unit.

C. Each site shall be located not less than 100 feet from a service building, nor more than 500 feet from a service building.

D. All campgrounds and each site shall be provided with safe and convenient access from abutting public streets or roads.

E. Adequate space for at least two vehicles shall be provided on each tent, trailer or motorized home site.

F. Dead end roads shall have a minimum of 80 feet turning radius at the closed end.
G. Each site shall be provided with a picnic table, trash receptacle and a fireplace approved by the Code Enforcement Officer.

Section 9: Yearly Operating Permit

Any person, firm or corporation shall hold a valid operating permit issued by the Code Enforcement officer of the Town of Lamoine. Such permit shall be valid only for the calendar year in which it was issued. It shall be issued after final approval of the construction plan. The fee shall be $50.00 yearly for renewal permits after inspection and determination by the Code Enforcement Officer that the campground continues to conform to all provisions of this ordinance. This fee shall accompany a renewal application prior to the campground opening for the season.

Section 10: Responsibility.

The management of campground or parks shall be responsible for operating their respective parks in accordance with all town codes and ordinances and all state laws and regulations. The maintenance of all open-space areas, roads, and utilities in a park shall be the responsibility of the park management.

Section 11: Restriction.

There shall be no commercial sale of travel trailers, motorized homes, campers or other recreational-use vehicles or devices permitted within a park established within this ordinance.

Section 12: Enforcement and Penalties.

A. Inspections – The Code Enforcement Officer shall make inspections annually prior to issuing an operating permit and periodically to determine the conditions of all travel trailer parks and campgrounds now or hereafter located in the Town of Lamoine. Said Officer shall have the power to enter and inspect or investigate conditions relating to the requirements of this ordinance. Operating permits must be displayed in a public place within said park during the time the park is open.

B. Violations – If the Code Enforcement Officer locates a violation of any of the provisions of this ordinance, the said officer shall issue a written summons requiring the correction of the alleged illegal act within thirty (30) days from the date of said summons.

C. Penalties – If after the said thirty (30) days of the issuance of the summons, any person, firm or corporation is still in violation of said summons, the fine shall be not more than $500.00 and each day that a violation exists shall be deemed a separate offense.
D. Fees – Fees shall be distributed in the following manner: For each new park the $100.00 fee will accrue to the Town of Lamoine General Fund; New park site fees of $10.00 per site will be paid to the Code Enforcement Officer.

Renewal permit fees: $35.00 to the Code Enforcement Officer and $15.00 to the Town of Lamoine General Fund.

Fines: Fines and Court fees generated as a result of infractions of this ordinance will accrue to the Code Enforcement Fund.

Section 13: Effective Date.

This ordinance shall become effective immediately after it has been accepted by a legally called town meeting and shall supercede any and all previous ordinances.

Dated at Lamoine, Maine this 31st day of January in the year of our Lord, One Thousand Nine Hundred and Seventy-Nine.

/s/ ASHLEY L. STRATTON
/s/ ALLEN C. HODGKINS
/s/ FRANCIS S. KARST

This ordinance was amended by a majority vote at the annual town meeting on March 16, 2011

________________________  Cynthia Donaldson
________________________  S. Josephine Cooper
________________________  Richard E. Fennelly, Jr.
________________________  Gary McFarland
________________________  William Brann

The Lamoine Board of Selectmen (signed April 7, 2011)

Attest: A True Copy

________________________  Stuart Marckoon, Deputy town Clerk
AN ORDINANCE TO ESTABLISH THE
LAMOINE CONSERVATION COMMISSION

Section 1. ESTABLISHMENT

There is hereby established a Conservation Commission consisting of five (5) members, serving without pay, to be appointed by Municipal Officers pursuant to 30-A M.R.S.A. § 3261 for terms of three years. Members shall initially be appointed for terms of one, two and three years, so that the terms of approximately one-third of the members will expire each year. Their successors shall be appointed for terms of three years each.

Section 2. DUTIES OF THE CONSERVATION COMMISSION

The Commission shall:

A. Meet at least quarterly and set aside at least a portion of each meeting to hear the conservation concerns of the community;

B. Keep records of its meetings and activities, and make an annual report to the municipality to be published as part of the annual municipal report;

C. Conduct research, in conjunction with the Planning Board, into local land areas and natural resources;

D. Seek to coordinate the activities of existing Town committees and Boards and other organizations organized for similar purposes; and

E. Prepare and keep an index of all open areas and significant natural resources and recreational assets in the Town, whether publicly or privately owned, including open marshlands, swamps and other wetlands, and of sources of information about the same prepared or held by other agencies or organizations, all for the purpose of obtaining information relating to the proper protection, development or use of those open spaces, natural resources and recreational assets.

Section 3. POWERS OF THE CONSERVATION COMMISSION

A. The commission:

1. May, within a budget to be established by the municipal officers or otherwise without use of Town funds, prepare, print, and distribute informational material as it deems necessary;
2. May receive gifts or grants in the Town’s name for any conservation research or recreation purpose and administer said gifts or grants for those purposes subject to the terms of the gift of grant. Any grant application submitted by the commission shall first be approved by the municipal officers;

3. May, along with the municipal officers, appoint non-voting associate members to the Commission to assist it in its work. There shall be a public list of associate members.

B. The Commission shall submit its recommendations for ordinance changes or other policy initiatives pursuant to this Ordinance to the Planning Board at least 30 days in advance of submitting such recommendations to the municipal officers for action.

C. Nothing in this section shall be construed to conflict with or usurp any duties, powers or functions of any existing Town committee or official.

Approved at the Annual Lamoine Town Meeting held March 6, 2002.

/s/ Glenn Crawford, Selectman

/s/ S. Josephine Cooper, Selectman

/s/ Thomas Spruce, Selectman

Attest: A True Copy
Stuart Marckoon, Deputy Clerk
Town of Lamoine

Ordinance regarding Town Meeting Donation Requests

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I. Purpose

The purpose of this ordinance is to establish criteria by which organizations not under the umbrella of the Town of Lamoine municipal government may solicit funds from the Town Meeting of Lamoine.

II. Authority

A. This ordinance is created under home rule authority as provided for in Article VII-A of the State of Maine Constitution and Title 30-A MRSA § 2001 et. Seq.

B. This ordinance shall be known as the “Town Meeting Donation Ordinance” of the Town of Lamoine, adopted and effective by a referendum vote of a special town meeting on November 7, 2000.

C. The Board of Selectmen shall administer this ordinance, with administration authority delegated to the Budget Committee and the Administrative Assistant as outlined below (Section VII).

III. Validity and Severability
Should any section or provision of this ordinance be declared by any court to be invalid, such decision shall not affect the validity of any other section or provision of the ordinance.

IV. Applicability

A. This ordinance is applicable to all agencies seeking funds from the Town of Lamoine that do not have a contractual relationship with the Town to provide goods or services. Such organizations typically submit a request to the Town through its board of Selectmen or Budget Committee for inclusion in funding on the annual town meeting warrant.

B. The following organizations are exempt from this ordinance:
   1. Ellsworth Public Library (providing library services)
   2. Downeast Family YMCA (providing recreational services & facilities)

V. Criteria for inclusion in the Town Warrant:

All organizations must meet the following requirements. They must:

A. Be non-profit;
B. Be non-denominational (not affiliated with any religion)
C. Be non political (not affiliated with any political party)
D. Be non-governmental (not a unit of government but may receive grants from government sources which often require a locally raised share).
E. Be local (provide services either within Lamoine or to Lamoine residents at nearby communities.
F. Operate at a fiscal level where extensive local fund raising efforts would be prohibitively expensive.
G. Make application to the Town Budget Committee between September 1 and November 30, preceding the annual Town meeting using the application form available at the Town Hall.
H. Be in compliance with applicable State law (MRSA 30-A § 5721-5728) which establishes permissible town funding area.

VI. General Procedures

A. Organization requests shall be limited to a maximum of $700 in any town fiscal year, and the Board of Selectmen and/or Budget Committee may only recommend up to that maximum amount on the Town Meeting Warrant.
B. There is no guarantee that any application will be funded or funded at the level requested. The vote of town meeting shall be final.
C. Should the total amounts requested exceed 5% of a mill (.05 mill) in the aggregate, the Board of Selectmen shall make a recommendation to reduce the total amount to this level by proportionately reducing all recommended amounts prior to voting on the article.

VII. Administrative Procedure

A. The town administrative assistant shall determine whether the application is complete.
B. The Selectmen and/or Budget Committee shall determine if applicant meets the criteria for support.
C. Organizations may appeal such a determination to the Board of Selectmen.
D. The town will notify applicants of acceptance or rejection for warrant inclusion in a timely manner.
E. Accepted applications shall be forwarded to the Budget Committee for their recommendation.
F. The amount requested will be shown in the Warrant followed by the Budget Committee’s recommendation. The amounts in the Warrant article may be considered, amended, and voted on as individual items subject to the overall mill cap (Section VI). Organizations are advised that having a contact person available to answer questions at the Town Meeting is recommended but not mandatory.
G. All applications shall be available for inspection at the Town Hall and at the site of the Town Meeting for public examination.
H. The application form shall require, at a minimum, the following information:
   1. Organization full name and mailing address
   2. A contact person with address and phone number
   3. General purpose of organization
   4. Amount of request
   5. Detailed list of services provided to Lamoine in the last year.
   6. Other fund raising activities
   7. Most recent annual budget summary

VIII. Presentation to Town Meeting

A. Failure to be placed within the warrant article for the regular town meeting is final. Any organization that did not meet the criteria outlined in the previous sections and is excluded from the approved warrant may not be included for funding from the floor of the town meeting. The moderator of the town meeting may not deviate from this section.

B. The warrant article shall list all organizations that met the submission criteria, the requested amount, and the recommended amount (if any). The moderator may, at either his discretion or at the direction of the town meeting, separate the article into individual votes by organization, or for the article as a whole.
After a properly advertised and held public hearing and a public referendum vote taken on the above ordinance having passed by a majority, we, the Lamoine Board of Selectmen declare this Ordinance entitled the “Town Meeting Donation Ordinance” to be in effect as of November 7, 2000.

Signed,
/s/ Glenn Crawford, Chair
/s/ Arthur Alley
/s/ S. Josephine Cooper

Selectmen of the Town of Lamoine

Amended (section VI (A) ) by a majority referendum vote at the Annual Town Meeting conducted March 8, 2016.

Signed,

_________________  _________________  _______________________
S. Josephine Cooper  Gary McFarland, Chair  Heather Fowler

_________________  _________________
Robert Christie  Kathleen Rybarz

Selectmen of the Town of Lamoine
LAMOINE DUMP ORDINANCE

SECTION I. Authority. In accordance with MSRS Title 30, the Town of Lamoine may enact an ordinance with will provide for regulating the use of the Lamoine Town Dump.

SECTION II. Purpose. The purpose of this ordinance is to protect the health, safety and general wellbeing of residents of Lamoine and to protect the natural resources of the Town of Lamoine in respect to use of the town dump.

SECTION III. Scope. This ordinance shall apply to the disposal of all materials at the town dump site.

SECTION IV. Rules.

A. The opening and closing hours of the Lamoine dump shall be set by the Selectmen. Unauthorized use during off hours shall be considered an infraction of this ordinance. Certain permitted uses other than during regular hours may be granted by the Selectmen.

B. No wastes as defined in the “Waste Discharge Ordinance of the Town of Lamoine, enacted March 5, 1982” shall be deposited by any person at the Lamoine dump site.

C. No septic sludge shall be deposited at the town dump.

D. Refuse and garbage accumulated by residents and summer residents and transients in Lamoine shall be the only garbage deposited at the Lamoine dump. No refuse collected in other towns may be deposited herein.

E. There shall be no dumping of land clearing materials which shall include but not limited to sumps, tree trunks, and uprooted bushes. This section shall not be construed to include disposal of Christmas trees, banking brush and trimmed limbs.

F. There shall be no motor vehicles, truck bodies, or other bulky vehicle parts deposited at the dump.

G. The dumping of non-burnables not mentioned specifically herein shall be at the discretion of the Selectmen.

H. Burning shall be only upon direction of the Selectmen.

I. The dump attendant shall be appointed by the Selectmen and has authority to regulate dumping when on duty as directed by the Selectmen.
SECTION V. Violation. Any person found to be disposing of materials contrary to that permitted herein shall be deemed to be in violation of this ordinance.

SECTION VI. Penalty. Any person found in violation of this ordinance shall be subject to a fine of not less than $25.00 nor more than $250.00 for each offense. Each dumping of prohibited material shall constitute a separate offense.

THIS ORDINANCE SHALL BECOME EFFECTIVE UPON VOTE OF THE PEOPLE OF LAMOINE, NOVEMBER 2, 1982.

Dated at Lamoine this 24th day of September 1982.

/s/ Martin Bisson
/s/ Francis Karst

Selectmen of Lamoine

Typed from an attested copy December 2, 1998
Town of Lamoine

ORDINANCE REGARDING MUNICIPAL ELECTIONS, TERMS OF OFFICE, AND ASSUMPTION OF OFFICIAL RESPONSIBILITIES.

Originally Enacted May 5, 1995
Amended March 6, 2002
Amended November 2, 2004
Amended April 8, 2009
Amended January 9, 2014

Be it ordered that upon approval by a referendum vote at a properly held Town Meeting of the voters of Lamoine that:

1. **Elected Positions**

The following positions in Lamoine Town Government are to be elected by popular, secret ballot vote:

Selectman & Overseer of the Poor (3 year term, 5 positions, staggered terms).

Regional School Unit Board Member (3 year term, one position, retroactive to February 12, 2009) (strike effective July 1, 2014)

Lamoine School Committee, 5 positions, staggered 3-year terms. Beginning at the annual town meeting on March 11, 2014 within the statutory limits established by 30-A MRSA §2528 two (2) School Committee shall be elected to stagger their terms as follows: One (1) to a 2-year term and One (1) to a 3-year term with the terms to stagger at subsequent annual town meetings. (A 3-member school committee was established by the successful withdrawal vote from RSU 24 on November 5, 2013 and elected on January 7, 2014)

Assessor (3 year term, 3 positions, staggered terms)

2. **Assumption of Office**

Beginning with the annual town meeting in 1996, successful Selectman shall assume office at the first regular meeting of the respective board following the annual election. The terms of the assessors shall begin and end with the fiscal year (July 1, to June 30).

Beginning with a special town meeting on January 7, 2014, the three School Committee members elected shall begin their terms upon administration of the oath of office. Beginning at the annual town meeting on March 11, 2014, the two School Committee members elected shall begin their terms upon administration
of the oath of office. Beginning at the annual town meeting in 2015, school committee members shall begin their terms at the first scheduled meeting of the school committee following the annual town meeting.

Before assuming a seat on the Board of Selectmen, Board of Assessors or the Lamoine School Committee the successful candidate must be administered the oath of office by the Town Clerk or a qualified designee.

Until such time as the successful candidate is administered the oath of office, the office shall continue to be filled by the previous office holder, but in no case shall a previous office holder who was not re-elected retain that office beyond June 30 following the annual municipal election.

If for any reason the successful candidate is not administered the oath of office by June 30 following the municipal election, a vacancy in the office shall be declared. Any school committee vacancy so declared shall be filled as provided in 20-A M.R.S.A. § 2305 (4). Selectmen shall hold a special town meeting to fill any other vacancies so declared.

3. Salaries

Salaries of the Selectmen and Assessors are set at the Annual Town Meeting. Salaries of the School Committee members are to be included in the budget adopted by the Town Meeting and approved by the validation election. An elected official who resigns either voluntarily or statutorily shall be paid a prorated share of salary based on the time served during the term. The Lamoine School Department is responsible for School Committee Member compensation. The Town Treasurer is responsible for Selectman and Assessor compensation subject to a valid warrant approved by the Board of Selectmen.

4. Disputed Elections

In the event that the outcome of an election is disputed, a recount is properly requested, or a tie is declared, the previous office holder shall continue to hold office until resolution of the election is completed by the Town Clerk and the Selectmen, in no case later than June 30 following the annual municipal election.

5. Effective Date

This ordinance shall take effect upon a majority vote of the Lamoine Town Meeting on May 5, 1995. It shall remain in effect until amended, repealed, or otherwise changed by a properly held Lamoine Town Meeting. This ordinance repeals the referendum approved on March 20, 1987 and recorded in the Town of Lamoine Clerk’s book, volume 11 page 169.

Amended March 6, 2002 by a majority vote of the Lamoine Town Meeting to reflect change of Town Clerk/Tax Collector is an appointed position effective July 1, 2003.

Amended November 2, 2004 by a majority vote of the Lamoine Town Meeting to
reflect change to increase the size of the Board of Selectmen to 5 and clarify the staggering of terms beginning in March 2005.

Amended April 8, 2009 by a majority vote of the Lamoine Town Meeting to reflect the continuation and dissolution of the Lamoine School Committee and the creation of a director(s) to the Regional School Unit.

Amended January 9, 2014 by a majority vote of a special Lamoine Town Meeting to reflect the withdrawal of Lamoine from Regional School Unit 24 effective July 1, 2014, establish a 5-member school committee, and to better clarify the salary section.

Signature Page

We, the undersigned Selectmen of Lamoine do certify that on May 5, 1995 a majority of the eligible voters of the Town of Lamoine approved a referendum question “Shall an ordinance entitled “Order regarding municipal elections, terms of office, and assumption of officials responsibilities” be enacted”. This order was subsequently amended on March 6, 2002 at the annual Lamoine Town Meeting to reflect that the position of Town Clerk and Tax Collector shall become an appointed position effective July 1, 2003 and that the terms of the 5 member Board of Selectmen are staggered beginning with the election of March 2005. Given under our hands this 9th day of November, 2004.

/s/ Perry Fowler
/s/ S. Josephine Cooper
/s/ Glenn Crawford

April 16, 2009

The attached Ordinance Regarding Municipal Elections, Terms of Office and Assumption of Official Responsibilities was amended by a majority vote at the annual town meeting held April 8, 2009.

/s/ S. Josephine Cooper
/s/ Richard E. Fennelly, Jr.
/s/ Kermit Theall
/s/ Gary McFarland
/s/ Cynthia Donaldson

The Lamoine Board of Selectmen
The above amended Ordinance Regarding Municipal Elections, Terms of Office and Assumption of Official Responsibilities is offered to a special town meeting to be held January 9, 2014.

/s/ S. Josephine Cooper

/s/ Cynthia Donaldson

/s/ Gary McFarland

/s/ Bernard Johnson

/s/ Nathan Mason

*The Lamoine Board of Selectmen*
I. Creation of Local Emergency Management Agency

Pursuant to the provisions of MRSA 37-B § 701 et Seq., there is hereby created the Lamoine Emergency Management Agency. The executive heads (the Board of Selectmen) are granted certain emergency powers under this state law.

The Chairman of the Board of Selectmen shall be responsible for the Agency’s organization, administration and operation. The Selectmen may employ such permanent and temporary employees as they deem necessary and prescribe their duties.

The Selectmen shall advise the Local Emergency Management Agency Director on all matters of preparedness, review the existing operations plan, and ascertain the Town’s
ability to cope with its responsibilities and accept or reject such rules and regulations submitted to them.

II. Appointment of, Duties and Responsibilities

The Board of Selectmen shall appoint a Local Emergency Management Agency Director (LEMAD) who shall coordinate the activities of all town departments, organizations and agencies for Civil Preparedness within the community and maintain liaison with other Civil Preparedness agencies, Public Safety agencies and have such additional duties and responsibilities as may be prescribed by the Board of Selectmen.

III. Rules & Regulations

The LEMAD shall prepare such policies as maybe 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. The Board of Selectmen shall accept, amend, or reject said policies.

IV. Emergency Proclamation – Chairman’s Power

The Chairman of the Board of Selectmen shall have the power and authority, after consultation with the other Selectmen, to issue a proclamation that an emergency exists under conditions specified in MRSA 37-B §742. The proclamation may declare the fact than an emergency exists in any or all sections of the Town. A copy of such proclamation shall be filed within twenty-four (24) hours with the Town Clerk.

A. Notwithstanding the above, when consultation with the Board of Selectmen would result in a substantial delay in an effective response in alleviating or preventing an emergency or disaster, the Chairman is authorized to take whatever actions are necessary to prevent the loss of life and property in the Town.

B. Whereas the Lamoine Board of Selectmen is charged with the responsibility for the well being of Citizens residing within said Town; and

C. Whereas the Lamoine Board of Selectmen is in session only at special times, and when the Chairman is not available, they have empowered the Local Emergency Management Agency Director (LEMAD), or in his absence, the Fire Chief, with the authority to proclaim an emergency state for or within Lamoine should it exist.
V. Reporting Requirements

The LEMAD shall be responsible to submit a full report to the Board of Selectmen of actions taken as soon as the Board can convene.

VI. Chairman Duties and Emergency Powers

A. During any period when an emergency or disaster exists or appears imminent, the Chairman or designated representative above may promulgate such regulations and to preserve critical resources with in the purpose of this section. Such regulations may include but shall not be limited to the following:

1. Regulations prohibiting or restricting the movement of vehicles or to facilitate the movement of persons from areas within or without the community.

2. Regulations pertaining to the movement of persons from areas deemed hazardous to them.

3. Such other regulations necessary to preserve public peace, health and safety.

Nothing in this section shall be construed to limit the authority or responsibility of any department to proceed under powers and authority granted them by State statute or Town ordinance.

B. The Chairman of the Selectmen or LEMAD shall be authorized to request aid and/or assistance from State or other political subdivision of the State and shall render assistance to other areas or political subdivision under provisions of MRSA 37-B.

C. It is further proclaimed and ordered that during the existence of said local emergency the powers, functions and duties of the emergency organization of this Town shall be those prescribed by State law, by local ordinances and resolutions of the Town, and by the Lamoine Emergency Operations Plan as approved by the Board of Selectmen.

D. The provisions of the above subsections will terminate at the ending of the declared emergency.

VII. Emergency Operating Plans
The LEMAD will cause to be prepared an Emergency Operating Plan for the Town of Lamoine which shall be submitted to the Board of Selectmen for approval. Amendments to the Emergency Operating Plan shall also 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 portion of the plan in a current state of readiness. The Town shall be reviewed periodically by the Chairman of the Selectmen in conjunction with any department heads and the LEMAD.

VIII. Emergency Operating Preparedness Forces

“Emergency Operating Preparedness Forces” shall mean the employees, equipment and facilities of all Town departments and agencies, Board and Commissions suitable for or adaptable to Civil Preparedness and in addition shall include all volunteer personnel, equipment and facilities contributed by, or obtained from volunteer persons and agencies.

IX. No Municipal or Private Liability

Immunity from liability shall be set forth as in MRSA 37-B § 822.

X. Compensation for Injuries

All members of the Emergency Operating Preparedness Forces shall be deemed to be employees of the State when engaged in training for or on duty, and shall have the rights of State employees under the Workers’ Compensation Act and as specified in MRSA 37-B § 823

XI. Right of Way, Penalty, Jurisdiction

Personnel and equipment required to respond to an emergency or disaster shall have the right-of-way over all public ways and roads and anyone failing to grant said right-of-way shall suffer penalties as specified under MRSA 37-B § 828.

XII. Violation of Regulations

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

VIOLATORS OF THE ABOVE ARE GUILTY OF A CLASS “E” CRIME.

XIII. Severability

Should any section or part thereof of this ordinance be declared invalid by the courts, the same shall not affect the validity of the ordinance as a whole or any part thereof, other than the part so declared to be invalid.

So ordered this 29th day of December, 1999 by:

____________________________
Glenn Crawford, Chairman

____________________________
Arthur Alley

____________________________
Richard Davis, Sr.

The Lamoine Board of Selectmen
DECLARATION OF LOCAL DISASTER

Whereas the Town of Lamoine has experienced an emergency event in the form of a/an___________________________________________________________ which threatens the life, welfare, and property of its citizens; And

Such emergency conditions prevent the timely meeting of the Lamoine Board of Selectmen who are the community’s elected municipal officers; And

Events have exceeded this communities resources and/or abilities; Now

Pursuant to state and local statute a local “Disaster” is hereby declared; which authorizes promulgation and enforcement of the provisions described in such statutes. Furthermore, the following additional regulations/activities are to be implemented for the duration of this emergency event.

___________________________________________________________

___________________________________________________________

___________________________________________________________

___________________________________________________________

This declaration, with full concurrence of the Lamoine Board of Selectmen, is hereby in effect until further notice; Furthermore Assistance is requested from County and State as indicated on the accompanying request for assistance form.

I ________________ hereby authorize activation of this disaster declaration and request assistance at ________ (hours) on this _______ day of _____________, 20__. 

I understand this document must be notarized and filed with the Town Clerk’s office, county and state officials within 24 hours.

Signed___________________________ Title__________________

I, ________________chairman of the Lamoine Board of Selectmen concur that a disaster exists as stated and agree to provide whatever assistance is available.

Signed___________________________ Date__________________
PROCLAMATION OF LOCAL STATE OF EMERGENCY

Whereas the Town of Lamoine has experienced an emergency event in the form of a/an ___________________________________________ which threatens the life, welfare, and property of its citizens; And

Such emergency conditions prevent the timely meeting of the Lamoine Board of Selectmen who are the community’s elected municipal officers; And

Extraordinary actions must be taken to ensure a proper and adequate response to the stated emergency; Now

Pursuant to state and local statute a local “State of Emergency” is hereby declared; which authorizes promulgation and enforcement of the provisions described in such statutes. Furthermore, the following additional regulations/activities are to be implemented for the duration of this emergency event.

This declaration, with full concurrence of the Lamoine Board of Selectmen, is hereby in effect until further notice.

I ________________ hereby authorize activation of this state of emergency at _________ (hours) on this _______ day of _____________, 20__.  

I understand this document must be notarized and filed with the Town Clerk’s office, county and state officials within 24 hours.

Signed___________________________ Title__________________

Notary Signature and seal: ___________________________________
PROCLAMATION OF EXISTENCE OF A LOCAL EMERGENCY

WHEREAS, the Lamoine Board of Selectmen is charged with the responsibility for the well being of citizens residing within Lamoine; and

WHEREAS, the Board of Selectmen is in session only at special times they have empowered the Director of the Lamoine Emergency Management Agency with the authority to proclaim an Emergency State for or within Lamoine should it exist; and

WHEREAS, the Director of the Lamoine Emergency Management Agency does hereby find;

that conditions of extreme peril to the safety of persons and property have arisen within Lamoine, caused by _______________________________________________________

_________________________________________________________________

_________________________________________________________________

_________________________________________________________________

and the Lamoine Board of Selectmen is not in session;

NOW, THEREFORE IT IS HEREBY PROCLAIMED that a local emergency exists (throughout or in portions of) Lamoine, and

IT IS FURTHER PROCLAIMED AND ORDERED that during the existence of said local emergency the powers, functions, and duties of the emergency organizations of this Town shall be those prescribed by state law, by ordinances and resolutions of this Town, and by the Lamoine Emergency Operations Plan, as approved by the Board of Selectmen.

Signed,

________________________________________
Director, Lamoine Emergency Management Agency
Signature Page

This ordinance on the preceding 7 pages is adopted effective December 29, 1999 by the Lamoine Board of Selectmen.

Signed,

________________________ __________________ __________________
Glenn Crawford, Chairman  Arthur Alley   Richard Davis, Sr.

The Lamoine Board of Selectmen

State of Maine
County of Hancock, ss.

Personally appeared before me and affixed their signatures to this Emergency Management Ordinance were the above-signed Glenn Crawford, Arthur Alley and Richard Davis, Sr., the Selectmen of the Town of Lamoine.

Before me, this 29th day of December, 1999

________________________
Stuart Marckoon, Notary Public
My commission expires June 11, 2000
FLOODPLAIN MANAGEMENT ORDINANCE
FOR THE
TOWN OF LAMOINE, MAINE

ENACTED: May 24, 2016
Date

EFFECTIVE: July 20, 2016
Date

CERTIFIED BY: Stuart Marckoon
Signature

CERTIFIED BY: Stuart Marckoon
Print Name

Deputy Clerk
Title

Affix Seal

60.3(e)
Prepared 1/15/16 by DACF/JP
FLOODPLAIN MANAGEMENT ORDINANCE

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60.3 (e) Rev. 01/16
ARTICLE I–PURPOSE AND ESTABLISHMENT

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

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

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

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

The National Flood Insurance Program, established in the aforesaid Act, provides that areas of the Town of Lamoine having a special flood hazard be identified by the Federal Emergency Management Agency and that floodplain management measures be applied in such flood hazard areas. This Ordinance establishes a Flood Hazard Development Permit system and review procedure for development activities in the designated flood hazard areas of the Town of Lamoine, Maine.


ARTICLE II - PERMIT REQUIRED

Before any construction or other development (as defined in Article XIV), 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 except as provided in Article VII. This permit shall be in addition to any other permits which may be required pursuant to the codes and ordinances of the Town of Lamoine, Maine.

ARTICLE III - APPLICATION FOR PERMIT

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

A. The name, address and phone number of the applicant, owner, and contractor;

B. An address and a map indicating the location of the construction site;
C. A site plan showing location of existing and/or proposed development, including but not limited to structures, sewage disposal facilities, water supply facilities, areas to be cut and filled, and lot dimensions;

D. A statement of the intended use of the structure and/or development;

E. A statement of the cost of the development including all materials and labor;

F. A statement as to the type of sewage system proposed;

G. Specification of dimensions of the proposed structure and/or development;

[Items H-K.3. apply only to new construction and substantial improvements.]

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

1. base flood at the proposed site of all new or substantially improved structures, which is determined:
   a. in Zones AE and VE from data contained in the "Flood Insurance Study - Hancock County, Maine," as described in Article I; or,
   b. in Zone A:
      (1) from any base flood elevation data from federal, state, or other technical sources (such as FEMA’s Quick-2 model, FEMA 265), including information obtained pursuant to Article VI.K. and IX.D.;
      (2) from the contour elevation extrapolated from a best fit analysis of the floodplain boundary when overlaid onto a USGS Quadrangle Map or other topographic map prepared by a Professional Land Surveyor or registered professional engineer, if the floodplain boundary has a significant correlation to the elevation contour line(s); or, in the absence of all other data,
      (3) to be the elevation of the ground at the intersection of the floodplain boundary and a line perpendicular to the shoreline which passes along the ground through the site of the proposed building.

2. highest and lowest grades at the site adjacent to the walls of the proposed building;

3. lowest floor, including basement; and whether or not such structures contain a basement; and,

4. level, in the case of non-residential structures only, to which the structure will be floodproofed;
I. A description of an elevation reference point established on the site of all developments for which elevation standards apply as required in Article VI;

J. A written certification by a Professional Land Surveyor, registered professional engineer or architect, that the base flood elevation and grade elevations shown on the application are accurate.

K. The following certifications as required in Article VI by a registered professional engineer or architect:

1. a Floodproofing Certificate (FEMA Form 81-65, as amended), to verify that the floodproofing methods for any non-residential structures will meet the floodproofing criteria of Article III.H.4.; Article VI.G.; and other applicable standards in Article VI;

2. a V-Zone Certificate to verify that the construction in coastal high hazard areas, Zone VE, will meet the criteria of Article VI.P.; and other applicable standards in Article VI;

3. a Hydraulic Openings Certificate to verify that engineered hydraulic openings in foundation walls will meet the standards of Article VI.L.2.a.;

4. a certified statement that bridges will meet the standards of Article VI.M.;

5. a certified statement that containment walls will meet the standards of Article VI.N.;

L. A description of the extent to which any water course will be altered or relocated as a result of the proposed development; and,

M. A statement of construction plans describing in detail how each applicable development standard in Article VI will be met.

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

A non-refundable application fee of $0 shall be paid to the Town Clerk and a copy of a receipt for the same shall accompany the application.

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

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

The Planning Board shall:
A. Review all applications for the Flood Hazard Development Permit to assure that proposed developments are reasonably safe from flooding and to determine that all pertinent requirements of Article VI (Development Standards) have been, or will be met;

B. Utilize, in the review of all Flood Hazard Development Permit applications:

1. the base flood and floodway data contained in the "Flood Insurance Study - Hancock County, Maine," as described in Article I;

2. in special flood hazard areas where base flood elevation and floodway data are not provided, the Planning Board shall obtain, review and reasonably utilize any base flood elevation and floodway data from federal, state, or other technical sources, including information obtained pursuant to Article III.H.1.b.; Article VI.K.; and Article IX.D., in order to administer Article VI of this Ordinance; and,

3. when the community establishes a base flood elevation in a Zone A by methods outlined in Article III.H.1.b., the community shall submit that data to the Maine Floodplain Management Program.

C. Make interpretations of the location of boundaries of special flood hazard areas shown on the maps described in Article I of this Ordinance;

D. In the review of Flood Hazard Development Permit applications, determine that all necessary permits have been obtained from those federal, state, and local government agencies from which prior approval is required by federal or state law, including but not limited to Section 404 of the Federal Water Pollution Control Act Amendments of 1972, 33 U.S.C. 1344;

E. Notify adjacent municipalities, the Department of Environmental Protection, and the Maine Floodplain Management Program prior to any alteration or relocation of a water course and submit copies of such notifications to the Federal Emergency Management Agency;

F. If the application satisfies the requirements of this Ordinance, approve the issuance of one of the following Flood Hazard Development Permits, based on the type of development:

1. A two-part Flood Hazard Development Permit for elevated structures. Part I shall authorize the applicant to build a structure to and including the first horizontal floor only above the base flood level. At that time the applicant shall provide the Code Enforcement Officer with a Elevation Certificate completed by a Professional Land Surveyor, registered professional engineer or architect based on the Part I permit construction, “as built”, for verifying compliance with the elevation requirements of Article VI, paragraphs F, G, H, or P. Following review of the Elevation Certificate data, which shall take place within 72 hours of receipt of the application, the Code Enforcement Officer shall issue Part II of the Flood Hazard Development Permit. Part II shall authorize the applicant to complete the construction project; or,

2. A Flood Hazard Development Permit for Floodproofing of Non-Residential Structures that are new construction or substantially improved non-residential structures that are not being elevated
but that meet the floodproofing standards of Article VI.G.1.a., b., and c. The application for this permit shall include a Floodproofing Certificate signed by a registered professional engineer or architect; or,

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

For development that requires review and approval as a Conditional Use, as provided for in this Ordinance, the Flood Hazard Development Permit Application shall be acted upon by the Planning Board as required in Article VII.

G. Maintain, as a permanent record, copies of all Flood Hazard Development Permit Applications, corresponding Permits issued, and data relevant thereto, including reports of the Board of Appeals on variances granted under the provisions of Article X of this Ordinance, and copies of Elevation Certificates, Floodproofing Certificates, Certificates of Compliance and certifications of design standards required under the provisions of Articles III, VI, and VIII of this Ordinance.

ARTICLE VI - DEVELOPMENT STANDARDS

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

A. All Development - All development shall:

1. be designed or modified and adequately anchored to prevent flotation (excluding piers and docks), collapse or lateral movement of the development resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy;

2. use construction materials that are resistant to flood damage;

3. use construction methods and practices that will minimize flood damage; and

4. use electrical, heating, ventilation, plumbing, and air conditioning equipment, and other service facilities that are designed and/or located to prevent water from entering or accumulating within the components during flooding conditions.

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

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

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

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

1. Zone AE shall have the lowest floor (including basement) elevated to at least one foot above the base flood elevation.

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

3. Zone VE shall meet the requirements of Article VI.P.

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

1. Zone AE shall have the lowest floor (including basement) elevated to at least one foot above the base flood elevation, or together with attendant utility and sanitary facilities shall:
   
   a. be floodproofed to at least one foot above the base flood elevation so that below that elevation the structure is watertight with walls substantially impermeable to the passage of water;
   
   b. have structural components capable of resisting hydrostatic and hydrodynamic loads and the effects of buoyancy; and,
   
   c. be certified by a registered professional engineer or architect that the floodproofing design and methods of construction are in accordance with accepted standards of practice for meeting the provisions of this section. Such certification shall be provided with the application for a Flood Hazard Development Permit, as required by Article III.K. and shall include a record of the elevation above mean sea level to which the structure is floodproofed.

2. Zone A shall have the lowest floor (including basement) elevated to at least one foot above the base flood elevation utilizing information obtained pursuant to Article III.H.1.b.; Article V.B.; or Article IX.D., or
a. together with attendant utility and sanitary facilities meet the floodproofing standards of Article VI.G.1.

3. Zone VE shall meet the requirements of Article VI.P.

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

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

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

3. Zone VE shall meet the requirements of Article VI.P.

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

1. Zone AE shall either:
   a. be on the site for fewer than 180 consecutive days,
b. be fully licensed and ready for highway use. A recreational vehicle is ready for highway use if it is on its wheels or jacking system, is attached to the site only by quick disconnect type utilities and security devices, and has no permanently attached additions; or,

c. be permitted in accordance with the elevation and anchoring requirements for "manufactured homes" in Article VI.H.1.

2. Zone VE shall meet the requirements of either Article VI.I.1.a. and b., or Article VI.P.

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

1. have unfinished interiors and not be used for human habitation;

2. have hydraulic openings, as specified in Article VI.L.2., in at least two different walls of the accessory structure;

3. be located outside the floodway;

4. when possible be constructed and placed on the building site so as to offer the minimum resistance to the flow of floodwaters and be placed further from the source of flooding than is the primary structure; and,

5. have only ground fault interrupt electrical outlets. The electric service disconnect shall be located above the base flood elevation and when possible outside the Special Flood Hazard Area.

