2018

Town of Lebanon Maine Ordinances

Lebanon, Me.

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MUNICIPALITY OF LEBANON, MAINE

ORDINANCE
EXEMPTING ELIGIBLE ACTIVE DUTY MILITARY PERSONNEL FROM VEHICLE EXCISE TAX

Section 1. Authority.

This ordinance is enacted pursuant to 36 M.R.S.A. § 1483-A, which expressly authorizes such ordinances.

Section 2. Excise tax exemption: qualifications.

Vehicles owned by a resident of this municipality who is on active duty serving in the United States Armed Forces and who is either permanently stationed at a military or naval post, station or base outside this State or deployed for military service for a period of more than 180 days and who desires to register that resident's vehicle(s) in this State are hereby exempted from the annual excise tax imposed pursuant to 36 M.R.S.A. § 1482.

To apply for this exemption, the resident must present to the municipal excise tax collector certification from the commander of the resident's post, station or base, or from the commander's designated agent, that the resident is permanently stationed at that post, station or base or is deployed for military service for a period of more than 180 days.

For purposes of this section, "United States Armed Forces" includes the National Guard and the Reserves of the United States Armed Forces.

For purposes of this section, "deployed for military service" has the same meaning as in 26 M.R.S.A. § 814(1)(A).

For purposes of this section, "vehicle" has the same meaning as in 36 M.R.S.A. § 1481(5) and does not include any snowmobiles as defined in 12 M.R.S.A. § 13001.

Section 3. Effective date; duration.

This ordinance shall take effect immediately upon enactment by the municipal legislative body unless otherwise provided and shall remain in effect unless and until it or 36 M.R.S.A. § 1483-A is repealed.

This ordinance adopted 06/12/2012
Yes: 750  No: 246

A True Attest Copy
Laura Bragg  Lebanon Town Clerk

[Signature]
LEBANON ADDRESSING ORDINANCE
TOWN OF LEBANON, MAINE

Section 1. Purpose
The purpose of this ordinance is to enhance the rapid location of properties by law enforcement, fire, rescue and emergency medical services personnel and the delivery of mail in the Town of Lebanon.

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

Section 3. Administration
This ordinance shall be administered by the Addressing Coordinator. The Addressing Coordinator shall be appointed by the Selectmen of the Town of Lebanon. The Addressing Coordinator is authorized ID and shall assign road names and numbers to all properties, both on existing and proposed roads, in accordance with the criteria in Sections 4 and 5. The Addressing Coordinator shall also be responsible for maintaining the following official records of this ordinance:

A. A Lebanon Town Map for official use showing road names and numbers.
B. An alphabetical list of all property owners as identified by current assessment records, by last name, showing the assigned addresses.
C. An alphabetical list of all roads with property owners listed in order of their assigned numbers.

Section 4. Street Naming System
All roads that serve two or more properties shall be named regardless of whether the ownership is public or private. A "road" refers to any highway, road, street, avenue, lane, private way, or similar paved, gravel or dirt thoroughfare. 'Property' refers to any property on which a more or less permanent structure has been erected or could be placed. A road name assigned by the Addressing Coordinator for the Town of Lebanon shall not constitute or imply acceptance of the road as a public way.

The following criteria shall govern the naming system:

A. No two roads shall be given the same name (e.g. no Pine Road and Pine Lane).
B. No two roads shall have similar sounding names (e.g. Beech Street and Peach Street).
C. Each road shall have the same name throughout its entire length.

Section 5. Numbering System
Numbers shall be assigned every fifty (50) feet along both sides of the road with the even numbers appearing on the left side of the road and odd numbers appearing on the right side of the road determined by the number origin. The following criteria shall govern the numbering system:

A. All designated numbers shall begin from the intersection of Rt. 202 and Depot Rd. and Little River Road or that end of the road closest to this intersection. (Except the numbering for Rt. 202 shall begin at the Sanford Town Line). For dead end roads, the numbering shall originate at the intersection of the adjacent road and terminate at the dead end.
B. The number assigned to each structure shall be that of the numbered interval falling closest to the front door. If the front door cannot be seen from the main road, the number shall be that one falling closest to the driveway of said structure.
C. Every structure with more than one principal use of occupancy shall have a separate number for each use or occupancy. (i.e. Duplexes shall have two separate numbers; apartments shall have one road number with an apartment number; such as 235 Mapple Street Apartment 2).

Section 6. Compliance
All owners of structures shall, by the date stipulated in Section 8, display and maintain in a conspicuous place on said structure, the assigned numbers in the following manner:

A. Number on the Structure or Residence. Where the residence structure is within fifty (50) feet of the edge of the road right-of-was the assigned number shall be displayed on the front of the structure near the front door or entry.
B. Number at the Street Line. Where the residence or structure is over fifty (50) feet from the edge of the road right-of-way, the assigned number shall be displayed on a post, fence, wail, mail box, or on some structure at the property line next to the walk or access drive to the residence or structure.

C. Size and Color of Number. Numbers shall be displayed. The numbers shall be at least three (3) inches tall. The color of the number shall be a black number with a white background. The numbers shall be located so as to be visible from the road.

D. Removal of Conflicting Numbers. Every person whose duty is to display the assigned number shall remove any different number that might be mistaken for, or confused with the number assigned in conformance with this ordinance.

E. Interior Location. All residents or other occupants are requested to post the assigned number and road name next to their telephone for emergency reference.

Section 7. New Construction and Subdivisions
All new construction and subdivisions shall have the roads named and structures numbered in accordance with the provisions of this ordinance and as follows:

A. New Construction. Whenever any residence or other structure is constructed or developed it shall be the duty of the owner to obtain an assigned number from the Addressing Coordinator. This shall be done before the issuance of the building permit.

B. New Subdivisions. Any prospective subdivider shall show a proposed road name and lot numbering system on the plan submitted to the Planning Board. Approval by the Planning Board, after consultation with the Addressing Coordinator, shall constitute the assignment of road names and numbers to the lots to the subdivision. On the Final Plan showing proposed roads, the applicant shall mark on the plan, lines or dots in the center of the streets every fifty (50) feet to aid in the assignment of numbers to structures subsequently constructed.

Section 8. Effective Date
This ordinance shall become effective thirty (30) days after passage. It shall be the duty of the Addressing Coordinator to notify by mail each property owner and the Post Office of a new address at least thirty (30) days before the effective date of its use. It shall be the duty of each property owner to comply with this ordinance, including the posting of new property numbers, within Thirty (30) days following notification. On new structures, numbering shall be installed prior to final inspection and issuance of certificate of occupancy, or when it is first used or occupied, whichever comes first.

THIS ORDINANCE WAS PASSED BY THE TOWN OF LEBANON VOTERS JUNE 21, 1997.
THIS IS A TRUE COPY.
ATTEST: LAURA BRAGG TOWN CLERK

2
The policy for changing established street names shall be as follows:

1. A petition signed by a majority of residents of the street shall be submitted to the selectmen. This petition shall have the signatures, printed names and mailing addresses of all who signed it. The petition shall state as follows:

"We the undersigned residents of ??? Street petition the town to Change the street name to ??? Street"

The petition can be only for the road name and no other matters. If submitted with any other request on the petition, then the petition will be deemed to be void and will not be considered.

2. Within thirty (30) days the selectmen shall mail out certified letters to all property owners and residents of the street inviting them to a public hearing on the street name change. Letters will also be sent to the Sheriff's Office, Lebanon Fire & Rescue inviting them to the public hearing also. These notices will be sent out at least ten (10) days before the date of the public hearing Notices shall also be advertised in the Sanford Journal Tribune and the Foster's Daily Democrat.

The person requesting the road change will pay all costs for the notices and advertisements and the public hearing and all costs to the residents of the street resulting from the road name change.

3. The public hearing will be to consider the road name change in accordance with the E-911 Addressing Ordinance. The decision will be made by a majority vote of the Lebanon Residents attending the public hearing. The selectmen and other officials of the town will be notified of the results of the vote.

4. The person requesting the road change will pay all costs associated in replacing the signs.

Signed this 20th day of July, 2004

Darryll Moore  Tom Potter  Robert Torno
ADVERTISING ORDINANCE
TOWN OF LEBANON, MAINE

Sec. 1 On-Premise Signs
Limit all free-standing on-premise advertising signs to one sign panel, not to exceed 40 square feet; both faces of panel may be utilized. Existing signs now in use will not be affected by above requirements.

Sec. 2 Off-Premise Signs
Limit all off-premise advertising signs to a maximum of 20 square feet with no more than two such signs for businesses situated in Lebanon, except directional signs; see 2A. All advertising signs for out of town businesses to be banned, with existing signs to be removed at termination of present State License. Existing signs now in use will not be affected.

Sec. 3 Real Estate Signs
Limit signs advertising the sale of Real Estate to one sign per site per agency, not to exceed 4 square feet.

Sec. 4 Lighting
Only direct lighting to be permitted on any sign with no neon, flashing or moving lights to be allowed.

Historical Note: This ordinance was originally adopted by Town Meeting vote March 10, 1973.
State Law Reference: As to state regulation of signs see 23 M.R.S.A. §1901 et seq. As to authority for local regulation see 23 M.R.S.A. §1922
ANIMAL CONTROL ORDINANCE
TOWN OF LEBANON

ARTICLE 20 ... REVISED 1988

SECTION 101 PURPOSE
The purpose of these Ordinances is to require that all dogs in the Town of Lebanon be kept under the control of their owners at all times so that they will not injure persons, damage property, or create a nuisance.

SECTION 102 CONSTRUCTION
The provisions which apply to the owners of a dog apply equally to any person having its custody or possession. A dog in company with 3 or more dogs is deemed to be in a pack.

SECTION 103 ... DEFINITIONS
1) Owner means: any person, firm, organization, partnership, association or corporation which owns, possesses, or has custody of a dog.
2) At Large means: off the premises of owner and not under the control of any person by means of personal presence and detention as will reasonably control the conduct of such dog.
3) Dangerous Dog means: a dog which has bitten a person who was not a trespasser on the owner's premises at the time of the incident; or a dog which causes a reasonable person, acting in a peaceable manner outside the owner's premises, to be put in apprehension of eminent bodily harm.
4) Law Enforcement Officer means: any person who, by virtue of his public employment, is vested by law with a duty to maintain public order, enforce any law of this State or Municipality establishing a civil violation, prosecute offenders or make arrest for crimes, whether that duty extends to all crimes, or is limited to specific crimes.
5) Municipality means: a city, town or plantation.
6) Nuisance means: the causing of unreasonable noise, litter, or other property damage; the chasing of automobiles, motorcycles, bicycles, or other vehicles; and the entry on school grounds while school is in session.
7) Leash means: a leash should be a maximum of 3' in length.

SECTION 104 REGISTRATION AND IDENTIFICATION
A dog which is at least 6-months old must be licensed by its owner in accordance with State Law. A dog which is at least 2 months old must wear a collar or harness to which is attached an Identification Tag with the owner's Name and Address, or Telephone Number.

SECTION 105 RUNNING OR ROAMING AT LARGE
A dog is not permitted to run, or roam, at large. A dog which is off the premises of the owner or the premises of a person having its custody and is not on a leash, is prima fade running at large.

1) Exception. A dog which is under the owner's control and is engaged in field training, trials, or legal hunting may run at large.

SECTION 106 DANGEROUS DOG
It shall be unlawful to own or possess a dangerous dog as defined in Section 103.3 ... except when such dog is confined, or muzzled.

SECTION 107 NUISANCE DOG
It shall be unlawful to own or possess a dog creating a nuisance as defined under Section 103.6.

SECTION 108 PROHIBITED NOISE/DISTURBING THE PEACE
Owning, possessing, or harboring any dog which frequently or for continued duration, makes sounds which create a noise disturbance across a residential real property boundary. For the purpose of this Ordinance, a barking dog shall mean a dog that barks, bays, cries, howls, or makes any other noise continuously and/or incessantly for a period of 10-minutes, or barks intermittently for ½-hour or more to the disturbance of any person at any time of day or night, regardless of whether the dog is physically situated in or upon private property; provided, however, that a dog shall not be deemed a "barking dog" for the purposes of this Ordinance if, at the time the dog is barking or making any other noise, a person is trespassing or threatening to trespass upon private property in or upon which the dog is situated or for any other legitimate cause which caused or provoked the dog.

SECTION 109 ... IMPOUNDING
The Animal Control Officer shall apprehend any dog found running at large and impound it in the dog pound, or other suitable place. At the time the Animal Control Officer shall register the breed, color, sex, license number, and name and address, or telephone number, of the owner in a book kept for this purpose.

SECTION 110 ... NOTICE AND RECLAMATION
The Animal Control Officer shall immediately notify the owner by telephone, if possible, or by regular mail, that the dog has been impounded, and that the owner may reclaim it by licensing the dog (if it is unlicensed) and by paying to the Town the following fees:
1) Fine for dog running or roaming at large,
2) Cost of keeping the dog at the dog pound, or other suitable place.
If the owner of the dog is unknown, or cannot be found, the Animal Control Officer shall immediately post the notice on the Bulletin Board in the entrance of the Police Department.

SECTION 111 DISPOSITION OF UNCLAIMED DOGS
The Animal Control Officer, or his representative, shall keep all impounded dogs for 8-days at the Town Pound or other suitable place. If, at the end of 8-days, the dog is not reclaimed, the Animal Control Officer, or his representative, shall place the dog with a Humane Society or another owner, or, if these two alternatives are not possible, the dog will be humanely disposed of.

SECTION 112 ... DISPOSITION OF DOGS WHICH HAVE BITTEN PERSON(S)
The owner of a dog who knows or has been advised that the dog has bitten a person shall confine the dog or have it confined by itself in a secure enclosure for at least 14-consecutive days, and if not already reported shall notify the Lebanon Police Department immediately of the time, place, and reason for the confinement. During the period of confinement, the owner shall not destroy the dog, nor allow it to be destroyed.

SECTION 113 EXAMINATION OF CONFINED DOGS
The Lebanon Police Department shall have a dog which has been confined because of having bitten a person kept under observation for symptoms of rabies. At the end of the 14-day period of confinement, the Lebanon Police Department shall determine whether the dog is infected with rabies. In making this determination, he shall employ such expert assistance as may be necessary. If he deems it necessary to keep the animal confined for longer than a 14-day period, he shall order it done. If the dog is found to be rabid, he shall notify the owner, and the person bitten, and shall have the
dog destroyed, following any procedure recommended by the State Department of Health and Welfare. If the dog is not rabid, the owner shall thereafter muzzle the dog, or keep it confined. All expenses incurred by the Town in carrying out the procedure provided by this Section shall be paid for by the owner of the dog.

SECTION 114 PENALTIES

A) Running or roaming at large- A person who violates this Article by permitting his dog to run or roam at large as required by Section 105 shall be punished by a fine of not more than fifty dollars ($50).

B) Dog in heat- The owner of any female dog in heat shall keep the same confined or on a leash at all times under the care of the owner, and shall not permit such dog to be at large within the Town on any premises other than those of the owner. Every female dog found running at large hereof is declared to be a public nuisance. The owner of a dog in heat which is found running or roaming at large shall be punished by a fine of not more than one hundred dollars ($100).

C) Traveling in packs. The owner of a dog traveling in a pack shall be punished by a fine of not more than fifty dollars ($50) on first offense. For the second offense and subsequent offenses the owner shall be punished by a fine of not more than one hundred dollars ($100).

D) Running or roaming at large after causing a nuisance- The owner of a dog which is found running at large, who knows or has been advised that the dog has caused a nuisance and has failed to keep the dog on his/her premises or under his/her control or under the control of a person charged with that responsibility shall, for the first offense, be punished by a fine of not more than fifty dollars ($50). For a second offense and subsequent offenses, the owner shall be punished by a fine of not more than one hundred dollars ($100).

E) Disturbing the peace- The owner of a dog which disturbs the peace of any person by frequently and habitually barking, howling, or creating other noise as required by Section 108, shall be punished on the first offense by a fine of not more than twenty-five dollars ($25). For the second offense, he/she shall be punished by a fine of not more than fifty dollars ($50). For the third and subsequent offenses, he/she shall be punished by a fine of not more than one hundred dollars ($100).

F) Dangerous dog- The owner of a dangerous dog which is unconfined without a muzzle shall be punished by a fine of not more than one hundred dollars ($100) and the court can order the Animal Control Officer to destroy the dog if it has killed, maimed, or inflicted serious bodily injury upon a person, or has a history of assault.

G) Refusing to reclaim a dog- A person who fails or refuses to reclaim his/her dog and pay the cost required by Section 110 within 1-week (7-days) after receiving oral or written notice of its impoundment shall be punished by a fine of not more than one hundred dollars ($100).

H) Unlicensed dogs: The Board of Selectmen shall annually, between January 1st and April 30th, issue a warrant, returnable on October 15th following, to the Lebanon Police Department directing the Police Department to proceed forthwith to enter complaint and summons to court the owner or keeper of any unlicensed dog. The Police Department shall before entering such complaint and obtaining said summons, call on the owner or keeper of said dog and demand that he/she conform with the law and obtain a license from the Town Clerk within 7-days from the date of demand, paying to the Town Clerk the license fee.

SECTION 115 ... ENFORCEMENT

The Police Department of the Town of Lebanon shall enforce this Ordinance.

SECTION 116 ... VALIDITY AND CONFLICT OF ORDINANCES

All Ordinances and Bylaws inconsistent with or contrary to the provisions of this Article are hereby repealed.
If any part of parts of this Ordinance are for any reason held to be invalid, such decision shall not affect the validity of the remaining portions of this Ordinance.

*Historical Note: This Ordinance was originally adopted by Town Meeting vote March 12, 1988.*
Board of Appeals Ordinance
Town Lebanon, Maine

I. ESTABLISHMENT
Pursuant to Article VIII, Pt. 2, Sec. 1 of the Maine Constitution and 30-A M.R.S. § 3001, the Town of Lebanon hereby establishes the Lebanon Board of Appeals.