K. **Floodways** -

1. In Zone AE riverine areas, encroachments, including fill, new construction, substantial improvement, and other development shall not be permitted within a regulatory floodway which is designated on the community's Flood Insurance Rate Map unless a technical evaluation certified by a registered professional engineer is provided demonstrating that such encroachments will not result in any increase in flood levels within the community during the occurrence of the base flood discharge.

2. In Zones AE and A riverine areas, for which no regulatory floodway is designated, encroachments, including fill, new construction, substantial improvement, and other development shall not be permitted in the floodway as determined in Article VI.K.3. unless a technical evaluation certified by a registered professional engineer is provided demonstrating that the cumulative effect of the proposed development, when combined with all other existing development and anticipated development:

   a. will not increase the water surface elevation of the base flood more than one foot at any point within the community; and,
b. is consistent with the technical criteria contained in FEMA’s guidelines and standards for flood risk analysis and mapping.

3. In Zones AE and A riverine areas, for which no regulatory floodway is designated, the regulatory floodway is determined to be the channel of the river or other water course and the adjacent land areas to a distance of one-half the width of the floodplain as measured from the normal high water mark to the upland limit of the floodplain.

L. Enclosed Areas Below the Lowest Floor - New construction or substantial improvement of any structure in Zone AE 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 crawl spaces may be enclosed below the base flood elevation requirements provided all the following criteria are met or exceeded:

1. Enclosed areas are not "basements" as defined in Article XIV;

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

3. The enclosed area shall not be used for human habitation; and,

4. The enclosed areas are usable solely for building access, parking of vehicles, or storage.

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

1. when possible, the lowest horizontal member (excluding the pilings, or columns) is elevated to at least one foot above the base flood elevation; and
2. a registered professional engineer shall certify that:
   a. the structural design and methods of construction shall meet the elevation requirements of this section and the floodway standards of Article VI.K.; and
   b. the foundation and superstructure attached thereto are designed to resist flotation, collapse and lateral movement due to the effects of wind and water loads acting simultaneously on all structural components. Water loading values used shall be those associated with the base flood.

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

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

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

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

P. **Coastal Floodplains** -

1. All new construction located within Zones AE and VE shall be located landward of the reach of mean high tide except as provided in Article VI.P.6.
2. New construction or substantial improvement of any structure located within Zone VE shall:
   a. be elevated on posts or columns such that:
      (1) the bottom of the lowest horizontal structural member of the lowest floor (excluding the pilings or columns) is elevated to one foot above the base flood elevation;
(2) the pile or column foundation and the elevated portion of the structure attached thereto is anchored to resist flotation, collapse, and lateral movement due to the effects of wind and water loads acting simultaneously on all building components; and,

(3) water loading values used shall be those associated with the base flood. Wind loading values used shall be those required by applicable state and local building standards.

b. have the space below the lowest floor:

(1) free of obstructions; or,

(2) constructed with open wood lattice-work, or insect screening intended to collapse under wind and water without causing collapse, displacement, or other structural damage to the elevated portion of the building or supporting piles or columns; or,

(3) constructed to enclose less than 300 square feet of area with non-supporting breakaway walls that have a design safe loading resistance of not less than 10 or more than 20 pounds per square foot.

c. require a registered professional engineer or architect to:

(1) develop or review the structural design, specifications, and plans for the construction, which must meet or exceed the technical criteria contained in the *Coastal Construction Manual*, (FEMA-55); and,

(2) certify that the design and methods of construction to be used are in accordance with accepted standards of practice for meeting the criteria of Article VI.P.2.

3. The use of fill for structural support in Zone VE is prohibited.

4. Human alteration of sand dunes within Zone VE is prohibited unless it can be demonstrated that such alterations will not increase potential flood damage.

5. The area below the lowest floor shall be used solely for parking vehicles, building access, and storage.

6. Conditional Use - Lobster sheds and fishing sheds may be located seaward of mean high tide and shall be exempt from the elevation requirement in Article VI.G. only if permitted as a Conditional Use following review and approval by the Planning Board, as provided in Article VII, and if all the following requirements and those of Article VI.A., VI.K., and VI.L. are met:

   a. The conditional use shall be limited to low value structures such as metal or wood sheds 200 square feet or less and shall not exceed more than one story.
b. The structure shall be securely anchored to the wharf or pier to resist flotation, collapse, and lateral movement due to the effect of wind and water loads acting simultaneously on all building components.

c. The structure will not adversely increase wave or debris impact forces affecting nearby buildings.

d. The structure shall have unfinished interiors and shall not be used for human habitation.

e. Any mechanical, utility equipment and fuel storage tanks must be anchored and either elevated or floodproofed to one foot above the base flood elevation.

f. All electrical outlets shall be ground fault interrupt type. The electrical service disconnect shall be located on shore above the base flood elevation and when possible outside the Special Flood Hazard Area.

ARTICLE VII - CONDITIONAL USE REVIEW

The Planning Board shall hear and decide upon applications for conditional uses provided for in this Ordinance. The Planning Board shall hear and approve, approve with conditions, or disapprove all applications for conditional uses. An applicant informed by the Planning Board that a Conditional Use Permit is required shall file an application for the permit with the Planning Board.

A. Review Procedure for a Conditional Use Flood Hazard Development Permit

1. The Flood Hazard Development Permit Application with additional information attached addressing how each of the conditional use criteria specified in the Ordinance will be satisfied, may serve as the permit application for the Conditional Use Permit.

2. Before deciding any application, the Planning Board shall hold a public hearing on the application within thirty days of their receipt of the application.

3. If the Planning Board finds that the application satisfies all relevant requirements of the ordinance, the Planning Board must approve the application or approve with conditions within 45 days of the date of the public hearing.

4. A Conditional Use Permit issued under the provisions of this Ordinance shall expire if the work or change involved is not commenced within 180 days of the issuance of the permit by the Planning Board.

5. The applicant shall be notified by the Planning Board in writing over the signature of the Chairman of the Planning Board that flood insurance is not available for structures located entirely over water or seaward of mean high tide.

B. Expansion of Conditional Uses
1. No existing building or use of premises may be expanded or enlarged without a permit issued under this section if that building or use was established or constructed under a previously issued Conditional Use Permit or if it is a building or use which would require a Conditional Use Permit if being newly-established or constructed under this Ordinance.

**ARTICLE VIII - CERTIFICATE OF COMPLIANCE**

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

A. For New Construction or Substantial Improvement of any elevated structure the applicant shall submit to the Code Enforcement Officer:

1. an Elevation Certificate completed by a Professional Land Surveyor, registered professional engineer, or architect, for compliance with Article VI, paragraphs F, G, H, or P and,

2. for structures in Zone VE, certification by a registered professional engineer or architect that the design and methods of construction used are in compliance with Article VI.P.2.

B. The applicant shall submit written notification to the Code Enforcement Officer that the development is complete and complies with the provisions of this ordinance.

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

1. review the required certificate(s) and the applicant’s written notification; and,

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

**ARTICLE IX - 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, 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 in order to reduce exposure to flood hazards.

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

ARTICLE X - APPEALS AND VARIANCES

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

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

A. Variances shall not be granted within any designated regulatory floodway if any increase in flood levels during the base flood discharge would result.

B. Variances shall be granted only upon:

1. a showing of good and sufficient cause; and,

2. a determination that should a flood comparable to the base flood occur, the granting of a variance will not result in increased flood heights, additional threats to public safety, public expense, or create nuisances, cause fraud or victimization of the public or conflict with existing local laws or ordinances; and,

3. a showing that the issuance of the variance will not conflict with other state, federal or local laws or ordinances; and,

4. a determination that failure to grant the variance would result in "undue hardship," which in this sub-section means:

a. that the land in question cannot yield a reasonable return unless a variance is granted; and,

b. that the need for a variance is due to the unique circumstances of the property and not to the general conditions in the neighborhood; and,

c. that the granting of a variance will not alter the essential character of the locality; and,
d. that the hardship is not the result of action taken by the applicant or a prior owner.

C. Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief, and the Board of Appeals may impose such conditions to a variance as is deemed 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 X and Article VI.K. are met; and,

2. the structure or other development is protected by methods that minimize flood damages during the base flood and create no additional threats to public safety.

E. Variances may be issued for the repair, reconstruction, rehabilitation, or restoration of Historic Structures upon the determination that:

1. the development meets the criteria of Article X, paragraphs A. through D. above; and,

2. the proposed repair, reconstruction, rehabilitation, or restoration will not preclude the structure’s continued designation as a Historic Structure and the variance is the minimum necessary to preserve the historic character and design of the structure.

F. Any applicant who meets the criteria of Article X, paragraphs A. through E. shall be notified by the Board of Appeals in writing over the signature of the Chairman of the Board of Appeals that:

1. the issuance of a variance to construct a structure below the base flood level will result in greatly increased premium rates for flood insurance up to amounts as high as $25 per $100 of insurance coverage;

2. such construction below the base flood level increases risks to life and property; and,

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

G. Appeal Procedure for Administrative and Variance Appeals

1. An administrative or variance appeal may be taken to the Board of Appeals by an aggrieved party within thirty days after receipt of a written decision of the Code Enforcement Officer or Planning Board.
2. Upon being notified of an appeal, the Code Enforcement Officer or Planning Board, as appropriate, shall transmit to the Board of Appeals all of the papers constituting the record of the decision appealed from.

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

4. The person filing the appeal shall have the burden of proof.

5. The Board of Appeals shall decide all appeals within thirty-five days after the close of the hearing, and shall issue a written decision on all appeals.

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

7. Any aggrieved party who participated as a party during the proceedings before the Board of Appeals may take an appeal to Superior Court in accordance with State laws within forty-five days from the date of any decision of the Board of Appeals.

ARTICLE XI - ENFORCEMENT AND PENALTIES

A. It shall be the duty of the Code Enforcement Officer to enforce the provisions of this Ordinance pursuant to Title 30-A MRSA § 4452.

B. The penalties contained in Title 30-A MRSA § 4452 shall apply to any violation of this Ordinance.

C. In addition to other actions, the Code Enforcement Officer may, upon identifying a violation, submit a declaration to the Administrator of the Federal Insurance Administration requesting a flood insurance denial. The valid declaration shall consist of:

1. the name of the property owner and address or legal description of the property sufficient to confirm its identity or location;

2. a clear and unequivocal declaration that the property is in violation of a cited State or local law, regulation, or ordinance;

3. a clear statement that the public body making the declaration has authority to do so and a citation to that authority;

4. evidence that the property owner has been provided notice of the violation and the prospective denial of insurance; and,

5. a clear statement that the declaration is being submitted pursuant to Section 1316 of the National Flood Insurance Act of 1968, as amended.
ARTICLE XII - VALIDITY AND SEVERABILITY

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

ARTICLE XIII - CONFLICT WITH OTHER ORDINANCES

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

ARTICLE XIV - DEFINITIONS

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

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

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

Area of Special Flood Hazard - 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 – a flood having a one percent chance of being equaled or exceeded in any given year, commonly called the 100-year flood.

Basement - area of a building that includes a floor that is subgrade (below ground level) on all sides.

Breakaway Wall - 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 MRSA, Section 4451 (including exceptions in Section 4451, paragraph 1) and employed by a municipality to enforce all applicable comprehensive planning and land use laws.
Conditional Use - a use that, because of its potential impact on surrounding areas and structures, is permitted only upon review and approval by the Planning Board pursuant to Article VII.

Containment Wall – wall used to convey or direct storm water or sanitary water from the initial source to the final destination.

Development – a manmade change to improved or unimproved real estate. This includes, but is not limited to, buildings or other structures; mining, dredging, filling, grading, paving, excavation, drilling operations or storage of equipment or materials; and the storage, deposition, or extraction of materials.

Digital Flood Insurance Rate Map (FIRM) – see Flood Insurance Rate Map

Elevated Building - a non-basement building that is:

a. built, in the case of a building in Zone AE, so that the top of the elevated floor, or in the case of a building in Zone VE, to have the bottom of the lowest horizontal structural member of the elevated floor, elevated above the ground level by means of pilings, columns, post, piers, or "stilts;" and

b. adequately anchored to not 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 Zone AE, Elevated Building also includes a building elevated by means of fill or solid foundation perimeter walls with hydraulic openings sufficient to facilitate the unimpeded movement of flood waters, as required in Article VI.L. In the case of Zone VE, Elevated Building also includes a building otherwise meeting the definition of elevated building, even though the lower area is enclosed by means of breakaway walls, if the breakaway walls meet the standards of Article VI.P.2.b.(3).

Elevation Certificate - an official form (FEMA Form 81-31, 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

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

**Flood Insurance Rate Map (FIRM)** - 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 Floodprone Area** - 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** - 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** - 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** - the lines marking the limits of floodways on federal, state, and local floodplain maps.

**Freeboard** - 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, which could contribute to flood heights greater than the height calculated for a selected size flood and floodway conditions.

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

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

a. Listed individually in the National Register of Historic Places (a listing maintained by the Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;
b. Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary of the Interior to qualify as a registered historic district;

c. Individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of the Interior; or

d. Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either:

1. By an approved state program as determined by the Secretary of the Interior, or

2. Directly by the Secretary of the Interior in states without approved programs.

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

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

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

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

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

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

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

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

100-year flood - see Base Flood.

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

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

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

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

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

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

a. Any project for improvement of a structure to correct existing violations of state or local health,
   sanitary, or safety code specifications which have been identified by the local code enforcement
   official and which are the minimum necessary to assure safe living conditions; or

b. Any alteration of a Historic Structure, provided that the alteration will not preclude the structure's
   continued designation as a historic structure, and a variance is obtained from the Board of Appeals.

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

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

**ARTICLE XV - ABROGATION**

This ordinance repeals and replaces any municipal ordinance previously enacted to comply with the

60.3 (e) Rev. 01/16
Prepared by DACF/JP
Placed before the Lamoine Town Meeting on May 24, 2016 by:

/s/ Gary McFarland

/s/ S. Josephine Cooper

/s/ Robert Christie

/s/ Kathleen Rybarz

The Lamoine Board of Selectmen
GA MAXIMUMS SUMMARY SHEET

Note: The overall maximums found in Appendices A, B, C, D, E, and F are effective from October 1, 2015 to September 30, 2016.

APPENDIX A - OVERALL MAXIMUMS

<table>
<thead>
<tr>
<th>County</th>
<th>Persons in Household</th>
</tr>
</thead>
<tbody>
<tr>
<td>Hancock</td>
<td>1  647</td>
</tr>
<tr>
<td></td>
<td>2  733</td>
</tr>
<tr>
<td></td>
<td>3  933</td>
</tr>
<tr>
<td></td>
<td>4  1,228</td>
</tr>
<tr>
<td></td>
<td>5  1,246</td>
</tr>
<tr>
<td></td>
<td>6  1,321</td>
</tr>
</tbody>
</table>

NOTE: For each additional person add $75 per month.

(The applicable figures from Appendix A, once adopted, should be inserted here.)

APPENDIX B - FOOD MAXIMUMS

<table>
<thead>
<tr>
<th>Number in Household</th>
<th>Weekly Maximum</th>
<th>Monthly Maximum</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>45.12</td>
<td>194</td>
</tr>
<tr>
<td>2</td>
<td>83.02</td>
<td>357</td>
</tr>
<tr>
<td>3</td>
<td>118.84</td>
<td>511</td>
</tr>
<tr>
<td>4</td>
<td>150.93</td>
<td>649</td>
</tr>
<tr>
<td>5</td>
<td>179.30</td>
<td>771</td>
</tr>
<tr>
<td>6</td>
<td>215.12</td>
<td>925</td>
</tr>
<tr>
<td>7</td>
<td>237.67</td>
<td>1,022</td>
</tr>
<tr>
<td>8</td>
<td>271.86</td>
<td>1,169</td>
</tr>
</tbody>
</table>

NOTE: For each additional person add $146 per month.

APPENDIX C - HOUSING MAXIMUMS

<table>
<thead>
<tr>
<th>Number of Bedrooms</th>
<th>Unheated Weekly</th>
<th>Unheated Monthly</th>
<th>Heated Weekly</th>
<th>Heated Monthly</th>
</tr>
</thead>
<tbody>
<tr>
<td>0</td>
<td>112</td>
<td>480</td>
<td>136</td>
<td>584</td>
</tr>
<tr>
<td>1</td>
<td>124</td>
<td>534</td>
<td>154</td>
<td>663</td>
</tr>
<tr>
<td>2</td>
<td>161</td>
<td>691</td>
<td>198</td>
<td>851</td>
</tr>
<tr>
<td>3</td>
<td>218</td>
<td>937</td>
<td>263</td>
<td>1,133</td>
</tr>
<tr>
<td>4</td>
<td>218</td>
<td>937</td>
<td>264</td>
<td>1,136</td>
</tr>
</tbody>
</table>

(The applicable figures from Appendix C, once adopted, should be inserted here.)

FOR MUNICIPAL USE ONLY

MMA
09/15
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:

<table>
<thead>
<tr>
<th>Number in Household</th>
<th>Weekly</th>
<th>Monthly</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>$14.00</td>
<td>$60.00</td>
</tr>
<tr>
<td>2</td>
<td>$15.70</td>
<td>$67.50</td>
</tr>
<tr>
<td>3</td>
<td>$17.45</td>
<td>$75.00</td>
</tr>
<tr>
<td>4</td>
<td>$19.70</td>
<td>$86.00</td>
</tr>
<tr>
<td>5</td>
<td>$23.10</td>
<td>$99.00</td>
</tr>
<tr>
<td>6</td>
<td>$25.00</td>
<td>$107.00</td>
</tr>
</tbody>
</table>

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:

<table>
<thead>
<tr>
<th>Number in Household</th>
<th>Weekly</th>
<th>Monthly</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>$19.10</td>
<td>$86.00</td>
</tr>
<tr>
<td>2</td>
<td>$23.75</td>
<td>$102.00</td>
</tr>
<tr>
<td>3</td>
<td>$27.70</td>
<td>$119.00</td>
</tr>
<tr>
<td>4</td>
<td>$32.25</td>
<td>$139.00</td>
</tr>
<tr>
<td>5</td>
<td>$37.30</td>
<td>$160.00</td>
</tr>
<tr>
<td>6</td>
<td>$41.00</td>
<td>$176.00</td>
</tr>
</tbody>
</table>

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 - HEATING FUEL

<table>
<thead>
<tr>
<th>Month</th>
<th>Gallons</th>
<th>Month</th>
<th>Gallons</th>
</tr>
</thead>
<tbody>
<tr>
<td>September</td>
<td>50</td>
<td>January</td>
<td>225</td>
</tr>
<tr>
<td>October</td>
<td>100</td>
<td>February</td>
<td>225</td>
</tr>
<tr>
<td>November</td>
<td>200</td>
<td>March</td>
<td>125</td>
</tr>
<tr>
<td>December</td>
<td>200</td>
<td>April</td>
<td>125</td>
</tr>
<tr>
<td></td>
<td></td>
<td>May</td>
<td>50</td>
</tr>
</tbody>
</table>

FOR MUNICIPAL USE ONLY
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

<table>
<thead>
<tr>
<th>Number in Household</th>
<th>Weekly Amount</th>
<th>Monthly Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>1-2</td>
<td>$10.50</td>
<td>$45.00</td>
</tr>
<tr>
<td>3-4</td>
<td>$11.60</td>
<td>$50.00</td>
</tr>
<tr>
<td>5-6</td>
<td>$12.80</td>
<td>$55.00</td>
</tr>
<tr>
<td>7-8</td>
<td>$14.00</td>
<td>$60.00</td>
</tr>
</tbody>
</table>

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:

<table>
<thead>
<tr>
<th>Number of Children</th>
<th>Weekly Amount</th>
<th>Monthly Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>$12.80</td>
<td>$55.00</td>
</tr>
<tr>
<td>2</td>
<td>$17.40</td>
<td>$75.00</td>
</tr>
<tr>
<td>3</td>
<td>$23.30</td>
<td>$100.00</td>
</tr>
<tr>
<td>4</td>
<td>$27.90</td>
<td>$120.00</td>
</tr>
</tbody>
</table>
Lamoine Gravel Ordinance 2013

Adopted at the annual town meeting

March 13, 2013
Amended April 10, 2014
Amended May 16, 2018

Attest: A True Copy

______________________________
Stuart Marckoon, Deputy Town Clerk
SECTION 1. PURPOSE
The purpose of this Ordinance is to define and regulate the excavation, extraction, processing, storage and transportation of sand, gravel, crushed stone, soil and loam in the Town of Lamoine, such that said activities so defined and regulated
1. protect the health, safety and welfare of the public;
2. preserve and protect the quality and quantity of surface water and ground water, and the aquifer in which the ground water is contained, for current and future use of the residents of the Town;
3. minimize adverse impacts on neighboring properties and the quality of life of the residents of the Town;
4. minimize adverse impacts on wildlife, existing natural features and historic areas within the Town; and
5. preserve the usefulness of the land and its capacity to be an asset to the Town and its residents.

SECTION 2. AUTHORITY
This ordinance is adopted pursuant to and consistent with Title 30-A MRSA, Sections 3001 et. seq. and may be known and cited as “Lamoine Gravel Ordinance”.

SECTION 3. EFFECTIVE DATE
The effective date of this Ordinance shall be at such time as it shall be signed by a majority of the Board of Selectmen of the Town of Lamoine, pursuant to authority of a duly called and validly held Town Meeting. Permits applied for and/or granted prior to the effective date of this Ordinance shall remain subject to the provisions of the Lamoine Gravel Ordinance and Site Plan Review Ordinance effective at the time of application until such time as these permits expire.

SECTION 4. VALIDITY AND SEVERABILITY
Should any section or provision of this Ordinance be declared invalid by any court of competent jurisdiction, such decision shall not invalidate any other section or provision of this Ordinance, and to this end the provisions of this Ordinance are hereby declared to be severable.

SECTION 5. CONFLICT WITH OTHER ORDINANCES
This Ordinance shall not repeal, annul, or in any way impair or remove the necessity of compliance with any other rule, regulation, by-law, permit, or provision of law. Where this Ordinance imposes a higher standard, the provisions of this Ordinance shall prevail.

SECTION 6. APPLICABILITY
This Ordinance shall apply to all existing and proposed activities where the scope of excavation, extraction, processing, storage and transportation of sand, gravel, crushed stone, soil and loam (said materials hereinafter “Gravel”) exceeds or will exceed one acre, or from which more than five hundred (500) cubic yards of material have been or will be removed.

SECTION 7. ADMINISTRATION
A. Permit Required.
No person shall engage in, or permit, the excavation, extraction, processing, storage or transportation of Gravel (said activities hereinafter “Gravel Operations”) where the scope of such Gravel Operations exceeds or will exceed one acre or from which more than five hundred (500) cubic yards of Gravel have or will be removed without first obtaining a permit (said permit hereinafter “Gravel Permit”) from the Lamoine Planning Board.

B. Application Fee.
An application fee for a Gravel Permit required by this Ordinance shall be paid with the application. The amount of the fee is established by Lamoine Board of Selectmen; a Schedule of Fees is located at the Town Office. The fee, which is non-refundable, shall be paid to the Town of Lamoine, shall accrue to the Code Enforcement Fund and shall be used for the administration and enforcement of Town ordinances. An application shall not be considered by the Planning Board until such fee has been received by the Town.

C. Application
An applicant for a Gravel Permit shall provide, in writing, all information required below. A fully executed original and nine copies of the application shall be submitted to the Lamoine Town Office not less than fourteen (14) days prior to a regularly scheduled meeting of the Board. The application shall contain the following:

1. General information.
   (Note: Items a. – g. shall be entered on the Lamoine Gravel Ordinance Permit Application cover sheet. Answers to items h. – k. shall be inserted in the body of the application.)
   a. Name and current address of owner of record of the Parcel on which Gravel Operations are proposed.
   b. Name and current address of the applicant (individual, firm or corporation) seeking the Gravel Permit, if different from the parcel owner.
   c. Name assigned to the proposed Gravel Operations.
   d. Length of permit applied for (may not exceed three [3] years).
   e. The Land Use District in which the Parcel is located.
   f. The assessors’ tax map and lot number of the Parcel on which Gravel Operations are proposed.
   g. A copy of the deed, option to purchase, lease, or other evidence of the applicant’s title, right or interest in the Parcel.
   h. The status of the current property tax payment.
   i. Names and addresses of all owners of property within five hundred (500) feet of the property lines of the Parcel on which Gravel Operations are proposed; and the assessors’ tax maps and lot numbers of those properties.
   j. The name and registration number of the land surveyor, engineer, soils scientist, and/or similar professional(s), if any, who prepared the Plan (required in C.2. below) submitted on behalf of the applicant.
   k. A statement from a bank or other financial institution indicating that the applicant has sufficient resources to fulfill the obligations required by this Ordinance (including Restoration as hereinafter defined) and any other activities which may be required by the Planning Board.

2. Existing Conditions
   a. The applicant shall provide a to-scale plot plan (hereinafter “Plan”) showing:
      (1) location, bearings and distances of all property lines of the Parcel on which Gravel Operations are proposed.
      (2) location of all properties abutting the Parcel, the names of the owners of these abutting properties, and the assessors’ tax map and lot number of each abutting property.
(3) existing elevations and contours of the land both within and extending one hundred (100) feet beyond the boundaries of the Parcel at intervals not to exceed ten (10) feet in elevation. The scale used to define contours shall appear on the Plan and be expressed in “feet above sea level”.

(4) locations, names and widths of existing roads and rights-of-way within or adjacent to the Parcel on which Gravel Operations are proposed.

(5) direction of existing surface water drainage (flow) across the Parcel.

(6) location of any private water supplies located within three hundred (300) feet of any boundary of the proposed Gravel Operations.

(7) location of any public water supply located within 1,000 feet of any boundary of the proposed Gravel Operations.

(8) location of open drainage courses (streams and springs), wetlands, stonewalls, graveyards, fences, stands of trees, and other important or unique natural areas and site features within the Parcel on which Gravel Operations are proposed, including, but not limited to, floodplains, deer wintering areas, significant wildlife habitats, scenic areas, habitat for rare and endangered plants and animals, unique natural communities and natural areas, sand and gravel aquifers, and historic and/or archaeological resources, together with a descriptions of such features.

b. The applicant shall provide documentation of the average seasonal high water table level (expressed in feet above mean sea level) within the area where Gravel Operations are proposed. The water table shall be determined by use of monitoring wells. At least one monitoring well shall be installed for each five (5) acres, and additional fraction thereof, of proposed Gravel Operations in order to determine the average seasonal high water table of the entire area for which a Gravel Permit is sought.

c. The applicant shall provide documentation of water quality as determined from samples taken from each monitoring well. Field parameters measured and recorded at each sampling event shall be pH, specific conductance, turbidity, and temperature. Laboratory analyses shall include iron, manganese, Volatile Petroleum Hydrocarbons and Extractable Petroleum Hydrocarbons. Samples shall be taken by a certified professional hydrologist or registered professional engineer and analyses shall be completed by an approved laboratory.

3. Proposed Pit
   On the to-scale plot plan required in C.2.a. above, the applicant shall also indicate:
   a. the portion of the Parcel for which the applicant seeks a Gravel Permit (hereinafter called the “Gravel Pit” or “Pit”).
   b. the location, bearings and distances of the boundaries of the Gravel Pit.
   c. location of all setbacks and buffers within the Parcel.
   d. the area, in acres, of the Pit.

4. Proposed Operations
   On the to-scale plot plan required in C.2.a. above, the applicant shall also indicate, with color, grids or other means:
   a. the area(s) of proposed Gravel Operations during the life of the permit.
   b. the area(s) of proposed Restoration during the life of the permit.
   c. if applicable, the area(s) of Gravel Operations during the life of the immediate prior permit.
   d. if applicable, the area(s) of Restoration during the life of the immediate prior permit.
   e. the buffer strip(s) to be maintained as required in Section 8. A.
f. the location of all access roads, existing and proposed, from a public roadway to the proposed Pit.
g. the location and dimensions of all buildings and structures, existing and proposed, whether temporary or permanent, within the Parcel.
h. the size, location, intensity and direction of all outdoor lighting.
i. location of any proposed hazardous material storage areas including, but not limited to, fuel storage and handling.
j. location of observational well(s), existing or to be installed, to be used to monitor the separation distance between the excavation floor of the Pit and the average seasonal high water table elevation.

5. The estimated longevity of the Gravel Pit based on anticipated removal rates.
7. A written plan for monitoring the separation distance between the excavation floor of the Pit and the average seasonal high water table.
8. A written plan describing any proposed washing operation and its impact on existing ground water quantity and quality.
9. The type, size and location of any equipment, plans for blasting, or other procedures that are likely to generate appreciable noise at the lot lines.
10. An estimate of the average daily traffic generated by Gravel Operations during periods of operation.
11. A written soil erosion and sedimentation control plan prepared in accordance with the standards contained in the latest revision Best Management Practices as established by the State. Indicate any catch basins, dry wells, drainage ditches, swales, retention basins and storm sewers to be installed or created on the Plan.
12. A written Restoration Plan describing in detail the manner in which the Gravel Pit shall be restored in accordance with the provisions described in Section 8. D.
13. Copies of all submissions to, and permits or licenses issued by, federal or state agencies with regard to Gravel Operations on the Parcel.
14. Note: The Planning Board may require additional information from the applicant in addition to that requested in the application as set forth above. See 7.E. below.

D. Application Requirements Waiver
The Planning Board may modify or waive any of the requirements set forth in 7.C. above when the Board determines that such modification or such waiver of said requirements would not adversely affect the general health, safety and welfare of the residents of the Town or otherwise be converse to the purposes and intent of this Gravel Ordinance.

E. Procedure
1. Review of Application for Completeness
   The Planning Board shall review an application for a Gravel Permit to determine whether the application is complete. The Board shall also review the findings of the Code Enforcement Officer’s Annual Compliance Inspection(s) for the Parcel in question if the same was previously permitted for Gravel Operations. If the Board determines the application is not complete, it shall inform the applicant of the information necessary to make the application complete.
2. Site Walk
   Within forty-five (45) days of receipt of a complete application, the Board shall visit the Parcel proposed for Gravel Operations to verify in the field the location of the site, boundaries, natural features, access roads, and other information presented in the application. Following the site walk, the Board may require additional information to be submitted by the applicant.
3. Public Hearing
Within forty-five (45) days of receipt of a complete application, but after the site walk noted in E.2. above, the Board shall hold a public hearing regarding the application. The Town of Lamoine shall publish, at the expense of the applicant, notice of the date, time, and place of the hearing in a newspaper of general circulation at least twice, the date of the first publication to be not less than ten (10) days prior to the hearing. In addition, the Town shall mail, by certified mail (return receipt requested) and at the expense of the applicant, a notice of the public hearing to all abutters of the Parcel on which Gravel Operations are proposed not less than ten (10) days prior to the hearing. Following the public hearing, the Board may require additional information to be submitted by the applicant.

4. Additional information.
   The Planning Board may also require an independent evaluation and/or study in addition to information provided by the applicant. This evaluation and/or study shall be done by a person or firm of the Board’s choosing. Said person or firm shall be required to estimate the cost of an evaluation or study and the applicant shall pay to the Town of Lamoine the full estimated cost. At the completion of the evaluation or study, any balance due shall be paid to the Town by the applicant or any balance remaining shall be returned to the applicant.

5. Planning Board Decision
   Within seventy-five (75) days of receipt of a complete application or, if additional information as noted in E.2, E.3, and E.4 above is required, at a mutually agreed upon later time, but after the Site Walk and Public Hearing, the Board shall grant without conditions, or grant with conditions, or deny the permit. The Board shall grant the permit, either without or with conditions, if the Board makes a positive finding, based on all the information available to the Board, that the proposed Gravel Operations are in conformance with the Performance Standards set forth in Section 8.

F. Length of Permit
   Permits may be granted for a period not to exceed three (3) years.

G. Appeals
   1. Any decision of the Planning Board may be appealed by any party of standing to the Lamoine Board of Appeals. The appeal shall be in writing and submitted within thirty (30) days of the date of the written decision of the Planning Board and shall be accompanied by the required fee as established by the Lamoine Board of Selectmen.
   2. A hearing shall be conducted by the Board of Appeals, which shall act solely in an appellate capacity. Following a hearing, that shall not be de novo, but shall be limited to a review of the record developed before the Planning Board, and the parties’ arguments based on that record, the Board of Appeals may reverse the decision of the Planning Board only upon a finding that the decision is clearly contrary to specific provisions of the applicable ordinance. Upon reversal, the matter shall be remanded to the Planning Board for further proceedings consistent with the Board of Appeals’ ruling.

H. Enforcement
   1. Annual Compliance Inspection
      a. All Gravel Operations shall be inspected annually for the purposes of ensuring compliance with this Ordinance and any additional conditions placed on the permit. The Annual Compliance Inspection shall be conducted by the Code Enforcement Officer (CEO) in the Spring prior to June 1.
      b. The CEO shall issue a Report of Compliance if it is determined that the Gravel Operations and Restoration are in compliance with the Ordinance and any conditions which were placed on the permit at the time of issuance. The report shall be written and provided to the Planning Board, Selectmen, and the permit holder.
c. The CEO shall issue a *Report of Non-compliance* if it is determined that the Gravel Operations and Restoration are not in compliance with the Ordinance and/or any conditions which were placed on the permit at the time of issuance. The report shall be written and copies of the report provided to the Planning Board, the Selectmen, and the permit holder.

2. Notice of Violation
   a. When the CEO finds that Gravel Operations and/or Restoration are not in compliance with the Ordinance and/or any additional conditions which were placed on the permit at time of issuance as described in H.1.c. above, the CEO shall issue to the permit holder a *Notice of Violation* specifying the particular violation(s), ordering the permit holder to cease immediately any further violation(s), and ordering the permit holder to take any necessary remedial actions to bring operations into compliance.

   b. If within thirty (30) days after issuance of the *Notice of Violation* the permit holder takes such remedial actions which, in the determination of the CEO, bring the Gravel Operations into compliance, the *Notice of Violation* shall be rescinded by the CEO and a *Report of Compliance* issued.

   c. If thirty (30) days after issuance of the *Notice of Violation* the CEO determines that the permit holder persists in violation and/or has not taken such remedial actions as to bring the Gravel Operations into compliance, the CEO shall issue a *Stop Work Order* requiring immediate cessation of all Gravel Operations authorized under the existing permit. The Planning Board shall then have the authority to seek revocation of the Gravel Permit. If a Gravel Permit is revoked, the pit owner/operator is required to immediately commence such Restoration as is required by Section 8.D. of this Ordinance and as was required by the revoked permit.

3. Right of Entry
   The Code Enforcement Officer is authorized to enter any Parcel on which a permitted Gravel Pit is located for the purpose of monitoring compliance with the provisions of this Ordinance and any additional conditions which were placed on the permit by the Planning Board. If the permit holder denies entry to the CEO, the CEO shall not enter the property without first obtaining an administrative warrant pursuant to the Maine Rules of Civil Procedure. However, failure by or on behalf of the permit holder to grant the CEO access to the Parcel shall be considered just cause for the Planning Board to seek revocation of the Gravel Permit.

4. Prosecution
   a. In the event that the permit holder continues operations after a permit has either expired or been revoked, the Selectmen shall make such complaints to any court of competent jurisdiction as in their judgment are proper or may institute such actions or proceedings at law or in equity as are proper to restrain, remove or punish such violation.

   b. Continuing Gravel Operations without a permit, whether such permit has expired or has been revoked, shall subject the operator to a fine of five hundred dollars ($500.00) per day of violation.

**SECTION 8. PERFORMANCE STANDARDS**

All Gravel Operations shall conform to the following standards:

A. Set-backs
   The purpose of set-backs is to lessen adverse impacts, such as noise, erosion, despoiling of views, and deterioration of water quality on neighboring properties and residents.
1. A buffer strip of at not less than 100 feet in width shall be maintained between the boundary of the Gravel Pit and the boundary of the Parcel on which the Pit is located.
   a. However, the buffer strip between permitted Gravel Pits on abutting Parcels may be eliminated with the written permission of both owners, provided the elimination of the buffer strip does not increase the runoff from either excavation across the property boundary.
   b. Excavation in the 100-foot buffer strip may take place not less than fifty (50) feet from the Parcel boundary when conditions stated in A.2., A.3., and A.4., are met and if the following conditions are met:
      1) the Parcel or part thereof on which the Gravel Pit is located had been granted a Site Plan Review Permit for a Gravel Pit;
      2) the owner of the abutting property grants written permission for the excavation to occur. Such written agreement shall be recorded at the Hancock County Registry of Deeds, making reference to the title deed of the owner of each such abutting Parcel;
      3) excavation within the buffer strip may not exceed the 2.5-1.0 slope as required and described in Section 8.D.1.a (Restoration);
      4) the area within the buffer strip anticipated to be excavated during the life of the Permit must be specified in the application and will be considered as part of the Pit; and
      5) reclamation of the area designated in (4) above must be completed prior to the expiration of the Permit.

2. A buffer strip of not less than 150 feet in width shall be maintained between the boundary of the Pit and an existing private drinking water supply. A buffer strip of at least 1,000 feet shall be maintained between the boundary of the Pit and any public water supply.

3. A buffer strip of not less than 100 feet in width shall be maintained between the boundary of the Pit and the nearest edge of any public road, public right-of-way or the nearest edge of any private road serving as the principal road in a subdivision.

4. A buffer strip of not less than 250 feet in width shall be maintained between the boundary of the Pit and the normal high-water line of any great pond, river or saltwater body, and the upland edge of a coastal or freshwater wetland; a buffer strip of not less than 75 feet in width shall be maintained between the boundary of the Pit and the normal high-water line of a stream. (See Shoreland Zoning Ordinance for these and other restrictions which may apply.)

5. The Planning Board shall have the authority to require wider buffer areas if it determines that the above set-back distances are insufficient to achieve the purposes of protecting private and public water supplies, screening gravel operations from public view, and protecting water bodies, tributary streams or wetlands as noted in A.2., A.3., and A.4. above.

B. Screening
Screening within all required buffer strips as described in paragraph A. above shall be required in order to prevent direct view of Gravel Operations from any private residence and/or business, public road, public right-of-way and private road serving as a principal road in a subdivision and to reduce the volume of noise generated from Gravel Operations affecting neighboring properties. Natural features such as trees, shrubbery, berms and hills shall be maintained as screening where possible. Where such natural features are not present or are insufficient to provide the required screening, the Planning Board may require construction of fences and/or additional plantings. Where topography makes it impracticable to screen gravel operations from public view, the Planning Board shall have the authority to alter or waive the screening requirement.
C. Groundwater Protection

1. No Gravel Pit shall be worked at any time at a level less than five (5) feet above the existing water table. The location of the water table shall be established prior to any excavation taking place. (See Section 7.C.2.b. requirement).

2. No ditching, trenching, pumping or other methods shall be used to lower the water table for the purpose of allowing more Gravel extraction than would be permitted without such lowering of the water table.

3. No substance or item harmful to groundwater quality including, but not limited to, salt, creosoted timber, tree stumps, building waste, petroleum products or rubbish shall be dumped in a Gravel Pit.

4. Petroleum products, such as fuel and lubricants, being used in Gravel Operations shall be kept under cover and upon an impermeable spill-proof base sufficient to contain the volume of the petroleum products in the event of a spill.

5. The Planning Board may increase the separation distance required if it determines that the water table of neighboring properties will be adversely affected by gravel extraction to the five-foot minimum separation.

D. Restoration

1. Reclamation Plan

   Any area from which Gravel has been extracted and from which no further Gravel extraction is either proposed by the pit operator or eligible for permitting by the Planning Board under the terms of the Ordinance shall be restored to a natural state within the specifications set forth below:

   a. No slopes shall have an incline greater than 2.5 horizontal to 1 vertical (2.5:1). Slopes greater than 2.5:1 shall be regraded, except that a steeper slope may be allowed if slope stability analysis is submitted showing that there will be no failure or sloughing of slopes.

   b. All disturbed surfaces shall be covered with a minimum of four (4) inches of topsoil. Any topsoil which was stripped prior to Gravel extraction and which is retained on premises shall be seeded, mulched, or otherwise stabilized. Additional topsoil shall be obtained from off-site sources if needed to fully cover all disturbed surfaces.

   c. Vegetative material used in Restoration shall consist of native grasses, legumes, herbaceous, or woody plants or a mixture thereof. The owner/operator shall guarantee that if, after two years from the restoration completion date, more than fifteen (15) percent of the planted area does not sustain vegetation, the failed areas shall be replanted. (See Maine Erosion and Sediment Control BMP, 3/2003, and any subsequent amendments.)

   d. All structures, such as refueling pads and gates, shall be removed and all access, haul or other support roads shall be subject to Restoration once no longer used.

   e. Restoration activities shall be completed within one year of commencement.

      1. Restoration of previously excavated areas proposed or required as part of Gravel Permit must be completed within one year of the date of permit issuance. Failure to complete Restoration within the one-year time frame shall be sufficient grounds for:
         (a) revocation of an existing Gravel Permit; and/or
         (b) denial of a subsequent Gravel Permit for the same parcel until such time as required Restoration is completed.

      2. Restoration of a discontinued pit must be completed within one year of the date of discontinuance.

2. Filing of Reclamation Plan
The owner/operator of the Pit shall record the Restoration Plan with the Hancock County Registry of Deeds. Recording the Restoration Plan with the deed to the property will assure the Town of Lamoine that the sale of the property to any other owner for any reason will cause the new owner to comply with the terms of the Restoration Plan unless the new owner applies for and receives a Gravel Permit within six months of assuming ownership of the Pit.

3. Performance Guarantee – Escrow Account
   a. Each permit holder shall pay to the Town of Lamoine $0.05 (5 cents) for every cubic yard of material excavated and removed from the permitted area. Such payment shall be made annually in an amount based on the number of cubic yards excavated and removed in the previous 12 months as disclosed in the Annual Report made to the CEO (see paragraph H. below). Such payment shall accompany the Annual Report.
   b. The amount paid to the Town shall be held in a Gravel Pit Restoration account, the sole purpose of which shall be to accumulate and provide funds to pay the costs of required Restoration activities specified in the reclamation plan. The account shall keep record of which permit holder made payments and for which Gravel Pit the payments were made.
   c. Money shall be withdrawn by the Town Treasurer from the Gravel Pit Restoration account to pay for restoration work only after such work is completed to the satisfaction of the CEO. The CEO shall submit a written request to the Town Treasurer, noting the amount of payment to be made, the payee, and the Gravel Pit where restoration took place, and describing the work performed. A copy of the report shall be placed in the appropriate Gravel Pit permit file. The amount withdrawn may not exceed the amount credited to the Gravel Pit on which the Restoration work is undertaken.
   d. The permit holder is liable for all additional costs associated with reclamation if the accumulated funds available are insufficient to cover the actual costs of reclamation.
   e. Should funds remain after a Gravel Pit is fully restored as required by this Ordinance, such funds shall be paid to the permit holder at the time such reclamation is completed.
   f. Should the owner/operator fail to complete required Restoration work, a lien in an amount three times the estimated cost to complete required Restoration shall be recorded against the Parcel.

E. Transportation
   1. All vehicles carrying Gravel either to or from a Gravel Pit shall have the load covered and tailgates secured so as to prevent spillage of any part of the load on the public roads within the Town.
   2. All access/egress roads leading to or from a Gravel Pit shall be paved or otherwise hard-surfaced for a distance of not less than one hundred (100) feet from the near edge of the pavement of a public road so as to prevent mud, stones, and the like from being brought onto the public road.
   3. Except as set forth in E. 2. above, access roads in and around the Pit shall not be oiled, salted, or paved.
   4. A minimum sight distance of 12.5 feet for every mile-per-hour of posted speed limit shall be provided where an access/egress road intersects a public road. Sight distances shall be measured from the driver’s seat of a vehicle that is ten (10) feet behind the curb or edge of the shoulder line of the public way to a point which is four (4) feet high and four (4) feet from the center line of the public road. (For example, a sight distance of 562.5
feet is required for a road posted at 45 mph.). If the public road is a State road, a Road Entrance Permit issued by the Maine Department of Transportation shall satisfy this standard.

5. The angle of intersection of an access/egress road and a public road shall be a minimum of 60° and a maximum of 90°.

6. The maximum permissible grade within 75 feet of such intersection shall be 5%.

7. Road signs stating “Trucks Entering – 500 feet” shall be installed 500 feet from where access roads intersect public ways. Said signs shall be paid for by the permit holder and installed by permission of and in cooperation with the Maine Department of Transportation.

F. Hours of operation
1. Regular hours of operation shall be 6 a.m. to 6 p.m. daily with the exception of Sunday when no Gravel Operations are permitted.
2. Activities related solely to Restoration are permitted on Sunday between 12 p.m. and 6 p.m.
3. In emergency situations involving public health and/or public safety, gravel operations may occur, but only after notification is made to and permission granted by the CEO. A written report shall be filed within 24 hours of commencement of such emergency operations describing the nature of the emergency warranting such operations.

G. Noise
1. Noise shall not be objectionable due to intermittence, beat frequency, shrillness or volume beyond the boundaries of the Parcel(s) on which Gravel Pit is located.
2. Sound pressure levels shall be measured on a sound level meter at all boundary lines of the Parcel on which the Gravel Pit is located.
3. The sound pressure limit shall not exceed 65 dB at any Parcel boundary line.

H. Annual Report
1. On an annual basis, not less than thirty (30) days following the anniversary date of the permit, the Gravel Pit owner/operator shall provide a written report to the CEO containing the following:
   a. The volume of Gravel excavated from the Pit during the previous twelve (12) month period.
   b. Any Restoration completed during the previous twelve (12) month period.
   c. Water table levels, expressed in feet above mean sea level, measured within thirty (30) days of the anniversary date of the permit, in all Monitoring Wells/piezometers within the Pit; and the level, expressed in feet above mean sea level, of the lowest point in the Pit floor.
   d. Water quality data, as determined within thirty (30) days of the anniversary date of the permit, from samples taken from each Monitoring Well/piezometer. Data shall include results of field parameters and analyses, set forth in 7.C.2.c.

I. Exterior Lighting
1. All exterior lighting shall be designed to ensure safe movement of people and vehicles and to minimize adverse impact on neighboring properties and public ways.
2. Lighting shall be arranged to minimize glare and reflection on adjacent properties and the traveling public.

J. Air Pollution
Gravel Operations shall not create an emission of dust or dirt at any point beyond the boundary line of the Parcel on which the Pit is located that could damage human health, animals, vegetation or property or that could soil or stain persons or property.

K. Landscape Preservation
Environmentally sensitive areas such as aquifers, significant wildlife habitat, wetlands, steep slopes, floodplains, historic buildings and sites, existing and potential archaeological sites and unique natural features shall be maintained and preserved to the maximum extent practicable.

L. Adverse Effect
The proposed Gravel Operations shall not adversely affect the value of neighboring properties.

M. Comprehensive Plan
The proposed Gravel Operations shall be in conformance with the Comprehensive Plan of the Town.

N. Additional Standards
The Planning Board shall have the authority to apply additional standards and impose such conditions not otherwise specified in this Ordinance as may be necessary to minimize any adverse effects associated with Gravel Operations on public health and safety and on surrounding land uses and resources.

SECTION 9. DEFINITIONS

Discontinued Gravel Pit
The term ‘Discontinued Gravel Pit’ shall mean a Gravel Pit which is no longer permitted by the Lamoine Planning Board. A Gravel Pit may be designated as discontinued due to either expiration of or revocation of an existing permit. A permit may be revoked as set forth in Section 7.H or Section 8.D.1.e.(1). A discontinued Gravel Pit shall be restored according to the provisions set forth in Section 8.D.

Gravel
‘Gravel’ shall be an inclusive term referring to the materials of sand, gravel, crushed stone, soil and loam which are excavated, extracted, processed, stored and transported in Gravel Operations.

Gravel Extraction and Excavation
The terms ‘Gravel Extraction’ and ‘Gravel Excavation’ shall mean the removal of sand and gravel, bedrock or soil from their natural site of geologic deposition or formation.

Gravel Processing
The term ‘Gravel Processing’ shall mean the screening, sorting, crushing or other processing of geologic material extracted or excavated.

Gravel Storage
The term ‘Gravel Storage’ shall mean the storage of sand, gravel, crushed stone, or soil stock piles or other forms.

Gravel Transportation
The term ‘Gravel Transportation’ shall mean using the public roads in Lamoine to haul sand, gravel, crushed stone or soil, except for the purposes of snow plowing and sanding operations.

Gravel Operations
The term ‘Gravel Operations’ shall be an inclusive term referring to the activities involved in gravel extraction, excavation, processing, storage and transportation.

Gravel Pit
The term ‘Gravel Pit’, also referred to as ‘Pit’, shall mean the portion(s) of a Parcel used in the excavation, extraction, processing, or storage of sand, gravel, crushed stone or soil for which a permit is required and issued. Acreage previously excavated which has been restored in accordance with Section 8.D. will not be counted as part of the Gravel Pit in determining pit size for application fee purposes.

Groundwater
‘Groundwater’ shall mean all water found beneath the surface of the ground. For the purposes of aquifer protection, this term refers to the slowly moving subsurface water present in the aquifers and recharge areas.

Monitoring Well, Piezometer
The term ‘Monitoring Well’ shall mean a well installed at sufficient depth to permit measurement of the average seasonal high water table and of sufficient capacity to permit withdrawal of acceptable water samples for analysis. A piezometer is an example of a satisfactory monitoring well.

Parcel
The term ‘Parcel’ shall mean all contiguous land in the same ownership within which a Gravel Pit is located.

Plan
The term ‘Plan’ shall refer to the to-scale plan, normally prepared by a licensed professional, required by Section 7.C.2. of this Ordinance.

Restoration
The term ‘Restoration’ shall refer to restoration procedures set forth in Section 8.D.1 of this Ordinance.

Water Table
The term ‘Water Table’ shall mean the upper surface of groundwater below which the soil is saturated with water.

March 21, 2013
This ordinance was adopted by the Lamoine town meeting held on March 13, 2013 and replaces all previous versions of the Lamoine Gravel Ordinance

/s/ S. Josephine Cooper }
/s/ Cynthia Donaldson }
/s/ Gary McFarland }
/s/ Bernard Johnson }
/s/ Nathan Mason }

The Lamoine Board of Selectmen

Amended at the annual town meeting held April 10, 2014

/s/ Gary McFarland }
/s/ S. Josephine Cooper }
/s/ Bernard Johnson }
/s/ Nathan Mason }
/s/ Heather Fowler }

The Lamoine Board of Selectmen
Amended at a special town meeting held May 16, 2018

_____________________  Nathan Mason, Chair
_____________________  Gary McFarland
_____________________  S. Josephine Cooper
_____________________  Robert Christie
_____________________  Kathleen Rybarz

_____________________  Attest: A True Copy
Stuart Marckoon, Deputy Town Clerk
1. Purpose
The purpose of this ordinance is to establish the rules by which the Town of Lamoine will assign mooring privileges to a person or persons who have made application and received a mooring permit. All in accordance with 38 MRSA § 1 et seq; and to provide for the public safety by promoting safe mooring anchoring and passage of vessels. This ordinance is adopted pursuant to the police power as set forth in 30A MRSA § 2671 et seq the specific authority granted to municipalities with respect to harbor masters as set forth in 38 MRSA § 1 et seq, and the power of municipal home rule as set forth in 30A MRSA § 3001 et seq and article VIII-A of the Constitution of the State of Maine.

2. Harbor Master
A. The selectmen shall appoint a harbor master annually pursuant to 38 MRSA § 1. The harbor master will take office on July 1 of each year. He will have the duties and powers prescribed by law and this ordinance.
B. The selectmen may appoint a deputy harbor master to act in case of the harbor master's absence or disability.

3. Harbor Limits
For the purpose of this ordinance the harbor limits shall be: Beginning at the mean high water mark at a point in Eastern Bay at the Eastern Boundary of Lamoine State Park (N 44· 26' 58", W 68· 17' 47") and proceeding southerly 2250 feet to the Lamoine/Bar Harbor Town Line (N 44· 26' 35", W 68· 17' 47"); then proceeding along the Lamoine/Bar Harbor Town Line 2250 feet generally northwesterly to a point (N 44· 26' 42", W 68· 17' 58"); then proceeding northerly 2750' to mean high water mark of the Western Boundary of Lamoine State Park (N 44· 27' 10", W 68· 17' 58"); then along the
mean high water mark to the beginning.

4. Moorings

A. No person shall place a mooring within the harbor limits as described above unless;
   1. He or she has filed an application for a permit with the harbor master or town clerk, setting forth such information as shall be requested.
   2. The harbor master or town clerk has issued a written permit to the applicant, stating the location of the mooring.

B. Any permit issued pursuant to part A above shall not exceed one year.
   1. A person receiving a mooring permit shall, within two years of initial issuance, register with the Lamoine Town Clerk or document with the United States Coast Guard a vessel to utilize the mooring. Failure to register or document AND pay excise tax for a vessel within two years of original mooring permit issuance shall be cause for forfeiture of the permit. Lobster car moorings shall present proof of compliance with Section 4G below and are not subject to registration/excise tax.
   2. No individual shall hold more than two (2) mooring permits at a given time.
   3. A permit holder must attain the age of 18 prior to application for a mooring permit in order to hold a mooring permit without written parental/guardian permission. A minor may obtain a mooring permit with the written permission of their parent or legal guardian. The parent or legal guardian shall share responsibility for adherence to all regulations within this ordinance. Residency of the parent or legal guardian shall be the determining factor for the minor’s residential status (See section 4F). A minor shall be considered a separate individual for the purposes of section 4B2 above.

C. No mooring ropes of a type that float, including but not limited to polypropylene rope, shall be used within harbor limits.

D. The harbor master is empowered to require that any mooring be moved at any time at the owner's expense. Failure to move or remove a mooring at the request of the harbor master will be a violation of this ordinance.

E. The harbor master or town clerk will issue no permit for a mooring unless they are satisfied that the information set forth in the application is adequate to ensure that the mooring and vessels attached to it will not become a danger to persons or property.

F. Notwithstanding the foregoing, the number of nonresident moorings shall always
be at least equal to the minimum number of nonresident moorings required under 38MRSA § 7A, as amended from time to time.

G. All permit applications for lobster cars shall submit to the Harbor Master proof that application to the Army Corps of Engineers for placement of said lobster car has been made.

H. WAITING LIST – The Harbor Master shall maintain a waiting list of mooring permit holders pursuant to 38 MRSA §7A and §8. To be added to the waiting list, a qualified person shall make written application and submit the application fee (See Section 6) to the Harbor Master. The Harbor Master will note the date the application and payment in full are received and base the waiting list on a first-come/first-served basis. At least annually, the Harbor Master shall post the waiting list at the Lamoine Town Hall.

I. NON TRANSFERABLE - Mooring permits are non-transferable (38 MRSA §3), with the exception of a commercial fishing mooring, which may, by statute cited previously, be assigned upon request or death to a family member and only for commercial fishing purposes. A permit holder who no longer desires to possess a mooring permit must inform the Harbor Master of their decision. The permit will then be assigned to the next person on the waiting list maintained by the Harbor Master. Residents on the waiting list shall have first refusal until the point is reached that non-resident permits are required under section “F” above. A qualified person on the waiting list who does not desire to obtain the permit shall move to the bottom of the waiting list provided a new application fee is paid. Otherwise, a person who does not desire to obtain the permit shall be removed from the waiting list.

5. Rules of Harbor Use

A. Vessels shall be operated within harbor limits in a safe and prudent manner. No person shall operate a vessel within harbor limits in a manner which threatens danger to any person or property, or which causes excessive wash or wake.

B. All mooring balls shall be white in color with a blue stripe painted around the entire ball. The mooring ball shall display the permit number associated with the mooring in a manner prescribed by the Harbor Master.

C. Any tender tying up to a mooring shall display the permit number on the tender in addition to any boat registration number. Tenders on shore shall also display the corresponding mooring permit number. Failure of tenders to display a permit number shall be considered grounds for declaring said vessel a derelict boat pursuant to 38 MRSA § 9

D. Mooring blocks, mushrooms, chains and ropes are the private property of the permit holder. Such mooring equipment is subject to inspection by the Harbor Master pursuant to 38 MRSA §1 et seq. As such equipment is private property it may be sold by the owner to any party, but must be properly removed from the assigned mooring spot if the new owner is not the newly assigned permit holder.
6. **Fees**

Each applicant for a mooring at Lamoine harbor shall pay a fee of $15 to make application and a fee of $50 for a mooring permit. Fees established by this ordinance may be increased or decreased by the Lamoine Board of Selectmen. All fees accrue to the Town of Lamoine for the operation of the harbor.

7. **Appeals of Decisions of the Harbor Master**

Any person may appeal a decision of the harbor master to the Lamoine Board of Selectmen. Any such appeal shall be made within ten days after the date upon which the person is notified of the decision of the harbor master if the notification is verbal or in a written form that is personally delivered. If the harbor master's decision is mailed, the person shall have 13 days from the date of mailing to appeal the decision.

Appeals shall be in writing, and shall state in detail (1) the intended conduct of the appellant; (2) the decision of the harbor master; and (3) a statement setting forth the reasons why the decision of the harbor master is not consistent with this ordinance or with state or federal law. The applicant or the harbor master may request a hearing, when he or she will appear in person or with witnesses, and state their case through oral testimony or other evidence. An appeal of the decision of the Selectmen may be taken pursuant to rule 80B of the Maine Rules of Civil Procedure.

8. **Penalties**

Any person who violates any part of this ordinance shall be liable to the Town of Lamoine for the following penalties:

A. The minimum penalty for a specific violation shall be $25 and the maximum penalty shall be $2,500. Each day that the penalty exists shall be a separate violation.

B. In addition, the offender shall pay to the Town of Lamoine an amount equal to reasonable attorney’s fees, expert witness fees, and other expenses incurred by the Town in the prosecution of any proceeding to enforce the provisions of this ordinance, including proceedings in equity to abate any nuisance or other condition in violation of this ordinance.
9. Severability

If any part of this ordinance shall be found to be in violation of law, then the remaining parts of this ordinance, not found in violation of law, shall remain in effect.

10. Effective Date
The effective date of this ordinance is 15 days after initial enactment by a properly held Lamoine Town Meeting.
Lamoine Harbor Ordinance

Town of Lamoine

Mooring Permit Application

Application Fee: $15.00
Permit Fee: $50.00

Please print or type

Date of application: ____________ Boat use: □ Personal □ Commercial □ Other

Mooring type: □ Mushroom □ Block

Boat Reg/Doc.# ____________ Boat Name: _____________________

Please include if applicable proof of excise tax payment

Owner's Name __________________________ Phone # ____________________

Owner’s Date of Birth ______________________

Address: ______________________________________________________

Winter Address: ________________________________________________

Description of boat: Color: ___________ Length: ___________

Type of Propulsion: ________________ Type of Boat: ______________

Applicant’s Signature: __________________________ Date: ___________

If under 18 years old, Parent/Guardian Signature __________________

*******************************************************************************************

For Harbor Master's use only:

Date Application Received: ________ Total Fees Received: _________

Application was: □ approved □ approved with conditions □ denied

Waiting List ______ # Position □ Resident □ Non-Resident

If conditions, please list Reasons for denial

________________________________________________________________________

________________________________________________________________________

Harbor Master’s Signature __________________________ Date: ____________

6
Town of Lamoine
Mooring Permit

For the sum of $50, the municipality of Lamoine, Maine hereby authorizes:

(Name of permittee): ___________________________________________ of
(Address:)______________________________________________________

to place a mooring in the waters off Lamoine State Park in an area designated by the Harbor Master or designee.

The owner shall be responsible for the following:

1. Compliance with all federal, state, and local laws, rules and regulations;

2. Maintenance of the vessel in a seaworthy condition;

3. Protection from hull damage to own and other vessels;

4. Set and maintain a safe mooring.

The owner further agrees to hold the municipality, its employees, agents, or designees harmless from any damage, risk, or liability as a result of the authorization.

Boat Information:

Reg. # ______________ Exp. date:_________________

Make_________________ Length:____________________

Hull_________________

Signature_______________________________ Date:_______________

This permit is non-transferable and is for the use of the above named person only, except on a temporary basis at the discretion of the Harbor Master or designee.

Holder of permit is responsible to set mooring and make adjustments as required for the safety of all adjacent boats. Each mooring float must be marked with the permit number in at least three inch numbers.
We, the undersigned Selectmen of Lamoine do certify that on November 19, 2003, a majority of voters attending an open town meeting approved of an amendment to the Town of Lamoine Harbor Ordinance in section 4G. Given under our hands this 20th day of November, 2003

/s/ S. Josephine Cooper, Chair, Board of Selectmen

/s/ Glenn Crawford, Selectman

/s/ Thomas Spruce, Selectman

Amended Date: March 7, 2007  Approved at a special town meeting:

/s/ S. Josephine Cooper, Chair

/s/ Brett Jones

/s/ Cynthia Donaldson

/s/ Richard Fennelly, Jr.

/s/ Chris Tadema-Wielandt
Ordinance Prohibiting Retail Marijuana Establishments and Retail Marijuana Social Clubs in the Municipality of Lamoine

Section 1. Authority.

This ordinance is enacted pursuant to the Marijuana Legalization Act, 7 M.R.S.A. c. 417; and Municipal Home Rule Authority, Me. Const., art. VIII, pt. 2; and 30-A M.R.S.A. § 3001.

Section 2. Definitions.

For purposes of this ordinance, retail marijuana establishments, including retail marijuana stores, retail marijuana cultivation facilities, retail marijuana products manufacturing facilities and retail marijuana testing facilities, and retail marijuana social clubs are defined as set forth in 7 M.R.S.A. § 2442.

Section 3. Prohibition on Retail Marijuana Establishments and Retail Marijuana Social Clubs.

Retail marijuana establishments, including retail marijuana stores, retail marijuana cultivation facilities, retail marijuana products manufacturing facilities, and retail marijuana testing facilities, and retail marijuana social clubs, are expressly prohibited in this municipality.

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

Nothing in this ordinance is intended to prohibit any lawful use, possession or conduct pursuant to the Maine Medical Use of Marijuana Act, 22 M.R.S.A. c. 558-C.

Section 4. Effective date; duration.

This ordinance shall take effect immediately upon enactment by the municipal legislative body unless otherwise provided and shall remain in effect until it is amended or repealed.

Section 5. Penalties.

This ordinance shall be enforced by the municipal officers or their designee. Violations of this ordinance shall be subject to the enforcement and penalty provisions of 30-A M.R.S.A. § 4452.

Signatures:

/s/ S. Josephine Cooper }

/s/ Gary McFarland } The Lamoine Board of Selectmen

/s/ Robert Christie }}

/s/ Kathleen Rybarz }}

/s/ Nathan Mason III }

Approved by Lamoine Town Meeting, March 7, 2017
SECTION I. Purpose

To promote the orderly development of mobile home parks to insure the health, safety, and general welfare of the residents of the park and the town of Lamoine.

SECTION II. Legislative Authority

A. Authority

B. Administration

SECTION III. Validity and Severability

SECTION IV. Applicability

SECTION V. Application Procedure and Site Plan Content

SECTION VI. Application, Hearing and Enforcement Procedures

SECTION VII. Subject to Subdivision Approval

SECTION VIII. Other Requirements

1. Minimum Unit Size

2. Dimensions

3. Open Space and Recreation

4. Private Streets

5. Buffer Yards

6. Landscape Plan

7. Placement on Pad

8. Location over Aquifers or in the Shoreland Zone

9. Compliance with Mobile Home Safety Standards

SECTION IX. Review Criteria

SECTION X. Conformance with Other Laws, Regulations

SECTION XI. Definitions

A. Construction of Language

B. Definitions of Key Terms
1. **Authority**

   A. This ordinance is adopted pursuant to Home Rule Powers as provided for in Article VII-A of the Maine Constitution and Title 30-A M.R.S.A., Section 3001.

   B. This ordinance shall be known as the Mobile Home Park Ordinance of the town of Lamoine, adopted and effective by vote of the Town Meeting on April 17, 1998

2. **Administration**

   A. The planning board of the town of Lamoine shall administer this ordinance.

   B. No person shall construct, develop, establish, expand or operate a mobile home park without having first obtained a permit from the planning board. A permit shall be granted for a period of one (1) year. If construction is not initiated within the one (1) year period, the permit expires and the applicant must reapply to the planning board for another permit. Each permit shall be issued only for the site designated in the plans accompanying the application and shall not be transferable or assignable to any other site.
SECTION III. Validity and Severability

1. Validity and Severability

   A. Should any section or provision of this ordinance be declared by any court to be invalid, such decision shall not affect the validity of any other section or provision of the ordinance.

SECTION IV. Applicability

This ordinance shall apply to all development proposals for new construction of mobile home parks and to any expansion of existing mobile home parks.

SECTION V. Application Procedure and Site Plan Content

All mobile home park applications shall follow the submission requirements of Section 5 of the Lamoine subdivision ordinance. The following additional information shall also be submitted:

1. Current zoning of property
2. A soil erosion sediment control plan for construction and permanent control
3. Statement of applicant's financial and technical capabilities, as specified by the Planning Board.

SECTION VI. Application, Hearing and Enforcement Procedures

All application, hearing, and enforcement procedures shall follow the requirements of the Building and Land Use Code of the town of Lamoine as amended.

SECTION VII. Subject to Subdivision Approval

Review Requirements: All mobile home parks, including the expansion of an existing park, shall require subdivision approval by the Planning Board.

SECTION VIII. Other Requirements
1. **Minimum Unit Size**

   A. With on-site sewage disposal within the park, the minimum individual unit size shall be 12,000 square feet, provided that a community septic system, approved by the Department of Human Services, is utilized and that the maximum residential density in the park does not exceed one dwelling unit per 20,000 square feet of buildable land. Where on-site sewage disposal is located on each unit, the unit size shall be at least 20,000 square feet.

2. **Dimensions**

   A. Dimensions for individual sites or lots are as follows:

   1. Minimum lot width: 50 feet
   2. Minimum Yard setbacks
      a. Front: 10 feet
      b. Rear: 15 feet
      c. Side: 10 feet

3. **Open Space and Recreation**

   An area equal to at least 10% of the combined area of all individual lots shall, in addition, be reserved for playgrounds and other recreational facilities and open space.

4. **Private Streets**

   Private streets in a mobile home park shall comply with all applicable standards in the subdivision ordinance, except that the minimum right-of-way shall be 23 feet, and with appendix B of the “Rules of the Department of Professional and Financial Regulation Manufactured Housing Board Rules and Regulations” relating to mobile home parks (revised March 5, 1997) and any subsequent revisions.

5. **Buffer Yards**

   A mobile home park shall maintain a 25-foot buffer yard along all property lines, except where the mobile home park abuts a residential use or development, where the minimum yard shall be 50 feet. Buffer yards shall be required only when the per-acre density of homes within the park is at least two times greater than the residential density on immediately adjacent parcels of land.
6. **Landscape Plan**

A mobile home park shall have a landscape plan which takes into consideration the relationship of individual sites to one another, the proposed use of open space, the relationship of the park to surrounding property and a specific planting scheme. The plan shall include a permanent landscape maintenance program.

7. **Placement on Pad**

In a mobile home park, each individual unit shall be placed upon a permanent foundation and shall have a skirting placed around its base to screen the base from view. Each unit shall be emplaced in accordance with the Installation Standards specified in the State of Maine Manufactured Housing Standards of the Manufactured Housing Board of March 1993 and any subsequent amendments.

8. **Location over Aquifers or in the Shoreland Zone**

No mobile home park shall be located over significant sand and gravel aquifers such being defined as those soils specified as glacial stream deposits (Qg), raised beach deposits (Qb), and glacial till (Qt), in figure two of the “Sand and Gravel Aquifer Study of Lamoine Maine” of November 1983 by Robert Gerber Inc. consulting Civil Engineers and Geologists nor shall they be located in the Shoreland Zone.

9. **Compliance with Mobile Home Safety Standards**

All mobile homes located in a mobile home park shall meet the applicable mobile home safety standards adopted by the town of Lamoine if manufactured before June 15, 1976 or the standards of the National Manufactured Housing Construction and Safety Standards Act of 1974, United States Code, Title 42, Chapter 70 if manufactured after June 15, 1976. Mobile homes that are not certified by the manufacturer to meet these standards shall be brought to conformance with these standards subject to inspection and approval by the Code Enforcement Officer.
SECTION IX. Review Criteria

All mobile home parks are subject to the same review criteria as are required for commercial and industrial permits in Section 8.C. of the Lamoine Building and Land Use Code as amended and section 12 of the Subdivision Ordinance.

SECTION X. Conformance with Other Laws, Regulations

The proposed mobile home park shall be in conformance with all pertinent local, state, and federal ordinances, statutes, laws, and regulations.

SECTION XI. Definitions

A. CONSTRUCTION OF LANGUAGE

In the interpretation and enforcement of this Ordinance, all words other than those specifically defined in the Ordinance shall have the meaning implied by their context in the Ordinance or their ordinarily accepted meaning.

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

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

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

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

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

The words "Town" or "municipality" mean the Town of Lamoine, Maine.

B. DEFINITIONS OF KEY TERMS

In this Ordinance the following terms shall have the following meanings:
Abutter: The owner of any property with one or more common boundaries, or across the street or stream from, the property involved in an application or appeal.

Applicant: The person applying for a permit under this ordinance who demonstrates legal standing or interest to apply by means of ownership, authorized agent, or option, or purchase and sale agreement or the equivalent.

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

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

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

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

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

Developed Area: Any area on which a site improvement or change is made, including buildings, landscaping, parking areas, and roads or driveways.

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

Dimensional Requirements: Numerical standards relating to spatial relationships including but not limited to setback, lot area, shore or road frontage and height.

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

Driveway: A vehicular access-way, serving two lots or less and providing entrance to a public roadway or private street.
**Landscaping:** The addition or retention of lawns, fields, trees, plants, and other natural and decorative features to the land. The preservation, care and maintenance of existing native vegetation.

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

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

**Mobile Home:** A structural unit or units designed for occupancy and constructed in a manufacturing facility and transported, by the use of its own chassis to a building site.

1. Those units constructed after June 15, 1976, commonly called "newer mobile homes," which the manufacturer certifies are constructed in compliance with the United States Department of Housing and Urban Development standards, meaning structures transportable in one or more sections, which in the traveling mode are 14 body feet or more in width and are 750 or more square feet, and which are built on a permanent chassis and designed to be used as dwellings, with or without permanent foundations, when connected to the required utilities including the plumbing, heating, air conditioning or electrical systems contained in the unit;

2. Any structure which meets all the requirements of this subparagraph, except the size requirements and with respect to which the manufacturer voluntarily files a certification required by the Secretary of the United States Department of Housing and Urban Development and complies with the standards established under the National Manufactured Housing Construction and Safety Standards Act of 1974, United States Code, Title 42, Section 5401, et seq.

**Mobile Home Park:** A parcel of land under unified ownership approved by the municipality for the placement of 3 or more mobile homes.

**Net Maximum Density:** The ratio of principal structures allowed in relation to available acreage.

**Permanent Foundation:** Shall mean one of the following:

1. A full, poured concrete or masonry foundation;
2. A poured concrete frost wall or a mortared masonry frost wall, with or without a concrete floor;
3. A reinforced, floating concrete pad for which the municipality may require an engineer's certification if it is to be placed on soil with high frost susceptibility; and
4. Any foundation which, pursuant to the building code of the municipality, is permitted for
other types of single-family dwellings.

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

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

**Street:** Public and private ways such as alleys, avenues, highways, lanes, drives, runs, roads, and other rights-of-way, as well as areas on subdivision plans designated as rights-of-way for vehicular access to three or more units, other than driveways.

**Subdivision:** The division of a tract or parcel of land into three (3) or more lots, or the placement of three or more dwelling units, within a five (5) year period whether accomplished by sale, lease, development, buildings or otherwise and as further defined in the Lamoine Subdivision Ordinance and the Maine State Statutes, Title 30-A, MRSA, Section 4401, as amended.

**Unit:** An individual residential dwelling within a mobile home park and the land area assigned to it.
Signature Page

April 23, 1998

The attached ordinance entitled Mobile Home Park Ordinance is approved as of April 17, 1998 on an affirmative referendum vote by the Town of Lamoine.

Signed this 23rd day of April, 1998

__________________________________________________________________________
Richard A. Davis, Sr.

__________________________________________________________________________
The Lamoine Board of Selectmen
Arthur Alley

__________________________________________________________________________
Glenn Crawford

Hancock, ss State of Maine

Personally appeared before me the above named Richard A. Davis, Sr., Arthur Alley and Glenn Crawford in their capacity as Selectmen of Lamoine an acknowledged their signatures to be their free act an deed. Before me this 23rd day of April, 1998:

__________________________________________________________________________
Stuart Marckoon, Notary Public
My Commission expires June 10, 2000

Attest: A true copy

__________________________________________________________________________
Barbara L. Bartosenski, Town Clerk
Outdoor Festival Ordinance
Town of Lamoine, Maine

Enacted: March 13, 1971

(Entered from copy on file)
OUTDOOR FESTIVAL ORDINANCE

Whereas, the inhabitants of the Town of Lamoine are deeply concerned about the tremendous crowds which have attended outdoor pageants, amusement shows, theatrical performances, including music festivals and exhibitions, in various parts of the United States and the results thereof; and

Whereas, said events have led to serious problems in the way of inadequate toilet, waste disposal, potable water, and first aid facilities, obstructions and damages to roads and highways, violations of liquor and drug laws, and destruction of both public and private property.

Now, therefore, the following ordinance is passed in the interest of promoting the general welfare, preventing disease, promoting health and providing for the public safety.

1. No person shall exhibit, sponsor, hold, promote or operate any pageant, amusement show, theatrical performance, including a music festival or exhibition, which in excess of 500 people are reasonable anticipated to attend and where a substantial portion of the entertainers or person attending will be out of doors without first procuring from the municipal officers a licence therefor at least 7 days prior to the event and payment of the sum of $100 to the town therefor.

2. No license shall be granted by the municipal officers unless the applicant satisfies the municipal officers that the following facilities will be available for such event in the area to be used and no such person shall hold such an event unless such facilities are available:

   A. Water supplies of potable quality shall be reasonable spaced throughout the area to be used with a minimum amount available of 1½ gallons per day per person. Such water may be batch chlorinated in a tank to provide a chlorine residual of at least .5 parts per million. At each facility there shall be adequate spigots with cups, or dispensers.