Section 1: Appointment

1.1 Members of the Board of Appeals shall be appointed by the municipal officers, who shall determine their compensation, and shall be sworn in by the municipal clerk or other person authorized to administer oaths.

1.2 The board shall consist of five (5) members and one (1) alternate member, all of whom shall be legal residents of the Town, appointed for staggered terms of three (3) years.

1.3 The term of each member upon the Board’s initial appointment shall be for 1, 2 or 3 years. The alternate member shall be appointed for a three (3) year term.

1.4 When there is a permanent vacancy of either a member or the alternate, the municipal officers shall within forty-five (45) days or as soon as possible thereafter appoint a person to serve for the unexpired term. A vacancy shall occur upon the resignation or death of any member, or when a member fails to attend four (4) consecutive regular meetings without a reasonable excuse, or when a member ceases to be a resident of the town. The municipal officers may remove members of the Board of Appeals by majority vote, for cause, after notice and hearing.

1.5 Neither a municipal officer nor his or her spouse may serve as a member or alternate member of the Board of Appeals.

Section 2: Organization, Rules and Procedures

2.1 The Board shall elect a chairperson and a secretary from among its full voting members and create and fill such other offices as it may determine necessary. The term of all offices shall be one (1) year with eligibility for re-election.

2.2 The Chairperson shall perform all duties required by state law and this ordinance, and preside at all meetings of the Board. The Chairman shall rule on issues of evidence, order, and procedure, and shall take other actions as necessary for the efficient and orderly conduct of hearings.

When a member is unable to act due to physical incapacity, absence or any other reason satisfactory to the chairperson, the chairperson shall designate an alternate member to sit in
his or her place.

2.3 The Secretary shall maintain a permanent record of all board meetings and all correspondence of the board. The secretary is responsible for maintaining those records which are required as part of the various proceedings which may be brought before the board.

2.4 Any question of whether a particular issue involves a conflict of interest sufficient to disqualify a member from voting thereon shall be decided by a majority of the members, except the member who is being challenged. When a voting member is unable to act due to a conflict of interest, the chairperson shall designate the alternate member to sit in his or her place.

2.5 The alternate member may attend all meetings of the Board and participate in its proceedings, but may vote only when he or she had been designated by the chairperson to sit for a member.

2.6 The chairperson shall call one regular meeting each month, provided there is business to conduct. The chairperson shall ensure posting notifications of all hearings and meetings in accordance with the Freedom of Access Act.

2.7 No meeting of the Board of shall be held without a quorum consisting of three (3) members or alternate members authorized to vote. No action shall be taken by the Board without at least three (3) concurring votes on the issue before the Board.

Section 3: Duties and Powers

3.1 The Board of Appeals may conduct administrative hearings to review and decide appeals, on an appellate basis, where exists an allegation by an aggrieved party of an error in any decision, order, requirement or determination made by the Planning Board, and to hear and decide administrative appeals, on a de novo basis, where it is alleged by an aggrieved party that there is an error in any order, requirement, decision or determination made by, or failure to act by the Code Enforcement Officer.

3.2 The Board of Appeals may interpret the provisions of Town ordinances in relation to the appeals brought before the Board.

3.3 The Board of Appeals may authorize variances in specific cases, within the limitations set forth in this ordinance.
Section 4: Variances

4.1 Variances may be granted only for height, minimum lot size, structure size, setbacks, and open space requirements.

4.2 Variances shall not be granted for the establishment of any uses otherwise prohibited.

4.3 The board shall not grant a variance unless it finds that strict application of the ordinance to the appellant and the appellant's property would cause undue hardship. "Undue hardship" will be found only when all the following criteria are met:

   a) The land in question cannot yield a reasonable return unless a variance is granted;
   b) The need for a variance is due to the unique circumstances of the property and not the general conditions of the neighborhood;
   c) The granting of a variance will not alter the essential character of the locality; and
   d) The hardship is not the result of an action taken by the applicant or a prior owner.

In order to demonstrate that the land cannot yield a reasonable return without a variance, the applicant must demonstrate that they will be deprived of all beneficial use of their land. Neither financial hardship alone or pleading that a greater profit may be realized from the applicant's property were a variance granted shall be sufficient evidence of undue hardship.

4.4 The board of Appeals is also authorized to hear and decide requests for disability variances as provided in 30-A M.R.S.A. § 4353 (4-A).

Section 5: Appeals Procedure

5.1 Administrative Appeals

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

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

5.2 Making an Appeal

a. Applications for administrative appeals shall be received within thirty (30) days of the written decision of the Code Enforcement Officer or Planning Board, and not otherwise, except that the Board of Appeals, upon a showing of good cause, may extend the thirty (30) day requirement.

b. An application for a variance may be filed directly with the Board of Appeals in accordance with the procedures below.

c. Appeals shall be made by filing with the Board of Appeals a written notice of appeal, specifying the grounds for such appeal. For a variance appeal the applicant shall submit:
   1. A sketch drawn to scale of 1” = 100’ showing lot lines, location of existing building and other physical features pertinent to the variance request.
   2. A concise written statement stating what variance is requested.

d. The Chairperson shall notify the Board of Selectmen, Planning Board, Code Enforcement Officer, and permit-holder, if applicable, of the appeal.

e. Upon being notified of an appeal, the Code Enforcement Officer or Planning Board shall transmit to the Board of Appeals all of the documentation comprising the record of the original decision from which an aggrieved person is requesting an appeal hearing.

f. The Board of Appeals shall hold a public hearing on the appeal within thirty-five (35) days of its receipt of an appeal application. Notice of the date, time, and place of the hearing shall be placed in a newspaper of general circulation in the area at least seven (7) days prior to the hearing. Cost of the publication, with a minimum of $50 paid upon submission of written notice of appeal, to be borne by the appellant.

Section 6: Hearings

6.1 In de novo hearings on administrative appeals of orders or decisions by the Code Enforcement Officer and variance applications, the Board may receive any oral or documentary evidence, but shall provide as a matter of policy for the exclusion of irrelevant, immaterial or unduly repetitious evidence. Every party shall have the right to present their case or defense by oral or documentary evidence, to submit rebuttal evidence and to conduct such cross examination as may be required for a full and true disclosure of the facts. The appellant’s case shall be heard first. To maintain orderly procedure, each side shall proceed without interruption. Questions may be asked through the Chair. All persons at the hearing shall abide by the order of the Chairman.
6.2 At any hearing a party may be represented by agent or attorney. Hearings shall not be continued to other times except for good cause.

6.3 The Code Enforcement Officer or representative of the Planning Board shall attend all hearings and may present to the Board of appeals all plans, photographs, or other material he or she deems appropriate for an understanding of the appeal. In appeals of Planning Board decisions, the information presented to the Board of Appeals shall be limited to the evidence presented to the Planning Board.

6.4 The transcript of testimony, if any, and exhibits, together with all papers and requests filed in the proceedings, shall constitute the record.

Section 7: Decision of the Board of Appeals

7.1 A majority of the members 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.

7.2 The concurring vote of a majority of the members of the Board shall be necessary to reverse any 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 pass under this Ordinance, or to effect any variation in the application of this Ordinance.

7.3 There person filing the appeal shall have the burden of proof.

7.4 The Board shall decide all appeals within thirty-five (35) days after hearing, and shall issue a written decision on all appeals.

7.5 Notice of any decision shall be mailed to the appellant, his or her representative or agent, the Code Enforcement Officer, Planning Board, and Selectmen within seven (7) days of the written decision date.

All decision shall become part of the record and shall include a statement of findings and conclusions as well as the reasons or basis therefore, upon all the material issues of fact, law or discretion presented, and the appropriate order, relief or denial thereof.

7.6 Upon notification of a decision by the Board of Appeals that the Code Enforcement Officer or Planning Board had erroneously denied a permit, the Code Enforcement Officer or the Planning Board shall promptly issue a permit in accordance with the Board's decision.

7.7 A copy of all variances effecting shoreland zoning granted by the Board of Appeals shall be submitted to the Department of Environmental Protection within seven (7) days of the decision.
Section 8: 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 law within forty-five (45) days from the date of the decision of the Board of Appeals.

Section 9: Reconsideration

9.1 The Board of Appeals may consider a request for reconsideration within forty-five (45) days of its prior decision. The Board may conduct additional hearings and receive additional evidence and testimony.

9.2 The request for reconsideration shall be filed in writing within ten (10) days of the original decision by the Board of Appeals.

9.3 Any vote to reconsider and any action taken on the reconsideration shall be completed within forty-five (45) days of the original decision.

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

II. PROVISIONS TO RE-ESTABLISH THE LEBANON BOARD OF APPEALS

The Town of Lebanon hereby establishes a Board of Appeals. The current Board, which has been acting as a Board of Appeals is hereby re-established. The actions that the Board has taken prior to the adoption of this ordinance are hereby declared to be the acts of the legally constituted Board of Appeals of the Town of Lebanon.

III. SEVERABILITY CLAUSE

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

IV. EFFECTIVE DATE

The effective date of this Ordinance is 05/10/2016 Passed by Town Meeting Vote

649 – Yes 300 – No

A True Copy Attest

Mandy Grenier - Town Clerk
TOWN OF LEBANON
Budget Committee Establishment Ordinance

ARTICLE I: NAME

The name of this committee shall be the Town of Lebanon Budget Committee and herein shall be referred to as the ‘Committee.’

ARTICLE II: PURPOSE

The purpose of this ordinance is to establish standard procedures for the Budget Committee to review town meeting articles which call for an appropriation or expenditure of money as proposed by the municipal officers.

ARTICLE III: MEMBERSHIP

A. The Committee shall consist of nine (9) Committee Members who shall be elected at the Annual Town Meeting, and one (1) Alternate who shall be appointed by the Board of Selectmen. All members and the alternate shall be registered voters of the Town.
B. No municipal officer or department head of the Town may be a Committee Member.
C. Committee Members shall serve for staggered terms of 3 year(s), except that they shall continue office until their successors are elected.
D. The Alternate shall serve for a term on one (1) year.
E. If a Committee Member is unable to serve until their successor is elected, vacancies shall be filled within 30 days by appointment of the municipal officers for the unexpired term.

ARTICLE IV: OFFICERS & ELECTIONS

4.1 Officers and duties

The officers of the Committee shall be: Chairperson, Vice-Chairperson, and Secretary.

4.2 Nomination Procedure, Time of Elections

A. The officers of the Committee shall be elected annually by the majority of voting members of the Committee at the first Committee meeting following the Annual Town Meeting.
B. Members of the Committee shall nominate members for each officer position, being proposed by one member and seconded by another.
4.3 Ballot Election, Term of Office
   A. If more than one member is nominated for the same position, voting will be held by secret ballot.
   B. The officers shall serve until such time as a new slate of officers is chosen as provided by this ordinance.

ARTICLE V: DUTIES OF OFFICERS

5.1 Duties of the Chairperson
   A. The Chairperson shall preside over all meetings of the Committee, and shall be responsible for the orderly functioning of the Committee and shall appoint such subcommittees as deemed necessary.
   B. The Chairperson shall execute and sign all official documentation on behalf of the Committee in accordance with the Town of Lebanon policies and/or guidelines and the Laws of the State of Maine.
   C. The Chairperson shall also perform such other duties applicable to the office as prescribed by the parliamentary authority adopted by the Committee.
   D. The Chairperson shall notify the membership of various meetings.

5.2 Duties of the Vice Chairperson
   A. The Vice-Chairperson shall preside over the meetings of the Committee in the absence of the Chairperson and shall perform the duties of the Chairperson in his/her absence, if authorized to do so by the Committee.
   B. In the event of death, removal or resignation of the Chairperson, the Vice-Chairperson shall assume the office of the Chairperson.

5.3 Duties of the Secretary
   A. The Secretary shall keep proper and accurate records of the Committee.
   B. The Secretary shall ensure posting of approved minutes to the Town website.
   C. The Secretary shall provide a copy of the approved minutes to the Town Clerk.
   D. The Secretary shall take proper minutes at each meeting, and perform such duties as are usually performed by the Secretary of such Committees.
   E. The Secretary shall attend to the correspondence on behalf of the Committee.

ARTICLE VI: POWERS AND DUTIES

A. The Committee shall act as an advisory committee by reviewing all Town Meeting articles which call for an appropriation or expenditure of money as proposed by the Municipal Officers.
B. Said review shall include a review of the current and prior year departmental expenditures.
C. The Committee shall perform other tasks, as appropriate, that directly relate to the budgeting process.

D. If the Budget Committee, by majority vote of members present, recommends a budget item amount that does not concur with the amount proposed by the Municipal Officers, then such line item shall be the subject of a reconciliation discussion between the Municipal Officers and Budget Committee.

1. The goal of the reconciliation discussion shall be to establish a line item amount acceptable to both the Municipal Officers and the Budget Committee.

2. The reconciliation discussion does not however, require either the Municipal Officers or the Budget Committee to modify or agree upon the respective original approved amounts for the line item.

3. If after the reconciliation discussion the final amount is different from the amount recommended by the municipal officers, the Budget committee shall record their reason(s) in their official minutes as kept by the Secretary.

4. In case of failure of concurrence, the budget committee may submit to the Annual Town Meeting its own recommendation for a departmental budget.

E. The Committee’s duties are limited to reviewing proposed appropriations as described above and do not include the review of the job performance or non-performance of Town employees and appointed personnel.

ARTICLE VII:  MEETINGS

7.1 Regular Meetings

A. The regular meetings of the Committee shall be established according to the decision of a quorum of the committee.

B. The first meeting of the fiscal year shall be for the purpose of electing officers.

7.2 Special Meetings

A. A meeting of the Committee may be held at any time upon the call of the Chairperson, or in his/her absence or inability to act, by the Vice-Chairperson, or upon request by the municipal officers.

B. Notice of special meetings shall be sent to the members of the Committee either in writing, by e-mail, or by telephone forty-eight (48) hours in advance of such meeting.

C. Said notice shall contain the time and place of meeting, and so far as possible the purpose(s) of the meeting.

D. Reasonable efforts shall be made to notify members of the public of special meetings.

7.3 Quorum

- A quorum will consist of six (6) members of the Budget Committee.
7.4 Agenda

The Committee shall adhere to the following agenda format:

1. Roll Call/Sign In
2. Reading and Approval of Minutes
3. Unfinished Business and General Orders
4. Reports by Officers, Boards, Committees
5. Reports by Special Committees
6. New Business
7. Adjourn

7.5 Freedom of Access Act

A. All meetings and records shall be subject to the Maine Freedom of Access Act, 1 M.R.S. §§ 401-410.
B. It is strongly recommended that each Committee Member conduct Town business using a separate email account specific to the function of the Committee.

ARTICLE VIII: AMENDMENTS

This ordinance may be amended at any Annual or Special Town Meeting by majority vote of the people.

ARTICLE IX: SEVERENCE

A. If any section, subsection, paragraph, sentence, clause or phrase of this ordinance shall be declared invalid for any reason whatsoever, such decision shall not affect the remaining portions thereof, which shall remain in full force and effect and to this end, the provisions of this ordinance are hereby declared to be severable.
B. This ordinance shall supersede any pre-existing bylaws, procedures or rules of the Committee and will be effective upon adoption.

Adopted this day 05/10/2016 by Town Meeting Vote

610 – Yes 323 – No

A True Copy Attest

Mandy Grenier – Town Clerk
I. Title
This ordinance shall be known and may be cited as the “Maine Uniform Building and Energy Code Administrative Ordinance” of the Town of Lebanon, Maine.

II. Purpose and Authority
The purpose of this Ordinance is to establish administrative and enforcement provisions in relation to the Maine Uniform Building and Energy Code (MUBEC). The Town has authority to enact building code provisions relating to local enforcement, per MRSA Title 10 § 9724(5).

III. Code Administration
In accordance with MRSA 25 § 2373, the MUBEC must be enforced in the Town of Lebanon beginning July 1, 2012. The Town is required to enforce the MUBEC through inspections that comply with the code. A copy of MUBEC is and shall remain on file with the Town Clerk and is available for public use, inspection and examination. Enforcement of the MUBEC will occur through inspections either by the Code Enforcement Officer or a Maine Certified Third-Party Inspector. Certified Third Party Inspectors will inspect structures not covered under the International Residential Code. The MUBEC shall be administered within the Town of Lebanon by the Code Enforcement Officer.

IV. Duties of Code Enforcement Officer
The Code Enforcement Officer's duties shall be as outlined in the MUBEC, and shall include but are not limited to:

A. Receive permit applications, examine construction documents and issue permits for the erection and alterations of buildings and structures.
B. For structures covered by the International Residential Code, the Code Enforcement Officer shall inspect premises for which permits are issued; make all required inspections, or accept certified reports of inspection by approved agencies and Certified Third-Party Inspectors.
C. For structures covered by the International Building Code, the Code Enforcement Officer shall receive certified reports from Certified Third-Party Inspectors as outlined below.
D. Enforce compliance with the provisions of the code and issue notices or orders to ensure compliance, including suspending or revoking permits.
E. Render interpretations of the MUBEC and policies and procedures to clarify the application of its provisions.
F. Keep official records, applications received, permits and certificates issued, fees collected, reports of inspections by the Code Enforcement Officer and Third-Party Inspectors, as well as notices and orders issued.
G. Impose any applicable fees and ensure proper payments have been made before or upon
issuance of any permits

H. Refer permits requiring subdivision, shoreland zoning or floodplain review to the Planning Board as required.
I. Investigate complaints and act on violations as outlined herein.
J. Issue Certificates of Occupancy as per 25 MRSA § 2357-A and the MUBEC.

V. Building Permits Required

The construction, alteration, repair, removal, demolition, occupancy and maintenance of all buildings and structures shall comply with the MUBEC. Building permits are required as per the MUBEC and shall become void upon completion of work for which the permit was issued or one (1) year from date of issue. An extension of the permit may be granted by the Code Enforcement Officer upon written request to the Code Enforcement Officer made prior to the expiration.