   B. Separate male and female facilities shall be available to a public sewer system or septic tank, or trenches or pits may be used under the following specifications. Trenches shall be one foot wide and two feet deep with at least fifteen feet of trench for each reasonable anticipated 100 persons. After use trenches shall be filled with earth to a point well above ground level. If pit latrines are used, pits shall be two feet wide with a depth of at least 5 feet with in no case the pit to extend into ground water or ledge and with such pits to be in soil having porosity such that liquids shall drain from the pit. At least one toilet seat shall be provided for water toilets or pit latrines for each 40 persons reasonable expected to attend.

   Urinal pits may be made available for men to replace one-third of the pit latrines with discharge to a soakage pit, such pits to be at least 4 feet square by
OUTDOOR FESTIVAL ORDINANCE

4 feet deep filled with one to four inch stones and with the pit ventilated by screened ventilators extending to within 1 foot of the bottom. If such urinal pits are used, there shall be at least 1 for each reasonable anticipated 100 males. All toilet facilities shall be adequately screened for privacy with canvas or wood.

C. At each toilet facility, there shall be handwashing facilities, which may utilize stored water with outlets equipped with spring operated spigots, with adequate provision for disposal of waste water to soakage pits and with soap dispensers available.

D. Adequate metal, wood, or plastic containers with a height of at least 2 feet and a diameter of at least 2 feet shall be spaced in the area to take care of solid waste and garbage, with at least one container for each reasonable anticipated 100 persons. Within 24 hours after the close of the event such waste material shall be removed to a public dump or buried.

E. A first aid facility shall be provided on the grounds with at least one ambulance in attendance and one doctor for each 1,000 persons or less.

F. Off the street parking facilities shall be furnished with at least one car space with adequate access ways for each six persons reasonable expected to attend. A uniformed police officer or constable shall be provided to direct traffic to and from public ways with at least one officer for each reasonable expected 250 persons.

G. Prior to the issuance of the license and the holding of the event, the applicant shall furnish a corporate surety bond from a company authorized to do business in Maine insuring that forthwith after the event the grounds will be cleaned of waste, and damages to public or private property in the area arising out of or in connection with the event are promptly paid, such bond to be in the amount of $5,000 for each reasonable anticipated 1,000 persons or less in attendance.

H. The applicant shall file with his application adequate proof that he has authority from any landowner to use his property and shall furnish a plan showing the size of the area to be used, with designated locations for drinking, toilet and washing facilities, waste containers, first aid facilities, and off the street parking.

3. 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 hereby.
OUTDOOR FESTIVAL ORDINANCE

4. Any person, directly or indirectly, exhibiting, promoting, sponsoring, operating or holding such event as owner, lessor, lessee, landlord, tenant, operator or entertainers and not complying with this ordinance shall be liable to a fine of $100 per day for each infraction, shall be personally responsible for damages to public or private property arising out of or in connection therewith and subject to any civil or injunctive relief that may be reasonable and proper.

5. This ordinance shall take effect upon passage.

(Passed by a town meeting vote March 13, 1971 as written in the Town Clerk’s minutes of said meeting. Entered from the ordinance on December 4, 1998)
LAMOINE PARKS ORDINANCE
Approved March 9, 2005
Amended, March 8, 2006

WHEREAS, the Town of Lamoine provides Bloomfield Park, Lamoine Beach Park and Marlboro Beach Park for the recreation and enjoyment of townspeople and wishes to assure that these parks are used for those purposes and neither abused nor used in ways which create a nuisance to neighbors of the parks;

NOW THEREFORE BE IT ESTABLISHED THAT THE FOLLOWING SHALL BE THE PARKS ORDINANCE FOR THE TOWN OF LAMOINE

Section 1. ESTABLISHMENT OF A PARKS COMMISSION

There is hereby established a Parks Commission consisting of five (5) members and up to two (2) alternate members, serving without pay, to be appointed by Municipal Officers pursuant to 30-A M.R.S.A. §3261 for terms of three years. Members shall initially be appointed for terms of one, two and three years, so that the terms of approximately one-third of the members will expire each year. Their successors shall be appointed for terms of three years each.

Section 2. SCOPE

I. This Ordinance and rules established pursuant to this Ordinance shall govern activities in Town Parks in the Town of Lamoine and other Town-owned areas designated by the Selectmen.

   a. This Ordinance does not apply to the activities of Town employees or independent contractors engaged in construction, maintenance or repair of a park, while under the supervision or control of the Town.

Section 3. Validity and Severability

Should any section or provision of this Ordinance be declared by the courts to be invalid, such decisions shall not invalidate any other sections or provisions of the Ordinance, and to this end the provisions of this Ordinance are hereby declared to be severable.
Section 4. Conflict With Other Ordinances

This Ordinance shall not repeal, annul or in any way impair or remove the necessity of compliance with any other rule, regulation, by-law, permit, or provision of law. Where this Ordinance imposes a higher standard for the promotion and protection of health, safety, and welfare, the provisions of this Ordinance shall prevail.

Section 5. Duties of the Parks Commission

The Parks Commission shall:

a. Meet at least quarterly to consider issues regarding Town Parks;

b. Keep records of its meetings and activities, and make an annual report to the municipality to be published as part of the annual municipal report;

c. Recommend rules of operation, including hours of operation, for each town Park consistent with the provisions of this Ordinance, for the consideration of the Municipal Officers;

d. Consider requests for special event permits authorized by this Ordinance below and issue such permits as appropriate; and

e. Coordinate enforcement of this Ordinance with appropriate officials.

Section 6. Definitions

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

a. PARK means Bloomfield Park, and the Town-owned portions of Marlboro Beach and Lamoine Beach and any other Town-owned or Town-operated facility designated by the Municipal Officers or the Town Meeting for regulation by the Parks Commission.

b. COMMERCIAL FISHING ACTIVITIES – Any fishing or shellfish harvesting related activities for the sole purpose of commercial fishing.

c. SPECIAL EVENT means any event proposed to be held within Town Parks at which:
1. it could reasonably be assumed that twenty-five (25) or more persons
   might gather or participate, or
2. which requires a temporary structure otherwise prohibited by this
   Ordinance; or
3. which will include a fire outside of cooking facilities provided in the
   park.

d. **MOTORIZED/RECREATIONAL VEHICLE** means any conveyance
   including, but not limited to, an automobile, truck, motorcycle, trail bike,
   ATV, trailer, wagon, snowmobile, or watercraft, which is or can be powered
   by a motor.

**Section 7. REGULATIONS IN LAMOINE PARKS**

a. **HOURS OF OPERATION:**
   1. Lamoine Beach Park: 1 hour before sunrise to 10 p.m.
   2. Marlboro Beach: 1 hour before sunrise to 10 p.m.
   3. Bloomfield Park: Sunrise to sunset

b. **NEIGHBORS PROTECTED.** No person shall unreasonably disturb the peace
   of homeowners or businesses located adjacent to or in the neighborhood of the parks.

c. **LITTERING PROHIBITED.** No person shall deposit rubbish, refuse, garbage or other
   waste material in a park, except in the receptacles so provided. Where receptacles are not
   provided, all such rubbish or waste shall be carried away from the parks by the person
   responsible for its presence.

d. **CAMPING AND OVERNIGHT PARKING PROHIBITED.** No person shall use any
   public park for the purpose of overnight accommodation or parking or a temporary or
   permanent abode or habitation, except with the written permission of the Commission.

e. **DAMAGE TO PROPERTY.** No person shall damage, move, or remove any building,
   structure, appurtenance, **rocks**, trees, shrubs, or personal property whatsoever, including
   plantings.

f. **OBEY SIGNS.** All persons must obey all signs posted for the protection of property, or
   the promotion of the health, safety, or general welfare of the users of a park or the
   residents of the Town.

g. **VEHICLE OPERATION AND INTOXICANTS-- STATE LAW APPLIES** - All
   provisions of state law relating to the operation of motorized vehicles and intoxicants
   shall apply within parks, except that motorized vehicles may be banned from some areas
   of parks by rule.
h. BEACH ACCESS – All motorized/recreational vehicles are prohibited on beach except those engaged in commercial fishing activities.

i. BOAT LAUNCHING – Where designated boat launch area exists it shall be utilized. All motorized vehicles, including trailers, shall be parked in designated areas. Storage of boats, trailers, vehicles, equipment, ice shacks, and other property at the launching facility is prohibited.

j. FIRES. No person shall build a fire in a park, except in facilities provided in the park or as authorized by the Commission as part of a permitted Special Event or pursuant to a fire permit.

k. PETS. Pets must be kept on leash while in park. Pet owners must clean up any fecal deposits left by their pets.

l. STATE LAW – This ordinance is superseded by all applicable state law.

Section 8. SPECIAL EVENT PERMITS

Town parks will be made available, on a limited basis, for Special Events subject to the following restrictions:

a. PERMIT REQUIRED - Events sponsored or conducted by the Town shall be exempt from Special Event permitting requirements, however, any other person or organization which desires to conduct or sponsor a Special Event at a Town park must first apply for and obtain a permit from the Commission

b. PERMIT PROCESS - Special event permit applications are available on line or at the town office. Applications must be submitted to the administrative assistant 30 days prior to the proposed date of the event. The Parks Commission will have a maximum of 10 days to reply to the application. Permission will be granted with a yes vote from 3 members. Alternates can fill absences for a maximum of 5 votes. Any change in event date must be reported to the administrative assistant.

c. PERMIT FEES – Fees for special event permits shall be set by the Board of Selectmen in consultation with the Parks Commission.

Section 9 – Effective Date

a. The effective date of this ordinance March 9, 2005
Section 10 – Signature Section

The above ordinance was approved at a duly advertised and conducted Town Meeting on March 9, 2005, and amended on March 8, 2006

Signed,

/s/ S. Josephine Cooper

/s/ Perry Fowler

/s/ Cynthia Donaldson

/s/ Richard Fennelly, Jr.

/s/ Brett Jones

The Lamoine Board of Selectmen

Attest: A True Copy

______________________________
Stuart Marckoon, Deputy Town Clerk
TOWN OF LAMOINE

ROAD NAME AND NUMBERING ORDINANCE

Approved March 5, 1996

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1. Purpose

Because the Town of Lamoine and the State of Maine will implement a 911 Emergency Telephone system in the future, the Town of Lamoine need to enhance its identification of emergency situation locations. This ordinance is intended to provide the mechanism for the identification of public and private roads for emergency responses, US Mail and private deliveries.

2. Authority

This ordinance is adopted under the authority of Municipal Home Rule, Article VIII, Part 2, Section 1 of the Maine Constitution, and MRSA § 3001 et seq.

3. Effective Date

This ordinance shall become effective upon passage at a town meeting referendum vote on March 5, 1996.

4. Validity and Severability

Should any section or provision of this Ordinance be declared by the courts to be invalid, such decisions shall not invalidate any other sections or provisions of the Ordinance, and to this end the provisions of this Ordinance are hereby declared to be severable.

5. Conflict with Other Ordinances

This ordinance shall not repeal, annul, or in any way impair or remove the necessity of compliance with any other rule, regulation, by-law, permit or provision of law. Where this Ordinance imposes a higher standard for the promotion and protection of health, safety, and welfare, the provisions of this Ordinance shall prevail.

6. Applicability

This ordinance shall apply to all structures located within the Town of Lamoine. While intended for identification of structures with telephones, it also applies to those structures...
which do not yet have telephone service, but could be possibly expected to support a telephone.

7. Standards

A. *Initial Name and Numbering Activities*

The Selectmen shall appoint a committee to initially assign names and numbers to all roads identified within the Town of Lamoine. This committee shall be responsible for preparing a map for the Board of Selectmen, identifying each road by name, and preparation of a list of buildings with assigned numbers for each road. The committee shall seek public input for road name suggestions.

B. *Acceptance by Selectmen*

Upon satisfactory completion of the above work by the appointed committee, the Selectmen may accept the map as the official road name map for the Town of Lamoine. Before official acceptance, the Board of Selectmen shall hold a public hearing on the final plan to be accepted. The public hearing shall be advertised in the same manner as a town meeting by posting in at least two conspicuous places, and advertising in a newspaper of general circulation. Individual notices of the public hearing will not be mailed.

By accepting the work of the committee, those road names shall become the official Town names of the public and private roads so identified by the map. The building numbers so identified by the list submitted by the committee shall become the official building numbers of the Town. A road name assigned by the town of Lamoine shall not constitute or imply acceptance of the road as a public way.

After acceptance by the Board of Selectmen and the US Postal Service, building owners shall be notified of their proper street address.

Following initial acceptance, the name or a road may only be changed by a majority vote at a properly held and advertised town meeting. Notices to those living on the affected road shall be mailed by first class mail. Such action shall amend the official map.

C. *Street Name Signs*
The Road Commissioner shall cause to be erected and maintained at all street intersections within the Town, substantial signs on which shall be marked plainly the names of streets. Street name signs shall consist of reflective white letters on a green surface for public roads, and reflective white letters on a blue surface for private roads.

Owners of private roads may, at their own expense, erect an attached sign stating "Private Road" with the Street name sign.

**D. Street Numbers**

The initial plan accepted by the Board of Selectmen shall include a list of numbers assigned to each building or building complex on each street in Lamoine. The number assignments shall be consistent with "Maine Enhanced 9-1-1 Addressing Guidebook for Local Government", edition two, published September 1995.

A copy of the Town of Lamoine tax map with the numbers written in shall be prepared by the Selectmen upon acceptance. This shall become the official Street Name and Number Map.

Following initial acceptance, map maintenance of the numbering system shall be performed by the Building Inspector and Road Commissioner, following current accepted guidelines. The Building Inspector, Road Commissioner, or Administrative Assistant to the Selectmen shall assign address numbers for all newly constructed structures as part of the building permit. The Street Name and Number Map shall be updated annually. Copies of that map shall be provided to the Fire Department, appropriate Police Agencies, appropriate ambulance service(s), and the US Postal Service free of charge. Other agencies may purchase copies of the map at a fee to be determined by the Board of Selectmen. The map shall be kept on file in the Lamoine Town Office.

**E. Display of Numbers**

All premises shall bear a distinctive street number in accordance with and as designated upon the Street Name and Number map on file with the Lamoine Town Office.

**Buildings Within 50 feet of the Road**

No person shall fail to place the correct number upon the front of occupied premises, the number facing the street and adjacent to the principal entrance and in such position as to be plainly visible from the street. Numbers hereafter placed shall not be less than 3 inches in height and shall contrast in color of the building or background on which they are attached.
Buildings more than 50 feet from the Road

Where the residence or structure is over 50 (fifty) feet from the edge of the road right-of-way, the assigned number shall be displayed on a post, fence, wall, the mail box, or on some structure at the property line next to the walk or access drive to the residence or structure. Such number shall be plainly visible from the road.

Home owners and/or occupants will have 90 days from the official date of acceptance and publication to affix their building numbers in the proper manner.

F. Use of Incorrect Numbers

No person shall affix or caused to be affixed, or allow to remain upon any building which he owns or occupies, a different number from the one designated on the Street Numbering Map.

G. Penalty

Any person who, after being notified by the Fire Chief, Code Enforcement Officer, or Road Commissioner, shall fail to comply with any of the provisions of this section within thirty (30) days specified in such notice, shall pay a fine of not less than two dollars ($2) nor more than five dollars ($5). Said fines are payable to the town of Lamoine. Repeated non compliance (more than three offenses in a six month period) shall be prosecuted by the Code Enforcement Officer in Maine District Court. The fine for repeated non compliance shall be $50, plus court costs.

Signature Page

The attached ordinance entitled Lamoine Road Name and Numbering Ordinance was approved by a referendum vote at the annual Lamoine Town Meeting, said referendum vote held March 5, 1996 at the Lamoine Town Hall.

Signed this 13th day of March, 1996:

/s/William Collier, Chairman
/s/Arthur Alley                      The Lamoine Board of Selectmen
/s/Glenn Crawford

(converted from original file text on December 7, 1998)
Town of Lamoine

ORDINANCE RESTRICTING VEHICLE WEIGHT ON POSTED WAYS

Section 1. Purpose and Authority

The purpose of this ordinance is to prevent damage to town ways and bridges in the Town of Lamoine 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 travelway. 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**

The following vehicles are exempt from this ordinance:

(a) any two-axle vehicle while delivering home heating fuel;
(b) any vehicle while engaged in highway maintenance or repair under the direction of the State or Town of Lamoine;
(c) any emergency vehicle (such as firefighting apparatus or ambulances) while training or responding to an emergency;
(d) any school transportation vehicle while transporting students;
(e) any public utility vehicle while providing emergency service, repairs, or installation; and
(f) any vehicle whose owner or operator holds a valid permit from the municipal officers or their designee as provided herein.

**Section 5. Permits**

The owner or operator of any vehicle not otherwise exempt as provided herein may apply in writing to the municipal officers or their designee for a permit to operate on a posted way or bridge notwithstanding the restriction. The municipal officers or their designee 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 acceptable to the Town 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 or their designee 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. They may also limit the number of permits issued or outstanding as may, in their judgment, be necessary to preserve and protect the highways.

In determining whether to issue a permit, the municipal officers or their designee 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 or their designee 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. 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 Lamoine and shall be brought in the Maine 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.

The above ordinance was enacted effective October 8, 1998 upon an affirmative vote by the Lamoine Board of Selectmen

signed,

/s/ Glenn Crawford, Chairman

/s/ Arthur Alley

/s/ Richard A. Davis, Sr.

Attest: A True Copy: /s/ Stuart Marckoon, Deputy Clerk

State of Maine
Hancock, ss.

Personally appeared before me the above named Glenn Crawford, Arthur Alley, and Richard A. Davis, Sr. and affixed their signatures by their own free act and deed on this 8th day of October, 1998.

__________________________
Stuart Marckoon, Notary Public
My Commission Expires June 11, 2000
FRENCHMAN BAY
REGIONAL SHELLFISH CONSERVATION
ORDINANCE

For the Municipalities of:
Ellsworth, Franklin, Hancock, Lamoine, Sorrento, Sullivan and Trenton

As adopted in 2010
Revised 2011/2012
Revised 2013
Revised 3/18/2014
Revised 5/27/2014
Revised 2/23/2017 (Master Copy)

Mission Statement: These municipalities shall act collaboratively as stewards to preserve, protect, manage and enhance the shellfish resources and ecological well-being of the Greater Frenchman Bay Region and to insure a sustainable harvest of shellfish and opportunity for those who make their living on the tide.

Management Partnership Team

Frenchman Bay Regional Shellfish Conservation Committee
&
Frenchman Bay Regional Shellfish Municipal Joint Board
FRENCHMAN BAY REGIONAL SHELLFISH
CONSERVATION ORDINANCE

Municipalities of Ellsworth, Franklin, Hancock, Lamoine, Sorrento, Sullivan and Trenton

Mission Statement: These municipalities shall act collaboratively as stewards to preserve, protect, manage and enhance the shellfish resources and ecological well-being of the Greater Frenchman Bay Region and to insure a sustainable harvest of shellfish and opportunity for those who make their living on the tide.

1. Authority: This ordinance is enacted in accordance with 12 M.R.S.A. Section 6671.

2. Purpose: To establish a shellfish conservation program for the participating municipalities, which shall insure the protection and optimum utilization of shellfish resources within its limits. These goals shall be achieved by means, which may include, but not be limited to:
   A. Licensing.
   B. Limiting the number of shellfish harvesters.
   C. Restricting the time and area where digging is permitted.
   D. Limiting the minimum size of clams taken.
   E. Limiting the amount of shellfish taken daily by a harvester.
   F. Intertidal Management Plan

3. Administration

3.1 The Frenchman Bay Regional Shellfish Conservation Committee: The Regional Shellfish Management Program for the participating municipalities shall be administered by the Frenchman Bay Regional Shellfish Municipal Joint Board (Municipal Joint Board) with technical input from the Frenchman Bay Regional Shellfish Conservation Committee (Conservation Committee). The Conservation Committee shall consist of one member and may include one alternate member for each participating municipality. A non-resident may be appointed by a municipality to represent that municipality on the Conservation Committee. Conservation Committee Members shall be commercial harvesters licensed under this Ordinance, if they are available and willing to serve, and shall be appointed by the municipal officers of the participating municipalities and in accordance with the procedures outlined in this document for terms of up to three (3) years. A quorum shall consist of a majority of the members.

A. Selection of Regional Shellfish Conservation Committee Members: Selectmen/Council members of each of the participating municipalities shall appoint, and replace as necessary, Conservation Committee members according to their own policies and procedures.

B. Meetings: The Chairman of the Shellfish Conservation Committee shall be elected at the first meeting of each calendar year by the members of the Conservation Committee. A quorum shall consist of a majority of the members of the Committee. Notice of all meetings of the Conservation Committee shall be given to each member of the Conservation Committee and the Chairman of the Municipal Joint
Board, shall be published in accordance with each town's policies, and shall be open to the public. Minutes shall be recorded and made available for public review.

**C. Regional Shellfish Conservation Committee’s Responsibilities shall include:**

i. Keeping this Ordinance under review and making recommendations for its amendments.

ii. Recommending management actions to the Municipal Joint Board in conjunction with the Area Biologist of the Department of Marine Resources. Such actions may include, but are not limited to, re-seeding of defined shellfish flats, establishing conservation closures, and limiting and/or expanding harvesting activities.

iii. Recommending to the Municipal Joint Board enforcement actions for the protection of the resource.

iv. Submitting an annual report to the participating municipalities covering the aforementioned topics and other Committee activities by February 1.

v. Assist in identifying possible sources of pollution harmful to the intertidal habitat and the shellfish resources.

vi. By February 1 of each year submit an Annual Shellfish Management Review to the Municipal Joint Board for their review and approval, prior to submitting to the Department of Marine Resources by its April 1 deadline for review/approval.

vii. By April 1 of each year submit an Annual Shellfish License Sales and Lottery Procedure Plan to the Municipal Joint Board for approval. This plan shall outline in detail how many licenses are to be allocated on an annual basis and shall be consistent with 12 M.R.S.A Section 6671 (3-A) and DMR Regulation Chapter 7. After Municipal Joint Board approval, the Conservation Committee shall submit the Annual Shellfish License Sales and Lottery Procedure Plan to the Department of Marine Resources for approval. After receiving approval for license allocations from the Commissioner of Marine Resources, the Conservation Committee shall notify the Administrative Municipality, in writing, the number of shellfish licenses to be issued.

**D. Attendance:** Conservation Committee members shall make every effort to regularly attend Conservation Committee meetings. Any Committee member who misses more than two unexcused consecutive meetings may lose their seat on the Committee.

**E. Convictions:** Anyone convicted of violating this ordinance shall be removed from the Shellfish Conservation Committee.

**3.2. Frenchman Bay Regional Shellfish Municipal Joint Board:** Each of the participating municipalities shall appoint one municipal officer (Selectman/Council member), or a designee, as a member of the Municipal Joint Board to act as the municipality representative for all issues concerning this Ordinance. Each of the participating municipalities may also appoint one individual as an alternate member of the
Municipal Joint Board to represent the respective municipal officer during an absence at a Municipal Joint Board meeting. The designee, and alternate, must be a resident of the participating municipality and does not need to be a municipal officer (Selectman/Councilman). The person so appointed shall serve at the pleasure of the body that made the appointment and may be replaced thereby.

A. **Meetings:** The Chairman of the Municipal Joint Board shall be elected at the first meeting of each calendar year by the members of the Municipal Joint Board. A quorum shall consist of a majority of the members of the Board. Notice of all meetings of the Municipal Joint Board shall be given to each member of the Board and the Chairman of the Regional Shellfish Conservation Committee, shall be published in accordance with each town's policies, and shall be open to the public. Minutes shall be recorded and made available for public review.

B. **Powers:** The Municipal Joint Board is authorized to approve the number of shellfish harvesting licenses to be issued, approve license fees, open and close the flats, set times when harvesting is allowed, set permitted quantities that may be harvested, and to take such actions as authorized by the Board of Selectmen/Council of each of the participating municipalities, and subject to the Department of Marine Resources approval as noted in Section 6, based upon the recommendations of the Regional Shellfish Conservation Committee. These actions shall be described in an Annual Shellfish Management Plan submitted by the Regional Shellfish Conservation Committee.

4. **Definitions**

A. **Resident:** The term "resident" refers to a person being a Maine resident who has proof of being domiciled in at least one of the participating communities continuously for a minimum of six months prior to the time their claim of such residence is made and/or whom has paid real estate taxes in at least one of these participating communities continuously for at least five years. In order to determine resident eligibility new residents shall provide two forms of proof of residency from the list below. At least one shall be from Section 3 in the chart below. All licensed harvesters will provide proof of residency on an annual basis.

<table>
<thead>
<tr>
<th>Section 1</th>
<th>Section 2</th>
<th>Section 3</th>
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<tr>
<td>*Copy of deed AND record of most recent mortgage payment</td>
<td>A utility bill or other work order dated within the past 60 days including: *Gas Bill *Oil Bill *Electric Bill *Telephone Bill *Cable or Satellite Bill Dated within the past year: *W-2 Form *Excise (vehicle) tax bill</td>
<td>*Any valid form of photo ID and proof of residency that may include: *A valid Maine Drivers License displaying physical address. *A valid Maine photo ID card displaying physical address.</td>
</tr>
<tr>
<td>*Copy of Lease AND record of most recent legal affidavit from landlord affirming tenancy.</td>
<td></td>
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</tr>
<tr>
<td>*Legal affidavit from landlord affirming tenancy AND record of</td>
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B. **Nonresident:** The term "nonresident" means anyone not qualified as a resident under this ordinance.

C. **Shellfish, Clams and Intertidal Shellfish Resources:** When used in the context of this ordinance the words "shellfish", "clams", and "intertidal shellfish resources" mean soft shell clams (Mya arenaria), quahogs (Mercenaria mercenaria), razor clams (Ensis directus), and hen clams (Spisula solidissima).

D. **Municipality:** Refers to the municipalities of Ellsworth, Franklin, Hancock, Lamoine, Sorrento, Sullivan and Trenton, Maine. Wherever the words “town” or “community” may be used, they are intended to mean municipality.

E. **Administrative Municipality:** The municipality that administers this Ordinance and the directives of the Municipal Joint Board.

F. **Annual Shellfish License Sales and Lottery Procedure Plan:** A plan written by the Conservation Committee and submitted to the Municipal Joint Board, by April 1 of each year, for approval. This plan shall outline in detail how licenses are to be allocated on an annual basis and shall establish priority status for the allocation of licenses as referred to in Section 5.3.

G. **Annual Shellfish Management Review:** A detailed shellfish resource management plan written on an annual basis by the Frenchman Bay Regional Shellfish Conservation Committee and submitted to, and approved by, the Frenchman Bay Regional Shellfish Municipal Joint Board for submission to, and approval by, the Maine Department of Marine Resources. Said plan shall define actions to be taken regarding the number of licenses to be issued, re-seeding activities, conservation closures, limits on allowable harvest and harvesting days and times, and other measures taken to ensure a sustainable harvest of the resource.

H. **Conservation Work:** The term Conservation Work or Conservation Time, as used in this ordinance, shall be broadly defined and shall include the time accrued for work spent performing, but is not limited to, such activities as shellfish reseeding, pollution abatement, predator eradication, shellfish surveying, information gathering, testing and sampling, and any other activity that the Shellfish Conservation Committee deems as supporting shellfish resource enhancement and the Frenchman Bay Regional Shellfish Management Program. All such Conservation Work activities must be approved by the Municipal Joint Board.

I. **First-time Commercial License:** Is 1) a commercial license of any class issued to an individual who has never held a commercial license of any class, or 2) the
issuance of a commercial license of any class issued to an individual who has not
held a commercial license of any class during the previous twelve (12) months, at
time of application.

5. **LICENSING:**
A Frenchman Bay Regional Shellfish License is required to harvest shellfish in the
jurisdiction of this Ordinance. It is unlawful for any person to dig or take shellfish from the
shores and flats of the participating communities for the purpose of selling the shellfish
without having a current commercial license issued by the Administrative Municipality as
provided by this Ordinance. Additionally, a commercial harvester must have a valid State
of Maine Commercial Shellfish License issued by the Department of Marine Resources
prior to harvesting shellfish for commercial purposes. It shall be unlawful for any
individual whose State of Maine Commercial Shellfish License, or right to harvest, has
been suspended by the State of Maine to harvest or possess shellfish without proof of
purchase. Also, if such individual currently holds a municipal license, such license shall be
suspended for the same period of time. Any restrictions on licenses regarding the harvest
of shellfish as defined in this ordinance shall be outlined in the Annual Shellfish License
Sales and Lottery Procedure Plan developed by the Regional Shellfish Conservation
Committee and approved by the Municipal Joint Board.

**Licensing Requirements:** All license sales shall be conducted as described in the Annual
Shellfish License Sales and Lottery Procedure Plan developed each year by the Frenchman
Bay Regional Shellfish Conservation Committee.

5.1 **Designation, Scope and Qualifications:**

A. **Resident Commercial Shellfish License:** This license is available to residents
of a municipality who are also State of Maine Residents and/or real estate tax payers
in at least one of the participating municipalities, consistent with Section 4.A.,
above and entitles the holder to dig and take any amount of shellfish from the shores
and flats of the participating municipalities.

B. **Nonresident Commercial Shellfish License:** This license is available to
nonresidents of participating municipalities and entitles the holder to dig and take
any amount of shellfish from the shores and flats of the participating municipalities.

C. **Resident Junior Commercial Shellfish License:** This license is available to
residents of a participating municipality who are younger than age 19 at the time of
license application and entitles the holder to dig and take any amount of shellfish
from the shores and flats of the participating municipalities.

D. **Nonresident Junior Commercial Shellfish License:** This license is available
to nonresidents of the participating municipalities who are younger than age 19 at
the time of license application and entitles the holder to dig and take any amount of
shellfish from the shores and flats of the participating municipalities.

E. **Resident Senior Commercial License:** This license is available to senior
residents of a participating municipality who are over the age of 65 at the time of
license application and entitles the holder to dig and take any amount of shellfish from the shore and flats of the participating municipalities.

**F. Non-Resident Senior Commercial License:** This license is available to nonresident seniors of the participating municipalities who are over the age of 65 at the time of license application and entitles the holder to dig and take any amount of shellfish from the shores and flats of the participating municipalities.

**G. Residential Family/Individual Recreational Shellfish License:** This license is available to Residents and Maine resident real estate taxpayers of the participating municipalities, consistent with Section 4.A., above, who do not hold a valid State of Maine Commercial Shellfish License and entitles the family to dig and take no more than one peck of shellfish or 3 bushels of “hen” or “surf” clams in any one day for the use of their self and their family. Residents with an Aquaculture Lease Permit shall be exempt and eligible for a recreational license.

**H. Nonresident Family/Individual Recreational Shellfish License:** This license is available to any person not a resident of one of the participating municipalities who does not hold a valid State of Maine Commercial Shellfish License and entitles the family to dig and take not more than one peck of shellfish or 3 bushels of “hen” or “surf” clams in any one day for the use of their self and their family. Nonresidents with an Aquaculture Lease Permit shall be exempt and eligible for a recreational license.

**I. License must be signed:** The licensee must sign the license to make it valid. License must be in possession when engaged in harvesting. By signing the license the harvester acknowledges that they must submit to inspection by the Municipal Shellfish Warden.

**5.2 Fees:** A schedule of fees shall be available at the Administrative Municipality offices. The fees for the licenses shall be determined annually by the Shellfish Conservation Committee and Municipal Joint Board. Licensees shall submit fees, in full upon issuance of license. Fees received for shellfish licenses shall be used by the Administrative Municipality to support the Frenchman Bay Regional Shellfish Conservation Ordinance. Sale of recreational licenses shall be the responsibility of each participating municipality. Any and all fees and license sales for recreational licenses shall be collected by the participating municipalities and sent to the Administrative Municipality quarterly, except for a $3.00 agent fee per license that will be retained by the issuing municipality.

Applicants for a resident or non-resident renewal commercial shellfish harvester license and resident senior or non-resident senior renewal commercial shellfish harvester license may volunteer to perform shellfish conservation work in exchange for a reduction in the renewal commercial license fee as described in Section 5.4-B, below. Generally, each hour of conservation work performed will be credited at $15 so those conservation hours worked, multiplied by $15, may be deducted from the full renewal commercial license fee, except that Resident Junior Commercial renewal license and Non-resident Junior Commercial renewal licenses may be
purchased without performing any Conservation Work. A resident junior license shall be half the cost of a regular commercial resident license. A nonresident junior license shall be half the cost of a regular commercial nonresident license. A resident senior commercial license shall be half the cost of, and require only half of the voluntary conservation time necessary for, a regular commercial resident license. A non-resident senior commercial license shall be half the cost of, and require only half of the voluntary conservation time necessary for, a regular commercial non-resident license.

First-time commercial licenses will be sold at the lowest fee for each class of commercial license.

5.3 **Application Procedure:** Any person may apply to the municipal Clerk for the licenses required by this ordinance on forms provided by the Administrative Municipality. Notice of available commercial licenses shall be published in a trade or industry publication, or in a newspaper, or newspapers, or combination of newspapers with general circulation which the Municipal Joint Board considers effective in reaching persons affected, not less than ten (10) days prior to the period of issuance and shall be posted in the municipal offices of the participating municipalities until the period expires. Applications for commercial licenses must be received at the Town Office of the Administrative Municipality as required by the Annual Shellfish License Sales and Lottery Procedure Plan. No shellfish licenses may be reserved and licenses cannot be transferred.

A. **Contents of Application:** The application must be in the form of an affidavit and must contain the applicant's name, current address, birth date, height, weight, signature and any additional information the municipality may require, including photos.

B. **Misrepresentation:** Any person who intentionally gives false information on a license application shall cause the application to be removed from consideration, if a license is issued as a result of the false information, said license to become invalid and void.

C. **Address change:** A person holding a commercial shellfish license under this ordinance shall notify the town clerk of the Administrative Town within ninety (90) days of address change outside of the participating municipalities. Failure to do so will be considered and treated as misrepresentation.

5.4. **License Allocation Procedures:** License sales procedures shall be determined by the Shellfish Conservation Committee, approved by the Municipal Joint Board, and submitted to the Department of Marine Resources for their approval at least thirty (30) days prior to the licenses going on sale. Notice of the number of licenses to be issued and the procedure for application shall be defined by the Annual Shellfish License Sales and Lottery Procedure Plan.

A. The Clerk of the Administrative Municipality shall issue licenses to those residents and non-residents who have met the requirements of obtaining a
commercial license. The Town Clerk shall issue licenses and hold a lottery for nonresident commercial licenses by procedure described in the Annual Shellfish License Allocation Procedure Plan.

B. Optional Conservation Work may be completed prior to the renewal of a municipal commercial shellfish license to reduce the license cost in accordance with the Annual Shellfish License Sales and Lottery Procedure Plan. The performance of Conservation Work in order to accrue Conservation Time is optional and may be credited as described below:

1) Resident or non-resident commercial renewal shellfish licenses may be purchased without performing conservation work, however, the performance of Conservation Work will reduce a resident or non-resident renewal commercial shellfish license fee by $15 for each hour worked, up to twelve (12) hours.

2) Resident junior or non-resident junior commercial renewal shellfish licenses may be purchased without performing conservation work.

3) Resident senior or non-resident senior commercial renewal shellfish licenses may be purchased without performing conservation work, however, the performance of Conservation Work will reduce a resident senior or non-resident senior renewal commercial shellfish license fee by $15 for each hour worked, up to six (6) hours.

4) First-time commercial licenses may be purchased at the lowest fee for each class of commercial license.

C. Any license holder convicted of a violation of this ordinance shall forfeit seniority. Those who have held commercial licenses uninterrupted, from the first year of the Ordinance shall maintain seniority.

D. Details explaining how licenses will be issued will be described in the Annual Shellfish License Sales and Lottery Procedure Plan.

5.5 Limitation of Diggers: The number of commercial licenses may be limited and will be issued according to the Annual Shellfish License Sales and Lottery Procedure Plan.

A. If it is determined that Limited Licenses are necessary, the Administrative Community shall issue licenses to residents and nonresidents as described in the Annual Shellfish License Sales and Lottery Procedure Plan.

5.6 Open License Sales: When the Shellfish Conservation Committee determines limiting shellfish licenses is not an appropriate shellfish management option for one or more license categories for the following year;

A. The number of recreational licenses will not be limited. Recreational licenses shall be issued to residents or non-residents without restriction.
5.7 **License Expiration Date:** Each license issued under authority of this ordinance expires at midnight on June 30th of each year.

5.8 **Fee Waivers:** Recreational shellfish license fees are not required for individuals 65 years or older and younger than age 13 at the time of license application.

6. **Opening and Closing of Flats:** The Municipal Joint Board in conjunction with the Shellfish Conservation Committee, upon approval of the Commissioner of Marine Resources, may open and close areas for shellfish harvest. Upon concurrence of the Department of Marine Resources Area Biologist that the status of shellfish resource and other factors bearing on sound management indicate that an area should be opened or closed, the Shellfish Conservation Committee and Municipal Joint Board may call a public hearing, and shall send a copy of the notice to the Department of Marine Resources. The decision of the Municipal Joint Board and Shellfish Conservation Committee made after the hearing shall be based on findings of fact.

7. **Minimum Legal Size of Soft Shell Clams:** It is unlawful for any person to possess soft shell clams within participating municipalities that are less than two (2) inches in the longest diameter except as provided by Subsection 7.2 of this section.

7.1 **Definitions:**

   A. **Lot:** The word "lot" as used in this ordinance means the total number of soft shell clams in any bulk pile. Where soft shell clams are in a box, barrel, or other container, the contents of each box, barrel, or other container constitutes a separate lot.

   B. **Possess:** For the purpose of this section, "possess" means dig, take, harvest, ship, transport, hold, buy and sell retail and wholesale soft shell clam shell stock.

7.2 **Tolerance:** Any person may possess soft shell clams that are less than two inches if they comprise less than 10% of any lot. The tolerance shall be determined by count of not less than one peck nor more than four pecks taken at random from various parts of the lot or by a count of the entire lot if it contains less than one peck.

7.3 **Penalty:** Whoever violates any provision of this section shall be punished as provided by 12 M.R.S.A. Section 6681.

8. **Penalty:** A person who violates this ordinance shall be punished as provided by 12 M.R.S.A. Section 6671 (10) (10-A) (10-B).

9. **Effective Date:** This ordinance, which has been approved by the Commissioner of Marine Resources, shall become effective after its adoption by the member municipalities provided a certified copy of the ordinance is filed with the Commissioner within twenty (20) days of its adoption.

10. **Severability:** If any section, subsection, sentence or part of this ordinance is for any reason held to be invalid or unconstitutional, such decisions shall not affect the validity of the remaining portions of this ordinance.
11. **Repeal:** Any ordinance regulating the harvesting or conservation of shellfish in the member communities and any provisions of any other town ordinance, which is inconsistent with this ordinance, is hereby repealed.

12. **Use of Fees and Fines, Funding:** Fees for shellfish licenses shall be set forth in the Annual Shellfish Management plan and shall accompany the application for the respective license. Fees and fines received shall be used for costs incurred in the enforcement and management of this ordinance.

12.1 **Non-lapse Provision:** Monies in the Municipal Shellfish Account shall not lapse at the end of the year but shall be carried over to the next year in that account.

12.2 **Funding:** The Municipal Shellfish Program shall be self-supporting, to the extent possible. Funds for operating the Program may be generated by license fees, fines, and financial support from participating communities, fund-raising events, and charitable contributions.

13. **VIOLATIONS, SUSPENSION OF LICENSES, AND FINES:**
Any person who violates this Ordinance shall be punished as provided by 12 M.R.S.A. Section 6671 and/or Section 6681. A violation of this Ordinance may result in a license suspension. A licensee whose shellfish license has been suspended pursuant to this Ordinance may request return of their license only after the suspension period has expired. A suspended license is not to be returned until the fine is paid in accordance with the court's decree. The suspension of a commercial license shall begin automatically, following conviction. Any licensee whose license has been suspended for a period of time greater than 30 days, pursuant to this Ordinance, shall be entitled to a hearing before the Municipal Joint Board upon the filing of a written request for a hearing with the Town Clerk of the Administrative Town within thirty (30) days of the effective date of the suspension.

13-A. **Costs and Attorney’s Fees:** In addition to any penalty assessed for any violation of this ordinance, if the municipality is the prevailing party, the municipality shall be awarded reasonable attorney fees, expert witness fees and costs, unless the court finds that special circumstances make the award of these fees and costs unjust.

Classifications of violations are categorized as follows:

13.1 **Stopping for inspection:** A person shall produce their license on demand of any certified Municipal Shellfish Conservation Warden in uniform and having "probable cause" to take such action. It is unlawful for the operator of a motor vehicle, boat, vessel, or conveyance of any kind, or any person:

A. To deliberately fail or refuse to stop immediately upon request or signal of any Certified Municipal Shellfish Conservation Warden.
B. After the person has stopped, to fail to remain stopped until the said Warden has reached his/her immediate vicinity and makes known to the operator the reason for his/her request or signal.

C. To fail or refuse to stand by immediately for inspection on request of said Warden.
D. To throw or dump into any coastal waters or flats after having been requested or signaled to stop by a Certified Municipal Shellfish Conservation Warden any shellfish, or any pail, bag, hod or container before said Warden has inspected the same.

E. To attempt to elude, disobey, or assault any Certified Municipal Shellfish Conservation Warden.

**Penalties:** Penalties shall be assessed in accordance with Maine Department of Marine Resources statutes and regulations.

13.2 Harvesting Clams in any Closed Area: It shall be unlawful for any person to harvest, take or possess shellfish from any areas closed by those 7 municipalities included in the Frenchman Bay Regional Shellfish Conservation Ordinance, namely the municipalities of Ellsworth, Lamoine, Trenton, Hancock, Franklin, Sullivan, and Sorrento, in accordance with DMR Regulation, Chapter 7. Harvesting shellfish in a closed area is a violation of the regional ordinance of these municipalities and is punishable under MRSA Title 12 §6671.

Boundaries of conservation closures are explicitly defined in the conservation closure application submitted on behalf of the seven (7) above-named municipalities to DMR and are part of the resulting permit issued by DMR. These permits are posted on the website of the City of Ellsworth, the administrative municipality for the seven (7) municipality regional ordinance, and also online at:


**Penalties:** Penalties shall be assessed in accordance with Maine Department of Marine Resources statutes and regulations.

13.3 Minimum Legal Size of Shellfish: It is unlawful for any person to violate minimum shellfish size regulation set forth in this Ordinance:

**Penalties:** Penalties shall be assessed in accordance with Maine Department of Marine Resources statutes and regulations.

13.4 Harvesting without a license: It is unlawful to harvest shellfish without a license.

**Penalties:** Penalties shall be assessed in accordance with Maine Department of Marine Resources statutes and regulations.

13.5 Tagging: The holder of a commercial shellfish license shall identify shellstock the license holder has taken by means of a harvester tag. The tag shall be in accordance with Maine Department of Marine Resources (DMR) rules.

**Penalties:** Penalties shall be assessed in accordance with Maine Department of Marine Resources statutes and regulations.
13.6 **Suspension:** A person licensed under this ordinance who has had their State of Maine Commercial Shellfish License suspended shall forfeit their Frenchman Bay Regional Shellfish Conservation Ordinance license (Regional License) for the duration of the State of Maine Commercial Shellfish License suspension. Such a person in possession of shellfish must carry a receipt of purchase for said shellfish. Any shellfish licensee having three convictions for a violation of this ordinance within a three year period shall have their shellfish license suspended for a period of thirty (30) days.

13.7 *(Intentionally left blank.)*

13.8 *(Intentionally left blank.)*

14. **ENFORCEMENT:** This ordinance shall be enforced by the certified Municipal Shellfish Conservation Warden or any Municipal Shellfish Conservation Warden appointed by the Municipal Joint Board who, within one year of appointment, must be certified by the Commissioner of the Maine DMR. An enforcement action shall be filed in the name of the municipality where the violation was alleged to have occurred.

15. **AMENDMENTS**

15.1 **Initiation:** A proposal for an amendment to this Ordinance may be initiated by the following:

A. A written petition submitted with the number of voters in the participating municipalities equal to at least ten percent of the voters in the last gubernatorial election;

B. A recommendation of the Regional Shellfish Conservation Committee; or

C. A recommendation of the Municipal Joint Board.

15.2 **Procedure:**

A. Any proposal for an amendment shall be made to the Municipal Joint Board, in writing, stating the specific changes requested. All such proposals shall be transmitted to the Regional Shellfish Conservation Committee for their review and recommendation.

B. Within thirty (30) days of receiving a properly initiated amendment, the Municipal Joint Board shall hold a public hearing on the proposal. Notice of the hearing shall be posted and advertised in a newspaper of general circulation within the participating communities at least seven (7) days prior to the hearing. The notice shall contain the time, date and place of the hearing and sufficient detail about the proposed changes as to give adequate notice of their content. If the proposed changes are extensive, a brief summary of the changes, together with an indication that a full text is available at the municipal Clerk's office shall be adequate notice.
15.3 **Adoption:** This Ordinance may be amended by a majority vote of the Municipal Joint Board, after proposed changes have been reviewed by the Department of Marine Resources. Note: Ellsworth’s charter requires Council action.

15.4 **Statute Law Changes:** Any changes to referenced Statue Laws in this Ordinance shall automatically update in this Ordinance upon enactment.

**Adoption:**

WHEREAS: In consideration of all of the above, and IN WITNESS WHEREOF, the parties have by their duly authorized officers caused this Ordinance to be adopted in all parts this 23rd day of February, 2017.

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<tr>
<th>Municipality</th>
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<tr>
<td>Sorrento</td>
<td>___________________________</td>
<td>Craig Clement, Joint Board Member</td>
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<td>Sullivan</td>
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<td>Gary Edwards, Joint Board Member</td>
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<td>Franklin</td>
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<td>Trenton</td>
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<td>Mike Hodgkins, Joint Board Member</td>
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Approved by Lamoine Town Meeting – March 16, 2011

SHORELAND ZONING ORDINANCE
Town of Lamoine, Maine

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Section 1. PURPOSES

The purposes of this Ordinance are to further the maintenance of safe and healthful conditions; to prevent and control water pollution; to protect fish spawning grounds, aquatic life, bird and other wildlife habitat; to protect buildings and lands from flooding and accelerated erosion; to protect archaeological and historic resources; to protect commercial fishing and maritime industries; to protect freshwater and coastal wetlands; to control building sites, placement of structures and land uses; to conserve shore cover and visual as well as actual points of access to inland and coastal waters; to conserve natural beauty and open space; and to anticipate and respond to the impacts of development in shoreland areas.

Section 2. AUTHORITY

This Ordinance has been prepared in accordance with the provisions of Title 38 Sections 435-449 of the Maine Revised Statutes Annotated (M.R.S.A.).

Section 3. APPLICABILITY

This Ordinance applies to all land areas within 250 feet, horizontal distance, of the normal high-water line of any great pond, river or saltwater body; within 250 feet, horizontal distance, of the upland edge of a coastal or freshwater wetland; and within 75 feet, horizontal distance, of the normal high-water line of a stream. This Ordinance also applies to any structure built on, over or abutting a dock, wharf or pier, or other structure extending beyond the normal high-water line of a water body or within a wetland.

Section 4. EFFECTIVE DATE and REPEAL OF FORMERLY ADOPTED ORDINANCE

This Ordinance, which was adopted by the Lamoine Town Meeting in March, 1974 and amended in March, 1982, March, 1985, October 1989, and May, 1993 shall not be effective unless approved by the Commissioner of the Department of Environmental Protection. A certified copy of the Ordinance, attested and signed by the Municipal Clerk, shall be forwarded to the Department of Environmental Protection for approval. If the Department of Environmental Protection fails to act on this Ordinance within forty-five (45) days of its receipt of the Ordinance, it shall be deemed approved. Upon approval of this Ordinance, the shoreland zoning ordinance previously adopted on May 8, 1993 is hereby amended.

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 if the Ordinance is approved by the Department of Environmental Protection.

A. The effective date of this ordinance is March 7, 2007
B. REPEAL OF MUNICIPAL TIMBER HARVESTING REGULATION. The municipal regulation of timber harvesting activities is repealed on the statutory date established under 38 M.R.S.A section 438-A(5), at which time the State of Maine Department of Conservation’s Bureau of Forestry shall administer timber harvesting standards in the shoreland zone. On the date established under 38 M.R.S.A section 438-A(5), the following provisions of this Ordinance are repealed:

- Section 14. Table of Land Uses, line 12 (Forest management activities except for timber harvesting) and line 32 (Timber harvesting);
- Section 15. In its entirety;
- Section 17. Definitions, the definition of “forest management activities”.

Section 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.

Section 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.

Section 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, the more restrictive provision shall control.

Section 8. AMENDMENTS

This Ordinance may be amended by majority vote of the Lamoine Town Meeting. Copies of amendments, attested and signed by the Municipal Clerk, shall be submitted to the Department of Environmental Protection following adoption by the municipal legislative body and shall not be effective unless approved by the Department of Environmental Protection. If the Department of Environmental Protection fails to act on any amendment within forty-five (45) days of the Department's receipt of the amendment, the amendment is automatically approved. Any application for a permit submitted to the municipality within the forty-five (45) day period shall be governed by the terms of the amendment, if such amendment is approved by the Department.
Section 9.  DISTRICTS AND ZONING MAP

A. Official Shoreland Zoning Map

The areas to which this Ordinance is applicable are hereby divided into the following districts as shown on the Official Shoreland Zoning Map(s) which is (are) made a part of this Ordinance:

1. Limited Residential
2. Limited Commercial
3. Commercial Fisheries/Maritime Activities
4. Stream Protection
5. Resource Protection

B. Scale of Map

The Official Shoreland Zoning Map shall be drawn at a scale of not less than: 1 inch = 2000 feet. District boundaries shall be clearly delineated and a legend indicating the symbols for each district shall be placed on the map.

C. Certification of Official Shoreland Zoning Map

The Official Shoreland Zoning Map shall be certified by the attested signature of the Municipal Clerk and shall be located in the municipal office.

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 Board of Environmental Protection.

Section 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.

Section 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.
Section 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 shall be allowed to continue, subject to the requirements set forth in this section. 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 which do not involve expansion of the non-conforming use or structure, and such other changes in a non-conforming use or structure as federal, state, or local building and safety codes may require.

C. Non-conforming Structures

1. Expansions:

A non-conforming structure may be added to or expanded after obtaining a permit from the same permitting authority as that for a new structure, if such addition or expansion does not increase the non-conformity of the structure and is in accordance with sub paragraphs (a) and (b) below.

Further Limitations:

a. Any portion of a structure existing on January 1, 1989 that is less than the required setback from a water body, tributary stream or wetland may be expanded, as measured in floor area or volume, by less than 30% during the lifetime of the structure. If a replacement structure conforms with the requirements of Section 12 C(3) and is less than the required setback from a water body, wetland or tributary stream, the replacement structure may not be expanded if the original structure has been expanded 30% in floor area or volume.

b. Construction or enlargement of a foundation beneath the existing structure shall not be considered an expansion of the structure provided that

i. 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 in subsection 2.
ii. the completed foundation does not extend beyond the exterior dimensions of the structure; and

iii. 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 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.

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.

In determining whether the building relocation meets the setback to the greatest practical extent, the Planning Board shall consider the

i. size of the lot,

ii. the slope of the land,

iii. the potential for soil erosion,

iv. the location of other structures on the property and on adjacent properties,

v. the location of the septic system and other on-site soils suitable for septic systems and,

vi. the type and amount of vegetation to be removed to accomplish the relocation.

When it is necessary to remove vegetation in order to relocate a structure, the Planning Board shall require replanting of native vegetation to compensate for the destroyed vegetation. Without exception, the area from which the structure was removed must be revegetated to a buffer of native vegetation including trees, shrubs and other ground cover.

When it is necessary to remove vegetation within the water or wetland setback area in order to relocate a structure, the Planning Board shall require replanting of native vegetation to compensate for the destroyed vegetation. In addition, the area from which the relocated structure was removed must be replanted with vegetation. Replanting shall be required as follows:

(a) Trees removed in order to relocate a structure must be replanted with at least one native tree, three (3) feet in height, for every tree removed. If more than five trees are planted, no one species of tree shall make up more than 50% of the number of trees planted. Replaced trees must be planted no further from the water or wetland than the trees that were removed. Other woody and herbaceous vegetation, and ground cover, that are removed or destroyed in order to relocate a structure must be re-established. An area at least the same size as the area where vegetation and/or ground cover was disturbed, damaged, or removed must be reestablished within the setback area. The vegetation and/or ground cover must consist of similar native vegetation and/or ground cover that was disturbed, destroyed or removed.
(b) Where feasible, when a structure is relocated on a parcel the original location of the structure shall be replanted with vegetation which may consist of grasses, shrubs, trees or a combination thereof.

3. Reconstruction or Replacement:

Any non-conforming structure which is located less than the required setback from a water body, tributary stream, or wetland and which is removed, or damaged or destroyed regardless of the cause by more than 50% of the market value of the structure before such damage, destruction or removal as determined by a State licensed appraiser may be reconstructed or replaced provided that a permit is obtained within one year of the date of said damage, destruction, or removal, and provided that such reconstruction or replacement is in compliance with the water, wetland or tributary stream setback requirement to the greatest practical extent as determined by the Planning Board in accordance with the purposes of this Ordinance. In no case shall a structure be reconstructed or replaced so as to increase its non-conformity.

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

In determining whether the building reconstruction or replacement meets the water setback to the greatest practical extent the Planning Board shall consider the physical condition and type of foundation present, if any, in addition to the criteria in paragraph 2 above.

If the reconstructed or replacement structure is less than the required setback it shall not be any larger than the original structure, except as allowed pursuant to Section 12(C)(1) above, as determined by the non-conforming floor area and volume of the reconstructed or replaced structure at its new location. If the total amount of floor area and volume of the original structure can be relocated or reconstructed beyond the required setback area, no portion of the relocated or reconstructed structure shall be replaced or constructed at less than the setback requirement for a new structure. When it is necessary to remove vegetation in order to replace or reconstruct a structure, vegetation shall be replanted in accordance with Section 12.C.2 above.

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 be consistent with the surrounding character and uses and will have no greater adverse impact on the water body, wetland or tributary stream, 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 commercial fishing and maritime activities, and other functionally water-dependent uses.

D. Non-conforming Uses

1. Expansions:

Expansions of non-conforming uses are prohibited, except that non-conforming residential uses may, after obtaining a permit from the Planning Board, be expanded within existing residential structures or within expansions of such structures as permitted in Section 12(C)(1)(a) above.

2. Resumption Prohibited:

A lot, building or structure in or on which a non-conforming use is discontinued for a period exceeding one year, or which is superseded by a conforming use, may not again be devoted to a non-conforming use except that the Planning Board may, for good cause shown by the applicant, grant up to a one year extension to that time period. This provision shall not apply to the resumption of a use of a residential structure provided that the structure has been used or maintained for residential purposes during the preceding five (5) year period.

3. Change of Use:

An owner may apply to the Planning Board for approval to change an existing non-conforming use to another non-conforming use provided that the proposed use has no greater adverse impact on the subject and adjacent properties and resources, including water dependent uses in the CFMA district, than the former use, as determined by the Planning Board. The determination of no greater adverse impact shall be made according to criteria listed in Section 12 (C) (4) above.

E. Non-conforming Lots

1. Non-conforming Lots:

A non-conforming lot of record as of the effective date of this Ordinance or amendment thereto may be built upon, without the need for a variance, provided that such lot is in separate ownership and not contiguous with any other lot in the same ownership, and that all provisions of this Ordinance except lot area, lot width and shore frontage can be met. Variances relating to setback or other requirements not involving lot area, lot width and shore frontage shall be obtained by action of the Board of Appeals.

2. Contiguous Built Lots

If two or more non-conforming lots or parcels are in a single or joint ownership of record at the time of adoption of this Ordinance, and a principal use or structure exists on each lot, the non-conforming lots may be conveyed separately or together, provided each lot is
in compliance with the State Minimum Lot Size Law (Title 12 M.R.S.A. § 4807 through § 4807(d) and with 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 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 the following conditions are met, two or more non-conforming contiguous lots shall be combined to the extent necessary to meet dimensional requirements:

   i. The lots are in single or joint ownership of record at the time of or since adoption or amendment of the Ordinance;
   ii. None of the lots individually meets the dimensional requirements of this Ordinance or subsequent amendments; and,
   iii. If one or more of the lots are vacant or contain no principal structure.

Section 13. ESTABLISHMENT OF DISTRICTS

The Town of Lamoine establishes Shoreland Zone Districts to permit the orderly development of different shoreland uses. In doing so, the Town recognizes the need to encourage diverse uses including residential, economic and resource protection and to balance these one with another.

Shoreland Zone Districts are established by vote of the Town according to the following definitions and guidelines. The Town of Lamoine Shoreland Zoning Map, as most recently amended, assigns a district designation to all the town’s shorelands -- the land area located within two hundred and fifty (250) feet, horizontal distance, of the normal high-water line of any great pond, river or saltwater body and within two hundred and fifty (250) feet of the upland edge of a coastal or freshwater wetland; or within seventy-five (75) feet of the normal high-water line of a stream. The Map is available in the Town Office.

A. Limited Residential District

   The Limited Residential District includes those areas suitable for residential and recreational development except for those areas that fall within the 100 year Flood Plain, which are designated as Resource Protection Districts.

B. Limited Commercial District

   The Limited Commercial District includes areas (exclusive of the Stream Protection District) of mixed light commercial and residential uses which can coexist compatibly so as not to intrude upon one another. This district includes areas of two or more contiguous acres in size devoted to a mix of residential and low intensity business and commercial uses. Excluded from this district are those areas which
i. fall within the 100 year flood plain,
ii. are designated as Resource Protection District, or
iii. Are located in a Stream Protection District.

C. Commercial Fisheries/Maritime Activities District

The Commercial Fisheries/Maritime Activities District includes areas suitable for functionally water dependent uses. In determining whether an area qualifies for inclusion in a CFMA District, the following factors will guide the Board and Town’s decision:

1. Shelter from prevailing winds and waves;
2. Slope of the land within 250 feet, horizontal distance, of the normal high-water line;
3. Depth of the water within 150 feet, horizontal distance, of the shoreline;
4. Available support facilities including utilities and transportation facilities;
5. Compatibility with adjacent upland uses;
6. Historic uses, prevailing current uses, and future uses as projected in the Town of Lamoine Comprehensive Plan;
7. Compatibility of uses within the District (the Planning Board may restrict certain functionally water-dependent uses if they are incompatible with the dominant uses projected in the Town of Lamoine Comprehensive Plan).

D. Stream Protection District

The Stream Protection District includes all land areas within seventy-five (75) feet, horizontal distance, of the normal high-water line of a stream, exclusive of those areas within two-hundred and fifty (250) feet, horizontal distance, of the normal high-water line of a great pond, river or saltwater body, or within two hundred and fifty (250) feet horizontal distance of the upland edge of a freshwater or coastal wetland. Where a stream and its associated shoreland area is located within two-hundred and fifty (250) feet horizontal distance of the above water bodies or wetlands, the land area shall be regulated under the terms of the shoreland district associated with that water body or wetland.

E. Resource Protection District

The Resource Protection District includes areas in which development would adversely affect water quality, productive habitat, biological ecosystems, or scenic and natural values. This district shall include those areas designated as Resource Protection on the Town of Lamoine Shoreland Zoning Map, as most recently amended, and areas meeting one or more of the following criteria:

1. Areas within 250 feet, horizontal distance, of the upland edge of freshwater wetlands, salt marshes and salt meadows, and wetlands associated with great ponds, which are rated "moderate" or "high" value by the Maine Department of Inland Fisheries and Wildlife (MDIF&W). These shall include any such areas in Lamoine that the Department of Environmental Protection has designated as areas of "significant wildlife habitat."
2. Flood plains defined by the 100 year Flood Plain as designated on the Federal Emergency Management Agency's (FEMA) Flood Insurance Rate Maps, or the flood of record, or in the absence of these, by soil types identified as recent flood plain soils. This district shall also include 100 year flood plains adjacent to tidal waters as shown on FEMA's Flood Insurance Rate Maps, but shall not include land within the shoreland zone which is shown by a surveyor to be outside the 100 year flood plain.

3. Areas of two or more contiguous acres with sustained slopes of 20% or greater.

4. Areas of two (2) or more contiguous acres supporting wetland vegetation and hydric soils, as determined by a Certified Soil Scientist, which are not part of a freshwater or coastal wetland as defined and which are not surficially connected to a water body during normal spring high water.

5. Land areas subject to severe bank erosion or undercutting and lands adjacent to tidal waters which are subject to severe erosion or mass movement, such as steep coastal bluffs.

6. Other areas which have been recommended for protection in the Town of Lamoine's Comprehensive Plan including wildlife habitats, sites of significant scenic or esthetic value and sites of historic or archeological significance.

Section 14. TABLE OF LAND USES

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

Key to Table 1:

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

No - Prohibited
PB - Requires permit issued by the Planning Board
CEO - Requires permit issued by the Code Enforcement Officer
LPI - Requires permit issued by the Local Plumbing Inspector

Abbreviations:

LR - Limited Residential
LC - Limited Commercial
CFMA - Commercial Fisheries/Maritime Activities
SP - Stream Protection
RP - Resource Protection
### TABLE 1. LAND USES IN THE SHORELAND ZONE

<table>
<thead>
<tr>
<th>Land Uses</th>
<th>LR</th>
<th>LC</th>
<th>CFMA</th>
<th>SP</th>
<th>RP</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>A. Agriculture</strong></td>
<td>CEO</td>
<td>CEO</td>
<td>NO</td>
<td>CEO</td>
<td>CEO</td>
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<tr>
<td><strong>B. Aquaculture</strong></td>
<td>NO</td>
<td>PB</td>
<td>PB</td>
<td>PB</td>
<td>PB</td>
</tr>
<tr>
<td><strong>C. Bunkhouses</strong></td>
<td>NO</td>
<td>NO</td>
<td>NO</td>
<td>NO</td>
<td>NO</td>
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<tr>
<td><strong>D. Campgrounds</strong></td>
<td>PB</td>
<td>PB</td>
<td>NO</td>
<td>NO</td>
<td>NO</td>
</tr>
<tr>
<td><strong>E. Clearing of vegetation for approved construction and other allowed uses</strong></td>
<td>yes</td>
<td>yes</td>
<td>yes</td>
<td>CEO</td>
<td>CEO</td>
</tr>
<tr>
<td><strong>F. Conversions of seasonal residences to year-round residences</strong></td>
<td>LPI</td>
<td>LPI</td>
<td>no</td>
<td>LPI</td>
<td>no</td>
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<td><strong>G. Emergency operations</strong></td>
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<td>yes</td>
<td>yes</td>
<td>yes</td>
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<td><strong>H. Essential services</strong></td>
<td>PB</td>
<td>PB</td>
<td>PB</td>
<td>PB</td>
<td>PB</td>
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<tr>
<td><strong>I. Filling and earthmoving of &lt; 10 cubic yards</strong></td>
<td>yes</td>
<td>yes</td>
<td>yes</td>
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<td>CEO</td>
</tr>
<tr>
<td><strong>J. Filling and earthmoving of &gt; 10 cubic yards</strong></td>
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<td>CEO</td>
<td>CEO</td>
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<td>PB</td>
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<td><strong>K. Fire prevention activities</strong></td>
<td>yes</td>
<td>yes</td>
<td>yes</td>
<td>yes</td>
<td>yes</td>
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<tr>
<td><strong>L. Forest management activities except for timber harvesting</strong></td>
<td>yes</td>
<td>yes</td>
<td>yes</td>
<td>yes</td>
<td>yes</td>
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<tr>
<td><strong>M. Home occupations</strong></td>
<td>PB</td>
<td>PB</td>
<td>PB</td>
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<td><strong>N. Individual, private campsites</strong></td>
<td>CEO</td>
<td>CEO</td>
<td>CEO</td>
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<tr>
<td><strong>O. Marinas</strong></td>
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<td>PB</td>
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<tr>
<td><strong>P. Mineral exploration</strong></td>
<td>NO</td>
<td>NO</td>
<td>NO</td>
<td>NO</td>
<td>NO</td>
</tr>
<tr>
<td><strong>Q. Mineral extraction including sand and gravel extraction</strong></td>
<td>NO</td>
<td>NO</td>
<td>NO</td>
<td>NO</td>
<td>NO</td>
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<tr>
<td><strong>R. Motorized vehicular traffic on existing roads and trails</strong></td>
<td>yes</td>
<td>yes</td>
<td>yes</td>
<td>yes</td>
<td>yes</td>
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<tr>
<td><strong>S. Non-intensive recreational uses not requiring structures such as hunting, fishing and hiking</strong></td>
<td>yes</td>
<td>yes</td>
<td>yes</td>
<td>yes</td>
<td>yes</td>
</tr>
<tr>
<td><strong>T. Parking facilities</strong></td>
<td>PB</td>
<td>PB</td>
<td>PB</td>
<td>no</td>
<td>no</td>
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<tr>
<td><strong>U. Pathway within 100' of median high water</strong></td>
<td>CEO</td>
<td>CEO</td>
<td>CEO</td>
<td>CEO</td>
<td>CEO</td>
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<tr>
<td><strong>V. Piers, docks, wharfs, bridges and other structures and uses extending over or below the normal high-water line or within a wetland</strong></td>
<td>a.</td>
<td>Temporary</td>
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<td>PB</td>
<td>PB</td>
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<td><strong>Y. Multi-unit residential</strong></td>
<td>no</td>
<td>PB</td>
<td>PB</td>
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<tr>
<td><strong>Z. Commercial</strong></td>
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<td>PB</td>
<td>PB</td>
<td>no</td>
<td>no</td>
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<tr>
<td><strong>AA. Industrial</strong></td>
<td>no</td>
<td>no</td>
<td>PB</td>
<td>no</td>
<td>no</td>
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<tr>
<td><strong>BB. Governmental and Institutional</strong></td>
<td>no</td>
<td>PB</td>
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<tr>
<td><strong>CC. Small non-residential facilities for educational, scientific or nature interpretation purposes.</strong></td>
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<td>CEO</td>
<td>PB</td>
<td>PB</td>
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<td><strong>DD. Fire prevention activities</strong></td>
<td>yes</td>
<td>yes</td>
<td>yes</td>
<td>yes</td>
<td>yes</td>
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<td><strong>EE. Forest management activities except for timber harvesting</strong></td>
<td>yes</td>
<td>yes</td>
<td>yes</td>
<td>yes</td>
<td>yes</td>
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<td>PB</td>
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<td>NO</td>
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<td>NO</td>
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<td><strong>LL. Non-intensive recreational uses not requiring structures such as hunting, fishing and hiking</strong></td>
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<td>yes</td>
<td>yes</td>
<td>yes</td>
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<td><strong>NN. Pathway within 100' of median high water</strong></td>
<td>CEO</td>
<td>CEO</td>
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<tr>
<td><strong>OO. Piers, docks, wharfs, bridges and other structures and uses extending over or below the normal high-water line or within a wetland</strong></td>
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<td><strong>QQ. One and two family residential</strong></td>
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<tr>
<td><strong>SS. Commercial</strong></td>
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<td><strong>TT. Industrial</strong></td>
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<td><strong>UU. Governmental and Institutional</strong></td>
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<tr>
<td><strong>VV. Small non-residential facilities for educational, scientific or nature interpretation purposes.</strong></td>
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<td><strong>XX. Forest management activities except for timber harvesting</strong></td>
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<td>yes</td>
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<td>no</td>
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<tr>
<td><strong>KK. Multi-unit residential</strong></td>
<td>no</td>
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<td>PB</td>
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</tr>
<tr>
<td><strong>LL. Commercial</strong></td>
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<td>PB</td>
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<td>no</td>
</tr>
<tr>
<td><strong>MM. Industrial</strong></td>
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<td><strong>NN. Governmental and Institutional</strong></td>
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<td><strong>OO. Small non-residential facilities for educational, scientific or nature interpretation purposes.</strong></td>
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<td><strong>PP. Fire prevention activities</strong></td>
<td>yes</td>
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<td>yes</td>
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<tr>
<td><strong>QQ. Forest management activities except for timber harvesting</strong></td>
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<td>yes</td>
<td>yes</td>
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<td><strong>SS. Individual, private campsites</strong></td>
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<td>CEO</td>
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<td><strong>TT. Marinas</strong></td>
<td>PB</td>
<td>PB</td>
<td>PB</td>
<td>NO</td>
<td>no</td>
</tr>
</tbody>
</table>

1 In RP not permitted within 75 feet of the normal high-water line of great ponds, except to remove safety hazards
2 Requires permit from the Code enforcement Officer if more than 100 square feet of surface area, in total, is disturbed
3 See Section 15M (Agriculture)
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 (K)(2)
7 Except when area is zoned for resource protection due to Flood Plain criteria in which case a permit is required from the Planning Board
8 Except to provide access to permitted uses within the district, or where no reasonable alternative route or location is available outside the RP area, in which case a permit is required from the PB

Approved by the Lamoine Town Meeting, April 7, 2011
NOTE: A person performing any of the following activities shall require a permit from the Department of Environmental Protection pursuant to Title 38 M.R.S.A., Section 480-C, if the activity occurs in, on, over or adjacent to any freshwater or coastal wetland, great pond, river, stream or brook and operates in such a manner that material or soil may be washed into them:

A. Dredging, bulldozing, removing or displacing soil, sand vegetation or other materials;
B. Draining or otherwise dewatering;
C. Filling, including adding sand or other material to a sand dune; or
D. Any construction or alteration of any permanent structure.

Section 15. LAND USE STANDARDS

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

A. Minimum Lot Standards

<table>
<thead>
<tr>
<th></th>
<th>Minimum Lot Area (square feet)</th>
<th>Minimum Shore Frontage (feet)</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. Minimum Lot Size</td>
<td>40,000</td>
<td>200</td>
</tr>
<tr>
<td>2. Residential per dwelling unit</td>
<td></td>
<td></td>
</tr>
<tr>
<td>a. Within the Shoreland Zone Adjacent to Tidal Areas</td>
<td>40,000</td>
<td>200</td>
</tr>
<tr>
<td>b. Within the Shoreland Zone Adjacent to Non-Tidal Areas</td>
<td>40,000</td>
<td>200</td>
</tr>
<tr>
<td>3. Governmental, Institutional, Commercial or Industrial per principal structure</td>
<td></td>
<td></td>
</tr>
<tr>
<td>a. Within the Shoreland Zone Adjacent to Tidal Areas Exclusive of Those Areas Zoned for Commercial Fisheries and Maritime Activities</td>
<td>60,000</td>
<td>300</td>
</tr>
<tr>
<td>b. Within the Shoreland Zone Adjacent to Tidal Areas Zoned for Commercial Fisheries and Maritime Activities</td>
<td>NONE</td>
<td>NONE</td>
</tr>
<tr>
<td>c. Within the Shoreland Zone Adjacent to Non-Tidal Areas</td>
<td>60,000</td>
<td>300</td>
</tr>
<tr>
<td>4. Public and Private Recreational Facilities</td>
<td></td>
<td></td>
</tr>
<tr>
<td>a. Within the Shoreland Zone Adjacent to Tidal and Non-Tidal Areas</td>
<td>60,000</td>
<td>300</td>
</tr>
</tbody>
</table>

5. If more than one residential dwelling unit, more than one governmental, institutional, commercial or industrial principal structure, or more than one public or private recreational facility is constructed on a single parcel, all dimensional requirements, including shore frontage, shall be met for each additional unit, principal structure, or facility.

When determining whether dimensional requirements are met, only land area within the shoreland zone shall be considered.
6. Land below the normal high-water line of a water body or upland edge of a wetland and land beneath roads serving more than two (2) lots shall not be included toward calculating minimum lot area.

7. 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.

8. 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.

9. Lots shall meet or exceed the minimum lot standards of the Building Code, Town of Lamoine.

B. Required Setbacks and other Structure Standards

1. Setbacks from Normal High-Water and Flood Plain Boundaries

All new principal and accessory structures shall be set back at least one hundred (100) feet from the normal high-water line of any water bodies, tributary streams, or the upland edge of a wetland, except:

   a. in the Commercial Fisheries/Maritime Activities District there shall be no minimum setback if uses are functionally water-dependent; or
   b. when dictated otherwise by the Lamoine Flood Plain Management Ordinance.

The one hundred (100) foot setback mark must be approved by the Code Enforcement Officer prior to any work being done or, in cases where a structure or activities are to be within 125 feet of normal high-water line, the setback mark must be marked with stakes set by a registered surveyor at the owner's expense and a letter from said surveyor attached to the application for shoreland permit.

If a structure or activities are proposed within twenty-five (25) feet of the hundred year Flood Plain, falling thereby in a Resource Protection District, the boundary of that zone must be established and marked by a certified surveyor at the owner's expense and a letter to that effect must be submitted as part of the application for permit.

Both setback and Floodplain elevation markers must remain undisturbed until the Code Enforcement Officer's inspection has determined that all construction conforms to the requirements of this and other pertinent ordinances.

In addition:

   i. The water body, tributary stream, or wetland setback provision shall neither apply to structures which require direct access to the water as an operational necessity,
such as piers, docks and retaining walls, nor to other functionally water-dependent uses.

ii. The Planning Board may increase the required setback of a proposed structure, as a condition to permit approval, if necessary to accomplish the purposes of this ordinance. Instances where a greater setback may be appropriate to prevent erosion include, but are not limited to, areas of steep slope; shallow or erodible soils; or where an adequate vegetative buffer does not exist.

2. Coastal Bluffs

For principal structures, water and wetland setback measurements shall be taken from the top of a coastal bluff that has been identified on Coastal Bluff maps (available at the Town Hall) as being “highly unstable” or “unstable” by the Maine Geological Survey pursuant to its “Classification of Coastal Bluffs” and published on the most recent Coastal Bluff map. If the applicant and the permitting official(s) are in disagreement as to the specific location of a “highly unstable” or “unstable” bluff, or where the top of the bluff is located, the applicant may at his or her expense, employ a Maine Registered Professional Engineer, a Maine Certified Soil Scientist, a Maine State Geologist or other qualified individual to make a determination. If agreement is still not reached, the applicant may appeal the matter to the Board of Appeals.

3. Height

Principal or accessory structures and expansions of existing structures which are permitted in the Resource Protection, Limited Residential, Limited Commercial, and Stream Protection Districts, shall not exceed thirty-five (35) feet in height. This provision shall not apply to structures such as transmission towers, windmills, antennas, and similar structures having no floor area.