VI. Building Permit Application

Application for a building permit shall include the following:

A. Identify and describe the work to be covered by the permit for which application is made.
B. Describe the land on which the proposed work is to be done by legal description, street address or similar description that will readily identify and definitely locate the proposed building or work.
C. Indicate the use and occupancy for which the proposed work is intended.
D. Be accompanied by construction documents and other information as required by MUBEC.
E. State the estimated value of construction as well as square feet of the proposed work.
F. Be signed by the applicant or the applicant’s authorized agent.
G. Give such other data and information as required by the code enforcement officer.
H. For structures where a Certified Third-Party Inspector is anticipated to be used — Include certification of a contractual arrangement between a Certified Third-Party Inspector and the building owner
I. A copy of all required State of Maine Fire Marshal’s building permits.
J. Be accompanied by the required fee as set forth below.

VII. Permit Approval

The Code Enforcement Officer shall examine applications and shall within thirty (30) days either issue the requested permit or provide a written notice of refusal to the applicant stating the reasons therefore. All additional permits required for the proposed projects shall be obtained prior to issuance of the building permit.

VIII. Fees

Upon submission of an application, the applicant shall pay a non-refundable application fee of $25. No building permit shall be issued until all fees due have been paid. All fees required by this Ordinance are outlined as follows...
Residential (1 and 2 family dwellings)

A. Minimum Building Permit Fee $50.00
B. New Construction or addition that creates habitable floor area, other than attached or unattached accessory buildings and decks (see below), excluding unfinished non-daylight basements and uninhabitable attics): $.50 per square foot of total floor area
C. Renovations and repairs involving structural alterations: $3.30 per $1,000 value of construction
D. Accessory structures including decks, porches, garages, barns, and sheds: $.20 per square foot.

Non-Residential & Multi-family (3 or more units)

A. New Construction or additions, including decks, platforms, ramps and accessory buildings: $.75 per square foot
B. Renovations and/or repairs involving structural alterations and alterations requiring Code Office review: $5.50 per $1,000 value of construction

Other

A. Demolition of Building, flat rate: $25
B. Swimming pools: flat rate: $35 Above ground, $50 In-ground
C. Fees for starting construction without a permit shall be triple the permit fees or $100.00, whichever is greater.
D. Re-inspection fees of $25.00 shall be paid prior to the scheduling of an inspection appointment.
E. Permit Extensions: One half (½) the original permit fee, only good for one year. A total of two (2) extensions allowed.

IX. Inspections.

In accordance with the MUBEC, the Code Enforcement Officer or a Certified Third-Party Inspector, upon notification, shall make the required inspections and shall either indicate the portion of the construction that is satisfactory as completed, or shall notify the permit holder wherein the same fails to comply. Any portions that do not comply shall be corrected and such portion shall not be covered or concealed until authorized by the inspecting Code Enforcement Officer or Certified Third-Party Inspector. Work shall not be done beyond the point indicated in each inspection without first obtaining the approval of the Code Enforcement Officer or Certified Third-Party Inspector.

X. Certified Third-Party Inspectors (as defined in MRSA 25 § 2371).

For structures where a Certified Third-Party Inspector is utilized, certified reports from third-party inspectors, as outlined in 25 MRSA § 2373(4), shall be submitted to the Code Enforcement Officer prior to obtaining a certificate of occupancy as required in 25 MRSA § 2357-A. Such third-party inspections shall be obtained pursuant to independent contractual arrangements between the building owner and a third-party inspector.
XI. Permit Modifications.
After issuance, any modifications to a permit shall require a revised permit application and a revised permit prior to beginning work.

XII. Certificate of Occupancy.
No Building or structure that is the subject of a building permit or change of use of permit shall be used or occupied until the Code Enforcement Officer issues a Certificate of Occupancy per 25 MRSA § 2357-A and in accordance with the MUBEC. The Code Enforcement Officer shall also issue a Certificate of Occupancy based on receipt of a satisfactory inspection report by a certified third-party inspector.

XIII. Enforcement.
Enforcement and penalties shall be consistent with 30-A MRSA § 4452. It shall be unlawful to erect, construct, alter, extend, repair, move, remove, demolish or occupy any building, structure or equipment regulated by the MUBEC without a building permit, or cause the same to be done, in conflict with or in violation of any of the provisions of the MUBEC. If the Code Enforcement Officer finds that any of the provisions of this Ordinance are being violated, the Code Enforcement Officer shall serve a notice of violation on the person responsible for the violation. Such notice shall direct the discontinuance of the illegal action or condition and the abatement of the violation. The Code Enforcement Officer shall be responsible for initial efforts to enforce the provisions of this Ordinance as set forth in 30-A MRSA § 4452.

XIV. Penalties.
Any person, firm or corporation owning or having control of any building or premises or part thereof who violates any of the provisions of this Ordinance commits a civil violation and is subject to civil penalties under 30-A MRSA § 4452. Each day such violation or failure to comply is permitted to exist, after notification by the Code Enforcement Officer, shall constitute a separate violation. All fines shall be paid to the Town of Lebanon.

XV. Appeals.
In accordance with MRSA 25 § 2356 and MRSA 30-A § 4103(5) and the Board of Appeals Ordinance, an appeal may be taken in writing from any order or decision of the Code Enforcement Officer to the Board of Appeals. Fees for appeals shall be established by the Appeals Board Ordinance.

XVI. Savings Clause.
If any provision of this Ordinance is found by a court of competent jurisdiction to be invalid, this finding shall not affect the remainder of this Ordinance. All inconsistent ordinances previously adopted are hereby repealed.

Adopted this day June 12, 2018 by Town Meeting vote
Yes: 627 No: 338

A True Copy Attest
Dale Fisk - Town Clerk
Municipal Officers’ Certification of Official Text of a Proposed Ordinance

To the Town Clerk of the Town of Lebanon, Maine:

We hereby certify to you that the document to which we have affixed this certificate is a true copy of the official text of an ordinance entitled “Town of Lebanon, Maine Cable Television Ordinance”, which is to be presented to the voters for their consideration on November 7, 2017.

Pursuant to 30-A M.R.S.A. § 3002(2), you will retain this copy of the complete text of the ordinance as a public record and make other copies available for distribution to the voters, and you will ensure that copies are available at the town meeting/polling places on the day of the vote.

Dated: September 08, 2017

Richard Harlow, Chairman
Laura Bragg, Vice Chairman
Paul Nadeau, Sr. Selectman

Selectmen
Town of Lebanon, Maine
I. Establishment and Purpose
   A. An ordinance provided for Town regulation and use of the cable television system including its construction, operation and maintenance in, along, upon, across, over and under the streets, alleys, public ways and public places now laid out or dedicated, and all extensions thereof and additions thereto in the Town of Lebanon, including poles, wires, cables, underground conduits, manholes, conductors and fixtures necessary for a cable television system and to provide conditions accompanying the grant of franchise, and providing for the Town regulation of cable television system operation.

II. Definitions
   A. "Cable Television" means any system or facility that, in whole or in part, receives directly or indirectly, over the air, and amplifies or otherwise modifies signals transmitting programs broadcast by one or more television or radio stations, or originates its own signal or signals produced through any of its community access channels and distributes such signals by wire or cable to subscribing members of the public who pay for such services. The term does not include any such facility that serves fewer than fifty (50) subscribers or that serves only the residents of one or more apartment dwellings under common ownership, Control or management, and Commercial establishments located on the premises of the apartment dwellings.
   B. "Cable Television Company' or "Company' means any person, firm or Corporation owning, controlling, operating, managing or leasing a cable television system within the Town of Lebanon.
   C. 'Town' shall mean the Town of Lebanon organized and existing under the laws in the State of Maine and the area within its territorial limits.

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

IV. Franchise Contract
   A. The Municipal Offices of the Town may contract on such terms, conditions and fees as are in the best interest of the municipality and its residents with one or more Cable Television Companies for the operation of a cable television system within the Town, including the granting of a franchise or franchises for the operation thereof for a period not to exceed fifteen (15) years. Such a franchise or franchises may be exclusive or non-exclusive.
   B. Applicants for a franchise, including applicants for renewal of a franchise, shall pay a non-refundable filing fee to the Town as determined by the Board of Selectmen to defray the cost of public notices, advertising and other expenses relating to, or incurred by the Town in acting upon such applications. The application shall be filed with the Town Clerk and shall contain such information as the Town may require, including, but not limited to, a general
A description of the applicant's proposed operation, a schedule of proposed changes, a statement detailing its previous two fiscal years, an estimated fifteen year financial projection of its proposed system and its proposed annual town franchise fee or the basis for same, and a statement detailing the prior operational experience of the applicant in both cable television and Microwave service including that of its officers, management, and staff to be associated with the proposed operation. Franchise applications, including renewal applications and any submittals in response to a request for proposals or solicitation of bids, are public records. Upon the filing of such documents, the town shall provide reasonable notice to the public of the filing of such documents and indicating that such documents are open to public inspection during reasonable hours.

C. Said Franchise Contract may be revoked by the Municipal Officers for good and sufficient cause after due notice to the Company and a public hearing thereon, with the right to appeal to the York County Superior Court under Rule 80-B of the Maine Rules of Civil Procedure in accordance with due process.

V. Public Hearing
A. Before authorizing the issuance of any such franchise, including transfers of ownership or renewals, contract or contracts, the Municipal Officers shall review the applicant’s character, financial and technical qualifications and the adequacy and feasibility of its qualifications to operate a cable television system within the Town, and shall conduct a public hearing thereon with at least seven days advertised notice prior to said public hearing. Such public hearing shall provide a reasonable opportunity for public input on the proposed franchise agreement or transfer.

VI. Performance Bond & Insurance Coverage
A. Upon the execution of any such franchise contract the Cable Television Company shall file a Surety Company performance bond in the amount and in such form as is acceptable to the Town. The Town, in making this determination, may rely upon the advice of the Municipal Officers, Town Attorney and/or other appropriate Town Officials. The amount of said bond shall not be less than the estimated cost of performing any work specified in the franchise agreement and may include the cost of dismantling the cable television system. Said bond shall be conditioned upon the faithful performance of said contract and full compliance with any laws, Ordinances, or regulations governing said franchise.

B. When the Cable Television Company has completed construction of the system as set forth in the franchise agreement and provided that the Cable Television Company is otherwise in compliance with the terms of the franchise agreement, the Municipal Officers may permit the Company to reduce said bond to an amount sufficient to cover the cost of dismantling the System.

C. The Cable Television Company shall also, upon execution of any such franchise contract, provide evidence of such public liability, copyright infringement and other insurance coverage as the Municipal Officers may require.

D. The Board of Selectmen may opt to allow for a Corporate Guarantee in lieu of a Performance Bond and appropriately condition the Corporate Guarantee.

VII. Franchise Contract Contents
Each franchise contract between the Town and any Cable Television Company shall contain, but is not limited to, the following provisions:
1. A statement of the area or areas to be served by the Cable Television Company,
2. A line extension policy,
3. A provision for renewal, the term of which may not exceed fifteen (15) years,
4. Procedure for the investigation and resolution of complaints by the Cable Television Company,
5. An agreement to comply with the requirements of 30-A MRSA, Subsection 3010 regarding Consumer rights and protection and any amendments thereto,
6. Any other terms and conditions that are in the best interest of the Towns; and
7. Provisions for access to, and facilities to make use of, one or more local public educational and governmental access channels subject to the definitions and requirements of the Cable Communications Policy Act of 1984, Public Law 98-549 and any amendments thereto.

VIII. Rules, Regulations and Procedures
The Municipal Officers of the Town of Lebanon shall:
A. Adopt such rules and regulations as it may deem necessary for monitoring the operation of a cable television system,
B. Make recommendations to the Cable Television Company concerning educational and local interest programming,
C. All such ordinances, regulations, rules and orders of the Municipal Officers shall not be in conflict with those that have been or may be adopted by the Federal Communications Commission for the operation of such systems, except that unless expressly preempted, such ordinances, regulations, rules and orders may be more detailed, more strict or more restrictive than applicable FCC regulations.
D. Enforce the requirements of any franchise agreement with a Cable Television Company and enforce the provisions of any local Ordinances, regulations, rules and orders, including the provisions of this Ordinance. As part of such enforcement authority, the Municipal Officers have the authority to bring legal action for damages, penalties and for declaratory and injunctive relief. The Town shall be entitled to recover its costs, including reasonable attorney's fees, incurred in the enforcement of this Ordinance, the provisions of a franchise agreement, or any local rules or regulations adopted pursuant to the Ordinance.

IX. Compliance With All Laws
A. Cable Television Companies shall at all times comply with all applicable federal, State and local laws, statutes, rules, regulations, ordinances, codes, and orders.

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

Disbursement Warrant Ordinance

A. Purpose
The purpose of this ordinance is to provide an alternative to the statutory procedure for approval of warrants authorizing the treasurer to disburse money.

B. Authority
This ordinance is enacted pursuant to 30-A M.R.S.A. § 3001 and 5603 (2)(A).

C. Procedure for Approval
The treasurer may disburse money only on the authority of a warrant drawn for the purpose, either by

1. Affirmatively voted on and signed by a majority of the municipal officers at a duly called public meeting
2. Seen and signed by a majority of the municipal officers acting individually and separately, or
3. Signed as otherwise provided by law for the disbursement of employee’s wages and benefits and payment of municipal education costs.

D. Effective Date:
This ordinance shall become effective upon enactment.

Adopted by the Town of Lebanon voters on November 6, 2018
by a vote of YES: 1163 NO: 938

A True Attest Copy
Marybeth Fardon, Lebanon Town Clerk
DOG ORDINANCE
DOGS RUNNING OR ROAMING AT LARGE/ UNLICENSED DOGS
TOWN OF LEBANON, MAINE

Section A. Owners of Dogs that have been caught running or roaming at large will be subject to a Twenty-Five Dollar ($25.00) fine. This fine must be paid at the Lebanon Police Department before the dog can be reclaimed.

Section B. Owners of the unlicensed dog(s) that have been caught running or roaming at large must license the dog(s) at the Town Clerk's Office and will still be subject to the Twenty-Five Dollar ($25.00) fine for dogs running and roaming at large. The dog must be licensed and the fine must be paid before the dog can be reclaimed.


Amendment:
To Amend the Town's Animal Ordinance to provide a minimum fine of $50.00 for all-first offenses, and a minimum fine of $100.00 for any second offense and to allow the Town to recover from the violator the costs of prosecuting the offenses, including Attorney's Fees.

The Amendment to This Ordinance adopted by Referendum Vote on June 19, 1992.
Yes 580   No 550.
DRUG PARAPHERNALIA ORDINANCE
Town of Lebanon

1. Definitions

a. The term drug paraphernalia means all equipment, products and materials of any kind which are used, intended for use, or designed for use, in planting, propagating, cultivating, growing, harvesting, manufacturing, compounding, converting, producing, processing, preparing, testing, analyzing, packaging, repackaging, storing, containing, concealing, injecting, ingesting, inhaling, or otherwise introducing into the human body a controlled substance in violation of Maine Statutes Annotated, Title 17-A, Section 1101 et seq. It includes but is not limited to:

(1) Kits used, intended for use, or designed for use in planting, propagating, cultivating, growing, or harvesting of any species of plant which is a controlled substance or from which a controlled substance can be derived
(2) Kits used, intended for use, or designed for use in manufacturing, compounding, converting, producing, processing, or preparing controlled substances;
(3) Isomerization devices used, intended for use, or designed for use in increasing the potency of any species of plant which is a controlled substance.
(4) Testing equipment used, intended for use, or designed for use in identifying or in analyzing the strength, effectiveness or purity of controlled substances.
(5) Scales and balances used, intended for use, or designed for use in weighing or measuring controlled substances;
(6) Diluents and adulterants, such as quinine, hydrochloride, mannitol, mannite, dextrose and lactose, used, intended for use, or designed for use in cutting controlled substances;
(7) Separation gins and sifters used, intended for use, or designed for use in removing twigs and seeds from, or in otherwise cleaning or refining marihuana;
(8) Blenders, bowls, containers, spoons and mixing devices used, intended for use, or designed for use in compounding controlled substances;
(9) Capsules, balloons, envelopes and other containers used, intended for use, or designed for use in packaging small quantities of controlled substances;
(10) Containers and other objects used, intended for use, or designed for use in storing or concealing controlled substances;
(11) Hypodermic syringes, needles and other objects used, intended for use, or designed for use in parenterally injected controlled substances into the human body.
(12) Objects used, intended for use, or designed for use in ingesting, inhaling, or otherwise introducing marihuana, cocaine, hashish or hashish oil into the human body such as:

(a) Metal, wooden, acrylic, glass, stone, plastic or ceramic pipes with or without screens, permanent screens, hashish heads, or punctured metal bowls;
(b) water pipes;
(c) Carburetion tubes and devices;
(d) Smoking and carburetion masks;
[e] Roach clips: meaning objects used to hold burning materials such as a marihuana cigarette, that has become too small or too short to be held in the hand;
[f] Miniature cocaine spoons and cocaine vials;
[g] Chamber pipes;
[h] Carburetor pipes;
[i] Electric pipes;
[j] Air-driven pipes;
[k] Chillums;
[l] Bongs;
[m] Ice pipes or chillers;

b. In determining whether an object is drug paraphernalia, a court or other authority should consider, in addition to all other logically relevant factors, the following:
(1) Statements by an owner or by anyone in control of the object concerning its use;
(2) Prior convictions, if any, of an owner or of anyone in control of the object under any State or Federal law relating to any controlled substances;
(3) The proximity of the object, in time and space, to a direct violation of 17-A MR.S.A. 1101 et seq.
(4) The proximity of the object to controlled substances;
(5) The existence of any residue of controlled substances on the object;
(6) Direct or circumstantial evidence of the intent of the owner, or of anyone in control of the object, to deliver it to persons who he knows, or should reasonably know, intend to use the object to facilitate a violation of 17-A MR.S.A. 1101 et seq. the innocence of an owner, or of anyone in control of the objects as to a direct violation of 17-A MR.S.A. 1101 ct seq. should not prevent a finding that the object is intended for use, or designed for use as drug paraphernalia;
(7) Instructions, oral or written, provided with the object concerning its use;
(8) Descriptive materials accompanying the object which explain or depict its use;
(9) National and local advertising concerning its use;
(10) The manner in which the object is displayed for sale;
(11) Direct or circumstantial evidence of the ratio of sales of the object(s) to the total sale's of the business enterprise;
(12) The existence and scope of legitimate uses for the object in the community;
(13) Expert testimony concerning its use.