4. First Floor Elevations or Openings

The first floor elevation or openings of all buildings and structures including basements shall be elevated at least one foot above the elevation of the 100 year flood, the flood of record, or in the absence of these, the flood as defined by soil types identified as recent flood plain soils.

5. Total Area

The total area of all structures, parking lots and other non-vegetated surfaces within the shoreland zone shall not exceed ten (10) percent of the lot or a portion thereof located within the shoreland zone, including land area previously developed, except in the Commercial Fisheries/Maritime Activities District, where lot coverage shall not exceed seventy (70) percent.

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

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.

1. Access from shore shall be developed on soils appropriate for such use and constructed so as to control erosion.
2. The location shall not interfere with existing developed or natural beach areas.
3. The facility shall be located so as to minimize adverse effects on fisheries.
4. The facility shall be no larger in dimension than necessary to carry on the activity and be consistent with existing conditions, use, and character of the area.
5. No new structure shall be built on, over or abutting a pier, wharf, dock or other structure extending beyond the normal high-water line of a water body or within a wetland unless the structure requires direct access to the water as an operational necessity.
6. 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.
7. Except in the Commercial Fisheries/Maritime Activities District, structures built on, over or abutting a pier, wharf, dock or other structure extending beyond the normal high-water line of a water body or within a wetland shall not exceed twenty (20) feet in height above the pier, wharf, dock or other structure.

Permanent structures projecting into or over water bodies shall require a permit from the Department of Environmental Protection pursuant to the Natural Resources Protection Act, Title 38 M.R.S.A., Section 480-C or its successor statute.

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 from the normal high-water line of a great pond classified GPA, and one hundred (100) feet from the normal high-water line of other water bodies, tributary streams, or the upland edge of a wetland.
E. Temporary Uses: Individual, private campsites, recreational vehicles, and similar temporary shelters are permitted provided the following conditions are met:

1. One campsite per lot existing on the effective date of this Ordinance, or forty thousand (40,000) square feet of lot area within the shoreland zone, whichever is less, may be permitted.

2. Campsite placement on any lot, including the area intended for a recreational vehicle or tent platform, shall be set back one hundred (100) feet from the normal high-water line of a great pond classified GPA or river flowing to a great pond classified GPA, and one hundred (100) feet from the normal high-water line of other water bodies, tributary streams, or the upland edge of a wetland.

3. Recreational vehicles shall not be located on any type of permanent foundation except for a gravel pad, and no structure(s) except canopies shall be attached to the recreational vehicle.

4. The clearing of vegetation for the siting of the recreational vehicle, tent or similar shelter in a Resource Protection District shall be limited to one thousand (1000) square feet.

5. A written sewage disposal plan describing the proposed method and location of sewage disposal shall be required for each campsite and shall be approved by the Local Plumbing Inspector. Where disposal is off-site, written authorization from the receiving facility or land owner is required.

6. When a recreational vehicle, tent or similar shelter is placed on a site for purposes of occupation for more than one hundred and twenty (120) days within a calendar 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. Parking Areas

1. Parking areas shall meet the shoreline setback requirements for structures for the district in which such areas are located, except that in the Commercial Fisheries/Maritime Activities District parking areas shall be set back at least twenty-five (25) feet from the normal high-water line or the upland edge of a wetland. The setback requirement for parking areas serving public boat launching facilities, in Districts other than the Commercial Fisheries/Maritime Activities District may be reduced to no less than fifty (50) feet from the normal high-water line or upland edge of a wetland if the Planning Board finds that no other reasonable alternative exists.

2. Parking areas shall be adequately sized for the proposed use and shall be designed to prevent stormwater runoff from flowing directly into a water body, 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.
G. Roads, Private Ways and Driveways

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

1. Roads, private ways and driveways shall be set back at least one-hundred (100) feet from the normal high-water line of a great pond classified GPA, and one hundred (100) feet 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 Planning Board may reduce the road, private way and/or driveway setback requirement to no less than seventy-five (75) feet upon clear showing by the applicant that appropriate techniques will be used to prevent sedimentation of the water body. Such techniques may include, but are not limited to, the installation of settling basins, and/or the effective use of additional ditch relief culverts and turnouts placed so as to avoid sedimentation of the water body, tributary stream, or wetland.

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

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

2. Existing public roads may be expanded within the legal road right-of-way regardless of its setback from a water body.

3. New roads, private ways and driveways are prohibited in a Resource Protection District except to provide access to permitted uses within the district, or as approved by the Planning Board upon a finding that no reasonable alternative route or location is available outside the district, in which case the road, private way 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 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 subsection Q.

5. Road grades shall be no greater than ten (10) percent except for short segments of less than two hundred (200) feet.

6. In order to prevent road surface drainage from directly entering water bodies, roads shall be designed, constructed and maintained to empty onto an unscarified buffer strip at least (50) feet plus two times the average slope, in width between the outflow point of the ditch or culvert and the normal high-water line of a water body, tributary stream or upland edge of a wetland. Road surface drainage which is directed to an unscarified buffer strip shall be diffused or spread out to promote infiltration of the runoff and to minimize channelized flow of the drainage through the buffer strip.

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 in the road or ditches gains sufficient volume or head to erode the road 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 at intervals no greater than indicated in the following table:

<table>
<thead>
<tr>
<th>Road Grade (Percent)</th>
<th>Spacing (Feet)</th>
</tr>
</thead>
<tbody>
<tr>
<td>0-2</td>
<td>250</td>
</tr>
<tr>
<td>3-5</td>
<td>200-135</td>
</tr>
<tr>
<td>6-10</td>
<td>100-80</td>
</tr>
<tr>
<td>11-15</td>
<td>80-60</td>
</tr>
<tr>
<td>16-20</td>
<td>60-45</td>
</tr>
<tr>
<td>21+</td>
<td>40</td>
</tr>
</tbody>
</table>

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

c. On road sections having slopes greater than ten (10) percent, ditch relief culverts shall be placed across the road at approximately a thirty (30) degree angle downslope from a line perpendicular to the centerline of the road.

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 shall be maintained on a regular basis to assure effective functioning.

9. Private Ways: Construction Standards

All private ways located in whole or in part of the Shoreland Zone shall meet the requirements in this Section (15G) and the following:

a. For every 500 foot section of a private way, an area twenty (20) feet in width and fifty (50) feet in length shall be constructed for the purpose of allowing two vehicles to pass;

b. Prior to final approval the private way shall receive written approval from the Lamoine Fire Chief or his designee;

c. Any proposal to increase the number of lots to be served by a private way to three or more must include a plan to upgrade the private way to the Minimum Standards for Street Design and Construction as found in Section 12(F) of the Lamoine Building and Land Use Code, whether or not the proposed construction constitutes a subdivision as defined in that Ordinance.
H. Signs

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

1. Signs and billboards relating to goods and services sold on the premises shall be permitted except within the 100 foot setback where no signs are permitted. Signs shall not exceed 16 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 shall be permitted, provided such signs shall not exceed two (2) square feet in total area and two (2) signs per premises and shall be posted in accordance with State guidelines.
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 permitted provided that no such sign shall exceed two (2) square feet in area.
5. Signs relating to public safety shall be permitted without restriction.
6. No sign shall extend higher than eight (8) feet above the ground.
7. Only commercial signs may be illuminated and only by shielded, non-flashing lights.
8. The fee for a sign permit shall be twelve dollars ($12.00)

I. Storm Water Runoff

1. All new construction and development shall be designed to minimize storm water runoff from the site in excess of the natural predevelopment conditions. Where possible, existing natural runoff control features, such as berms, swales, terraces and wooded areas shall be retained in order to reduce runoff and encourage infiltration of stormwaters.
2. Storm water runoff control systems shall be maintained as necessary to ensure proper functioning.

J. 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.

NOTE: The Maine Subsurface Wastewater Disposal Rules require new systems, excluding fill extensions, to be constructed no less than one hundred (100) horizontal feet from the normal high-water line of a perennial water body. The minimum setback distance for a new subsurface disposal system may not be reduced by variance.
K. 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 is not permitted 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 permitted, such structures and facilities shall be located so as to minimize any adverse impacts on surrounding uses and resources, including visual impacts.

L. Mineral Exploration and Extraction in the Shoreland Zone is NOT permitted.

M. Agriculture

(1) All spreading or disposal of manure shall be accomplished in conformance with the Manure Utilization Guidelines published by the Maine Department of Agriculture on November 1, 2001 or successor guidelines.

(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, or the spreading, disposal or storage of manure within the shoreland zone shall require a Soil and Water Conservation Plan to be filed with the Planning Board. Non-conformance with the provisions of said plan shall be considered to be a violation of this Ordinance.

NOTE: Assistance in preparing a soil and water conservation plan may be available through the local Soil and Water Conservation District office.

(4) There shall be no new tilling of soil within one-hundred (100) feet, horizontal distance, of the normal high-water line of a great pond classified GPA; within seventy-five (75) feet, horizontal distance, from other water bodies and coastal wetlands; nor within twenty-five (25) feet, horizontal distance, of tributary streams and freshwater wetlands. Operations in existence on the effective date of this ordinance and not in conformance with this provision may be maintained.

(5) Newly established livestock grazing areas shall not be permitted within one hundred (100) feet, horizontal distance, of the normal high-water line of a great pond classified GPA; within seventy-five (75) feet, horizontal distance, of other water bodies and coastal wetlands, nor; within twenty-five (25) feet, horizontal distance, of tributary streams and freshwater wetlands. Livestock grazing must be conducted in accordance with a Soil and Water Conservation Plan.
N. Timber Harvesting

Timber Harvesting from the May 8, 1993 Lamoine Shoreland Zoning Ordinance (see Attachment A) shall remain in effect until the effective date in Section 4B is met. Timber Harvesting in Lamoine is governed by Title 38 MRSA § 438-B (3) of the State of Maine Guidelines for Municipal Shoreland Zoning Ordinances. Under this option, rules for timber harvesting will be administered and enforced by the State of Maine Department of Conservation, Bureau of Forestry. (Please consult Maine Statutes or the Maine Department of Conservation for the latest regulations).

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

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

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

(2) Except in areas as described in Section O(1), above, and except to allow for the development of permitted uses within a strip of land extending one-hundred (100) feet, horizontal distance, inland from the normal high-water line of a great pond classified GPA or a river flowing to a great pond classified GPA, and seventy-five (75) feet, horizontal distance from any other water body, tributary stream or the upland edge of a wetland, a buffer strip of vegetation shall be preserved as follows:

(a) There shall be no cleared opening greater than 250 square feet in the forest canopy (or other existing woody vegetation if a forested canopy is not present) as measured from the outer limits of the tree or shrub crown. However, a footpath not to exceed six (6) feet in width as measured between tree trunks and/or shrub stems is allowed provided that a cleared line of sight to the water through the buffer strip is not created.

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

<table>
<thead>
<tr>
<th>Diameter of Tree at 4-1/2 feet Above Ground Level (inches)</th>
<th>Points</th>
</tr>
</thead>
<tbody>
<tr>
<td>2 - &lt; 4 in.</td>
<td>1</td>
</tr>
<tr>
<td>4 – &lt;8 in.</td>
<td>2</td>
</tr>
<tr>
<td>8-&lt; 12 in.</td>
<td>4</td>
</tr>
<tr>
<td>12 in. or greater</td>
<td>8</td>
</tr>
</tbody>
</table>

Adjacent to other water bodies, tributary streams, and wetlands, a "well-distributed stand of trees" is defined as maintaining a minimum rating score of 16 per 25-foot by 50-foot rectangular area.
NOTE: As an example, adjacent to a great pond, if a 25-foot x 50-foot plot contains four (4) trees between 2 and 4 inches in diameter, two trees between 4 and 8 inches in diameter, three trees between 8 and 12 inches in diameter, and two trees over 12 inches in diameter, the rating score is:

\[(4 \times 1) + (2 \times 2) + (3 \times 4) + (2 \times 8) = 36 \text{ points}\]

Thus, the 25-foot by 50-foot plot contains trees worth 36 points. Trees totaling 12 points (36 - 24 = 12) may be removed from the plot provided that no cleared openings are created.

The following shall govern in applying this point system:

(i) The 25-foot by 50-foot rectangular plots must be established where the landowner or lessee proposes clearing within the required buffer;

(ii) Each successive plot must be adjacent to, but not overlap a previous plot;

(iii) Any plot not containing the required points must have no vegetation removed except as otherwise allowed by this Ordinance;

(iv) Any plot containing the required points may have vegetation removed down to the minimum points required or as otherwise allowed by this Ordinance;

(v) Where conditions permit, no more than 50% of the points on any 25-foot by 50-foot rectangular area may consist of trees greater than 12 inches in diameter.

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

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

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

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

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

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

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

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

(4) 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(O).

P. Erosion and Sedimentation Control

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

(a) Mulching and revegetation of disturbed soil.

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

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

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

(3) Erosion and sedimentation control measures shall apply to all aspects of the proposed project involving land disturbance, and shall be in operation during all stages of the activity. The amount of exposed soil at every phase of construction shall be minimized to reduce the potential for erosion.

(4) Any exposed ground area shall be temporarily or permanently stabilized within one (1) week from the time it was last actively worked, by use of riprap, sod, seed, and mulch, or other effective measures. In all cases permanent stabilization shall occur within nine (9) months of the initial date of exposure. In addition:

(a) Where mulch is used, it shall be applied at a rate of at least one (1) bale per five hundred (500) square feet and shall be maintained until a catch of vegetation is established.

(b) Anchoring the mulch with netting, peg and twine or other suitable method may be required to maintain the mulch cover.
(c) Additional measures shall be taken where necessary in order to avoid siltation into the water. Such measures may include the use of staked hay bales and/or silt fences.

(5) Natural and man-made drainage ways and drainage outlets shall be protected from erosion from water flowing through them. 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 riprap.

Q. 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.

R. 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.

S. Archeological 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.
Section 16. ADMINISTRATION

A. Administering Bodies and Agents

1. Code Enforcement Officer

A Code Enforcement Officer shall be appointed or reappointed annually by July 1st.

2. Board of Appeals

A Board of Appeals shall be created in accordance with the provisions of MRSA Title 30-A Section 2691.

3. Planning Board

A Planning Board shall be created in accordance with the provisions of State law.

B. Jurisdiction

The purpose of this section is to establish an orderly, equitable, and expeditious procedure for administering the provisions of this Ordinance.

1. Planning Board

The Planning Board shall have responsibility for all procedures, consideration of plans and evidence to support them, collection of fees and issuance of Shoreland permits. The Board shall retain oversight responsibilities for any parcel under consideration for development in the Shoreland Zone, undergoing such development, or in which such development has been completed.

2. Code Enforcement Officer

The Planning Board shall call on the services of the Code Enforcement Officer (CEO) for its administrative purposes and the Code Enforcement Officer shall be responsible to the Board in the performance of Board-related duties.

The CEO shall review all applications required to be submitted under this ordinance and shall make findings and recommendations to the Board. Permits shall be issued in accordance with the Table of Land Uses (Section 14). The CEO shall carry out all those enforcement activities and responsibilities described in Section 16J of this ordinance and perform other duties as the Board may request.

3. Board of Appeals (See Section I)
4. Board of Selectmen

Any action needed to enforce the provisions of this Ordinance shall be taken by the Selectmen of the Town of Lamoine on their own motion or on the recommendation of the Planning Board or the Code Enforcement Officer.

C. 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. Please note: Additional permits may be required by Maine State Statutes. The applicant is responsible for obtaining all required permits prior to the issuance of a Lamoine Shoreland permit.

D. Permit Application

1. Every applicant for a Shoreland Zoning permit shall complete all applicable sections of the Town of Lamoine Construction Application form. The application shall include all information listed below and be submitted to the appropriate official as indicated in Section 14 – Table of Land Uses. Applications submitted to the Planning Board must be signed by Lamoine's Code Enforcement Officer to indicate that they have been reviewed for completeness. Application materials must be submitted in nine copies (one for each Board member, one for the CEO, and one for the file).

The Shoreland Zoning permit application shall include:

   a. a detailed plot plan (See Attachment A of the Construction Application) showing the names of abutting landowners, boundary lines and perimeter footage, all setback measurements, Flood Plain boundary lines, sewage plans, roads, and site elevation above normal high-water mark, and location and elevation notations if required by section d and/or e below;
   b. front and side elevations drawings of any proposed structures (See Attachment B of the Construction Application);
   c. a completed HHE-200 (or successor form used as an application for septic system permit), with a written statement from the Town Plumbing Inspector that the design is sufficient to allow granting of a plumbing permit (Form obtained from CEO);
   d. a Flood Hazard Development permit if required, which includes, where necessary, a letter from a registered surveyor attesting to the placement of markers indicating the boundary of the Flood Plain affecting the location of structures and other land uses (See Article III Flood Plain Management Ordinance);
   e. in cases where construction will occur within 125 feet of normal high water mark, a letter from a registered surveyor attesting to the fact that markers indicating the location and elevation of the 100 foot setback from normal high water mark have been placed on the property;
f. the signature of the owner or owners of the parcel or their authorized agent (in which case a letter of authorization must be included);
g. the appropriate fee;
h. any other information that the Code Enforcement Officer or Planning Board may require as necessary to determine conformity with the provisions of this Ordinance.

In addition to the above information and that information stipulated in Lamoine’s Building and Land Use Ordinance, applications for governmental, institutional, commercial or industrial principal structures or for public or private recreational facilities must, be accompanied by an environmental impact study indicating the effects of the proposed land use on the parcel, on abutting landowners, on the abutting water bodies and on their customary uses.

2. Flood Hazard Development Permit Required Prior to Building Permit

No building permit shall be issued for any structure or use on a parcel which, in part or in whole, falls within the Flood Plain unless the conditions of the Town of Lamoine Flood Plain Management Ordinance are met. In cases where a Flood Plain Zone restricts the proposed land use, a registered surveyor must mark the boundary of that zone on the parcel and provide a letter to the Planning Board attesting to the accurate placement of those markers. In these cases, a Flood Hazard Development permit must be obtained PRIOR TO the issuance of a Building Permit.

3. Plumbing Permit Required Prior to Building Permit

No building permit shall be issued for any structure or use involving construction, installation or alteration of plumbing facilities unless a permit for such facilities has been secured by the applicant or an authorized agent, according to the requirements of this Ordinance.

4. All applications shall be dated and the Planning Board shall note upon each application the date and time of the Planning Board meeting at which it was received.

E. Procedure for Administering Permits

1. Notification of Completeness

Within 35 days of the date of receiving a written application, the Planning Board or Code Enforcement Officer, as indicated in Section 14, shall notify the applicant in writing either that the application is a complete application, or, if the application is incomplete, that specified additional material is needed to make the application complete.

2. Notification of Decision

When an application can be approved without public hearing, the Planning Board or the Code Enforcement Officer, as appropriate, shall approve, approve with conditions or deny all permit applications in writing within 35 days of receiving a completed application
unless the Planning Board has a waiting list of applications. In such case, a decision shall occur within 35 days after the first available date on the Planning Board’s agenda following receipt of the completed application.

3. Criteria for Decision

Permits shall be approved 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:

a. Will meet requirements for the Shoreland Zone in which the proposal is located;
b. Will maintain safe and healthful conditions;
c. Will not result in water pollution, erosion, or sedimentation to surface waters;
d. Will not have an adverse impact on spawning grounds, fish, aquatic life, bird or other wildlife habitat;
e. Will protect buildings and lands from flooding and accelerated erosion;
f. Will protect archaeological and historic resources as designated in the comprehensive plan;
g. Will not adversely affect existing commercial fishing or maritime activities in a Commercial Fisheries/Maritime Activities district;
h. Will conserve shore cover and visual, as well as actual, points of access to inland and coastal waters;
i. Will avoid problems associated with Flood Plain development and use; and
j. Will adequately provide for the disposal of wastewater; and
k. Is in conformance with the provisions of Section 15, Land Use Standards.

4. Denial and Conditions

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 any State law which the Town of Lamoine is responsible for enforcing.

F. Expiration of Permit

A permit issued under this Ordinance shall lapse and become void if a substantial start is not made in construction or in the use of the property within one year from the date of issuance of the permit and if the project is not completed sufficiently to receive a certificate of occupancy within two years of the date of issuance of the permit. Thereafter,
no further work on such construction shall be performed until the Board either renews the application or requests and approves a new application.

If an extension of these time limits is granted, the permit shall be valid for no more than one additional year.

Nothing in this section shall prohibit the Planning Board from requiring submission of additional information if needed to determine whether to grant an extension.

G. Fees. An application for any permit required by this ordinance shall be accompanied by fee(s) as established by the Lamoine Board of Selectmen. No action shall be taken on any application until the fee(s) have been received by the Town. The application fee(s) shall not be refundable. The fee(s) shall be paid to the Town of Lamoine and shall accrue to the Code Enforcement Fund to be used for the administration and enforcement of town ordinances. A Schedule of Fees is located at the Town Office.

H. Installation of Public Utility Service

No public utility, water district, sanitary district or any utility company of any kind may 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. Following installation of service, the company or district shall forward the written authorization to the Code Enforcement Officer of the Town of Lamoine, indicating that installation has been completed.

I. 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 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 permitted only under the following conditions:
a. Variances may be granted only from dimensional requirements including but not limited to, lot width, structure height, percent of lot coverage and setback requirements.

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

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

(1) The proposed structure or use would meet the provisions of Section 15 except for the specific provision which has created the non-conformity and from which relief is sought; and

(2) The strict application of the terms of this Ordinance would result in undue hardship.

The term "undue hardship" shall mean:

(i) That the land in question cannot yield a reasonable return unless a variance is granted;

(ii) That the need for a variance is due to the unique circumstances of the property and not to the general conditions in the neighborhood;

(iii) That the granting of a variance will not alter the essential character of the locality; and

(iv) That the hardship is not the result of action taken by the applicant or a prior owner.

d. The Board of Appeals shall limit any variances granted as strictly as possible in order to insure conformance with the purposes and provisions of this Ordinance to the greatest extent possible, and in doing so may impose such conditions to a variance as it deems necessary. The party receiving the variance shall comply with any conditions imposed.

e. 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 action by the Board of Appeals shall be made part of the record and shall be taken into consideration by the Board of Appeals.

f. A copy of all variances granted by the Board of Appeals shall be submitted to the Department of Environmental Protection within fourteen (14) days of the decision.

3. 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. 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.

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

   (i) A concise written statement indicating what relief is requested and why it should be granted.

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

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

b. Decision by Board of Appeals

   1. A majority of the board shall constitute a quorum for the purpose of deciding an appeal. A member who abstains shall not be counted in determining whether a quorum exists.

   2. The concurring vote of a majority of the members of the Board of Appeals present and voting shall be necessary to reverse an order, requirement, decision, or determination of the Code Enforcement Officer or Planning Board, or to decide in favor of the applicant on any matter on which it is required to decide under this Ordinance, or to affect any variation in the application of this Ordinance from its stated terms. The board may reverse the decision, or failure to act, of the Code Enforcement Officer or Planning Board only upon a finding that the decision, or failure to act, was clearly contrary to specific provisions of this Ordinance.

   3. The person filing the appeal shall have the burden of proof.

   4. 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.

   5. 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 therefor, and the appropriate order, relief or denial thereof.

4. 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 in accordance with State laws within forty-five (45) days from the date of any decision of the Board of Appeals.
5. Reconsideration
The Board of Appeals may reconsider any decision within forty-five (45) days of its prior decision. The Board may conduct additional hearings and receive additional evidence and testimony.

J. 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 both the Selectmen and the Planning Board and be maintained as a permanent record.

   b. The Code Enforcement Officer shall conduct on-site inspections to ensure compliance with all applicable laws and conditions attached to permit approvals. The Code Enforcement Officer shall also investigate all written complaints of alleged violations of this Ordinance submitted to the Selectmen.

   c. The Code Enforcement Officer shall keep a complete record of all essential transactions of the office, including applications submitted, permits granted or denied, variances granted or denied, revocation actions, revocation of permits, appeals, court actions, violations investigated, violations found, and fees collected. On an annual basis, a summary of this record shall be submitted to the Director of the Bureau of Land Quality Control within the Department of Environmental Protection.

3. Legal Actions
When the above action does not result in the correction or abatement of the violation or nuisance condition, the Lamoine Board of Selectmen, 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 Town of Lamoine. The Board of Selectmen, 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 orders or conducts any activity in violation of this Ordinance shall be penalized in accordance with Title 30-A, Maine Revised Statutes Annotated, Subsection 445Z.

NOTE: Current penalties include fines of not less than $100 nor more than $2500 per violation for each day that the violation continues. However, in a Resource Protection District the maximum penalty is increased to $5000 (30-A M.R.S.A. § 4452)
Section 17. DEFINITIONS

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

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

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

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

Basal Area – the area of cross-section of a tree stem at 4½ feet above ground level and inclusive of bark.

Basement – any portion of a structure with a floor-to-ceiling height of 6 feet or more and having more than 50% of this 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.

Bunkhouses and similar structures – Structures that are not accessory to a principal structure and that are intended for use as temporary or seasonal living quarters, that have no permanent foundation and no subsurface sewage disposal system.

Campground - Land upon which one or more tents are erected or trailers or other shelter are parked for temporary use for a fee or two or more sites on the same property arranged specifically for that purpose.

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

Coastal Bluff – the area identified on Coastal Bluff maps as being “highly unstable” or “unstable” by the Maine Geological Survey. (A coastal bluff map is available at the Town Office).

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

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

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

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

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

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

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

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

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

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

**Forest management activities** - timber cruising and other forest resource evaluation activities, pesticide or fertilizer application, management planning activities, timber stand improvement, pruning, regeneration of forest stands, and other similar or associated activities, exclusive of timber harvesting and the construction, creation or maintenance of roads.
**Forested wetland** – a freshwater wetland dominated by woody vegetation that is six (6) meters tall (approximately twenty (20) feet) or taller.

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

**Freshwater wetland** - freshwater swamps, marshes, bogs and similar areas which are:

1. of ten or more contiguous acres; or of less than 10 contiguous acres and adjacent to a surface water body, excluding any river, stream or brook such that in a natural state, the combined surface area is in excess of 10 acres; and

2. inundated or saturated by surface or ground water at a frequency and for a duration sufficient to support, and which under normal circumstances do support, a prevalence of wetland vegetation typically adapted for life in saturated soils.

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

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

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

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

**Height of a structure** - The vertical distance between the highest point of the structure and the average final grade around the foundation, or the average grade of the original ground adjoining the building, whichever is greater.

**Home occupation** - an occupation or profession which is customarily conducted on or in a residential structure or property and which is 1) clearly incidental to and compatible with the residential use of the property and surrounding residential uses; and 2) which employs no more than two (2) persons other than family members residing in the home.
**Increase in nonconformity of a structure** – any change in a structure or property which causes further deviation from the dimensional standard(s) creating the nonconformity such as, but not limited to, reduction in water body, tributary stream or wetland setback distance, increase in lot coverage, or increase in height of a structure. Property changes or structure expansions which either meet the dimensional standard or which cause no further increase in the linear extent of nonconformance of the existing structure shall not be considered to increase nonconformity. For example, there is no increase in nonconformity with the setback requirement for water bodies, wetlands, or tributary streams if the expansion extends no further into the required setback area than does any portion of the existing nonconforming structure. Hence, a structure may be expanded laterally provided that the expansion extends no closer to the water body, tributary stream, or wetland than the closest portion of the existing structure from that water body, tributary stream, or wetland. Included in this allowance are expansions which in-fill irregularly shaped structures.

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

**Industrial** - The assembling, fabrication, finishing, manufacturing, packaging or processing of goods, or the extraction of minerals except when conducted as part of a home occupation or conducted wholly within an existing structure where no utility modifications are required, the operation has no more than three employees, and no more than 2000 square feet. Proposed uses beneath the above thresholds may be reviewed as commercial uses.

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

**Light Commercial Uses** - Commercial uses which, because of the limited effects of traffic, noise, dust, fumes, vapors, gases, odors, hours of operation or other conditions, can coexist compatibly with residential and recreational uses.

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

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

**Market value** - The value of a structure immediately prior to damage as determined by a Maine licensed real estate appraiser.

**Median High Water** – See “Normal High Water”
Minimum lot width - the closest distance between the side lot lines of a lot. When only two lot lines extend into the shoreland zone, both lot lines shall be considered to be side lot lines.

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 which within any twelve (12) month period; 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.

Multi-family dwelling - A building containing three (3) or more dwelling units, such buildings being designed exclusively for residential use and occupancy by three (3) or more families living independently of one another, with the number of families not exceeding the number of dwelling units. (Replaces Multi Unit Residential in SZO)

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

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

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

Normal high-water line - 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.

Pathway – A foot travel way for shore access not to exceed six (6) feet in width as measured between tree trunks, winding so as to preclude a clear line of sight and constructed of pervious material which follows the natural contour of land to the maximum extent possible.

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

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

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

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

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

**Private Way** – A vehicular access-way five hundred (500) feet or greater in length serving two lots or less, and usually providing a means of access between a buildable back lot and a public or private road.

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

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

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

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

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

**River** - a free-flowing body of water including its associated flood plain 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 or private way as defined.

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

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

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

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

**Setback** - The nearest horizontal distance from the normal high-water line of a water body or tributary stream or upland edge of a freshwater or coastal 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 at normal high-water elevation, or at the upland edge of a wetland.

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

Significant River Segments - See Title 38 MRSA Sec. 437.

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

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

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

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

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

Tidal waters - All waters affected by tidal action during the maximum spring tide.

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

Tributary stream - a channel between defined banks. A channel is created by the action of surface water having 2 or more of the following characteristics:
   a. It is depicted as a solid or broken blue line on the most recent edition of the U.S. Geological Survey 7.5 series topographic map or, if that is not available, a 15-minute series topographic map;
   b. It contains or is known to contain flowing water continuously for a period of at least 6 months of the year in most years;
   c. The channel bed is primarily composed of mineral material such as sand and gravel, parent material or bedrock that has been deposited or scoured by water;
   d. The channel contains aquatic animals such as fish, aquatic insects or mollusks in the water or, if no surface water is present, within the stream bed;
e. The channel contains aquatic vegetation and is essentially devoid of upland vegetation.

A tributary stream is not a ditch or other drainage way constructed, or constructed and maintained, solely for the purpose of draining storm water or a grassy swale. This definition does not include the term “stream” as defined elsewhere in this Ordinance, and only applies to that portion of the tributary stream located within the Shoreland Zone of the receiving water body or wetland.

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

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

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

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

**Water body** - any great pond, river, stream or tidal area.

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

**Wetland** - a freshwater or coastal wetland.

**Wetlands associated with great ponds and rivers** - wetlands contiguous with or adjacent to a great pond or river, and which during normal high water, are connected by surface water to the great pond or river. Also included are wetlands which are separated from the great pond or river by a berm, causeway, or similar feature less than 100 feet in width, and which have a surface elevation at or below the normal high water line of the great pond or river. Wetlands associated with great ponds or rivers are considered to be part of that great pond or river.
Effective Date: March, 1974
Amended: March, 1982
March, 1985
October, 1989
May, 1993
March, 2007
April 2, 2008

APPLICATION FORMS

[Available at the Lamoine Town Office or from the Code Enforcement Officer.]
Signature Page

The above ordinance was initially approved at open town meeting on March 7, 2007, approved by the Commissioner of the Department of Environmental Protection in 2007, and those changes inserted by the Commissioner approved at open town meeting on April 2, 2008.

Signed April 3, 2008,

/s/ S. Josephine Cooper, Chair
/s/ Cynthia Donaldson
/s/ Richard Fennelly, Jr.          The Lamoine Board of Selectmen
/s/ Brett Jones
/s/ Chris Tadema-Wielandt

The above ordinance was amended on a majority vote at the annual town meeting on March 16, 2011.

Signed April 7, 2011 by:

_______________________  Cynthia Donaldson  }
_______________________  S. Josephine Cooper  }
_______________________  Richard E Fennelly Jr.  }
                             The Lamoine Board   
                             of Selectmen
_______________________  Gary McFarland  }
_______________________  William Brann  }

Attest:  A True Copy

________________________________
Stuart Marckoon, Deputy Town Clerk
Attachment A

(From 1993 Shoreland Zoning Ordinance)

N. Timber Harvesting

1. Within the strip of land extending 75 feet inland from the normal high-water line in a shoreland area zoned for resource protection abutting a great pond there shall be no timber harvesting, except to remove safety hazards.

2. Except in areas as described in Paragraph 1 above, timber harvesting shall conform with the following provisions:

   b. Selective cutting of no more than forty (40) percent of the total volume of trees four (4) inches or more in diameter measured at 4 1/2 feet above ground level on any lot in any ten (10) year period is permitted. In addition:

      i. Within one-hundred (100) feet, horizontal distance of the normal high-water line of a great pond classified GPA, and within one hundred (100) feet, horizontal distance, of the normal high-water line of other water bodies, tributary streams, or the upland edge of a wetland, there shall be no clearcut openings and a well-distributed stand of trees and other vegetation, including existing ground cover, shall be maintained.

      ii. At distances greater than one-hundred (100) feet, horizontal distance, of a great pond classified GPA, and greater than one hundred (100) feet, horizontal distance, of the normal high-water line of other water bodies or the upland edge of a wetland, harvesting operations shall not create single clearcut openings greater than ten-thousand (10,000) square feet in the forest canopy. Where such openings exceed five-thousand (5000) square feet they shall be at least one hundred (100) feet apart. Such clearcut openings shall be included in the calculation of total volume removal. For the purposes of these standards volume may be considered to be equivalent to basal area.

   c. No accumulation of slash shall be left within fifty (50) feet of the normal high-water line of a water body. In all other areas slash shall either be removed or disposed of in such a manner that it lies on the ground and no part thereof extends more than four (4) feet above the ground. Any debris that falls below the normal high-water line of a water body shall be removed.

   d. Timber harvesting equipment shall not use stream channels as travel routes except when:

      i. Surface waters are frozen; and

      ii. The activity will not result in any ground disturbance.
e. All crossings of flowing water shall require a bridge or culvert, except in areas with low banks and channel beds which are composed of gravel, rock or similar hard surface which would not be eroded or otherwise damaged.

f. Skid trail approaches to water crossings shall be located and designed so as to prevent water runoff from directly entering the water body or tributary stream. Upon completion of timber harvesting, temporary bridges and culverts shall be removed and areas of exposed soil revegetated.

g. Except for water crossings, skid trails and other sites where the operation of machinery used in timber harvesting results in the exposure of mineral soil shall be located such that an unscarified strip of vegetation of at least seventy-five (75) feet in width for slopes up to ten (10) percent shall be retained between the exposed mineral soil and the normal high-water line of a water body or upland edge of a wetland. For each ten (10) percent increase in slope, the unscarified strip shall be increased by twenty (20) feet. The provisions of this paragraph apply only to a face sloping toward the water body or wetland, provided, however, that no portion of such exposed mineral soil on a back face shall be closer than twenty five (25) feet from the normal high-water line of a water body or upland edge of a wetland.
TOWN OF LAMOINE
SITE PLAN REVIEW ORDINANCE

Approved by the Lamoine Town Meeting
March 6, 2001
Fee (Section P) Approved March 28, 2002
Amended April 8, 2009
Amended March 16, 2011
Amended March 13, 2013
A. Title
B. Authority and Administration
C. Conflict with Other Ordinances
D. Effective Date
E. Validity and Severability
F. Purpose
G. Applicability
H. Administration
   1. Preapplication
   2. Application Procedure
I. Site Plan Review Application Requirements
J. General Review Standards
   1. Preserve and Enhance the Landscape.
   2. Relation of Proposed Buildings to Environment.
   3. Vehicular Access
   4. Parking Design Requirements
   5. Off-Street Parking Requirements
   6. Buffering and Screening
   7. Exterior Lighting.
   8. Municipal Services
   9. Surface Water
  10. Groundwater Protection
  11. Air Pollution
  12. Odor
  13. Noise
  15. Utilities/Waste Disposal/Water Supply
  17. Stormwater Drainage.
  19. Advertising Features.
K. Special Review Standards
   1. Multi-Family Conversions
   2. Campgrounds
   3. Mineral Exploration and Extraction
   4. Animal Husbandry
   5. Junkyards and automobile graveyards are subject to all applicable state laws and local ordinance.
   6. Kennels and Veterinary Hospitals
L. Waivers
M. Appeals
N. Amendments
O. Enforcement
   1. Enforcement Procedures
   2. Legal Actions.
   3. Fines.
P. Fees
Q. Construction of Language
LAMOINE SITE PLAN REVIEW ORDINANCE

A. Title

This ordinance shall be known and cited as the Site Plan Review Ordinance of the town of Lamoine, Maine, and will be referred to as "this Ordinance."

B. Authority and Administration

1. This ordinance is adopted pursuant to the enabling provisions of Article VII-A the Maine Constitution and the provisions of Title 30-A, MRSA Section 3001 (Home Rule).

2. The planning board of the town of Lamoine, herein after called the Board, shall administer this ordinance.

C. 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.

D. Effective Date

The effective date of this ordinance shall be 30 days after adoption.