II. Offenses and Penalties

a. Possession of Drug Paraphernalia.
It is unlawful for any person to use, or to possess with intent to use, drug paraphernalia to plant, propagate, cultivate, grow, harvest, manufacture, compound, convert, produce, process, prepare, test, analyze, pack, repack, store, contain, conceal, inject, ingest, inhale, or otherwise introduce into the human body a controlled substances in violation of 17-A MR.S.A. 1101 et seq. Any person violating this section shall be guilty of a violation and shall be subject to a fine of
$100.00 dollars, no portion of which may be suspended (shall be guilty of a crime and upon conviction may be imprisoned for not more than ____ and fined not more than ______).

b. Manufacture or Delivery of Drug Paraphernalia.
It is unlawful for any person to deliver, possess, with intent to deliver, or manufacture with intent to deliver, drug paraphernalia, knowing, or under circumstances where one reasonably should know, that it will be used to plant, propagate, cultivate, grow, harvest, manufacture, compound, convert, produce, process, prepare, test, analyze, pack, repack, store, contain, conceal, inject, ingest, inhale, or otherwise introduce into the human body a controlled substance in violation of 17-A M.R.S.A. Any person violating this section shall be guilty of violation and shall be subject to a fine of $100.00 dollars, no portion of which may be suspended (shall be guilty of a crime and upon conviction may be imprisoned for not more than _______ and fined not more than _______).

c. Delivery of Drug Paraphernalia to a Minor.
Any person 18 years of age or over who violates Section b. by delivering drug paraphernalia to a person under 18 years of age who is at least 3 years his junior shall be guilty of a special violation and shall be subject to a fine of $100.00 dollars, no portion of which may be suspended (shall be guilty of a crime and upon conviction may be imprisoned for not more than ________ and fined not more than ________).

d. Advertisement of Drug Paraphernalia.
It is unlawful for any person to place in any newspaper, magazine, handbill) or other publication any advertisement, knowing, or under circumstances where one reasonably should know, that the purpose of the advertisement, in whole or in part, is to promote the sale of objects designed or intended for use as drug paraphernalia. Any person violating this section shall be guilty of a violation and shall be subject to a fine of $100.00 dollars, no portion of which may be suspended (shall be guilty of a crime and upon conviction may be imprisoned for not more than ________ and fined not more than ________).

III. Severability.
If any provision of this Ordinance or the application thereof to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of the Ordinance which can be given effect without the invalid provision or application, and to this end the provisions of this Ordinance are severable."

IV. Takes Effect:
This ordinance shall take effect upon enactment.

Adopted March 14, 1981
A True Copy Attest:
Lorraine Patch
Town Clerk, Lebanon, Maine
EMERGENCY MANAGEMENT ORDINANCE
Town of Lebanon, Maine

The Town of Lebanon, Maine, ordains:

Article 1-EMERGENCY MANAGEMENT AGENCY

Section 1. Short Title
This ordinance shall be known and be cited and referred to as 'EMERGENCY MANAGEMENT ORDINANCE OF THE TOWN OF LEBANON'. Authorized under Title 37-B, Chapter 13, Sub Chapter III of MRSA as amended in 1985.

Section 2. Intent and Purpose
A. It is the intent and purpose of this Ordinance to establish an office that will insure the complete and efficient utilization of all of the Town's facilities and resources to combat disaster resulting from enemy actions or other man-made or natural disasters as defined herein.
B. The Lebanon Emergency Management Agency will be the coordinating agency for activity in connection with Emergency Management.
C. This Ordinance will not relieve any Town Department of the moral responsibilities or authority given to it in the Town Charter or by local Ordinance, nor will it adversely affect the work of any volunteer agency organized for relief in disaster emergencies.

Section 3. Definitions
The following definitions shall apply in the interpretation of this article:

A. Emergency Management in its broad meaning is to carry out the basic government functions of maintaining the public peace, health and safety during an emergency. This shall include the plans and preparations for protection from, and relief, recovery and rehabilitation from the effects of an attack on the Town by an enemy nation or the agents thereof, and it shall also include such activity in connection with disaster as defined herein. It shall not, however, include any activity that is the primary responsibility of the military forces of the United States.
B. Attack shall mean a direct or indirect assault against the Town of Lebanon, its government, its environs, or of the nation, by the forces of a hostile nation or the agents thereof, including assault by bombing, radiological, chemical or biological warfare, or sabotage.
C. Disaster includes but is not limited to actual or threatened enemy attack sabotage, extraordinary fire, flood storm, or other impending or actual calamity endangering or threatening to endanger health, life or property or constituted government.
D. Emergency Management Forces shall mean the employees, equipment and facilities of all town departments, boards, institutions and commissions; and, in addition, it shall include all volunteer personnel, equipment and facilities contributed by, or obtained from, volunteer persons or agencies.
E. Emergency Volunteer shall mean any person duly registered, identified and appointed by the Director of the Emergency Management Agency and assigned to participate in the Emergency activity.
F. Director will mean the Coordinator of the Lebanon Emergency Management Agency, appointed as prescribed in the Ordinance.
G. Regulations shall include plans, programs and other emergency procedures deemed essential to Emergency Management.
Section 4 - Organization and Appointments

A. The Selectmen are hereby authorized and directed to create an organization for Emergency Management utilizing to the fullest extent the existing agencies within this town.

B. The organization shall consist of the following:
   1. The Emergency Management Agency within the executive department of the Town government and under the direction of the Selectmen. There shall be an executive head of the Emergency Management Agency, who shall be known as the Director of the Emergency Management Agency, and such other assistants and other employees as are deemed necessary for the proper functioning of the organization.
   2. The employee’s equipment and facilities of all town departments, boards, institutions and commissions, shall participate in the Emergency Management Activity. Duties assigned to a Town Department shall be the same or similar to the normal duties of the department.
   3. Volunteer persons and agencies offering service to, and accepted by, the Town.

C. The Selectmen shall appoint a Director of the Lebanon Emergency Management Agency who shall be a person well versed and trained in planning operations involving activities of many different agencies which will operate to protect the public health, safety, and welfare in the event of danger from enemy action, or any natural or man-made disaster as defined in this ordinance.

Section 5 Emergency Powers and Duties

A. During any period when disaster threatens or when the Town has been struck by disaster, within the definition of this ordinance, the Selectmen may promulgate such regulations as they deem necessary to protect life and property and preserve critical resources. Such regulations may include, but not be limits to, the following:
   1. Regulations prohibiting or restricting the movement of vehicles in order to facilitate the work of Emergency Management forces, or to facilitate the mass movement of persons from critical areas from within or without the Town.
   2. Regulations pertaining to the movement of persons from areas deemed hazardous or vulnerable to disaster.
   3. Such other regulations necessary to preserve public peace, health and safety.
   4. Regulations promulgated in accordance with the authority above will be given widespread circulation by proclamations published and uttered by newspaper and radio. These regulations will have the force of Ordinance when duly filed with the Town Clerk and violations will be subject to the penalties provided in the Town Charter, and/or this ordinance.

B. The Emergency Management Director may obtain vital supplies, equipment and other properties found lacking and needed for the protection of health, life, and property of the people, and bind the Town for fair value thereof.

C. The Selectmen may require emergency services of any Town Officer or employee. If regular Town forces are determined inadequate, the Director may require the services of such other personnel as he can obtain that are available, including citizen volunteers. All duly authorized persons rendering emergency services shall be entitled to the privileges and immunities as are provided by state law, the Town Charter and Ordinances for regular town employees and other registered and identified Emergency Management Agency and disaster workers and, upon demand, may receive appropriate compensation for their emergency employment.

D. The Director will cause to be prepared the Emergency Operations Plan herein referred to and exercise his ordinary powers as the Director, all of the special powers conferred upon him by the Town Charter, and the
Ordinances of the Town of Lebanon, all powers conferred upon him by any statute, or any other lawful authority.

Section 6 Director of Emergency Management

A. The director of the Emergency Management Agency shall be responsible to the Selectman in regards to all phases of the Emergency Management Activity. Under the supervision of the Selectmen, he shall be responsible for the planning, coordination and operation of the Emergency Management activity in the Town. Under the supervision of the Selectmen he shall maintain liaison with the County, State and Federal authorities and the authorities of other nearby political sub-divisions as to insure the most effective operation of the Emergency Management Plan. His duties shall be included, but not be limited to the following:

1. Coordinating the recruitment of volunteer personnel and agencies to augment the personnel and facilities of the Town for Emergency Management Purposes.
2. Development of plans for the immediate use of all the facilities, equipment, manpower and other resources of the Town for the purposes of minimizing or preventing damage to persons and property; and protecting and storing to usefulness governmental services and public utilities necessary for public health, safety, and welfare.
3. Negotiating and concluding agreements with owners or persons in control of buildings or other property for Emergency Management purposes and designating suitable buildings as public shelters.
4. Through public informational programs, educating the civilian population as to actions necessary and required for the protection of their person's and property in case of enemy attack, or disaster, as defined herein, either impending or present.
5. Conducting public practice alerts to insure the efficient operation of the Emergency Management forces and to familiarize residents with Emergency Management regulations, procedures and operations.
6. Coordinating the activity of all other public and private agencies engaged in any Emergency Management activity.
7. Assuming such authority and conducting such activity as the Selectmen may direct to promote and execute the Emergency Operations Plan.

Section 7 Emergency management and Basic Disaster Plan

A. A comprehensive Emergency Operations Plan shall be adopted and maintained. In the preparation of this Plan, as it pertains to Town organization, it is the services, equipment facilities and personnel of all existing departments and agencies that shall be utilized to the fullest extent. When approved, it shall be the duty of all municipal departments and agencies to perform the functions assigned by the plan and to maintain their portion of the plan in a current state of readiness at all times. The plan shall be considered supplementary to this ordinance and shall have the effect of law whenever a disaster, as defined by this ordinance, has been proclaimed.

B. The Director shall prescribe in the Emergency Operations Plan those positions within the disaster organization, in addition to his own, for which line of succession are necessary. In each instance, the responsible person will designate and keep on file with the Director a current list of three (3) persons as successors to his position. The list will be in order of succession and will as nearly as possible, designate persons best capable of caring out all assigned duties and functions.

C. Each service chief and department head assigned responsibility in the plan shall be responsible for carrying out all duties and functions assigned therein. Duties shall include the organization and training of assigned Town employees and volunteers. Each Chief shall formulate the operational plan for his service which, when approved, shall be an annex to and a part of the basic plan.
D. Amendment to the plan shall be submitted to the Selectmen. Such amendments shall take effect thirty (30) days from the date of approval unless action is taken by the Selectmen disapproving the submission. In the event an amendment is pending at the time a disaster is proclaimed under provisions of this Ordinance, the amendment will be considered approved immediately and will remain effective unless specifically revoked by the selectmen.

Section 8 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 willingly obstruct, hinder or delay any member of the Emergency Management Agency as herein defined in the enforcement of the provisions of this ordinance or any regulation or plan issued thereunder.

Section 9 Penalty
Any person, firm or corporation violating any provision of this Ordinance or any rule or regulation promulgated thereunder, upon conviction thereof, shall be punished by a fine of not more than five hundred dollars ($500) and costs of prosecution, or imprisonment in the York County Jail for a period of not more than ninety (90) days, or both such fine and imprisonment, in the discretion of the court.

Section 10 Severability
Should any provision of this ordinance be declared invalid for any reason, such declaration shall not affect the validity of other provisions, or of this Ordinance, as a whole, it being the legislative intent that the provisions of this Ordinance shall be severable and remain valid notwithstanding such declaration.

Section 11 Conflicting Ordinances, Orders, Rules and Regulations Suspended
At all times when the orders, rules and regulations made and promulgated pursuant to this Article shall be in effect, they shall supersede all existing ordinances, rules and regulations insofar as the latter may be inconsistent therewith.

Section 12, Effective Date
This ordinance shall take effect thirty (30) days after passage by the Town

This Ordinance adopted by Town Meeting vote on June 20, 1992.
Events and Outdoor Festivals Ordinance
Town of Lebanon

Section 1. Purpose and Authority

The Board of Selectmen of the Town of Lebanon is concerned about serious public health and safety problems that may result when crowds assemble for any organized event. These matters include waste disposal, potable water, first aid, obstruction and damage to road and highway, violation of alcohol and controlled substance laws, and destruction of both public and private property. Therefore, the following ordinance is hereby adopted in the interest of promoting the general welfare, public health, and providing for public safety. This Ordinance is adopted pursuant to the "Home Rule" powers under The Maine Constitution and 30-A M.R.S.A. Sec. 3001.

Section 2. License Required

A) No person shall exhibit, sponsor, hold, promote or operate any pageant, amusement show or theatrical performance, including any festival or exhibition, which in excess of 250 (two hundred and fifty) [but less than 500 (five hundred) for 5 (five) hours] people are expected to attend and where a substantial portion of the entertainers or persons attending will be out of doors, without first receiving from the Municipal Officers a license prior to the event.

B) If such a pageant, amusement show or theatrical performance, including any festival or exhibition, which in excess of 250 (two hundred and fifty) [but less than 500 (five hundred) for 5 (five) hours] people are expected to attend and where a substantial portion of the entertainers or persons attending will be out of doors, is held; an application must be submitted to Code Enforcement 30 (thirty) days before the event. It is suggested that the application and instructions be picked up from Code Enforcement at least 45 days before the event to ensure the complete application is returned no later than 30 days before the event. Said application shall include a fee as outline in the Schedule of License, Permit and Application fees established annually by the Board of Selectmen, which shall not exceed the Town’s reasonable costs of administering and enforcing this ordinance.
Section 3. Required Facilities

The applicant shall satisfy to 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. The applicant shall be subject to inspection by the Code Enforcement Officer, Municipal Officers, and/or the Fire and Rescue Chief, to ensure the requirements herein are adhered to.

a) Evidence must be provided in writing from the operator concerning the source(s) of potable water. Where water is distributed under pressure and flush toilets are used, the water system shall deliver water at normal operating pressure (20 pounds per square inch minimum to all fixtures at the rate of at least 30 gallons per person per day). Where water under pressure is not available, and nonwater toilets are used, at least 1 and \( \frac{1}{2} \) gallons of water per person per day shall be available for drinking and lavatory purposes.

b) Toilet facilities shall be available to guests of the event at a rate of at least two facilities for every reasonably expected 250 persons to attend. At least one of these facilities shall be accessible. After the first two facilities, one additional facility shall be available for each reasonable expected 150 persons. Such facilities shall conform to the Maine State Plumbing Code. At each toilet facility, there shall be hand washing facilities, which may utilize stored water with adequate provision for disposal of wastewater and with soap dispensers available. Hand sanitizing may be available in place of hand washing facilities.

c) Adequate containers with suitable plastic bags shall be spaced in the area to take care of solid waste, with at least one container for each reasonably anticipated 50 persons. Within 24 hours after the close of the event, such waste material shall be removed from the area and disposed of according to Section 4 -C.

d) A first-aid facility staffed with a person authorized to administer aide in Maine, or at least one ambulance from a private company authorized to do business in Maine, shall be provided on the grounds. Such Facility shall be accessible as defined in the Americans with Disabilities Act and shall be clearly labeled.

e) Off-street parking facilities shall be furnished, with at least one vehicle space with adequate access-ways for each four (4) persons reasonably expected to attend. A parking attendant shall be provided to direct traffic to and from public ways, with at least two attendants for each reasonably expected 250 persons.

f) The applicant shall furnish with the application a plan showing the size and location of the toilet and washing/sanitizing facilities, waste containers, first-aid facility and off-the-street parking.
Section 4. Bond, Proof of Authority to use property, Proof of Neighbor Notification, Waste Removal

a) The applicant shall furnish with the application a corporate surety bond or liability insurance 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 property in the area arising out of or in connection with the event will be promptly paid. The Municipal Officers and/or Code Enforcement shall determine if the amount of liability coverage and/or surety bond presented is sufficient to cover costs that may be incurred on a case by case basis. It is suggested to speak with the Municipal Officers and/or Code Enforcement before obtaining such coverage to ensure that it is sufficient upon receipt of the Application which shall be no later than 30 days before the event.

b) The applicant shall file with the application adequate proof that he/she has authority from any landowner to use the property and shall furnish proof that the provided neighbor notification form has been sent to any property abutters in the form of certified mail, return receipt requested.

c) The applicant shall file with the application the name of the company whom will be responsible for cleaning up solid waste. No such company, nor the event holder or its officers, shall utilize the Transfer Station in Town as a means of disposing the waste created during such private event at the expense of the taxpayers. If such waste is disposed of at the Town Transfer Station a reasonable cost will be charged at the time of disposal.