E. 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.

F. Purpose

The purposes of site plan review are:

1. To promote and protect the health, welfare and safety of the residents of the town of Lamoine;

2. To balance the rights of landowners to use their land with the corresponding rights of abutting and neighboring landowners to live without undue disturbances from nuisances such as, but not limited to, noise, smoke, fumes, dust, odor, glare, traffic, storm water runoff or the pollution of ground or surface waters; and

3. To implement the policies contained in the Lamoine Comprehensive Plan.
G. Applicability

Site plan approval, in accordance with the provisions of this ordinance, shall be required for the following activities:

1. Proposals for new construction of non-residential buildings or structures, including accessory buildings or structures having a total floor area of more than two thousand (2,000) square feet. All applicable standards of the Lamoine Building & Land Use Ordinance must be met as well as conditions approved by the Site Plan Review.

2. Proposals to enlarge non-residential buildings or structures, including accessory buildings or structures by more than two thousand (2,000) square feet of ground floor area within a five (5) year period.

3. Proposals for new construction of multi-family dwellings, or for conversion of single-family or two-family dwellings to multi-family use, or for enlargement of multi-family dwellings, either by the addition of units within an existing structure or expansion of the structure to accommodate new units.

4. The conversion of an existing building in which 2,000 or more square feet of total floor area are converted from residential to nonresidential use.

5. Proposals to change from one commercial use to another commercial use.

6. Proposals to pave, strip, grade or remove earth materials from vegetated areas of more than ten thousand (10,000) square feet within a five (5) year period. However, proposals requiring a Lamoine Gravel Permit shall not be subject to the Ordinance.

7. The construction or expansion of paved areas or other impervious surfaces, including walkways, access drives, and parking lots involving an area of more than 2,000 square feet within any five (5) year period ancillary to non-residential buildings or structures.

H. Administration

1. Preapplication

Prior to submitting a formal application, the applicant or his/her representative shall submit a preapplication form provided by the Planning Board to include the following information:

See Section “I” 3, items a, b, c, d
See Section “I” 4, items a, b, c, d, and e
See Section “I” 5, items a, b, d, f, g, and h.

The applicant or his/her representative shall attend a pre-application conference with the Planning Board. The pre-application conference shall be informal and informational in nature. There shall be no fee for a preapplication review, and such review shall not cause the plan to be a pending application or proceeding under Title 1 M.R.S.A. §302.
No decision on the substance of the plan shall be made at the preapplication conference.

2. Application Procedure

a. **Applications in Writing.** All applications for site plan review addressing all requirements in Section I shall be made in writing to the board on the forms provided for this purpose and shall be made by the owner of the property or his/her agent, as designated in writing by the owner.

b. **Fees.** An application for any permit required by this ordinance shall be accompanied by fee(s) as established by the Lamoine Board of Selectmen. No action shall be taken on any application until the fee(s) have been received by the Town. The application fee(s) shall not be refundable. The fee(s) shall be paid to the Town of Lamoine and shall accrue to the Code Enforcement Fund to be used for the administration and enforcement of town ordinances. A Schedule of Fees is located at the Town Office.

c. **Board Approval Required.** A development requiring review under the standards of this ordinance shall be submitted to and reviewed by the planning board, and shall be approved by the board before any building permit may be issued.

d. **Review Procedure**

1) The applicant, or a duly authorized representative, shall attend a meeting of the board to discuss the application. The board shall provide the applicant a dated receipt for the site plan review application at the board meeting when the application is first presented and heard by the board.

2) Within 30 days of receipt of a site plan review application form and fee, the board shall notify the applicant in writing whether or not the application is complete, and what, if any, additional submissions are required for a complete application.

3) The board shall hold a public hearing on the site plan review application within 30 days of finding the application complete. It shall publish, at the expense of the applicant, 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 10 days prior to the hearing.

4) The town shall mail by certified mail and at the expense of the applicant, a notice of the public hearing to all abutters of the proposed development at least ten (10) days prior to the hearing.

5) The Planning Board may hold an on-site inspection of the site to review the existing conditions, field verify the information submitted and investigate the development proposal. The Board may schedule this visit either before or after the first meeting at which the application is considered.
6) Within 30 days of the public hearing, or within another time limit as may be otherwise mutually agreed to by the board and the applicant, the board shall make findings of fact on the application and approve, approve with conditions, or deny the development plan. The board shall specify, in writing, its findings of fact, conditions, or reasons for denial.

e. Additional Studies. If the services of outside consulting engineers or other professionals are required by the board to assist in review of the application, or the amount or conditions of any performance guarantee that may be required, the board shall notify the applicant of the nature of services, the firm or individual selected and the estimated cost of services. The cost of such services shall be paid by the applicant and evidence of such payment furnished to the planning board before the application is deemed complete.

f. Guarantee, Security or Performance Bond.

1) Improvement Guarantee - The board may require the posting of an improvement guarantee in such amount and form as specified in subsection H-2- (g) as is reasonably necessary to ensure the proper installation of all off-site improvements required as conditions of approval. The nature and duration of the guarantee shall be structured to achieve this goal without adding unnecessary costs to the applicant.

2) Upon substantial completion of all required improvements, the developer must notify the board of the completion or substantial completion of off-site improvements, and must send a copy of such notice to the Code Enforcement Officer. The Code Enforcement Officer shall inspect all off-site improvements and must file a report indicating approval, partial approval, or rejection of such improvements with a statement of reasons for any rejection.

3) The board shall approve, partially approve, or reject the improvements on the basis of the report of the Code Enforcement Officer.

4) If the improvements are approved, the guarantee shall be released. Where partial approval is granted, the developer shall be released from liability only for that portion of the improvements approved.

g. Form of Guarantee.

Performance guarantees may be provided by a variety of means including, but not limited to, the following which must be approved as to form and enforceability by the board.

1) Security Bond – The applicant may obtain a security bond from a surety bonding company authorized to do business in the state.
2) Letter of Credit – The applicant may provide an irrevocable letter of credit from a bank or other reputable lending institution.

3) Escrow Account – The applicant may deposit cash, or other instruments readily convertible into cash at face value, either with the municipality, or in escrow with a bank. Any such account must require municipal officer approval for withdrawal and must stipulate the town treasurer can withdraw the money upon forty-eight (48) hour advance notice to the applicant to complete the guaranteed improvements.

h. **Conditions.** The board may attach reasonable conditions to the site plan review approvals to ensure conformity with the standards and criteria of this ordinance. Such conditions may include off-site improvements to mitigate the impact of the proposed development.

i. **Expiration of Approvals.** All site plan review approvals shall expire within two (2) years of the date of issuance unless work thereunder is commenced. If work is not completed within three (3) years from the date of issuance, a new application must be made.

## I. Site Plan Review Application Requirements

Applications for all site plan review shall be submitted on application forms provided by the town at least ten days before the board is scheduled to review the application at a regularly scheduled meeting and mailed to the Planning Board at least 7 days prior to this meeting. The submission shall contain at least the following exhibits and information:

1. A fully executed and signed original and nine copies of the application for site plan review.

2. The site plan (drawings) shall consist of one or more reproducible, stable base transparent originals at a scale of not less than 1" = 50' to be filed at the town office. Space shall be provided on the development plan for the signatures of the board and date.

3. General Information
   
   a. Name of owner of record and address and applicant's name and address, if different;

   b. The name of the proposed development, if applicable;

   c. Names and addresses of all owners of property within 500 feet of the property line of the site with assessor's (tax) map and lot number of those properties;

   d. The assessor's (tax) map and lot number of the parcel or parcels
composing the site;

e. A copy of the deed to the property, option to purchase the property or other documentation to demonstrate right, title or interest in the property on the part of the applicant and status of property tax payment.

f. The name and registration number of the land surveyor, architect, engineer, and/or similar professional(s), if any, who prepared the plan.

4. Existing Conditions

a. Zoning classification(s) (including shoreland) of the property and the location of zoning district boundaries if the property is located in two or more zoning districts or abuts a different district;

b. The bearings and distances of all property lines of the property to be developed and the source of this information;

c. Location and size of any existing sewer and water systems, culverts and drains, fire hydrants or pond, adjacent to property to be developed and of any that will serve the development from abutting roads or land;

d. Location, names and widths of existing roads and rights-of-way within or adjacent to the proposed development;

e. The location of open drainage courses (streams and springs), wetlands, stonewalls, graveyards, fences, stands of trees, and other important or unique natural areas and site features, including but not limited to, floodplains, deer wintering areas, significant wildlife habitats, scenic areas, habitat for rare and endangered plants and animals, unique natural communities and natural areas, sand and gravel aquifers, and historic and/or archaeological resources, together with a description of such features.

f. The location, dimensions and ground floor elevation of all existing building on the site.

g. Topographical contours and the direction of existing surface water drainage across the site.

h. If any portion of the property is in the 100-year floodplain, its elevation shall be delineated on the plan or provide a FEMA floodplain map.
5. Proposed Development Activity

a. Descriptions of all proposed uses of the development including specific uses of all structure to be built, converted or expanded.

b. The location and dimensions of all proposed buildings and structures.

c. The size, location, direction, and intensity of illumination of all outdoor lighting.

d. All existing and proposed setback dimensions.

e. Proposed landscaping and/or buffering.

f. When subsurface sewage disposal is proposed, an on-site soils investigation report by a Maine Department of Human Services licensed site evaluator. The report shall identify the classification of soils, location of all test pits, and proposed location

g. The type of water supply to be used.

h. The type, size, and location of all waste disposal or incineration devices.

i. The type, size and location of all machinery or equipment likely to generate appreciable noise at the lot lines.

j. The amount and type of any raw, finished or waste materials to be stored outside of roofed buildings, including their physical and chemical properties, if appropriate.

k. A schedule of construction including anticipated beginning and completion dates.

l. A description of how special features identified in subsection 4.e. will be maintained or impacts upon them minimized.

m. The existing and proposed method of handling storm water run-offs.

6. Additional Information. The planning board may require the developer to provide the following when it finds that the information required in Sections I.3 to I.5 is not sufficient, to determine that the standards in Section J. can be met.

a. A high intensity soils report prepared by a soil scientist certified in the State of
b. A storm water management and erosion control plan showing:
   
   i) The direction of flow of the run-off through the use of arrows.
   
   ii) The location, elevation, and size of all catch basins, dry wells, drainage ditches, swales, retention basins, and storm sewers.
   
   iii) Engineering calculations used to determine drainage requirements based upon the 25-year 24-hour storm frequency, if the project will significantly alter the existing drainage pattern due to such factors as the amount of new impervious surfaces (such as paving and building area) being proposed.

c. A hydrogeologic assessment prepared by a ground water hydrologist/geologist for projects involving common on-site water supply or on-site sewage disposal of 2,000 or more gallons per day.

d. A utility plan showing, in addition to provisions for water supply and waste water disposal, the location and nature of electrical, telephone and any other utility services to be installed on the site.

e. A landscaping plan.

f. The location, width, typical cross-section, grades and profiles of all proposed roads and sidewalks.

g. Cost of the proposed development and evidence of financial capacity to complete it. This evidence should be in the form of a letter from a bank or other source of financing indicating the name of the project, amount of financing proposed, and interest in financing the project.

h. An estimate of the traffic associated with the development per the requirements of Sections J.9 and J.10.

7. 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 undue 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 or otherwise be converse to the purposes and intent of this ordinance and the comprehensive plan.
J. General Review Standards

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

1. Preserve and Enhance the Landscape.

The landscape shall be preserved in its natural state insofar as practicable by minimizing tree removal, disturbance of soil, and retaining existing vegetation during construction. After construction is completed, landscaping shall be designed and planted that will define, soften or screen the appearance of the development and minimize the encroachment of the proposed use on neighboring land uses.

Environmentally sensitive areas such as aquifers, significant wildlife habitat, wetlands, steep slopes, floodplains, historic buildings and sites, existing and potential archaeological sites and unique natural features will be maintained and preserved to the maximum extent.

2. Relation of Proposed Buildings to Environment.

Proposed structures shall be related harmoniously to the terrain and to existing buildings in the vicinity that have a visual relationship to the proposed structures, so as to have a minimally adverse affect on the environmental and aesthetic qualities of the developed and neighboring areas including historic buildings and sites.

3. Vehicular Access

The following standards apply to design and construction of vehicular access to properties. Letters of approval from the fire chief and/or the road commissioner must be provided.

a. Each property shall be provided with vehicular access to the property by abutting private or public ways. Private right-of-ways shall be protected by permanent easements.

b. The following criteria shall be followed for entrances and/or driveways to any use other than single and two-family dwellings:
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<tr>
<th>Allowable Speed (Miles per hour)</th>
<th>Required Sight Distance (for primarily auto-related uses) (Feet)</th>
<th>Required Sight Distance (For significant commercial truck and recreational vehicle-related uses i.e., industrial parks, warehouse operations, campgrounds, etc.) (Feet)</th>
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**Source:** Adapted from: Access Management - Improving the Efficiency of Maine Arterials, MDOT, 1994

1) Where a site has frontage on two intersecting public roads, and the speed limit is 25 mph, no driveway entrance or exit shall be located within fifty feet (50') of the point of tangency of the existing or proposed curb radius of the intersection. The required separation distance shall be increased 20 feet for each five mile per hour increase in speed limit. Access to the lot shall only be provided across the frontage and to the street where there is less potential for traffic congestion and for hazards to traffic and pedestrians.

2) The maximum number of driveways to a particular site with fewer than 1,500 vehicles per day shall be limited to one two-way entrance no wider than 20 feet. Higher volume uses may have two, one or two way exits/entrances no more than 24 feet in width if two way and 18 feet if one-way.

3) **Angles.** Driveways used for two-way operation shall intersect the road at an angle of or as near to ninety (90) degrees as site conditions will permit and in no case less than sixty (60) degrees.

4) **Dimensions.** The dimensions of driveways shall be designed to adequately accommodate the volume and character of vehicles anticipated to be attracted daily onto the land development for which a site plan is prepared.

5) **Grades.** Driveways grades shall not be more than three percent (3%) for the first one hundred feet (100') from the road.
6) **Sight Triangle.** A "sight triangle" shall be formed by the intersection of the side of the driveway and the street right-of-way line, extending 10 feet in length along the side of the driveway and 25 feet in length along the right of way line, with the third side connecting the other two sides. Within each sight triangle, no landscape materials, other than low growing shrubs 30" or less in height above the exit driveway elevations at maturity shall be planted.

7) All lots of record legally existing at the time of the adoption of this ordinance shall be allowed one (1) direct access, provided that the minimum sight distances specified in this ordinance are met to the maximum extent possible.

8) **Access.** Parking stalls shall not be directly accessible from any public way. Ingress and egress for parking areas shall be limited to driveway entrances.

9) **Traffic Impact Study.** Developers shall provide a description of the traffic movement to be generated by the development including types and peak hour and average daily vehicle trips, travel routes, and duration of traffic movement both during and following construction.

10) **Full traffic study requirement.** If the development will meet a) or b) below, the developer shall provide a full traffic impact study at his or her expense. This study will be subject to review by another consultant of the town's choosing at the applicant's expense. If a full traffic study is required under paragraph a, as determined by the planning board, the developer shall follow the procedures and requirements as detailed in 'Access Management Standards, Access Management: Improving the Efficiency of Maine Arterials, A Handbook for Local Officials, Maine Department of Transportation, 1994. Appendix A. The safety and congestion mitigation measures recommended shall be followed by the applicant.

   a. **Volume.** During any one-hour period, traffic attributable to the development equals or exceeds 35 trips at the project driveway(s). A trip can be either inbound or outbound.

   b. **Safety or capacity deficiencies.** The planning board, in consultation with the Maine Department of Transportation, determines that a traffic impact study must be conducted because of traffic safety or capacity deficiencies in the vicinity of the development.
11) **Driveway Turn-Around Area.** After the effective date of this ordinance, all future driveways shall be designed with sufficient vehicle turn-around area to enable a driver to exit the premises without backing onto the roadway. This requirement shall be deemed to be met by an on-site parking lot with a parking aisle, or by a service or frontage road, or by the use of an on-site driveway turn-around for a single vehicle measuring at least 8 feet wide by 15 feet long.

12) **Access to Frontage Road/Service Road/Minor Road.** Where a proposed development involves the division of a tract or parcel of land into 3 or more lots within any 5-year period, whether accomplished by sale, lease, development, buildings, or otherwise, as defined by the Subdivision Law, Title 30-A MRSA sections 4401-4407, the following provisions shall apply. Direct lot-by-lot access to the existing public road is 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** - A waiver may be granted only if there will be no further subdivision of the parcel and the shape or physical condition of the parcel does not permit access to a street other than the public road, nor the creation of a service/frontage road to allow that access;

   b. **Permitted Access.** Access to the development shall include one of the following:

      1. A common driveway, which intersects the public road and which services the individual lots or businesses or a common parking lot adjacent to the individual lots or businesses.
      2. Minor road(s). One or more minor roads, to be constructed by the developer according to the standards of this ordinance, which shall serve the development.

   c. **Emergency Vehicle Access** Provisions shall be made for providing and maintaining convenient and safe emergency vehicle access to all buildings and structures at all times.
4. Parking Design Requirements

a. General Requirements

1) The proposed development layout shall provide for safe access and egress from public and private roads by providing adequate location, numbers and control of access points including sight distances, turning lanes, and traffic signalization when required by existing and projected traffic flow on the municipal road systems.

2) 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, emergency vehicles, loading areas, and arrangement and use of parking areas.

3) In the design of parking areas, special attention shall be given to the separation of pedestrian and vehicular traffic and the arrangement of parking areas that are safe and convenient, and which have a minimum adverse effect on the design, appearance, and environmental and aesthetic qualities of proposed buildings and structures and neighboring properties.

The development plan shall provide for a system of pedestrian circulation within the development. This system shall connect with existing sidewalks if they exist in the vicinity of the project. The pedestrian network may be located within the street right-of-way or outside of the right-of-way in open space or recreation areas. The system shall be designed to link residential units with recreational and commercial facilities, other common facilities, school bus stops, and existing sidewalks in the neighborhood.

4) Non-residential projects shall provide a clear route for delivery vehicles with appropriate geometric design to allow turning and backing for all vehicles, including tractor trailers.

5) The layout and design of parking areas shall provide for safe and convenient circulation of vehicles and obviate their backing out onto a street.

6) All streets and access ways shall be designed to harmonize with the topographic and natural features of the site. The road network shall provide for vehicular and pedestrian safety, all season emergency access, snow storage, and delivery and collection services.
b. Parking Area Design Standards

1) **Access** -- There shall be adequate provisions for ingress and egress for all parking spaces. The width of access drives or driveways shall be determined as part of site plan review depending on use, topography and similar considerations.

2) **Size of Aisles** -- The width of all aisles providing direct access to individual parking stalls shall be in accordance with the requirements set forth below. Only one-way traffic shall be permitted in aisles serving single-row parking spaces placed at an angle other than ninety (90) degrees.

<table>
<thead>
<tr>
<th>Parking Angle (Degrees)</th>
<th>Minimum Aisle Width (Feet)</th>
</tr>
</thead>
<tbody>
<tr>
<td>0 parallel parking</td>
<td>12</td>
</tr>
<tr>
<td>30 degree parking</td>
<td>12</td>
</tr>
<tr>
<td>45 degree parking</td>
<td>13</td>
</tr>
<tr>
<td>60 degree parking</td>
<td>18</td>
</tr>
<tr>
<td>90 perpendicular parking</td>
<td>30</td>
</tr>
</tbody>
</table>

3) **General Location** -- No off-road parking or loading shall be located within the required front and side yard setbacks on public roads. Whenever possible, the majority of parking should be at the side or rear of the principal building(s).

4) **Sidewalk and Curbing** -- Sidewalks between parking areas and principal structures along aisles and driveways and wherever pedestrian traffic shall occur, shall be provided with a minimum width of four (4) feet of passable area and shall be raised six (6) inches or more above the parking area except where the sidewalks cross roads or driveways. Guardrails or wheel stops permanently anchored to the ground shall be provided in appropriate locations. Parked vehicles shall not overhang or extend over sidewalk areas unless an additional sidewalk width of two and one half (2.5) feet is provided to accommodate such overhang.

5) **Marking and Delineation of Parking Areas** -- Parking stalls, driveways and aisles shall be clearly marked and delineated. The board may require that certain areas be maintained for fire fighting or other emergency purposes, handicapped access, and such areas shall be appropriately designated.

6) **General Circulation and Parking Design Guidelines** -- The following guidelines shall apply to parking area designs:

   a) Parking space allocations should be oriented to specific buildings.

   b) Parking areas should be designed to focus on major walkways, which should be fenced or marked.
c) Where pedestrians must cross service roads or access roads to reach parking areas, crosswalks should be clearly designated by pavement markings or signs and lighted.

d) Driveways should approach from the right to permit passengers to alight or board at the sidewalk.

e) Whenever possible, one-way traffic should be established at building entrances.

f) Where buses are a factor, bus shelters and bus turnouts off the roadway should be provided.

5. Off-Street Parking Requirements

a. **Parking Space Shall be Provided**: No structure shall be erected nor shall any of the following uses be established unless at least the minimum number of off-street parking spaces as specified below is provided. Where a fractional number of spaces would be called for, at least the next higher whole number of spaces shall be required. Each parking space shall measure at least nine feet (9’) in width by eighteen feet (18’) in length and shall have access for vehicles to a public street. Parking lots for more than five (5) vehicles shall be arranged so that vehicles can be turned around within such lots without entering the street. Private roads, separated from public right-of-ways, but not allowing for turn-around space are deemed adequate for these requirements.

1) **Automobile Repair and Filling Stations**: one (1) space for each regular employee, plus one (1) space for each fifty (50) square feet of floor area used for service work

2) **Boarding and Rooming House**: one (1) space for each guest room.

3) **Drive-in Restaurants and Dairy Stands**: ten (10) spaces plus one (1) additional space for each person serving or preparing food on the largest shift employed at least once a week on a regularly scheduled basis during the peak season of operations.

4) **Nursing Homes**: one (1) space for each five (5) beds, plus one (1) space for each staff or visiting doctor, plus one (1) space for each four (4) employees.

5) **Hotels**: one (1) space for each guest bedroom, plus one (1) space for each four (4) employees.

6) **Industrial Establishments**: two (2) spaces for every three (3) employees, at the maximum employment level, on the two (2) shifts of highest employment combined, plus one (1) space for each company vehicle operating from the premises.
7) **Fraternal Organizations and Clubs:** one (1) space for each five (5) members.

8) **Business and Professional Offices:** one (1) space for each two hundred (200) square feet of working space.

9) **Places of Amusement or Public Assembly:** one (1) space for each fifty (50) square feet of floor area devoted to patron use.

10) **Restaurants, Cocktail Lounges, and Bottle Clubs:** one (1) space for each four (4) customer seats, plus one (1) space for each two (2) employees.

11) **Retail Business:** four (4) spaces for each one thousand (1,000) square feet of sales area.

12) **Elementary Schools:** two (2) spaces per classroom plus one (1) space for every four (4) seats of public assembly or ten (10) spaces for every one thousand (1,000) square feet of assembly space if no fixed seats.

13) **High Schools:** five (5) spaces per classroom plus one (1) space for every four (4) seats of public assembly or ten (10) spaces for every one thousand (1,000) square feet of assembly space if no fixed seats.

14) **Banks:** one (1) space per one hundred fifty (150) square feet of floor area.

15) **Tourist Courts and Motels:** one (1) space for each accommodation.

16) **Wholesale Business:** one (1) space for each three hundred (300) square feet of floor space.

17) **Churches:** one (1) space for each five (5) persons seating capacity.

18) For uses not specifically listed in this section, the planning board shall prescribe the number, which in no case will be less than an adequate number to provide for employees and customers and visitors anticipated on the site.

b. **Location on Other Property:** If the required automobile parking spaces cannot be provided on the same lot where the principal use is conducted, the planning board can permit that such spaces may be provided on other off-street property provided that such property lies within four hundred feet (400') of the main entrance to such principal use and is in the same district. Such automobile parking space shall be associated with the principal use and shall not thereafter be reduced or encroached upon in any manner, provided however, that it may serve different principal uses at different times of day.
c. **Shared Parking**: The required parking space for any number of separate uses may be combined in one facility. Generally, the required space assigned to one use may not be assigned to another use; thus, the total available spaces should be the sum of required spaces for each of the individual uses. Shared parking facilities where available parking is below the above requirements, may be allowable when the functional nature of the uses allow for differing peak-hour or daily demands.

6. Buffering and Screening

All projects requiring site plan review under this ordinance shall provide buffer zones and/or screening in accordance with the following standards:

a. **Buffer Zones**

Buffer zones of the following specified widths are required for the following areas and/or purposes:

1) Along any property line of any lot located in the Residential Zone and Rural and Agricultural Zone which abuts the Residential Zone, such buffer zones shall be a minimum of fifty feet (50’) in width.

2) Along any property line, where the board determines it desirable and necessary, to prevent any proposed lighting from interfering with residential properties or with safe driving. Such buffer zones shall be a minimum of fifty feet (50’) in width.

3) Along any property line adjacent to an existing residential use where the board determines it desirable and necessary, of all exposed storage and service areas, utility buildings and structures, automobile salvage and junk yards, parking areas, garbage collection areas, and loading and unloading areas, to minimize their visual impact on adjoining traveled ways and residential properties. Such buffer zones shall be a minimum of fifty feet (50’) in width.

b. **Screening**

Screening, within the required buffer zones in the form of natural or man-made barriers, existing vegetation or new plantings, is required as follows:

1) **Retention of Natural Features in Buffer Zones Strips**

Natural features in buffer zones shall be maintained where possible. When natural features such as topography, gullies, stands of trees, shrubbery, rock outcrops do not exist or are insufficient to provide the required screening, other kinds of screening shall be considered.
2) Provision of Screens

Unless otherwise specifically indicated by the planning board, all screening and buffering material approved by the Planning Board shall be a type and species appropriate for the soil types, site conditions, and climatic conditions of the town.

3) Maintenance of Buffers and Screening

Buffers and screening shall be located and maintained as follows:

a) Fencing and screening shall be so located within the property line to allow access for maintenance activities on both sides without intruding upon abutting properties.

b) Fencing and screening shall be durable and properly maintained at all times by the owner.

c) The finished side of a fence shall face abutting properties.

d) Natural appearing materials (such as wood and stone) shall be used whenever possible. Bright colors on fences shall be avoided.

e) All buffer zones shall be maintained in a neat and sanitary condition by the owner.

7. Exterior Lighting.

All exterior lighting shall be designed to encourage energy efficiency, to ensure safe movement of people and vehicles, and to minimize adverse impact on neighboring properties and public ways. Adverse impact is to be judged in terms of hazards to people and vehicle traffic and potential damage to the value of adjacent properties. Lighting shall be arranged to minimize glare and reflection on adjacent properties and the traveling public.

8. Municipal Services

The proposed development shall not have an unreasonable adverse impact on the municipal services including municipal road and other transportation systems, fire department, solid waste program, schools, recreational programs and facilities, and other municipal services and facilities. The town may require a development be constructed in phases if the financial impact is such that necessary municipal infrastructure improvements are beyond the town's fiscal capacity.

The planning board in its determination of unreasonable adverse impact shall require the developer to provide:
a. A list of construction items, with cost estimates, that will be completed by the developer prior to the sale of lots or structures, and evidence that the developer has financial commitments or resources to cover these costs.

b. A list of construction and maintenance items, with both capital and annual operating cost estimates, that must be financed by the municipality, or quasi-municipal districts. These lists shall include, but not be limited to:

- schools, including busing
- street maintenance and snow removal
- police and fire protection
- solid waste management
- recreation facilities
- storm water drainage

The developer shall provide an estimate of the net increase in taxable assessed valuation at the completion of the construction of the development.

9. Surface Water

The proposed activity will not result in surface water pollution. In making this determination, the board shall at least consider the elevation of land above sea level and its relation to the floodplains, the nature of soils and subsoils and, if necessary, their ability to adequately support waste disposal and/or any other approved licensed discharge; the slope of the land and its effect on effluents.

10. Groundwater Protection

The proposed site development and use shall not adversely impact the quality or quantity of groundwater in the aquifers or any water supply systems. Projects involving common on-site water supply or sewage disposal systems with a capacity of two thousand (2,000) gallons per day or greater shall be required to demonstrate that the groundwater at the nearest down hydro-geologic gradient property line shall comply, following development, with the standards for safe drinking water as established by the State of Maine. The board may place conditions upon an application to minimize potential impacts to the town's groundwater resources.

11. Air Pollution

The proposed development shall not create an emission of dust, dirt, fly ash, fumes, vapors or gases that could damage human health, animals, vegetation or property, or that could soil or stain persons or property, 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.
12. Odor

The proposed development shall not produce offensive or harmful odors perceptible beyond their lot lines, either at ground or habitable elevation.

13. Noise

a. Excessive noise at unreasonable hours shall be required to be muffled so as not to be objectionable due to intermittence, beat frequency, shrillness, or volume (please refer to table below). The maximum permissible sound pressure level of any continuous, regular or frequent source of sound produced by any activity regulated by this ordinance shall be established by the time period and type of land use listed below. Sound pressure levels shall be measured on a sound level meter at all major lot lines of the proposed site, at a height of four (4) feet above the ground surface.

<table>
<thead>
<tr>
<th></th>
<th>7 a.m. - 8 p.m.</th>
<th>8 p.m. - 7 a.m.</th>
</tr>
</thead>
<tbody>
<tr>
<td>Non-Industrial Establishments</td>
<td>65dB</td>
<td>55dB</td>
</tr>
<tr>
<td>Industrial Establishments</td>
<td>70dB</td>
<td>65dB</td>
</tr>
</tbody>
</table>

On a site abutting any residential use, construction activities occurring between 8:00 p.m. and 7:00 a.m. shall be subject to the maximum permissible sound level specified for industrial establishments.

Such maximum sound levels will also apply to noises created by all agricultural, excavation, construction, and maintenance activities between 7:00 a.m. and 8:00 p.m.;

b. Temporary construction and external maintenance activities shall be limited to the hours of 6:00 am to 6:00 pm, with the exception of ice and snow removal.


The development shall provide for a suitable sewage disposal. All individual on-site systems will be designed by a licensed soil evaluator in full compliance with the Maine Subsurface Wastewater Disposal Rules. Upon the recommendation of the local plumbing inspector, the board may require the location on the individual lots of reserved areas for replacement systems.
15. Utilities/Waste Disposal/Water Supply

a. Utilities

1. Any aboveground utility installations shall be located so as to minimize visual impact. Screening may be used to minimize impact upon neighboring properties.

2. When underground utilities are to be installed within a roadway, they should be installed prior to the installation of the final gravel base of the road.

b. Waste Disposal

All generated waste, including special or hazardous wastes shall be disposed of at a licensed disposal facility and evidence of a contractual arrangement with the receiving facility shall be submitted. All waste disposal shall be at the owner’s expense.

c. Water Supply

The development shall be provided with a system of water supply that provides each use with an adequate supply of water meeting the standards of the State of Maine for drinking water. The supply must also be adequate for fire fighting purposes.


The development shall be in conformance with the comprehensive plan.

17. Stormwater Drainage.

The development shall not impose an unreasonable burden on the storm drainage system, water supplies for the property or on adjacent properties or other utilities. In determining an unreasonable burden, the development shall not cause capacities of existing ditches, culverts, and other components of the storm drainage system to be exceeded; the development shall not cause banks to be overflowed or increase flows such that erosion of or other drainage to the existing system occurs. Neither the quality nor quantity of existing water supplies shall be affected. Neither shall the development decrease the quantity of water available below the current and foreseeable future needs of the development or existing and potential development in the area.

Erosion of soil and sedimentation of watercourses and water bodies shall be minimized.

19. Advertising Features.

Signs and billboards relating to commercial or industrial use of the premises shall not exceed 16 square feet in area, 8 feet in height from grade, and two signs per premise. Signs and billboards related to commercial or industrial uses not on the premises shall be prohibited except as permitted under state law.


The applicant shall demonstrate adequate financial and technical capacity to meet these standards.

K. Special Review Standards

The following standards apply to specific types of projects. These standards, at the planning board's discretion, may be applied to uses similar to those identified in this section.

1. Multi-Family Conversions

Conversion of existing structures into multi-family dwelling units, in districts permitting multi-family dwellings, may be permitted provided that:

a. Off-street parking for two (2) vehicles per dwelling unit plus maneuvering spaces will be provided;

b. Each dwelling unit shall be at least four hundred (400) square feet in area for one (1) bedroom unit plus one hundred twenty (120) square feet for each additional bedroom;

c. Each dwelling unit shall have its own toilet and kitchen facilities and no dwelling unit will share these facilities with any other dwelling unit; and

d. The conversion is approved in conformance with the Subdivision Ordinance and Building and Land Use Code.

2. Campgrounds

All applicable standards of the Travel Trailer, Motorized Home Park and Campground Ordinance must be met. Campgrounds shall conform to the minimum requirements imposed under State licensing procedures and the following:
a. Each tent or shelter site shall contain a minimum of five thousand (5,000) square feet of suitable land in shoreland areas (i.e., within two hundred fifty feet (250'), horizontal distance, of the normal high water mark of any river, lake, pond, upland edge of a wetland, or salt water body, and seventy-five feet (75') of a stream, and twenty-five hundred (2,500) square feet of suitable land in inland areas, not including driveways and roads, for each site;

b. A minimum of two hundred (200) square feet of off-street parking plus maneuvering space shall be provided for each tent or shelter site;

c. The area intended for placement of the tent or shelter site, and utility and service buildings shall be set back a minimum of fifty feet (50') from the exterior lot lines of the camping area, and one hundred feet (100') from the normal high water elevation of any river, lake, pond, stream, salt water body, and upland edge of a wetland; and

d. A buffer zone, and screening per the requirements of this ordinance, shall be required to shield the campground from abutting areas.

3. Mineral Exploration and Extraction

All applicable standards of the Lamoine Gravel Ordinance, as amended, shall also be met.

The following requirements for mineral exploration and extraction activities shall apply in all districts when permitted except as otherwise hereinafter provided:

a. The following requirements shall apply to mineral exploration and extraction activities:

1) All excavations, including test pits and holes, shall be promptly capped, refilled, or secured by other equally effective measures so as to reasonably restore disturbed areas and to protect the public health and safety;

2) No portion of any ground area disturbed by the extraction activity shall be closer than fifty feet (50') from any public roadway or fifty feet (50') from any property line in the absence of the prior written agreement of the owner of such adjoining property. For areas subject to shoreland zoning, the standards of that ordinance shall also apply;

3) A natural vegetative screen of not less than fifty feet (50') in width shall be retained between any facility intended primarily for public use, excluding privately owned roads and the mineral exploration or extraction activity; and
4) Within twelve (12) months following the completion of extraction operations at any extraction site, or 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 originating on-site may be buried or covered on-site.

   b) The final graded slopes shall be two and a half to one (2.5:1) 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 areas. 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 shall impose such conditions as are necessary to minimize the adverse impacts associated with mineral extraction operations on surrounding uses and resources, including but not limited to any reasonable form of performance guarantee such as a performance bond.

4. Animal Husbandry

When permitted by site plan review, animal husbandry shall meet the following standards:

   a. All pasture, barns, barnyards, and other areas where the livestock, animals, or fowl are kept, housed, fed, or cared for shall be a minimum of one hundred (100) feet from the nearest dwelling other than the applicant's and screened by a 50’ buffer zone.

   b. Manure piles shall be kept 150 feet from the nearest dwelling other than the applicant's and 300 feet from any body of water, streams or wells.

   c. All feed and grain shall be stored in rodent proof containers.

   d. All paddocks, pastures, barnyards or other enclosures must be adequately fenced to contain livestock, animals or fowl.

   e. The planning board shall limit the number and species of animals permitted. The board shall consider the size and layout of the lot, the size of adjacent lots, the presence of vegetative screening and buffer zones, and the potential for noise, odor, and vermin problems.

   f. The Planning Board may require the applicant to provide a nutrient
management plan.

5. Junkyards and automobile graveyards are subject to all applicable state laws and local ordinance.

6. Kennels and Veterinary Hospitals

   a. Structures or pens for housing or containing the animals shall be located not less than one hundred fifty (150) feet including a 50’ buffer zone from the nearest residence other than the owner's existing at the time of permit.

   b. All pens, runs, or kennels, and other facilities shall be designed, constructed, and located on the site in a manner that will minimize the adverse effects upon the surrounding properties. Among the factors that shall be considered is the relationship of the use to the topography, natural and planted horticultural screening, the direction and intensity of the prevailing winds, the relationship and location of residences and public facilities on nearby properties, and other similar factors.

   c. The owner or operator of a kennel shall maintain the premises in a clean, orderly, and sanitary condition at all times. No garbage, offal, feces, or other waste material shall be allowed to accumulate on the premises. The premises shall be maintained in a manner that they will not provide a breeding place for insects, vermin or rodents.

   d. Temporary storage containers for any kennel or veterinary wastes containing or including animal excrement shall be kept tightly covered at all times, and emptied no less frequently than once every four days. Such containers shall be made of steel or plastic to facilitate cleaning, and shall be located in accordance with the setbacks required for outdoor runs.

   e. If outdoor dog "runs" are created, they shall be completed fenced in, and shall be paved with cement, asphalt or a similar material to provide for cleanliness and ease of maintenance.

   f. Any incineration device for burning excrement-soaked waste papers and/or animal organs or remains shall be located a minimum distance of 400 feet from nearest residence other than the applicants, and shall have a chimney vent not less than 35 feet above the average ground elevation. The applicant shall also provide evidence that he has obtained approval from the Maine Department of Environmental Protection for the proposed incinerator, and that it meets state standards for particulate emissions, flue gas temperature, and duration of required flue temperatures.