Section 5. Noise Constraints

No person shall make, continue or cause to be made or continued any loud, boisterous, unnecessary or unusual noises which shall annoy, disturb, injure or endanger the comfort, repose, health, peace or safety of others in connection with such event.

a) The sound of the event should not carry unreasonably beyond the boundaries of the gathering areas.

b) The noise level at the perimeters of the area should not exceed 70 decibels on the A scale of a sound level meter meeting specifications on the American National Standards Institute, unless the gathering area is remotely located and surrounding adjacent properties are uninhabited.

c) If the Selectmen feel that the above decibel is excessive due to neighbor complaints or proximity The Selectmen have the authority to determine a reasonable noise level.

d) The Selectmen shall determine a time for such noise to cease or lower. This constraint shall be noted on the permit for such event.
Section 6. Waiver

a) The Board of Selectmen of the Town of Lebanon understands that extenuating circumstances may prevent an applicant from submitting an application by the thirty (30) day deadline. A waiver form may be submitted to the Municipal Officers with the Application if it is submitted later than thirty (30) days before the event, and the Municipal Officers shall determine on a case by case basis if such waiver shall be granted based on the circumstances presented. Furthermore, the Municipal Officers have the Authority to waive any or all of the provisions of this Ordinance as they see necessary for extenuating circumstances only, with the exception that an application must be submitted in all cases. Submission of a waiver form to the Municipal Officers does not guarantee a waiver will be granted. A waiver form shall not be used to circumvent any provision of this Ordinance. Any waiver form used solely to circumvent any provision of this Ordinance shall not be granted and no permit shall be issued and the applicant may be subject to a penalty as outlined in Section 7.

b) The Town of Lebanon shall be exempt only from provisions outlined in Section 2.b requiring a fee and Section 4.c referring to transfer station use. This only exempts Town events from paying the fee and gives the town the ability to use the transfer station. Any and all Town Events will be subject to all other provisions of this Ordinance.

Section 7. Violations and Penalties

Any person directly or indirectly exhibiting, promoting, sponsoring, operating or holding such event as owner, lessor, lessee, landlord, tenant, operator or entertainer and not complying with any provision of this Ordinance shall be liable to a civil penalty of $500 per day for each infraction and shall be personally responsible for damages to public or private property arising out of or in connection therewith and shall be subject to any civil or injunctive relief that may be reasonable and proper.

THIS ORDINANCE WAS ADOPTED BY TOWN MEETING VOTE ON NOVEMBER 3RD 2015

MANDY GRENIER - TOWN CLERK
# FLOODPLAIN MANAGEMENT ORDINANCE

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60.3 (d) Rev. 6/00
ARTICLE I - PURPOSE AND ESTABLISHMENT

Certain areas of the Town of Lebanon, 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 Lebanon, 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 Lebanon, 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 Lebanon 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 and 4401-4407.

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

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

ARTICLE II - PERMIT REQUIRED

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

ARTICLE III - APPLICATION FOR PERMIT

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

A. The name, address and phone number of the applicant, owner, and contractor;

B. An address and a map indicating the location of the construction site;
C. A site plan showing location of existing and/or proposed development, including but not limited to structures, sewage disposal facilities, water supply facilities, areas to be cut and filled, and lot dimensions;

D. A statement of the intended use of the structure and/or development;

E. A statement of the cost of the development including all materials and labor;

F. A statement as to the type of sewage system proposed;

G. Specification of dimensions of the proposed structure and/or development;

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

H. The elevation in relation to the National Geodetic Vertical Datum (NGVD), or to a locally established datum in Zone A only, of the:

1. base flood at the proposed site of all new or substantially improved structures, which is determined:
   a. in Zone AE, from data contained in the "Flood Insurance Study - Town of Lebanon, Maine," as described in Article I; or,
   b. in Zone A:
      (1) from any base flood elevation data from federal, state, or other technical sources (such as FEMA's Quick-2 model, FEMA 265/July 1995), including information obtained pursuant to Article VI.K. and VIII.D.;
      (2) from the contour elevation extrapolated from a best fit analysis of the floodplain boundary when overlaid onto a USGS Quadrangle Map or other topographic map prepared by a Professional Land Surveyor or registered professional engineer, if the floodplain boundary has a significant correlation to the elevation contour line(s); or, in the absence of all other data,
      (3) to be the elevation of the ground at the intersection of the floodplain boundary and a line perpendicular to the shoreline which passes along the ground through the site of the proposed building.

2. highest and lowest grades at the site adjacent to the walls of the proposed building;

3. lowest floor, including basement; and whether or not such structures contain a basement; and,
4. level, in the case of non-residential structures only, to which the structure will be floodproofed;

I. A description of an elevation reference point established on the site of all developments for which elevation standards apply as required in Article VI;

J. A written certification by a Professional Land Surveyor, registered professional engineer or architect, that the base flood elevation and grade elevations shown on the application are accurate;

K. The following certifications as required in Article VI by a registered professional engineer or architect:
   1. a Floodproofing Certificate (FEMA Form 81-65, 08/99, as amended), to verify that the floodproofing methods for any non-residential structures will meet the floodproofing criteria of Article III.H.4.; Article VI.G.; and other applicable standards in Article VI;
   2. a Hydraulic Openings Certificate to verify that engineered hydraulic openings in foundation walls will meet the standards of Article VI.L.2.a.;
   3. a certified statement that bridges will meet the standards of Article VI.M.;
   4. a certified statement that containment walls will meet the standards of Article VI.N.;

L. A description of the extent to which any water course will be altered or relocated as a result of the proposed development; and,

M. A statement of construction plans describing in detail how each applicable development standard in Article VI will be met.

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

A non-refundable application fee of $25.00 shall be paid to the Town Clerk and a copy of a receipt for the same shall accompany the application.

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

The Code Enforcement Officer shall:

A. Review all applications for the Flood Hazard Development Permit to assure that proposed developments are reasonably safe from flooding and to determine that all pertinent requirements of Article VI (Development Standards) have been, or will be met;

B. Utilize, in the review of all Flood Hazard Development Permit applications:

1. the base flood data contained in the "Flood Insurance Study - Town of Lebanon, Maine," as described in Article I;

2. in special flood hazard areas where base flood elevation data are not provided, the Code Enforcement Officer shall obtain, review and reasonably utilize any base flood elevation and floodway data from federal, state, or other technical sources, including information obtained pursuant to Article III.H.1.b.; Article VI.K.; and Article VIII.D., in order to administer Article VI of this Ordinance; and,

3. when the community establishes a base flood elevation in a Zone A by methods outlined in Article III.H.1.b., the community shall submit that data to the Maine Floodplain Management Program in the State Planning Office.

C. Make interpretations of the location of boundaries of special flood hazard areas shown on the maps described in Article I of this Ordinance;

D. In the review of Flood Hazard Development Permit applications, determine that all necessary permits have been obtained from those federal, state, and local government agencies from which prior approval is required by federal or state law, including but not limited to Section 404 of the Federal Water Pollution Control Act Amendments of 1972, 33 U.S.C. 1334;

E. Notify adjacent municipalities, the Department of Environmental Protection, and the Maine Floodplain Management Program in the State Planning Office prior to any alteration or relocation of a water course and submit copies of such notifications to the Federal Emergency Management Agency;

F. If the application satisfies the requirements of this Ordinance, approve the issuance of one of the following Flood Hazard Development Permits based on the type of development:

1. A two part Flood Hazard Development Permit for elevated structures. Part I shall authorize the applicant to build a structure to and including the first horizontal floor only above the base flood level. At that time the applicant shall provide the Code Enforcement Officer with a second Elevation Certificate completed by a Professional Land Surveyor, registered professional engineer or architect based on the Part I permit construction, "as built", for verifying compliance with the elevation requirements of Article VI, paragraphs F, G, or H. Following review of the Elevation Certificate data, which shall take place within 72 hours of receipt of
the application, the Code Enforcement Officer shall issue Part II of the Flood Hazard Development Permit. Part II shall authorize the applicant to complete the construction project; or,

2. A Flood Hazard Development Permit for Floodproofing of Non-Residential Structures that are new construction or substantially improved non-residential structures that are not being elevated but that meet the floodproofing standards of Article VI.G.1.a., b., and c. The application for this permit shall include a Floodproofing Certificate signed by a registered professional engineer or architect; or,

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

G. Maintain, as a permanent record, copies of all Flood Hazard Development Permit Applications, corresponding Permits issued, and data relevant thereto, including reports of the Board of Appeals on variances granted under the provisions of Article IX of this Ordinance, and copies of Elevation Certificates, Floodproofing Certificates, Certificates of Compliance and certifications of design standards required under the provisions of Articles III, VI, and VII of this Ordinance.

ARTICLE VI - DEVELOPMENT STANDARDS

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

A. All Development - All development shall:

1. be designed or modified and adequately anchored to prevent flotation (excluding piers and docks), collapse or lateral movement of the development resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy;

2. use construction materials that are resistant to flood damage;

3. use construction methods and practices that will minimize flood damage; and,

4. use electrical, heating, ventilation, plumbing, and air conditioning equipment, and other service facilities that are designed and/or located so as to prevent water from entering or accumulating within the components during flooding conditions.

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

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

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

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

1. Zone 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 VIII.D.

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 VIII.D., or
   a. together with attendant utility and sanitary facilities meet the floodproofing standards of Article VI.G.1.
H. Manufactured Homes - New or substantially improved manufactured homes located within:

1. Zone 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 VIII.D.; and
   b. meet the anchoring requirements of Article VI.H.1.c.

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.

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

1. be 500 square feet or less and have a value less than $3000;

2. have unfinished interiors and not be used for human habitation;

3. have hydraulic openings, as specified in Article VI.L.2., in at least two different walls of the accessory structure;

4. be located outside the floodway;

5. when possible be constructed and placed on the building site so as to offer the minimum resistance to the flow of floodwaters and be placed further from the source of flooding than is the primary structure; and,

6. have only ground fault interrupt electrical outlets. The electric service disconnect shall be located above the base flood elevation and when possible outside the Special Flood Hazard Area.

K. **Floodways** -

1. In Zone 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 Chapter 5 entitled "Hydraulic Analyses," Flood Insurance Study - Guidelines and Specifications for Study Contractors, (FEMA 37/ January 1995, as amended).

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 Zones AE and A that meets the development standards of Article VI, including the elevation requirements of Article VI, paragraphs F, G, or H and is elevated on posts, columns, piers, piles, "stilts," or crawlspaces may be enclosed below the base flood elevation requirements provided all the following criteria are met or exceeded:

1. Enclosed areas are not "basements" as defined in Article XIII;

2. Enclosed areas shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of flood water. Designs for meeting this requirement must either:

   a. be engineered and certified by a registered professional engineer or architect; or,

   b. meet or exceed the following minimum criteria:

      (1) a minimum of two openings having a total net area of not less than one square inch for every square foot of the enclosed area;

      (2) the bottom of all openings shall be below the base flood elevation and no higher than one foot above the lowest grade; and,

      (3) openings may be equipped with screens, louvers, valves, or other coverings or devices provided that they permit the entry and exit of flood waters automatically without any external influence or control such as human intervention, including the use of electrical and other non-automatic mechanical means;

3. The enclosed area shall not be used for human habitation; and,

4. The enclosed areas are usable solely for building access, parking of vehicles, or storage.

M. Bridges - New construction or substantial improvement of any bridge in Zones AE and A shall be designed such that:
1. when possible, the lowest horizontal member (excluding the pilings, or columns) is elevated to at least one foot above the base flood elevation; and

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

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

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

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

1. wharves, piers, and docks shall comply with all applicable local, state, and federal regulations; and

2. for commercial wharves, piers, and docks, a registered professional engineer shall develop or review the structural design, specifications, and plans for the construction.

**ARTICLE VII - CERTIFICATE OF COMPLIANCE**

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

A. For New Construction or Substantial Improvement of any elevated structure the applicant shall submit to the Code Enforcement Officer, an Elevation Certificate completed by a Professional Land Surveyor, registered professional engineer, or architect, for compliance with Article VI, paragraphs F, G, or H.

B. The applicant shall submit written notification to the Code Enforcement Officer that the development is complete and complies with the provisions of this ordinance.

C. Within 10 working days, the Code Enforcement Officer shall:
   1. review the Elevation Certificate and the applicant’s written notification; and,
   2. upon determination that the development conforms with the provisions of this ordinance, shall issue a Certificate of Compliance.

ARTICLE VIII - REVIEW OF SUBDIVISION AND DEVELOPMENT PROPOSALS

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

A. All such proposals are consistent with the need to minimize flood damage.

B. All public utilities and facilities, such as sewer, gas, electrical and water systems are located and constructed to minimize or eliminate flood damages.

C. Adequate drainage is provided so as to reduce exposure to flood hazards.

D. All proposals include base flood elevations, flood boundaries, and, in a riverine floodplain, floodway data. These determinations shall be based on engineering practices recognized by the Federal Emergency Management Agency.

E. Any proposed development plan must include a condition of plan approval requiring that structures on any lot in the development having any portion of its land within a Special Flood Hazard Area, are to be constructed in accordance with Article VI of this ordinance. Such requirement will be included in any deed, lease, purchase and sale agreement, or document transferring or expressing an intent to transfer any interest in real estate or structure, including but not limited to a time-share interest. The condition shall clearly articulate that the municipality may enforce any violation of the construction requirement and that fact shall also be included in the deed or any other document previously described. The construction requirement shall also be clearly stated on any map, plat, or plan to be signed by the Planning Board or local reviewing authority as part of the approval process.
ARTICLE IX - APPEALS AND VARIANCES

The Board of Appeals of the Town of Lebanon 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 of the provisions of this Ordinance.

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

A. Variances shall not be granted within any designated regulatory floodway if any increase in flood levels during the base flood discharge would result.

B. Variances shall be granted only upon:
   1. a showing of good and sufficient cause; and,
   2. a determination that should a flood comparable to the base flood occur, the granting of a variance will not result in increased flood heights, additional threats to public safety, public expense, or create nuisances, cause fraud or victimization of the public or conflict with existing local laws or ordinances; and,
   3. a showing that the issuance of the variance will not conflict with other state, federal or local laws or ordinances; and,
   4. a determination that failure to grant the variance would result in "undue hardship," which in this sub-section means:
      a. that the land in question cannot yield a reasonable return unless a variance is granted; and,
      b. that the need for a variance is due to the unique circumstances of the property and not to the general conditions in the neighborhood; and,
      c. that the granting of a variance will not alter the essential character of the locality; and,
      d. that the hardship is not the result of action taken by the applicant or a prior owner.

C. Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief, and the Board of Appeals may impose such conditions to a variance as it deems necessary.

D. Variances may be issued for new construction, substantial improvements, or other development for the conduct of a functionally dependent use provided that:
   1. other criteria of Article IX and Article VI.K. are met; and,
2. the structure or other development is protected by methods that minimize flood damages during the base flood and create no additional threats to public safety.

E. Variances may be issued for the repair, reconstruction, rehabilitation, or restoration of Historic Structures upon the determination that:

1. the development meets the criteria of Article IX, paragraphs A. through D. above; and,

2. the proposed repair, reconstruction, rehabilitation, or restoration will not preclude the structure's continued designation as a Historic Structure and the variance is the minimum necessary to preserve the historic character and design of the structure.

F. Any applicant who meets the criteria of Article IX, paragraphs A. through E. shall be notified by the Board of Appeals in writing over the signature of the Chairman of the Board of Appeals that:

1. the issuance of a variance to construct a structure below the base flood level will result in greatly increased premium rates for flood insurance up to amounts as high as $25 per $100 of insurance coverage;

2. such construction below the base flood level increases risks to life and property; and,

3. the applicant agrees in writing that the applicant is fully aware of all the risks inherent in the use of land subject to flooding, assumes those risks and agrees to indemnify and defend the municipality against any claims filed against it that are related to the applicant's decision to use land located in a floodplain and that the applicant individually releases the municipality from any claims the applicant may have against the municipality that are related to the use of land located in a floodplain.

G. Appeal Procedure for Administrative and Variance Appeals

1. An administrative or variance appeal may be taken to the Board of Appeals by an aggrieved party within thirty days after receipt of a written decision of the Code Enforcement Officer or Planning Board.

2. Upon being notified of an appeal, the Code Enforcement Officer or Planning Board, as appropriate, shall transmit to the Board of Appeals all of the papers constituting the record of the decision appealed from.

3. The Board of Appeals shall hold a public hearing on the appeal within thirty-five days of its receipt of an appeal request.

4. The person filing the appeal shall have the burden of proof.
5. The Board of Appeals shall decide all appeals within thirty-five days after the close of the hearing, and shall issue a written decision on all appeals.

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

7. Any aggrieved party who participated as a party during the proceedings before the Board of Appeals may take an appeal to Superior Court in accordance with State laws within forty-five days from the date of any decision of the Board of Appeals.

ARTICLE X - ENFORCEMENT AND PENALTIES

A. It shall be the duty of the Code Enforcement Officer to enforce the provisions of this Ordinance pursuant to Title 30-A MRSA § 4452.

B. The penalties contained in Title 30-A MRSA § 4452 shall apply to any violation of this Ordinance.

C. In addition to any other actions, the Code Enforcement Officer, upon determination that a violation exists, shall submit a declaration to the Administrator of the Federal Insurance Administration requesting a denial of flood insurance. The valid declaration shall consist of:

1. the name of the property owner and address or legal description of the property sufficient to confirm its identity or location;

2. a clear and unequivocal declaration that the property is in violation of a cited State or local law, regulation, or ordinance;

3. a clear statement that the public body making the declaration has authority to do so and a citation to that authority;

4. evidence that the property owner has been provided notice of the violation and the prospective denial of insurance; and,

5. a clear statement that the declaration is being submitted pursuant to Section 1316 of the National Flood Insurance Act of 1968, as amended.

ARTICLE XI - VALIDITY AND SEVERABILITY

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

ARTICLE XII - CONFLICT WITH OTHER ORDINANCES

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

ARTICLE XIII - DEFINITIONS

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

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

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

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

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

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

Building - see Structure.

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

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

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

Elevated Building - means a non-basement building

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

b. adequately anchored so as not to impair the structural integrity of the building during a flood of up to one foot above the magnitude of the base flood.
In the case of Zones AE or A, **Elevated Building** also includes a building elevated by means of fill or solid foundation perimeter walls with hydraulic openings sufficient to facilitate the unimpeded movement of flood waters, as required in Article VI.L..

**Elevation Certificate** - An official form (FEMA Form 81-31, 08/99, as amended) that:

a. is used to verify compliance with the floodplain management regulations of the National Flood Insurance Program; and,

b. is required for purchasing flood insurance.

**Flood or Flooding** - means:

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

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

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

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

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

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

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

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

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

**Floodway** - see **Regulatory Floodway**.

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

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

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

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

a. Listed individually in the National Register of Historic Places (a listing maintained by the Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;

b. Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary of the Interior to qualify as a registered historic district;

c. Individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of the Interior; or

d. Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either:

1. By an approved state program as determined by the Secretary of the Interior, or

2. Directly by the Secretary of the Interior in states without approved programs.

**Locally Established Datum** - means, for purposes of this ordinance, an elevation established for a specific site to which all other elevations at the site are referenced. This elevation is generally not referenced to the National Geodetic Vertical Datum (NGVD) or any other established datum and is used in areas where Mean Sea Level data is too far from a specific site to be practically used.
**Lowest Floor** - means the lowest floor of the lowest enclosed area (including basement). An unfinished or flood resistant enclosure, usable solely for parking of vehicles, building access or storage in an area other than a basement area is not considered a building's lowest floor, provided that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements described in Article VI.L. of this ordinance.

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

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

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

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

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

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

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

**Recreational Vehicle** - means a vehicle which is:

a. built on a single chassis;

b. 400 square feet or less when measured at the largest horizontal projection, not including slideouts;

c. designed to be self-propelled or permanently towable by a motor vehicle; and
d. designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.

**Regulatory Floodway**

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

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

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

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

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

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

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

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

a. Any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been identified by the local code

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enforcement official and which are the minimum necessary to assure safe living conditions; or

b. Any alteration of a Historic Structure, provided that the alteration will not preclude the structure's continued designation as a historic structure, and a variance is obtained from the community’s Board of Appeals.

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

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

**ARTICLE XIV - ABROGATION**

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

60.3 (d)
FLOODPLAIN MANAGEMENT ORDINANCE
FOR THE
TOWN OF LEBANON, MAINE

ENACTED: 10/11/2001

CERTIFIED BY: Laura Bragg
Name
Town Clerk
Title

Affix Seal

60.3 (d)
Printed 2/20/01
FLOODPLAIN MANAGEMENT ORDINANCE

FOR THE

TOWN OF LEBANON, MAINE

FLOODPLAIN APPLICATION FEE
REFERENDUM #3

ENACTED: JUNE 11, 2002

Date

CERTIFIED BY: [Signature]
Name

[Title]

Affix Seal

60.3 (d)
Printed 2/20/01
FLOODPLAIN MANAGEMENT ORDINANCE

FOR THE

TOWN OF LEBANON, MAINE

FLOOD MAP DATED JULY 3, 2002
SPECIAL TOWN MEETING
REFERENDUM # 6

ENACTED: 9-13-02
Date

CERTIFIED BY: Laura Bragg
Name
Town Clerk
Title

Affix Seal

60.3 (d)
Printed 2/20/01
Town of Lebanon, Maine

FOOD SOVEREIGNTY & SELF-GOVERNANCE ORDINANCE

RECITALS

WHEREAS, the municipal officers and voters of the Town of Lebanon (the "Town") support the rights of the residents of the Town to produce, process, sell, purchase, and consume local foods in order to promote self-reliance, the preservation of family farms, and local food traditions; and

WHEREAS, the Town recognizes that family farms, sustainable agricultural practices, and food processing by individuals, families, and non-corporate entities offer stability to a rural way of life by enhancing the economic, environmental, and social wealth of the community; and

WHEREAS, the Town desires to support food systems that respect human dignity and health; nourish individuals and the community; and sustain producers, processors, and the environment; and

WHEREAS, the Town desires to enact a local food self-governance ordinance pursuant to the Town's home rule authority granted it by the Constitution of the State of Maine that facilitates the ability of individuals to acquire, produce, process, prepare, preserve, and consume the food of their own choosing for their own nourishment and sustenance; to barter, trade, and purchase food; and to save and exchange seed from the sources of their own choosing for their own physical health and well-being.

NOW, THEREFORE, BE IT ORDAINED by the voters of the Town of Lebanon, Maine, as follows:

1. Title

This ordinance shall be known and may be cited as the "Lebanon Food Sovereignty & Self-Governance Ordinance," and is referred to herein as "this Ordinance."

2. Purpose

Pursuant to 7 M.R.S. § 283, it is the policy of this State to encourage food self-sufficiency for its citizens. The purpose of this Ordinance is to:

A. Through local control, preserve the ability of individuals and communities to save and exchange seed and to produce, process, sell, purchase, and consume locally produced foods;

B. Ensure the preservation of family farms and traditional foodways through small-scale farming, food production, and community social events;

C. Improve the health and well-being of residents of the Town of Lebanon by reducing hunger and increasing food security through unimpeded access to wholesome, nutritious foods by encouraging ecological farming;
D. Promote self-reliance and personal responsibility by facilitating the ability of individuals, families and other entities to prepare, process, advertise, and sell foods directly to customers intended solely for consumption by the customers or their families;

E. Enhance rural economic development and the environmental and social wealth of rural communities; and

F. Protect access to Local Food through Direct Producer-to-Consumer Transactions, as defined in Section 4, below.

3. Authority

This Ordinance is adopted and enacted pursuant to Article VIII, Part Second of the Constitution of the State of Maine, 30-A M.R.S. § 3001, and 7 M.R.S. § 284.

4. Definitions

As used in this Ordinance, the following terms shall have the meanings stated below:

A. DIRECT PRODUCER-TO-CONSUMER TRANSACTION: A face-to-face transaction involving food or food products at the site of production of those food or food products.

B. LOCAL FOOD: Any food or food product that is grown, produced, processed, or prepared by individuals who exchange that food as part of a Direct Producer-to-Consumer Transaction.

C. PROCESSOR: An individual who processes or prepares products of the earth, soil, or animals for food or drink.

D. PRODUCER: A farmer or gardener who grows or raises any plant or animal for food or drink, whether for commercial sale or not.

5. Exemption from Licensure and Inspection

In accordance with 7 M.R.S. § 284, the Producers and Processors of Local Food intended for Direct Producer-to-Consumer Transactions in the Town Lebanon shall be exempt from state licensure and inspection, and the State of Maine shall not enforce those state food laws, rules, or regulations with respect to Direct Producer-to-Consumer Transactions.

6. Meat and Poultry

This Ordinance is not applicable to any meat or poultry products that are required to be produced or processed in compliance with the Maine Meat and Poultry Products Inspection Program, Title 22, Chapter 562-A, of the Maine Revised Statutes and the rules adopted thereunder.
7. **Liability Protection; No Waiver of Municipal Immunity**

Producers and Processors of Local Food may enter into private agreements with consumers to waive any liability for the consumption of Local Food. Nothing in this Ordinance shall be construed as a waiver of the Town of Lebanon's immunity from liability pursuant to the Maine Tort Claims Act or any other immunities or defenses available to the Town.

8. **Effective Date**

This Ordinance shall be effective immediately upon its enactment.

9. **Severability Clause**

To the extent any provision of this Ordinance is deemed invalid by a court of competent jurisdiction, such provision will be removed and the balance of the Ordinance shall remain valid.

Adopted this day June 12, 2018 by Town Meeting vote
Yes: 647 No: 338

A True Copy Attest

Dale Fisk - Town Clerk
HAZARDOUS WASTE ORDINANCE
TOWN OF LEBANON, MAINE

To see if the Town will vote to prohibit the disposal of hazardous waste, other than household waste, within the geographic limits of the Town.

"Hazardous waste" is defined as: any product which is radioactive, ignitable, corrosive, reactive and/or toxic. It shall include:

(1) All wastes determined to be hazardous by the Resource Conservation and Recovery Act, Section 3001 and regulations promulgated pursuant to said section including 40 CFR 26a;

(2) Wastes determined to be hazardous by the State Board of Environmental Protection pursuant to 38 M.R.S.A. Sec. 1303 and 1303-A;

(3) Wastes defined as radioactive waste materials by 38 M.R.S.A. Sec. 361-D (1) (B).

"Household waste" means waste such as garbage and trash derived from dwelling units, motels, and hotels.

Historical Note: This ordinance was adopted by a Town Meeting vote March 9, 1986.
INCINERATOR ORDINANCE
TOWN OF LEBANON, MAINE

To see if the Town will vote to accept an Ordinance Prohibiting the use of outdoor incinerators, unless incinerator is type approved by Underwriters.

Shall the Town of Lebanon vote to Approve Low Temperature outside incinerators for burning Wood products only that meet NFPA and/or State codes and would have to be inspected for use by the Fire Department. All outside fires, incinerators, and camp fire to require permits. Incinerators and camp fire can be permitted to be used for extended periods of time not to exceed one year being re-inspected by the Fire Department. Regular fire permits for open burning would be issued on a day to day basis.

This passed at the June 13, 2006
Yes- 591 No- 181
A True Copy Attest
Laura Brogg Town Clerk

Historical Note: This ordinance was originally adapted by Town Meeting vote March 10, 1973.
State Law Reference: As to open burning see 38 M.R.S.A. §599.
As to laws relating to fire prevention and protection see 25 M.R.S.A. §2351 to 2543.
LOT SIZE ORDINANCE 2017

Sec. 1. Lot Size

A. Any Lot or parcel of land located in the Town of Lebanon, Maine that will be used as a building lot shall be two (2) full acres, 87120 sq. ft., or more in size and have street frontage of not less than two hundred (200) feet.

For purposes of this Section “street” shall have the same definition as set forth in the Subdivision Guide: Public and private ways such as alleys, avenues, highways, roads, and other rights-of-way, as well as areas on subdivision plans designated as rights-of-way for vehicular access other than driveways.

Street frontage may only be met if it is located along a street that meets the street design and construction standards set forth in Section 12.2(B) of the Subdivision Guide, provided that private rights-of-way that are not located within a subdivision need not be paved and must meet the standards for gravel surface driveways.

B. Multi-family dwellings. *

For each additional dwelling unit, the lot size dimensional requirements shall be increased by one-half acre, e.g. duplex house must meet or exceed a two and one-half acre lot size and a four-family unit must meet or exceed a three and one-half acre lot size.

This additional acreage requirement would apply to multi-family conversions as well as new construction. The same setback requirements shall be adhered to as a single family dwelling.

For each additional dwelling unit in excess of two, the lot frontage dimensional requirements shall be increased by 50 feet, e.g. a three-family house must meet or exceed 250 feet of street frontage. **

C. All lots shall have a minimum straight-line distance of 120 feet between the side lot lines at the house location or at a lot center point located 50 feet from the front lot line. ***

Sec. 2. Distance of Structures from Boundaries - Setback Requirements

Any buildings, including manufactured housing, to be placed on a building lot, shall be placed at least fifty (50) feet away from any street right of way and at least twenty-five (25) feet, from any other boundary line.

Sec. 3. Structures

Any structures, mobile homes or trailers to be placed on a building lot must be approved by the Building Inspector and a Permit obtained from said Building Inspector.

Lot Size Ordinance Clean Copy – OK per Legal 2/23/2017
Sec. 4. Water Supply, Plumbing, Sewerage.

Any building lot must have a water supply, sewerage disposal system and plumbing that will comply with State & Local requirements if buildings are to be used as residences whether permanent or seasonal. Permits for said plumbing and sewerage must be obtained from the Plumbing Inspector and water supply to be tested and approved by the State Dept. of Health & Human Services.

Section 5. Location of Wells***

A. The purpose of the ordinance is to protect any property owners from being unable to locate a septic tank on his or her property because of the location of the abutter’s well.

B. All new wells shall be located at least 50 linear feet from all property lines.

C. No building permit for a new dwelling unit shall be issued until the applicant submits a plot plan showing the location of the well.

Section 6. Non-Conforming Lots

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

B. Lot of record means a lot shown on or described in a subdivision plan or deed on file in the York County Registry of Deeds on the date of adoption or subsequent amendment of this Ordinance.

C. A non-conforming vacant lot of record as of August 27, 1973 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 street frontage can be met. Variances relating to setback or other requirements not involving lot area, lot width, or street frontage shall be obtained by action of the Board of Appeals.

D. Contiguous Built Lots: If two or more contiguous lots or parcels are in a single or joint ownership of record at the time of adoption of this Ordinance, if all or part of the lots do not meet the dimensional requirements of this Ordinance, and if a principal use or structure exists on each lot, the non-conforming lots may be conveyed separately or together, provided that the State Minimum Lot Size Law (12 M.R.S.A. sections 4807-A through 4807-D) and the State of Maine Subsurface Wastewater Disposal Rules are complied with. If two or more principal uses or structures existed on a single lot of record on the effective date of this ordinance, each may be sold on a separate lot provided that the above referenced law and rules are complied with. When such lots are divided each lot thus created must be as conforming as possible to the dimensional requirements of this Ordinance.

Lot Size Ordinance Clean Copy – OK per Legal 2/23/2017
E. Contiguous Lots - Vacant or Partially Built: If two or more contiguous lots or parcels are in single or joint ownership of record at the time of or since adoption or amendment of this Ordinance, if any of these lots do not individually meet the dimensional requirements of this Ordinance or subsequent amendments, and if one or more of the lots are vacant or contain no principal structure the lots shall be combined to the extent necessary to meet the dimensional requirements.

This provision shall not apply to 2 or more contiguous lots, at least one of which is nonconforming, owned by the same person or persons on the effective date of this Ordinance and recorded in the registry of deeds if the lot is served by a public sewer or can accommodate a subsurface sewage disposal system in conformance with the State of Maine Subsurface Wastewater Disposal Rules.

F. An existing structure on a non-conforming lot may be repaired, replaced, maintained or expanded, provided that it does not increase any non-conformity of the structure. New accessory detached structures with ground coverage of one hundred and forty-four (144) square feet or less may be built on a non-conforming lot of record, provided that the building complies with all applicable dimensional requirements.

Section 7. Administration and Enforcement

A. Administration: This ordinance shall be administered by the Code Enforcement Officer in accordance with Title 30-A, Section 4452.

C. Appeals: Any person aggrieved by a decision of the Code Enforcement Officer pursuant to this Ordinance may appeal that decision to the Board of Appeals.

D. Violations: Any person who violates this ordinance shall be subject to the penalties set forth in Title 30-A, Section 4452.

Historical Note: This ordinance was originally adopted by Town Meeting vote on August 27, 1973. Amendments adopted April 5, 1976 and March 12, 1977 have been incorporated into the text.

* Amendment adopted by Town Meeting vote on March 9, 1985.

** Amendment adopted by Town Meeting vote on March 8, 1986.

*** Amendment was adopted by the Town Meeting vote on 03/14/1987.

Adopted this day 05/09/2017 by Town Meeting Vote 471-Yes 381-No

A True Copy Attest Dale Fisk - Town Clerk

Lot Size Ordinance Clean Copy – OK per Legal 2/13/2017
Section 1. Purpose.
This Ordinance is enacted to regulate the operation and licensing of the business of massage therapy within the Town of Lebanon, and to prohibit certain acts performed for compensation, in order to promote the public health and safety and the general welfare.

Section 2. Power.
The authority of the Town of Lebanon to enact this Ordinance is in accordance with its powers of Home Rule contained in Article VIII, Section 1 of the Maine Constitution.

Section 3. Definitions.
For purposes of this Ordinance, the following definitions shall apply unless the context clearly implies otherwise:
(a) Board: The Board of Selectmen for the Town of Lebanon.
(b) Massage or Massage Therapy: A scientific or skilful manipulation of soft tissue for therapeutic or remedial purposes, specifically for improving muscle tone and circulation and promoting health and physical well being. The term includes, but is not limited to any method of rubbing, kneading, tapping, vibration, compression, percussion, application of friction or manipulation of the external parts of the human body with the hands or other parts of the body or with the aid of any instrument or device.
(c) Massage establishment: Any business entity engaged in the business of providing or making available massages in the Town of Lebanon for consideration, or with the expectation of receiving consideration or any gratuity, whether or not the business has a fixed place of business within the Town limits.
(d) Massage therapist: Any person who performs massage therapy for consideration or gratuity or with the expectation of receiving consideration or any gratuity.
(e) Minor: Any person under the age of eighteen (18) years of age.
(f) Patron: Any person who receives a therapeutic massage.
(g) Person: Any individual, partnership, corporation or other entity.
(h) Recognized School: Any school or institution of learning approved or accredited by the American Massage Therapy Association/Commission on Massage Training Accreditation/Approved (AMTA/COMTAA), or a school or Institution requiring training equivalent to or surpassing an AMTA/COMTAA-approved school, which offers a course of training in the theory, method, profession and work of massage therapy consisting of five hundred (500) hours or more, the completion of which renders a student eligible for membership in the AMTA. Schools which cannot be verified shall not be deemed a recognized school.

Section 4. Exemptions.
The following persons shall be exempt from this Ordinance while practicing in accordance with the laws of this State: Physicians, physician's assistants, surgeons, osteopaths, nurses, chiropractors, physical therapists, members of the MTA, barbers, cosmetologists, beauticians and other health and hygiene professionals. Students enrolled in a recognized school who are required to give massages as part of their training shall be exempt from this Article.

Section 5. Prohibited Acts.
(a) Massage Establishment License. No person shall operate a massage establishment without a valid therapeutic massage establishment license issued by the Board of Selectmen for the Town of Lebanon. A separate license shall be required for each such establishment.
(b) **Massage Therapist License.** No person shall work as a massage therapist without a valid massage therapist license issued by the Board of Selectmen for the Town of Lebanon.

(c) **Other Prohibited Acts.**

1. No person within the Town of Lebanon, acting as a massage therapist, or in any other capacity shall perform sexual intercourse, commit a sexual act, or make sexual contact as defined in 17 M.R.S.A. Section 251, for pecuniary benefit to himself or herself or a third party.
2. No massage therapist shall administer a massage to a client whose genitals are exposed.
3. No massage therapist shall administer or agree to administer a massage to the genitals or anus of a client.
4. No massage therapist shall administer a massage unless he or she is fully clothed with nontransparent clothing of the type customarily worn by massage therapists while administering a massage.