L. Waivers

   Where the board makes written findings of fact that the applicant will suffer an undue
economic or other hardship if the requirements of the site plan review are strictly applied, it may waive the necessity for strict compliance with those requirements of the site plan review found to be causing the hardship in question and to permit a more practical and economical development provided, however, that the public health, safety and welfare will not be compromised and further provided that the waivers in question will not have the effect of nullifying the effect of site plan review.

M. Appeals

1. If the board disapproves an application or grants approval with conditions that are objectionable to the applicant or to any abutting landowner or any aggrieved party, who can demonstrate a direct negative impact, or when it is claimed that the provisions of this section do not apply, or that the true intent and meaning of the ordinance has been misconstrued or wrongfully interpreted, the applicant, an abutting landowner, or aggrieved party that has standing may appeal the decision of the board, as follows:

   a. A written appeal must be filed within 30 days of the time the applicant receives a written notice of the board's decision.

   b. Appeals involving administrative procedures or interpretation of this ordinance may be heard and decided by the board of appeals as detailed below.

   c. When errors of administrative procedure are found by the appeals board, the case shall be referred back to the board for rectification.

   d. When errors of interpretation are found, the board of appeals may modify the interpretation or reverse the order of the board but may not alter the conditions attached by the board. All changes in conditions, other than changes made by the granting of a variance, shall be made by the board in accordance with the board of appeals' interpretation.

   e. Appeals involving conditions imposed by the board, or a decision to deny or approve, shall be made to the Superior Court, when such appeals do not involve administrative procedures and interpretation which shall first be heard and decided by the board of appeals, as detailed above.

N. Amendments

This ordinance may be amended by majority vote at town meeting.

O. Enforcement

1. Enforcement Procedures

   a. It shall be the duty of the code enforcement officer to enforce the provisions of this ordinance. If the code enforcement officer shall find that any provision is being violated, he or she shall notify in writing the person responsible for such violation, indicating the nature of the violation and ordering the action necessary to correct it,
including discontinuance of illegal use of land, buildings or structures, or work being done, removal of illegal buildings or structures, and abatement of nuisance conditions. A copy of such notices shall be submitted to the selectmen and be maintained as a permanent record.

b. The code enforcement officer shall conduct on-site inspections to ensure 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.

2. Legal Actions.

When the above action does not result in the correction or abatement of the violation or nuisance condition, the selectmen, 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 selectmen, 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.

3. Fines.

Any person including, but not limited to, a landowner, a landowner's agent or a contractor, who orders or conducts any activity in violation of this ordinance shall be penalized in accordance with MRSA Title 30-A, Section 4452.

P. Construction of Language

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

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

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

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

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

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

The word "used" or "occupied," as applied to any land or building, shall be construed to
Abutter: The owner of any property with one or more common boundaries, or across the street or stream from, the property involved in an application or appeal.

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 through traffic.

Access: The ability to enter or leave a public street or highway from an adjacent driveway or another public street.

Accessory Structure or use: a use or structure which is incidental and subordinate to the principal use or structure on the same lot. 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.

Administer: to execute the review and approval process stipulated by an ordinance and serve as consultant in any action by the Selectmen and/or Code Enforcement Officer necessary to ensure compliance with its provisions.

Aggrieved party: shall include the following: a person whose land is directly or indirectly affected by the grant or denial of a permit or variance under an ordinance, a person whose land abuts land for which a permit or variance has been granted, or a group of 5 or more citizens of the Town who represent an interest adverse to the grant or denial of such permit or variance.

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

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

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

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

Antique Shop: A retail business establishment specializing in the sale of goods which have a higher retail value due to the item's age.
Applicant: The person applying for a permit under this ordinance who demonstrates legal standing or interest to apply by means of ownership, authorized agent, or option or purchase and sale agreement or the like.

Aquifer: Geologic unit composed of rock or sand and gravel, which unit contains sufficient saturated permeable materials to conduct groundwater and to also yield economically significant quantities of groundwater to wells and springs.

Aquifer Recharge: The process of infiltration and migration by which groundwater is replenished.

Area of Special Flood Hazard: The land in the floodplain having a one percent or greater chance of flooding in any given year.

Authorized Agent: A person having written authorization to act on behalf of a property owner. The authorization shall be signed by the property owner(s).

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.

Automobile Repair Shop: A business establishment engaged in general repair, engine rebuilding, or parts replacement. Automobile repair shall not mean body, frame, or fender straightening and repair or painting and undercoating, nor the sale of gasoline, other motor fuels or motor oil.

Automobile Graveyard, Junkyard: A yard, field, or other area used to store three or more unserviceable, discarded, worn-out, or junked motor vehicles as defined in M.R.S.A. Title 29A, §101(42), or parts of such vehicles; includes an area for dismantling of motor vehicles for the purpose of reselling the component parts of the vehicles, for rebuilding or repairing salvage vehicles for the purpose of resale, or for selling the basic materials in salvage vehicles. Auto graveyard does not include any area used for temporary storage by an establishment or place of business which is primarily engaged in doing auto body repair work to make repairs to render a motor vehicle serviceable.

Average Daily Traffic (ADT): The average number of vehicles per day that enter and exit the premises or travel over a specific section of road.

Bank: A business which receives and safeguards money and other valuables, lends money, executes bills of exchange, or provides other related financial lending and exchange services.

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

Basement: Any area of the building having its floor subgrade (below ground level) on all sides.

Bed and Breakfast: Any dwelling in which transient lodging or boarding and lodging are provided and offered to the public by the owner for compensation for less than 30 days. This dwelling shall also be the full-time, permanent residence of its owner; otherwise, it shall be classified as a
hotel/motel. There shall be no provisions for cooking in any individual guest room.

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

Boat Repair, Sales, Rental, or Storage Business: A facility for storing, selling, and servicing boats. Such a facility may or may not be affiliated with a marina.

Body of Water: Shall include the following:

1. **Pond or Lake** - any inland impoundment, natural or manmade, which collects and stores surface water.

2. **Stream or River** - a free flowing drainage outlet, with a defined channel and flowing water.

Buffer zone: trees, hedges, fencing, or other vegetative barrier in keeping with the character of the natural surroundings which provides a visual and auditory screen between a structure or lot and another structure, lot, or street.

Building: Any 3 dimensional structure or enclosure by any building materials or any space for any use or occupancy, temporary or permanent, including but not limited to swimming pools, foundations or pilings in the ground and all parts of any kind of structure above ground including decks, railings, dormers, and stairs, and excluding sidewalks, fences, driveways, electrical transmission and distribution lines, and field or garden walls or embankment retaining walls.

Building Height: The vertical distance between the highest point of the structure and the average grade of the original ground adjoining the building, whichever distance is greater.

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

Campground: Land upon which one or more tents are erected or trailers or other shelter are parked for temporary use for a fee or two or more sites on the same property arranged specifically for that purpose.

Cemetery: Property used for the interring of the dead.

Channel: A natural or artificial watercourse to confine and conduct continuously or periodically flowing water. Channel flow is water flowing within the limits of the defined channel.

Church, Synagogue and Mosque: A building or structure, or group of buildings or structures,
designed, primarily intended and used for the conduct of religious services.

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

**Cluster Development:** A development consisting of residential dwelling units, or commercial businesses, or mixed residential and commercial uses planned, developed as a whole or in a programmed series of developments, and controlled by one developer on a tract of 10 or more lots, or one tract with 10 or more principal uses or dwelling units, which contemplates an innovative, more compact grouping of uses. Cluster developments treat the developed area as an entirety to promote flexibility in design, architectural diversity, the efficient use of land, a reduction in the size of road and utility systems, the creation of permanent, common open space, and the permanent retention of the natural characteristics of the land.

**Coastal Wetlands:** See wetland.

**Code Enforcement Officer:** A person appointed by the municipal officers to administer and enforce the ordinances of Lamoine.

**Commercial:** Connected with the buying or selling of goods or services or the provision of facilities for a fee.

**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.

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

**Complete Application:** An application shall be considered complete upon submission of the required fee and all information required by this ordinance or by the Planning Board.

**Condominium:** As defined in the "Maine Condominium Act of 1983," the term means real estate, portions of which are designated for separate ownership and the remainder of which is designated for common ownership solely by the owners of those portions under a declaration, duly recorded pursuant to this Act. A condominium is a legal form of ownership, not a land development type. Real estate is not a condominium unless the undivided interests in the common elements are vested in the unit owners.

**Condominium Conversion:** A building that at any time before creation of the condominium was occupied wholly or partially by one or more persons other than purchasers and persons who occupy with the consent of purchasers.
Conforming: A building, structure, use of land, or portion thereof, which complies with the provisions of this Ordinance.

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

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

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

Conversion to a different use: any change of dominant purpose to which a structure is put (e.g., from residential to commercial or from retail to industrial).

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 frontage on a road and an intersecting road.

Cul-de-sac: A local street, one end of which is closed and consists of a circular turn-around.

Curb Cut: The opening along the curb line at which point vehicles may enter or leave the roadway.

Day Care: An establishment, other than a home occupation, where 3 or more children under the age of six (6) are cared for in return for compensation.

Day Care Centers: A building in which day care is provided for three or more children under the age of 16, a nursery school, or an adult day care program registered by the Maine Department of Human Services in accordance with M.R.S.A. Title 22, §7701 et. seq. as amended.

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.

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

Design Hourly Volume: The hourly traffic volume used to evaluate or design a highway or driveway.
Developed Area: Any area on which a site improvement or change is made, including buildings, landscaping, parking areas, and roads or driveways.

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

Dimensional Requirements: Numerical standards relating to spatial relationships including but not limited to setback, lot area, shore or road frontage and height.

Direct Watershed of a Great Pond: That portion of the watershed which drains directly to the great pond without first passing through an upstream great pond. For the purposes of these regulations, the watershed boundaries shall be as delineated in the comprehensive plan. Due to the scale of the map in the comprehensive plan there may be small inaccuracies in the delineation of the watershed boundary. Where there is a dispute as to exact location of a watershed boundary, the Board or its designee and the applicant shall conduct an on-site investigation to determine where the drainage divide lies. If the Board and the applicants can not agree on the location of the drainage divide based on the on-site investigation, the burden of proof shall lie with the applicant to provide the Board with information from a registered land surveyor showing where the drainage divide lies.

Direct Watershed of a Lake or Pond: Any land area which contributes storm water runoff by either surface or subsurface flow to a great pond without such runoff traveling to or through another great pond. For the purposes of this ordinance, the lake watershed boundaries shall be delineated on a watershed map on file at the town offices. Due to the scale of the map, there may be small inaccuracies in the delineation of the watershed boundary. Where there is some dispute as to where the watershed boundary lies on a particular property, the planning board or its designee and the landowner shall conduct an on-site investigation to determine where the drainage divide lies. If the planning board and the landowner cannot agree on the location of the drainage divide based on the on-site investigation, the burden of proof shall lie with the landowner to provide the planning board with information from a registered land surveyor showing where the drainage divide lies.

District: A specified portion of Lamoine, delineated on the official land use map.

Diversion Ditch: A ditch to intercept and divert surface water runoff away from a disposal area.

Drainage Ditch: A constructed ditch receiving and diverting surface water runoff.

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

Driveway Width: The narrowest width of the driveway, measured parallel to the highway or right-of-way.

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

1. Dwelling Unit - A room or group of rooms used by a family as a habitation which is separate from other such rooms or suites of rooms, containing independent living,
cooking, sleeping, bathing and sanitary facilities.

2. **Single-Family Dwelling** - Any structure containing only one (1) dwelling unit for occupation by not more than one (1) family.

3. **Two-Family Dwelling** - A building containing only two (2) dwelling units, for occupation by not more than two (2) families.

4. **Multi-Family Dwelling** - A building containing three (3) or more dwelling units, such buildings being designed exclusively for residential use and occupancy by three (3) or more families living independently of one another, with the number of families not exceeding the number of dwelling units.

5. **Accessory Dwelling Unit** - A dwelling unit within and incidental to an existing single-family dwelling, occupied by one or two immediate family members. An accessory dwelling unit is not to be used to generate income.

**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.

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

**Erosion:** The detachment and movement of soil or rock fragments by water, wind, ice, or gravity.

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

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

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

1. The excavation of material incidental to and at the site of approved construction of buildings, driveways or parking areas;

2. The excavation of material incidental to and at the site of construction or repair of streets; and

3. The excavation, processing or storage of less than ten (10) cubic yards of material on a lot within a one-year period.

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

**Farm Stand:** The display and sale of fruit or vegetable produce which exceeds 500 square feet of ground area of outdoor or enclosed goods offered for sale.

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

**Filling Station:** (see Service Station)

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

**Flea Market:** Periodic or seasonal sales activity held within a building or open area where groups of individual sellers offer goods, new and used for sale to the public, not to include private yard sales.

**Floodplain Management:** 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:** Zoning ordinances, subdivision regulations, building codes, health regulations, special purpose ordinances (such as 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.

**Floodplains:** Those areas with a 1% or more chance of being flooded each year as shown on the Flood Insurance Rate Maps drafted by the Federal Emergency Management Agency

**Floodway:** The channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one foot.

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

**Forest Management Activities:** Includes timber cruising and other forest resource evaluation activities, pesticide application, timber stand improvement, pruning, timber harvesting and other forest harvesting, regeneration of forest stands, and other similar associated activities, but not the construction, creation or maintenance of land management roads.

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

**Foundations:** The supporting substructure of a building or other structure including but not limited to basements, slabs, sills, posts or frostwalls.
Freshwater Wetland: See 'Wetland'

Frontage, Road: The distance between the intersections of the side lot lines with the road right-of-way or the existing tarred or gravel road.

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

Gasoline Service Station: Any place of business at which gasoline, other motor fuels or motor oil are sold, and put into a motor vehicle on the premises, regardless of any other business on the premises.

Greenhouse: A building whose roof and sides are made largely of glass or other transparent or translucent material and in which the temperature and humidity can be regulated for the cultivation of delicate or out-of-season plants for subsequent sale or for personal enjoyment.

Groundwater: All water found beneath the surface of the ground. For purposes of aquifer protection, this term refers to the slowly moving subsurface water present in the aquifers and recharge areas.

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

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

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

Historic Building: Means any structure that is:

1. Listed individually in the National Register of Historic Places (a listing maintained by the Department of Interior) or preliminary determined by the Secretary of the Interior as meeting the requirements of individual listing on the National Register.
2. Certified or preliminary determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary of the Interior to qualify as a registered historic district;

3. Individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of the Interior; or

4. Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either a) by an approved state program as determined by the Secretary of the Interior; or b) directly by the Secretary of the Interior in states without approved programs.

5. Identified in the Lamoine Comprehensive Plan.

Home occupation: an occupation or profession which is customarily conducted on or in a residential structure or property and which 1) is 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.

Hospital: A facility providing health services primarily for in-patient medical and surgical cases, including related facilities such as laboratories, outpatient departments, 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, each rental unit having its own private bathroom and its own separate entrance leading either to the outdoors or to a common corridor or hallway. A hotel may include restaurant facilities where food is prepared and meals served to its guests and other customers.

Hydric Soils: Those soils characterized by the presence of wetland vegetation, hydrology, and to wet soils as defined within the current effective edition of the Federal Manual for identifying and delineating jurisdictional wetlands and as shown as being part of or adjacent to the hydric soils delineated within the Soil Conservation Services Medium Intensity Soil Survey.

Impervious Surface: Any material that substantially reduces or prevents the infiltration of stormwater into previously undeveloped land. Impervious surface shall include graveled driveways and parking areas as well as compacted sand and most conventionally surfaced streets, roofs, sidewalks, parking lots, and other similar structures.

Increase in Intensity: Any modification in use which results in increased traffic flow, increased noise levels or increase in wastes generated.

Industrial: The assembling, fabrication, finishing, manufacturing, packaging or processing of goods, or the extraction of minerals except when conducted as part of a home occupation or conducted wholly within an existing structure where no utility modifications are required, the operation has no more than three employees, and no more than 2000 square feet. Proposed uses beneath the above thresholds may be reviewed as commercial uses.
Industrial Park: An area of land developed exclusively to industrial and associated uses.

Infrastructure: The basic facilities and utilities needed for the functioning of a community (in this ordinance, a subdivision) such as roads, common use sewage systems, common usage water supplies & lines, fire protection systems, communication and power lines and poles, street lighting, and other services and facilities used in common.

Institutional structure: a structure devoted to public, governmental, educational, charitable, medical, or similar purpose.

Intermittent Drainage Way: Any drainage way which exhibits channelized flowing water, resulting from surface runoff or the position of the ground water table, which occurs for a period of not more than six (6) consecutive months during the year.

Junkyard/Automobile Graveyard:

1. Automobile Graveyard: A yard, field or other area used as a place of storage for three (3) or more unregistered, unserviceable, discarded, worn-out or junked automobiles. This provision does not apply to serviceable, but unregistered vehicles offered for sale by a state-licensed automobile dealer.

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

Kennel: An establishment in which more than six (6) dogs or six (6) cats are sold, bred, boarded, or trained for a fee.

Landscaping: The addition or retention of lawns, fields, trees, plants, and other natural and decorative features to the land. The preservation, care and maintenance of existing native vegetation of a size and character.

Cultivated Landscaping shall mean manmade planted areas that require pruning, fertilizing and tending on a more frequent basis.

Level of Service: A description of the operating conditions a driver will experience while traveling on a particular street or highway calculated in accordance with the provisions of the Highway Capacity Manual, 1985 edition, published by the National Academy of Sciences, Transportation Research Board. There are six levels of service ranging from Level of Service A, with free traffic flow and no delays to Level of Service F, with forced flow and congestion resulting in complete failure of the roadway.

Lodging unit: a room or group of rooms in which sleeping accommodations are furnished for compensation and meals or other services may be furnished by the owner or operator to any individual not a family member. Lodging units shall include bed and breakfasts, inns, boarding houses, rooming houses, hotels, or motels.
Lot: An area of land in one ownership, or one leasehold, with ascertainable boundaries established by deed or instrument of record, or a segment of land ownership defined by lot boundary lines on a land subdivision plan duly approved by the Planning Board and recorded in the County Registry of Deeds.

"New" Lot: A lot created after the effective date of this ordinance.

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

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

Lot, Coverage: The percentage of a lot covered by all buildings or structures including impervious non-vegetated surfaces.

Lot Line: A line bounding a lot which divides one lot from another or from a street or any other public or private space, as defined below:

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

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

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

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

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

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

Lumber Yard: A use which includes sales and retails building supplies.

Machine Shop: A manufacturing establishment which manufactures parts from metals.
**Manufactured Housing:** A structural unit or units designed for occupancy and constructed in a manufacturing facility and transported, by the use of its own chassis or an independent chassis, to a building site. The term includes any type of building which is constructed at a manufacturing facility and transported to a building site where it is used for housing and may be purchased or sold by a dealer in the interim. For purposes of this section, two types of manufactured housing are included. Those two types are:

1. **Mobile Homes**
   
   Those units constructed after June 15, 1976, commonly called "newer mobile homes," which the manufacturer certifies are constructed in compliance with the United States Department of Housing and Urban Development standards, meaning structures transportable in one or more sections, which in the traveling mode are 14 body feet or more in width and are 750 or more square feet, and which are built on a permanent chassis and designed to be used as dwellings, with or without permanent foundations, when connected to the required utilities including the plumbing, heating, air conditioning or electrical systems contained in the unit;
   
   a. This term also includes any structure which meets all the requirements of this subparagraph, except the size requirements and with respect to which the manufacturer voluntarily files a certification required by the Secretary of the United States Department of Housing and Urban Development and complies with the standards established under the National Manufactured Housing Construction and Safety Standards Act of 1974, United States Code, Title 42, Section 5401, et seq.; and the Maine State Manufactured Housing Board.

2. **Modular Homes**
   
   Those units commonly called "modular homes," which the manufacturer certifies are constructed in compliance with MRSA Title 10, chapter 951 et seq., and rules adopted under that chapter, meaning structures, transportable in one or more sections, which are not constructed on a permanent chassis and are designed to be used as dwellings on foundations when connected to required utilities, including the plumbing, heating, air-conditioning or electrical systems contained in the unit.

**Manufacturing:** The making of goods and articles by hand or machinery. Manufacturing shall include assembling, fabricating, finishing, packaging or processing operations.

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

**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 like material from its natural location and to transport the product removed, away from the extraction site.

Mobile Home Park: A parcel of land under unified ownership approved by the municipality for the placement of 3 or more mobile homes.

Mobile Home Subdivision: A parcel of land approved by the town for the placement of three or more mobile homes on individually owned lots.

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

Multi-Unit or Multi-Family Residential: See Dwelling, Multi-Family.

Municipal facilities: provisions established and maintained by the town to serve the well being of the public including but not limited to schools, town roads, solid waste disposal, fire protection, parks, water supplies, and sewage disposal systems.

Net Acreage: The area of a lot or lots which is useable for determining allowable densities, as set forth in the Net Acreage calculations standard contained in the section 3.D - (Land not suitable for development section) of the Lamoine Building and Land Use Ordinance.

Net Maximum Density: The ratio of principal structures allowed in relation to available acreage.

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

Nursery: Land or greenhouses used to raise flowers, shrubs, and plants for sale.

Nursery or Garden Center: Land and buildings used to raise plants, shrubs, and trees for sale.

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

Open space: land unencumbered with structures.

Open space for common use: open space applicable to the development but not restricted to individual occupants. Such space may be dedicated for public use, whether for general or a specified use.
Parks and Recreation:  Non-commercially operated recreation facilities open to the general public including, but not limited to playgrounds, parks, monuments, green strips, open space, mini-parks, athletic fields, boat launching ramps, piers and docks, picnic grounds, swimming pools, and wildlife and nature preserves, along with any necessary accessory facilities, restrooms, bath houses, and the maintenance of such land and facilities.  The term shall not include campgrounds, or commercial recreation and amusement centers.

Perennial Water Body:  Standing or flowing water lasting or continuing for more than six (6) consecutive months of the year.

Permanent Foundation:  Shall mean all of the following:

1. A full, poured concrete or masonry foundation.
2. A poured concrete frost wall or a mortared masonry frost wall, with or without a concrete floor.
3. A reinforced, floating concrete pad for which the municipality may require an engineer's certification if it is to be placed on soil with high frost susceptibility.
4. Concrete, masonry, or stone piling.
5. Any foundation which, pursuant to the building code of the municipality, is permitted for other types of single-family dwellings.

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

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

Phased Development:  A development of land that is under unified control and is planned and developed as a whole in a single development operation of programmed series of development stages.  The development often includes a mixture of uses and may include streets, buildings, open space, and other site features.

Plat:  a plan, map, or chart drawn to scale describing a parcel of land indicating actual or proposed structures and uses.

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

Planning Board:  The Planning Board of the Town of Lamoine.

Plumbing, Electrical, or Carpentry Shop:  An establishment where plumbing, electrical, or carpentry materials are sold on a wholesale or retail basis.
Preliminary Plan: The preliminary drawings indicating the proposed layout of a development to be submitted to the Planning Board for its consideration.

Principal Structure or Use: The primary use and chief purpose of a lot or structure.

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

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

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

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

Quarry: a place where rock is excavated.

Rare and Endangered Species: Endangered, threatened or rare plants, animals, and natural communities identified by the Maine Natural Heritage Program.

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

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

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

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

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

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

**Road frontage:** that portion of a parcel or lot contiguous to any road, street, or right of way.

**Sand and Gravel Aquifer:** A geologic formation composed of rock or sand and gravel that stores and transmits significant quantities of recoverable water.

**School:** An institution for education or instruction including a college, university, and public or private school conducting classes pursuant to a program approved by the State Board of Education or similar government agency, but not including commercially operated schools of beauty, culture, business, dancing, driving, music, or recreation which shall be deemed retail businesses.

**Septic System:** See 'Subsurface Waste Water Disposal System'

**Service Drop:** Any utility line extension which does not cross or run beneath any portion of a water body that conforms to the standards of the National Fire Protection Association “Number 70” and:

1. **In the case of electric service**
   a. The placement of wires and/or the installation of utility poles is located entirely upon the premises of the customer requesting service or upon a roadway right-of-way; and
   b. The total length of the extension is less than one thousand (1,000) feet.

2. **In the case of telephone service**
   a. The extension, regardless of length, will be made by the installation of telephone wires to existing utility poles, or
b. The extension requiring the installation of new utility poles or placement underground is less than one thousand (1,000) feet in length.

**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.

**Service Station:** An establishment where motor fuels are stored and dispensed into the fuel tanks of motor vehicles. This use may include facilities for the retail sale of other products.

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

**Shared Driveway:** A single driveway serving two 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.

**Shoreland Zone or Shoreland Area:** All land areas under the jurisdiction of the Shoreland Zoning Ordinance.

**Sight Distance:** The length of an unobstructed view from a particular access point to the farthest visible point of reference on a roadway.

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

**Sketch Plan:** Conceptual maps, renderings, and supportive data describing the project proposed by the applicant for initial review prior to submitting an application for planning board or code enforcement officer approval. May be used by the applicant as the basis for preparing the development plans and as part of the application for development approval.

**Slope:** See 'Sustained Slope'

**Start of Construction:** For the purposes of this Ordinance, the date the building permit was issued, provided the actual start of construction, repair, reconstruction, 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 includes: land preparation, such as clearing, grading and filling; the installation of streets and/or walkways; the excavation for basement, footings, piers, or foundations or the erection of temporary forms; and 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.

**Street:** Public and private ways such as alleys, avenues, highways, roads, and other rights-of-way, as well as areas on subdivision plans designated as rights-of-way for vehicular access other than driveways. The center of all streets shall be set back at least 30 feet from abutting property lines.
Structure: Anything constructed or erected, the use of which requires a fixed location on or in the ground or in the water, or an attachment to something having a fixed location on the ground, including buildings, billboards, signs, commercial park rides and games, carports, porches, and other building features, including stacks and antennas, but not including sidewalks, fences, driveways, parking lots, and field or garden walls or embankment retaining walls.

Subdivision: The division of a tract or parcel of land into three (3) or more lots within a five (5) year period whether accomplished by sale, lease, development, buildings or otherwise and as further defined in the Lamoine Subdivision Ordinance and the Maine State Statutes, Title 30-A, MRSA, Section 4401, as amended.

Substantial Completion: Completion of eighty percent (80%) of a permitted structure or use measured as a percentage of estimated total cost.

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

Substantial addition: an increase of 20% of the area and/or of the assessed value.

Subsurface Waste Water Disposal System: A collection of treatment tank(s), disposal area(s), holding tank(s) and pond(s), surface spray system(s), cesspool(s), well(s), surface ditch(es), alternative toilet(s), or other devices and associated piping designed to function as a unit for the purpose of disposing of wastes or wastewater on or beneath the surface of the earth. The term shall not include any wastewater discharge system licensed under 38 MRSA Section 414; any surface wastewater disposal system licensed under 38 MRSA Section 413 Subsection 1-A, or any public sewer. The term shall not include a wastewater disposal system designed to treat wastewater which is in whole or in part hazardous waste as defined in 38 MRSA Chapter 13, subchapter 1.

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

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

Tract or Parcel of Land: All contiguous land in the same ownership, whether or not the tract is separated at any point by: an intermittent or non-navigable stream, tidal waters where there is no flow at low tide, or a private road established by the abutting land owners.

Trip Generation: The estimated volume of traffic going to and from a particular location.

Turn Radius: The radius of an arc which approximates the turning path of a vehicle.

Two stories: 2 full floors, the lower of which is at least one foot above grade.

Use: The manner in which land or a structure is arranged, designed or intended, or is occupied.
**Variance:** A relaxation of the terms of this Ordinance where such relaxation will not be contrary to the public interest, where, owing to conditions peculiar to the property, and not the result of the actions of the applicants, a literal enforcement of the Ordinance would result in undue hardship. Variances permissible under this Ordinance are limited to height of buildings, structures, lot size, yard and open spaces sizes, frontage, and setbacks. No variance can be granted for the establishment of any use otherwise prohibited, nor shall a variance be granted because of the presence of non-conformities of adjacent parcels or in adjacent districts.

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

**Vehicle Trip:** The vehicle moving from an origination point to a destination point.

**Water Crossing:** Any project extending from one bank to the opposite bank of a river or stream, whether under, through, or over the watercourse. 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.

**Water Table:** The upper surface of groundwater, or that level below which the soil is seasonally saturated with water.

**Wetlands:** any swamp, marsh, bog, beach, flat, or other land above extreme low water which is subject to tidal action; also, areas enclosed by the normal high water mark of inland waters and areas otherwise identified on the basis of soils, vegetation, or other criteria as inland wetlands including but not limited to swamps, marshes, and bogs as defined by the Maine State Statutes.

**Wetland Coastal & Freshwater:** "Coastal Wetlands" are all tidal and sub-tidal lands including all areas below any identifiable debris line left by tidal action, all areas with vegetation present that is tolerant of salt water and occurs primarily in a salt water or estuarine habitat, and any swamp, marsh, bog, beach, flat or other contiguous lowland which is subject to tidal action during the maximum spring tide level as identified in tide tables published by the National Ocean Service and as defined by the Maine State Statutes.

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

1. Of ten or more contiguous acres; or of less than 10 contiguous acres and adjacent to a surface water body, excluding any river, stream or brook such that in a natural state, the combined surface area is in excess of 10 acres; and

2. Inundated or saturated by surface or ground water at a frequency and for a duration sufficient to support, and which under normal circumstances do support, a prevalence of wetland vegetation typically adapted for life in saturated soils.

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

**Wholesale Business and Storage:** A use engaged in storage, wholesale, and distribution of manufactured products, supplies and equipment.

**Signature Page**

March 8, 2001

This ordinance was approved by the Lamoine Town Meeting on Tuesday, March 6, 2001 by a referendum vote.

/s/ Glenn Crawford  
/s/ S. Josephine Cooper  
/s/ Thomas Spruce  

Selectmen, Town of Lamoine

April 16, 2009

The attached Site Plan Review Ordinance was amended by a majority vote at the annual town meeting held April 8, 2009.

/s/ S. Josephine Cooper  
/s/ Richard E. Fennelly, Jr.  
/s/ Kermit Theall  
/s/ Gary McFarland  
/s/ Cynthia Donaldson

The Lamoine Board of Selectmen

The attached Site Plan Review Ordinance was amended by a majority vote at the annual town meeting held March 16, 2011.

/s/ Cynthia Donaldson  
/s/ S. Josephine Cooper  
/s/ Richard E. Fennelly, Jr.  
/s/ Gary McFarland  
/s/ William Brann

The Lamoine Board of Selectmen

Attest: A True Copy
March 21, 2013

The attached Site Plan Review Ordinance was amended by a majority vote at the Annual Town Meeting on March 13, 2013.

/s/ S. Josephine Cooper  }  The Lamoine Board of Selectmen
/s/ Cynthia Donaldson  }
/s/ Gary McFarland  }
/s/ Bernard Johnson  }
/s/ Nathan Mason  }

Attest: A True Copy

/s/ Stuart Marckoon, Deputy Town Clerk
Town of Lamoine, Maine
ORDINANCE FOR CONTROL OF TRAFFIC

SECTION 1. Authority

In accordance with Title 30-A, Section 3009, the municipal officers of the Town of Lamoine hereby enact an ordinance which will aid in the control of the movement and stopping of vehicular traffic.

A. Emergency vehicles are not required to adhere to the rules and regulations set forth herewith when in direct line of duty.

B. This ordinance will be enforced by any officer with police powers. The Town of Lamoine may contract with the Hancock County Sheriff’s Department to deputize volunteer parking enforcement officers pursuant to 30-A MRSA § 472.

C. All signs posted must be in compliance with Title 23 § 11201 et seq and Title 29-A § 2051

SECTION 2. Regulations

It is necessary to establish the following regulations:

A. No person shall park or leave standing any vehicle whether attended or unattended on the paved, traveled portion nor within 10 feet from the nearer outside line of the traveled way where posted on Route 204 from Old Schoolhouse Lane to the intersection of the Mud Creek Road on either side of said highway.
B. No person shall park or leave unattended any vehicle on any way or highway right-of-way which may interfere with snow removal or the normal movement of traffic. No person shall park or leave unattended any vehicle within a 15-foot radius of a fire hydrant so marked by the Town of Lamoine Volunteer Fire Department.

C. It shall be unlawful for any person to allow a vehicle to remain parked in Bloomfield Park or the Lamoine Beach Park for the purpose of camping or overnight parking during the time 1/2 hour after sunset to 1/2 hour before sunrise.

   (a) The Lamoine Beach Park will be closed to all vehicles and persons between the hours of 11:00 P.M. and 7:00 A.M.

D. It shall be unlawful for any person to park a vehicle unattended at the end of Route 184 at the entrance to the Lamoine Beach Park ramp to the furthest entrance to the graveled parking lot of the Lamoine Beach Park. Vehicles with trailers will use the graveled parking area so provided.

E. (added 12/6/95) No person shall park or leave standing any vehicle whether attended or unattended on the paved, traveled portion, where posted, on Route 184 (Douglas Highway) from the intersection of the former Blacksmith Road to the intersection of Route 204 (at the Town Hall), on either side of said highway.

SECTION 3. Penalty

A. Any violation of this ordinance shall be a civil violation.

B. Vehicles not in compliance with this ordinance shall be Prima Facia evidence that the vehicle is in violation.

C. Any officer finding a vehicle standing on a highway in violation of this ordinance may move the vehicle or require the person in charge of said vehicle to move it to a position permitted.

   1. Any vehicle moved under the direction of any officer of the town or constable will be moved at the expense of the person in whose name such vehicle is registered.

D. Unlawful parking of a vehicle in violation of this ordinance shall be a violation of the parking ordinance and punishable by a fine of not less than $25.00 nor more than $250.00 for each offense.
SECTION 4. Effective Date.

This ordinance shall become effective immediately.

Originally Dated at Lamoine the 9th day of August, 1976

Amended this 6th day of December, 1995

Amended September 30, 2004

signed,

/s/ S. Josephine Cooper

/s/ Glenn Crawford

/s/ Perry Fowler

Selectmen of Lamoine
WASTE DISCHARGE ORDINANCE
TOWN OF LAMOINE, MAINE

Section 1.  TITLE

This Ordinance shall be known as the Waste Disposal Discharge Ordinance of the Town of Lamoine, Maine.

Section 2.  AUTHORITY

This Ordinance is adopted pursuant to the Home Rule power granted to all municipalities under the Constitution, Article VIII, Part 2, Section 1 and Title 30 MRSA, Chapter 201-A, Section 1917

Section 3.  PURPOSE

The purpose of this Ordinance is to protect the health, safety, and general community well-being and to protect the natural resources and beauty of the Town and its environs from the pollution accompanying the unregulated disposal and discharge of wastes.
Section 4. SCOPE

This Ordinance shall apply to the disposal and discharge of solid, liquid, hazardous and all other forms of waste materials, as defined, within the Town of Lamoine.

Section 5. DEFINITIONS

Waste - For the purposes of this Ordinance, waste shall mean waste as described by this section and yet will also cover other wastes not specifically described yet determined to be hazardous to the social or environmental well-being of the Town.

A. Hazardous Waste - That which is designated such according to the United States Clean Water Act. Section 311, Public Law 92-500.
B. Radioactive Waste - That which is designated such by title 38 MRSA, Section 261 - D.1.B.
C. Sewage - That which is defined according to Maine law, Title 30, MRSA, Section 1901.
D. Sludge - Shall be defined according to the standards set forth in the Solid Waste Management act of 1973 and Title 35 MRSA, Chapter 13-A.
E. Solid Waste - Solid waste shall be defined as it is by the Solid Waste Management Act, Title 38, MRSA, Chapter 13.
F. Septage - Septage shall be any and all wastes which comes from a septic tank.

Section 6. CONFLICT

This Ordinance shall not supersede any State or Federal Law or regulation. In case of conflict, the more stringent provisions shall apply.

Section 7. ENACTMENT

This Ordinance shall be enacted at either a regular or a special Town Meeting.

Section 8. DISPOSAL AND DISCHARGE OF WASTE

No solid, liquid, hazardous or other form of waste shall be disposed of or discharged without the discharger or disposer first having received approval to do so from the Board of Selectmen.
Section 9.  PUBLIC HEARING
The Board of Selectmen shall not grant any applicant the right to dispose and/or discharge wastes without first holding a public hearing on the application.

Section 10.  APPROVAL CRITERIA
Approval shall not be granted by the Selectmen unless the applicant can prove that no adverse social or environmental impacts will be associated with the disposal or discharge operation. No operation shall be approved by the Selectmen unless an operation plan has been prepared by the applicant.

Section 11.  VIOLATION
Any person or other legal entity found to be discharging or disposing wastes within the Town without approval by the Selectmen shall be deemed to be in violation of this Ordinance. All approved disposal and discharge operations not operating in compliance with an approved operations plan shall be deemed to be in violation of this Ordinance.

Section 12.  PENALTY
Any person or other legal entity found to be in violation of this Ordinance shall be subject to a fine of not more than one thousand dollars ($1,000.00) and not less than two hundred fifty dollars ($250.00) for each offense. Each day in which a violation occurs shall constitute a separate offense.

Section 13.  AMENDMENTS
This Ordinance may be amended by the legislative body of the Town at a special or regular Town Meeting.

(s) Francis S. Karst
(s) Martin S. Bisson
(s) Richard K. Harding

Selectmen of Lamoine
December 30, 1981

Attest: A true copy
Marion J. McDevitt, Clerk