**Section 6. Compliance.**

(a) Any person presently operating as a massage therapist and/or operating a massage establishment in the Town of Lebanon on the effective date of this Ordinance, shall comply with the terms of this Ordinance starting on its effective date and shall apply for a license hereunder within thirty (30) days of the effective date of this Ordinance or shall be held in violation.

(b) Any license issued pursuant to this Ordinance between the effective date hereof and December 31, 1993, shall be valid until December 31, 1994.

**Section 7. Application.**

Each applicant for a license shall do the following:

(a) Complete and file an application on a form prescribed by the Board, or if such an application form is not available, on the applicant's own form which contains the required information;

(b) Along with the application, remit the following license fees in advance with the Board:
   - Massage Establishment $75.00
   - Massage Therapist $50.00

(c) Submit the completed application to the Board of Selectmen, together with attested copies of the articles of incorporation and bylaws, if the applicant is a corporation; evidence of partnership, of a partnership; or articles of association and bylaws, if the applicant is an association, as well as a list of all officers and directors;

(d) File an affidavit which will identify all owners, officers, managers or partners of the applicant and their places of residence at the time of the application and for the immediately preceding three (3) years;

(e) Submit two (2) front face photographs of the applicant taken within thirty (30) days of the application, not smaller than 2" x 3" nor larger than 3 1/2" x 3 1/2";

(f) File the release authorized by 16 M.R.S.A. Section 620(6) (Criminal History Record Information Act) with the application of each applicant.

**Section 8. Duration of License.**

(a) The license issued pursuant to this Ordinance is on an annual basis and will expire as of December 31st of the calendar year.

(b) Any application for a renewal of license, which shall contain the same information as the prior application, shall incur a renewal fee of $25.00 in lieu of the application fee.
(c) If an application is denied or withdrawn half of the license fee or renewal fee shall be refunded to the applicant.

Section 9. Investigation of Applicant.
Upon receipt of a completed application, the Board shall cause to be conducted the following investigation:
(a) The Code Enforcement Officer shall verify that the premises at which the establishment will be located complies with all applicable ordinances of the Town including, but not limited to, the building code, electrical code, plumbing code and zoning ordinance and shall report the findings in writing to the Board of Selectmen;
(b) If requested by the Codes Enforcement Officer or the Board, the Health Officer shall inspect the location or proposed location to determine whether the applicable ordinances relating to health and safety have been satisfied and shall report the findings in writing to the Board of Selectmen;
(c) If requested by the Codes Enforcement Officer or the Board, the Fire Chief or his designee shall verify the premises at which the establishment will be located complies with all applicable fire and safety codes.
(d) If requested by the Board, a law enforcement officer shall investigate the application including the criminal history record information of the applicant or others, as required under this Ordinance.

Section 10. Basic Proficiency.
Each applicant for a massage therapist license shall be licensed by the State of Maine and shall show proof of basic proficiency in the field of massage therapy which may be satisfied by:
(a) Evidence of the satisfactory completion of all formal course work and training in massage therapy required for graduation from a recognized school, which shall be in the form of a diploma or certificate of graduation or equivalent documentation; or
(b) A written statement from a physician, nurse, osteopath, chiropractor, physical therapist, or member of the AMTA stating that that person refers clients to the applicant for therapeutic massage.

Section 11. Standards for Denial.
A license under this Ordinance shall be denied by the Board to the following persons:
(a) To an applicant who has submitted an incomplete application, knowingly made an incorrect statement of a material nature, or failed to supply additional information required by the Board.
(b) To an applicant if that person or any owner, officer, manager or partner of the applicant has been convicted of a crime, classified under Title M.R.S.A. Section 17 otherwise known as the Maine Criminal Code, as a class A, B, or C crime, or any crime involving dishonesty or sexual misconduct, which crime directly relates to the practice of massage therapy, within the two (2) years immediately preceding the date of the application.

Section 12. Grounds for Suspension or Revocation.
(a) All licenses. Any license may be suspended or revoked by the Board of Selectmen upon a determination that the licensee:
   (1) failed to notify the Board of Selectmen of any change in material fact set forth in the application for such license; or
   (2) violated any provision of this Ordinance.
(b) Therapeutic massage establishment license. In addition to the provisions of subsection
   (a) a massage establishment license may be suspended or revoked by the Board of Selectmen upon a determination that the licensee:
   (1) Permitted any person to perform therapeutic massage without a valid license to do so;
(2) Permitted or allowed an employee or massage therapist to violate any provision to this Ordinance on the premises of the establishment or in the course of conduct of the business of the establishment; or  
(c) Knowingly permitted any violation of Title 17-A M.R.S.A. Section 851 and 855 on the premises. Such knowledge shall be presumed if there have been two (2) or more convictions for any such offense within any one-year period.

Section 13. Licenses displayed.
A valid therapeutic massage establishment license shall be displayed at all times in an open and conspicuous place in the massage establishment for which it was issued. A valid massage therapist license must be readily available to be produced immediately if demanded of the licensee.

Section 14. Age Restrictions.
No massage or therapeutic massage shall be practiced on a minor without the presence of a parent or legal guardian.

Section 15. Maintenance and cleaning.
Every Person who conducts or operates a therapeutic massage establishment shall keep the same at all times in a clean and sanitary condition. All instruments, supplies and devices of any kind, or parts thereof, that come into contact with the human body shall be kept clean by a modern and approved method of cleaning.

Section 16. Hours of Operation.
No massage establishment shall be kept open for massage purposes between the hours of 10:00 p.m. and 7:00 a.m.

Section 17. Supervision.
At all times when open for business, a therapeutic massage establishment shall have upon the premises a licensed massage therapist who shall be available to supervise the operation of the establishment and assure that no violations of this Ordinance occurs.

Section 18. List of Employees.
The therapeutic massage establishment shall keep a written list of the names and current addresses of all employees, duty and off duty. Such list shall be shown to the Board upon request.

Section 19. Violation Penalties.
The violation of any provision of this article shall be punished by a fine of not less than two hundred fifty dollars ($250.00) nor more than five hundred dollars ($500.00) for each offense. Each act of violation and every day upon which any such violation shall occur shall constitute a separate offense. In addition to such penalty, the Town may enjoin or abate any violation of this article, by appropriate action, including but not limited to revocation of the license. The Town shall be entitled to recover its costs of any enforcement action, including its attorney’s fees.

Section 20. Validity of Ordinance.
If any portion of this Ordinance is held to be invalid or unconstitutional by a Court of competent jurisdiction, then this shall not effect the validity of the remaining provisions of this Ordinance.

Historical Note: This Ordinance was passed at a Special Town Meeting on March 27, 1993.
MASSAGE AND SEXUAL CONTACT ORDINANCE
TOWN OF LEBANON

An Ordinance Amending Section 7 and Section 8 of the Massage and Sexual Contact Ordinance of the Town of Lebanon

1. Amend the following section of the Massage and Sexual Contact Ordinance adopted March 27, 1993

Section 7. Application.
Each applicant for a license shall do the following:
(a) Complete and file an application on a form prescribed by the Board, or if such an application form is not available, on the applicant's own form which contains the required information;
(b) Along with the application, remit the following license fees in advance with the Board:
   Massage Establishment — $75.00
   Massage Therapist — $40.00
   a fee as outlined in the Schedule of License, Permit, and Application fees, established annually by the Board of Selectmen, which shall not exceed the Town's reasonable cost of administering and enforcing this Ordinance.
(c) Submit the completed application to the Board of Selectmen, together with attested copies of the articles of incorporation and bylaws, if the applicant is a corporation; evidence of partnership, of a partnership; or articles of association and bylaws, if the applicant is an association, as well as a list of all officers and directors;
(d) File an affidavit which will identify all owners, officers, managers or partners of the applicant and their places of residence at the time of the application and for the immediately preceding three (3) years;
(e) Submit two (2) front face photographs of the applicant taken within thirty (30) days of the application, not smaller than 2" x 3" nor larger than 3 1/2" x 3 1/2";
(f) File the release authorized by 16 M.R.S.A. Section 620(6) (Criminal History Record Information Act) with the application of each applicant.

Section 8. Duration of License.
(a) The license issued pursuant to this Ordinance is on an annual basis and will expire as of December 31st of the calendar year.
(b) Any application for a renewal of license, which shall contain the same information as the prior application, shall incur a renewal fee of $25.00 in lieu of the an application fee as outlined in the Schedule of License, Permit, and Application fees established annually by the board of Selectmen, which shall not exceed the Town's reasonable cost of administering and enforcing this Ordinance. Additionally, the applicant applying for renewal will be subject to any and/or all inspections required of an initial application.
(c) If an application is denied or withdrawn half of the license fee or renewal fee shall be refunded to the applicant.

This amendment adopted by Secret Ballot Election 11-3-15

A TRUE COPY ATTEST ____________________________ MANDY GRENIER — TOWN CLERK
MOBILE HOME PARK ORDINANCE
TOWN OF LEBANON, MAINE

Sec. 1. Requirements
"Mobile Home Parks shall meet all requirements for a residential subdivision, and shall conform to all applicable State laws and local ordinances, except for the following:

- The minimum area of land within a park shall be ten (10) acres.
- Lots in a Mobile Home Park shall have a Minimum Lot Size of 20,000 square feet and have a Minimum Frontage of 100 feet.
- No Mobile Home shall be placed within 35 feet of any other Mobile Home." This does not apply to existing Parks on record prior to April 5, 1976.

Sec. 2 Open Spaces
Amendment to Mobile Home Park Ordinance, that another 20,000 square feet per Mobile Home be set aside somewhere within the Park for open space.

This does not apply to existing Trailer Parks prior to April 5, 1976.

The following Ordinances were approved and adopted to become effective April 5, 1976

Historical Note: This ordinance was originally adopted by Town Meeting vote on April 5, 1976.
State Law Reference: As to power of municipality to regulate by ordinance see 30 M.R.S.A. §2151.
As to mobile home parks see 30 M.R.S.A. §4061-A et seq.
See also State of Maine Rules of the Department of Human Services Relating to Mobile Home Parks issued pursuant to 22 M.R.S.A. §2491 et seq.
Sec. 1. Definition
The term mobile home "Structure constructed and equipped as a permanent or temporary dwelling place, living abode or sleeping place which is equipped for use as a conveyance on highways notwithstanding that the wheels and other equipment for travel and transfer may be permanently or temporarily removed and the structure placed on a foundation."
*All manufactured housing (outside Mobile Home Parks) must be placed on a permanent foundation, either:
1) Full foundation
2) Frost walls
3) Slab with Full Skirting
4) Gravel Pad with Full Skirting.

Sec. 2. Permit
(a) No person, firm or corporation shall move, bring or cause to be brought into the Town of Lebanon a mobile home without first securing a permit to do so from the Code Enforcement Officer of the Town of Lebanon.
(b) Said person, firm or corporation shall make application to the Code Enforcement Officer for either temporary or permanent permit.
(c) Said application shall state the name of the owner of the mobile home, its make, serial number, length, width, color and any other pertinent identification information.
(d) Said application shall further state the location in the Town where the mobile home will be placed and if the owner of the land is other than the owner of the mobile home, the owner of the land shall in writing give his permission.
(e) Lift State Law for paying taxes before moving a Mobile Home. REFER to Sec. 5 Removal.

Sec. 3. Temporary Permit
Subject to the provisions of Section 2 hereof, the Code Enforcement Officer may grant a temporary permit for a period of not more than 90 days provided that the application for said permit clearly indicates that the use of said mobile home is for temporary purposes; not to exceed ninety days. Said permit shall automatically expire on the date set forth on the temporary permit but nothing contained herein shall prevent the owner from receiving a permanent permit upon meeting the requirements for a permanent permit.

Sec. 4. Permanent Permit
Subject to the provisions of Section 2 hereof, the Code Enforcement Officer may grant a permanent permit, provided, however, that the applicant shall first have a fireproof metal skirting around the entire perimeter of said mobile home and shall extend from bottom of mobile home to the ground, and subject to the following:
(a) Each lot or parcel of land upon which a mobile home is to be permanently placed must contain two (2) acres.
(b) Said mobile home shall enclose an area not less than four hundred (400) square feet on the ground floor.
(c) Said mobile home shall be placed at least fifty (50) feet distance from front boundary line of lot and shall be placed at least twenty-five (25) feet from each of the property lines.
(d) All electrical, plumbing and sewer installations must comply with the applicable state and local laws and codes.

Installation of skirting shall be done within ninety (90) days of placement on Mobile Home on lot and shall be effective on all Mobile Homes that have been placed in the Town of Lebanon since August 27, 1973 as well as those in the future. An extension of time may be granted by the Building Inspector if weather conditions are unfavorable.

Sec. 5. Removal
No mobile home shall be moved or removed from the location designated in the temporary or permanent permit, to another location within the Town without first securing a new permit from the Building Inspector. All of the pertinent provisions of this ordinance relating to the application for and granting of a new permit. No mobile home shall be moved unless mover has a written certificate from the tax collector from which the mobile home is being moved, identifying the mobile home and stating that all taxes are paid.

Sec. 6. Replacement
Any owner of a mobile home who has a lawful permit by the Building Inspector and who desires to replace said mobile homes with another mobile home shall file an application for this purpose with the Building inspector. All of the pertinent provisions of this ordinance relating to the application for and granting of a permit shall apply to the application for and granting of the replacement permit.

Sec. 7. Enforcement
(a) It shall be the duty of the Building inspector to enforce all laws relating to the Mobile Home-Trailer Ordinance.
(b) The oversight or neglect of duty on the part of the Building Inspector shall not legalize any violation of this ordinance.

Sec. 8. Board of Appeals
(a) There is hereby created the Board of Appeals. Said Board shall consist of three members and one alternate member to be appointed by the Selectmen, terms of regular members to be one, two and three years, and the alternate member to be appointed for a three year term.
(b) The Board of Appeals after public hearing may:

1. By majority vote of the Board confirm, reverse, or modify the decision of the Building Inspector.
2. Permit exceptions and variations in specific cases so as to grant reasonable use of property where necessary to avoid unnecessary hardship, and without substantially departing from the intent of this ordinance. Granting of such exemptions and variation require a majority vote of the Board.
(c) Appeal. Any person, firm or corporation aggrieved by the decision of the Inspector, may appeal such decision to the Board of Appeals. The Board shall within ten days after receipt of appeal set a date and post notice of time and place for a public hearing, and shall in writing give notice of said public hearing and its date, time and place at least seven (7) days prior thereto, to the appellant and the owners of all property within five hundred (500) feet of the proposed location set forth in the application. Notice shall be deemed sufficient if sent to the owners at the addresses appearing in the tax assessment records of the Town.

Sec. 9. Exclusions
The provisions of this ordinance shall not apply to mobile homes or trailers which:
(a) were located in the Town of Lebanon prior to effective date of the ordinance. However, upon replacement or transfer to another location all of the provisions of this ordinance shall become applicable.
(b) are used as travel or sport trailers, and are not occupied as dwellings, and are located in the Town of Lebanon, for storage purposes only.
(c) are to be located in a Mobile Home Park.

Sec. 10. State of Maine Seal; HUD Requirements
To only accept Mobile Homes with the State of Maine Seal or that they have the Housing and Urban Development Requirements, for placement on any lot in Lebanon.

Sec. 11. Roofs over Mobile Home
Any roof to be built over an existing Mobile Home must be supported by "to ground" external supports. (Not subject to exclusions under Sec. 9)

Historical Note: This ordinance was originally adopted by Town Meeting vote on August 27, 1973.
Amendments adopted on March 12, 1977 and March 11, 1978 have been incorporated into the text.
* Amendment adopted on March 9, 1986 by Town Meeting vote.
State Law Reference: As to power of municipality to regulate buildings and trailers see 30 M.R.S.A. 2151(4).
As to State Seal of Approval of Industrialized Housing see 30 M.R.S.A. §4771 at seq.
TOWN OF LEBANON
PLANNING BOARD ORDINANCE

I ESTABLISHMENT

Pursuant to Article VIII, Pt. 2, Sec. 1 of the Maine Constitution and 30-A M.R.S. § 3001, the Town of Lebanon hereby establishes the Lebanon Planning Board.

Section 1 Appointment

1.1 Appointments to the board shall be made by the municipal officers.

1.2 The board shall consist of 5 members and 2 associate members.

1.3 The term of each member shall be 3 years which appointments shall be staggered, except the initial appointments which shall be for 1, 2, and 3 years. The term of office of an associate member shall be 1 year.

1.4 When there is a permanent vacancy, the municipal officers shall within 60 days of its occurrence, appoint a person to serve for the unexpired term. A vacancy shall occur upon the resignation or death of any member, or when a member fails to attend four (4) consecutive regular meetings, or fails to attend at least 75% of all meetings during the preceding twelve (12) month period.

1.5 No municipal officer may serve as a member or associate member.

1.6 Only a resident of the Town of Lebanon may serve as a member or associate member.

Section 2 Organization and Rules

2.1 The board shall elect a chairperson and vice chairperson from among its members and create and fill such other offices as it may determine. The board may either elect a secretary from among its members or hire a non-board member to serve as secretary. The term of offices shall be 1 year with eligibility for re-election.

2.2 When a member is unable to act because of conflict of interest, physical incapacity, absence or any other reason satisfactory to the chairperson, the chairperson shall designate an associate member to sit in his stead.

2.3 An associate member may attend all meetings of the board and participate in its proceedings, but may only vote when he has been designated by the chairman to sit for a member.

2.4 Any question of whether a member shall be disqualified from voting on a particular
matter shall be decided by a majority vote of the members except the member who is being challenged.

2.5 The chairperson shall call at least one regular meeting of the board every two months, provided there is business to conduct. Special meetings may be called at any time by the chairperson or by a majority of the members. Notice of regular and special meetings shall be given in accordance with the Maine Freedom of Access Act.

2.6 No meeting of the board shall be held without a quorum consisting of 3 members or associate members authorized to vote.

2.7 The Board shall adopt rules for transaction of business and the secretary shall keep a record of its resolutions, transactions, correspondence, findings and determinations. All records shall be deemed public and may be inspected at reasonable times.

Section 3 Duties/Powers

3.1 The board shall perform such duties and exercise such powers as are provided by Lebanon ordinance and the laws of the State of Maine, including but not limited to review of shoreland zoning permit applications and subdivision applications as provided by ordinance.

3.2 Interpretation of Existing Ordinances and applicable State Law in relation to its review of permit applications.

3.3 Development of ordinance proposals in an effort to allow land uses suitable to provide maximum satisfaction to Lebanon residents and to provide a plan for the future heritage of the residents of the Town.

II. PROVISIONS TO RE-ESTABLISH A PLANNING BOARD

The Town of Lebanon hereby re-establishes a Planning Board. The current Board is hereby re-established as the Planning Board. The actions that it has taken prior to the adoption of this ordinance are hereby declared to be the acts of the legally constituted Planning Board of the Town of Lebanon. All inconsistent ordinances previously adopted are hereby repealed.

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

IV. EFFECTIVE DATE

Adopted this day 05/10/2016 by Town Meeting Vote 576 – Yes 357 – No

A True Copy Attest

Mandy Grenier – Town Clerk
ORDINANCE PROHIBITING OBSCENITY FOR COMMERCIAL GAIN
LEBANON, MAINE

ARTICLE I Purpose
Purpose of this ordinance is to prohibit any commercial enterprise from presenting or engaging in any obscene exhibitions for profit. It is not intended to suppress or inhibit the free exchange of ideas or artistic expression. The Town of Lebanon has enacted this ordinance for the purpose of promoting and protecting the general welfare, public safety, public order, and morals.

ARTICLE II Definitions
Section 1. Commercial Enterprise: means any business corporation, association or natural person established for pecuniary gain other than a theater.
Section 2. Theater: means:
(a) Any building or hall designed primarily for showing motion pictures, having a permanent movie screen and permanently fixed seats arranged in such fashion as to allow spectators an unobstructed view of the screen.
(b) An open-air theater designed primarily for showing motion pictures, having a permanent movie screen and permanent devices for broadcasting movie sound tracks in motor vehicles.
(c) Any playhouse, hall, or similar structure designed primarily for legitimate artistic expression.
Section 3. Present: means to show, reveal, display or expose to any person.
Section 4. Engage in means: to solicit, produce, direct, finance, physically participate in, compensate others for, further the interest of, or be otherwise involved with the prescribed conduct.
Section 5. Obscene means: any conduct of a sexual nature which:
(a) To the average individual applying contemporary community standards, considered as a whole appeals to the prurient interest;
(b) Presents in a patently offensive manner actual or simulated ultimate sexual acts, sodomy, bestiality, excretory functions, masturbation, direct physical stimulation of the unclothed genitals, flagellation or torture in context of ultimate sexual acts, lewd exhibition of the human male or female genitals, pubic area, buttocks or the female breast below the top of the nipple; and
(c) Considered as a whole lacks serious literary, artistic, political and scientific value.
Section 6. Exhibition means any aural, visual, or tactile performance, dramatization, show or display which includes any amount of human, animal, or animated conduct whether presented live or by way of mechanical reproduction, sound recording, audio visual cassette or tape, silhouette depiction or by any other means.

ARTICLE III Prohibition
Section 1. It shall be unlawful for any commercial enterprise to present for profit any obscene exhibition within the Town of Lebanon.
Section 2. It shall be unlawful for any commercial enterprise to engage in any obscene exhibition for profit within the Town of Lebanon.
Section 3. It shall be unlawful for any commercial enterprise to solicit, permit, promote, or assist any commercial enterprise or person to present or engage in any obscene exhibition within the Town of Lebanon.

ARTICLE 4. Exceptions
This ordinance is not intended to regulate any conduct expressly regulated by existing State statute.

ARTICLE 5. Penalty
Section 1. Any conduct made unlawful by this ordinance and any violation of this ordinance shall be punishable by a fine of Five Hundred Dollars ($500.00) for each offense. Each day that such unlawful act or violation continues shall be considered a separate offense.
Section 2. In addition to any other penalty provided by law, the commission of acts prohibited by this ordinance shall constitute a nuisance and may be abated by the Town seeking an injunction to prohibit further and continued violations.

ARTICLE 6 - Severability
If any section, subsection, sentence, clause or phrase of this ordinance is for any reason held to be unconstitutional or invalid, such decision shall not affect the validity of the remaining portion of this ordinance.
Effective Date: This ordinance shall take effect upon enactment.
Adopted March 14, 1981
Ordinance Prohibiting Retail Marijuana Cultivation Facilities

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 cultivation facilities are defined as set forth in 7 M.R.S.A. § 2442.

Section 3. Prohibition on Retail Marijuana Cultivation Facilities.

Retail marijuana cultivation facilities are expressly prohibited in the Town of Lebanon.

No person or organization shall develop or operate a business in the Town of Lebanon that engages in the cultivation of retail marijuana.

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.

Adopted this day 05/09/2017 by Town Meeting Vote 510-Yes 415-No

A True Copy Attest

Dale Fisk - Town Clerk
Ordinance Prohibiting Retail Marijuana Products Manufacturing Facilities

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 products manufacturing facilities are defined as set forth in 7 M.R.S.A. § 2442.

Section 3. Prohibition on Retail Marijuana Products Manufacturing Facilities.

Retail marijuana products manufacturing facilities are expressly prohibited in the Town of Lebanon.

No person or organization shall develop or operate a business in the Town of Lebanon that engages in the manufacturing of retail marijuana products.

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.

Adopted this day 05/09/2017 by Town Meeting Vote 514-Yes 411-No
A True Copy Attest

Dale Fisk - Town Clerk
Ordinance Prohibiting Retail Marijuana Social Clubs

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 social clubs are defined as set forth in 7 M.R.S.A. § 2442.

Section 3. Prohibition on Retail Marijuana Social Clubs.
Retail marijuana social clubs are expressly prohibited in the Town of Lebanon.

No person or organization shall develop or operate a retail marijuana social club in the Town of Lebanon.

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.

Adopted this day 05/09/2017 by Town Meeting Vote 566-Yes 360-No

Dale Fisk - Town Clerk

A True Copy Attest
Dale Fisk - Town Clerk
Ordinance Prohibiting Retail Marijuana Stores

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 stores are defined as set forth in 7 M.R.S.A. § 2442.

Section 3. Prohibition on Retail Marijuana Stores.

Retail marijuana stores are expressly prohibited in the Town of Lebanon.

No person or organization shall develop or operate a business in the Town of Lebanon that engages in the sale of retail marijuana.

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.

Adopted this day 05/09/2017 by Town Meeting Vote  

A True Copy Attest  

Dale Fisk - Town Clerk
Ordinance Prohibiting Retail Marijuana Testing Facilities

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 testing facilities are defined as set forth in 7 M.R.S.A. § 2442.

Section 3. Prohibition on Retail Marijuana Testing Facilities.

Retail marijuana testing facilities are expressly prohibited in the Town of Lebanon.

No person or organization shall develop or operate a business in the Town of Lebanon that engages in the testing of retail marijuana.

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.

Adopted this day 05/09/2017 by Town Meeting Vote 515-Yes 409-No

A True Copy Attest

Dale Fisk - Town Clerk
TOWN OF LEBANON
PUBLIC PARKING ORDINANCE

Section 1. - Purpose
This Ordinance is enacted to regulate the use of public parking facilities within the Town of Lebanon, and to promote the general health, safety and welfare of its inhabitants.

Section 2. - Authority
The power of the Town of Lebanon to enact this Ordinance is in accordance with the authority granted in 30-A N.R.S.A. §3009, and in its powers of Home Rule set forth in Article VIII, Section 1 of the Maine Constitution.

Section 3. - Definitions
(a) "Public Parking Facility" - Any area owned by the Town of Lebanon within its municipal borders, which provides for or allows public parking, including but not limited to the Park and Ride facility on Route 202.
(b) "Motor Vehicles" - Any self-propelled device for conveyance of persons or property on a way.
(c) Board - The Board of Selectmen for the Town of Lebanon.

Section 4. - Prohibited Acts
(a) No motor vehicle or any item of personal property shall be left; stored, displayed, or otherwise temporarily abandoned at a public parking facility for any more than a forty-eight (48) hour period, unless a permit is obtained from the Board.
(b) No person shall leave a motor vehicle or any item of personal property at a public parking facility for any purpose other than temporary parking while at a public building or for commuting and car pooling purposes.

Section 5 - Application
Any person seeking to park a motor vehicle at a public parking facility for more than a forty-eight (48) hour period, shall make written application to the Board, setting forth their name, address; year, make and registration number of their motor vehicle; the dates when the vehicle shall be parked; and the reasons for it having to remain for longer than forty-eight hours.

Section 6 - Approval
The Board shall grant a permit for the use of its public parking facilities for more than a forty-eight (48) hour period, if the applicant demonstrates a legitimate need for commuting or car pooling purposes. The Board shall have the authority to grant the permit for any period of time and in such frequency as they deem advisable.
Section 7 – Permit Displayed
Any permit granted under this Ordinance shall be displayed on the vehicle at all-times so it can be seen through the front windshield in an open and conspicuous manner.

Section 8 - Penalties
(a) The violation of any provision of this Ordinance shall be a civil violation punishable by a fine of not less than One Hundred Dollars ($100.00) nor more than One Thousand Dollars ($1,000.00) for each offense. Each set of violations and every day upon which any such violation occurs, shall constitute a separate offense.
(b) Any person charged with any violation of this Ordinance, may waive all court actions by the payment of the following fines, which shall be made to the Town Treasurer within twenty (20) days of receipt of any notice of a violation:
   (1) First offense - $100 per violation;
   (2) Second offense - $250 per violation;
   (3) Third or more offense- $500 per violation.
(c) In addition to any monetary penalty, the Town may cause to be removed any motor vehicle or items of personal property which are located on a public parking facility in violation of this Ordinance. The owner of the vehicle or items removed shall be responsible for the payment of all towing or removal costs and storage fees.
(d) The Town shall be entitled to recover its costs including attorney’s fees incurred as a result of any legal action taken to enforce any provision of this Ordinance.

Section 9 - Enforcement
The provisions of this Ordinance shall be enforced by the Code Enforcement Officer of the Town of Lebanon, or any other person authorized by the Board to act on its behalf. Any such person so authorized shall be empowered to issue notices or civil summons for any violations.

Section 10 - Validity of ordinance
If any portion of this Ordinance is held to be invalid or unconstitutional by a Court of competent jurisdiction, then this shall not effect the validity of the remaining provisions of this Ordinance.

Section 11 - Effective Date
This Public Parking Ordinance shall be effective immediately upon the vote of the Board of Selectmen.

By affirmative vote, the Board of Selectmen do approve the enactment of this Ordinance.
Dated this 24th day of October, 1995.
Gilbert D. Zink, Selectmen
Ronal N. Patch, Selectmen
Harold L. Randall, Selectmen
TOWN OF LEBANON, MAINE

RECALL ORDINANCE

SECTION 1. Authority.

This ordinance is enacted pursuant to 30-A M.R.S. §§ 2602 and 3001.

SECTION 2. Applicability.

Any elected municipal official of the Town of Lebanon may be recalled and removed from office as herein provided after the first 90 days in an office. This ordinance does not apply to Maine School Administrative District #60 Directors.

SECTION 3. Petitions for Recall.

A. Recall shall be initiated by petition.
B. Upon submission of a written petition for recall signed by a number of registered voters of the Town of Lebanon equal to at least ten percent (10%) of the number of votes cast in the Town of Lebanon in the last gubernatorial election, the Board of Selectmen shall hold a recall election in accordance with Section 5 below.
C. The petition shall be addressed to the Board of Selectman and shall be filed with the Town Clerk or Deputy Clerk.
D. The petition shall state the name and office, or offices, of the elected municipal official whose removal is being sought, and a general statement of the reasons why such removal is desired.
E. If recall of one or more municipal officials is being sought there shall be a separate petition for each municipal official whose removal is being sought.
F. Each page of petition shall provide a space for the voter’s signature, printed name and street address.
G. A petition may only be circulated by a registered voter.
H. All petition pages shall be signed by the person circulating the petition form and filed as one document.

SECTION 4. Clerk’s Certification.

Within ten (10) business days of receipt of the petition, the Town Clerk, or Deputy Town Clerk, shall certify the validity of the signatures contained on the petition and shall determine if the petition meets all of the qualifications as set forth in section 3 of this Ordinance.

A. Should the petition be found insufficient, the petition will be filed in the Town Clerk’s office and the voter who filed the petition shall be notified.
B. If the petition is certified by the Town Clerk, or Deputy Town Clerk, to be sufficient, he or she will submit the same with his or her certification to the Board of Selectmen at their next regular meeting and shall notify the municipal official(s) whose removal is being sought.

SECTION 5. Scheduling the Recall Election

A. Within ten (10) business days of receipt of the certified petition, the Board of Selectmen shall order a recall election by secret ballot. The election shall be held within 45 days of the Selectmen’s order of the election.

B. In the event that a regular municipal election is scheduled to be held within ninety (90) days of receipt of the certified petition by the Board of Selectmen, the Selectmen may at their discretion schedule the recall election on the date of the regular municipal election.

C. In the event that the Selectmen fail or refuse to order an election as herein provided, the Town Clerk shall call the election to be held within 45 days following the Selectmen’s failure or refusal to order the required election.

D. The Selectmen shall schedule a public hearing on the recall election at least fifteen (15) business days prior to the recall election. The purpose of this public hearing will allow the petitioner to present their case of recall, while the municipal official shall also be allowed to present a defense to the public.

SECTION 6. Ballots for the recall Election

Unless the municipal official or officials whose removal is being sought has resigned within ten (10) days of receipt of the petition by Board of Selectmen, the ballots shall be printed and shall read “SHALL ___________ BE RECALLED FROM THE POSITION OF (name of office)?” with the name of the municipal official whose recall is being sought and his or her position inserted into the blank spaces. If the petition seeks the recall of a municipal official from more than one office, each office must be named.

SECTION 7. Result of Election.

A. A valid vote for recall shall have a minimum of ten percent (10%) of registered voters attending.

B. In the event of an affirmative vote for removal by a majority of those voting thereon, the recall shall take effect as of the recording of the vote tabulation into the records.

SECTION 8. Vacancies to be filled

Any vacancy from office resulting from action of this ordinance shall be filled in accordance with the provisions of Maine Law (30-A M.R.S. § 2602).

Adopted this day 05/10/2016 by Town Meeting Vote 609 - Yes 310 – No

A True Copy Attest

Mandy Green - Town Clerk
ROUTE 202 PARKING ORDINANCE
TOWN OF LEBANON, MAINE

This Ordinance is enacted pursuant to the authority vested in the Selectmen as municipal officers, pursuant to 30-A M.R.S.A. §3009.

Be it hereby enacted that:

(1) Parking of any motor vehicles shall be prohibited along the sidelines of Route 202 along a 1000 feet corridor on each side of the road, which shall be located a distance of 500 feet on each side of every town maintained road, at the point where it intersects with Route 202.

(2) Any vehicle which is parked in violation of this Ordinance shall be towed and stored at the owner's expense.

(3) This Ordinance shall be effective immediately.

Dated this 13th day of November, 1997.

Ronal Patch, Selectmen

Harold Randall, Selectmen

Gilbert Zink, Selectmen
LEBANON

SHORELAND ZONING ORDINANCE

SHORELAND ZONING ORDINANCE

ADOPTED 1993
AS AMENDED
JUNE/2009
NOVEMBER/2015
June/2018
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Appendix B:

38 M.R.S.A section 437. Significant rivers segments identified

Appendix C: Shoreland Zoning Application
Shoreland Zoning Ordinance for the Municipality of Lebanon, Maine

1. **Purposes.** The purposes of this Ordinance are to further the maintenance of safe and healthful conditions; to prevent and control water pollution; to protect fish spawning grounds, aquatic life, bird and other wildlife habitat; to protect buildings and lands from flooding and accelerated erosion; to protect archaeological and historic resources; to protect freshwater wetlands; to control building sites, placement of structures and land uses; to conserve shore cover, and visual as well as actual points of access to inland waters; to conserve natural beauty and open space; and to anticipate and respond to the impacts of development in shoreland areas.

2. **Authority.** This Ordinance has been prepared in accordance with the provisions of Title 38 sections 435-449 of the Maine Revised Statutes Annotated (M.R.S.A.).

3. **Applicability.** This Ordinance applies to all land areas within 250 feet, horizontal distance, of the
   - normal high-water line of any great pond or river, or
   - upland edge of a freshwater wetland,

and all land areas within 75 feet, horizontal distance, of the normal high-water line of a stream.

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

4. **Effective Date of Ordinance and Ordinance Amendments.** This Ordinance, which was adopted by the municipal legislative body on June 9, 2010, shall not be effective unless approved by the Commissioner of the Department of Environmental Protection. A certified copy of the Ordinance, or Ordinance Amendment, attested and signed by the Municipal Clerk, shall be forwarded to the Commissioner for approval. If the Commissioner fails to act on this Ordinance or Ordinance Amendment, within forty-five (45) days of his/her receipt of the Ordinance, or Ordinance Amendment, it shall be automatically approved.

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

5. **Availability.** A certified copy of this Ordinance shall be filed with the Municipal Clerk and shall be accessible to any member of the public. Copies shall be made available to the public at reasonable cost at the expense of the person making the request. Notice of availability of this Ordinance shall be posted.

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

7. **Conflicts with Other Ordinances.** Whenever a provision of this Ordinance conflicts with or is inconsistent with another provision of this Ordinance or of any other ordinance, regulation or statute administered by the municipality, the more restrictive provision shall control.
8. **Amendments.** This Ordinance may be amended by majority vote of the legislative body. Copies of amendments, attested and signed by the Municipal Clerk, shall be submitted to the Commissioner of the Department of Environmental Protection following adoption by the municipal legislative body and shall not be effective unless approved by the Commissioner. If the Commissioner fails to act on any amendment within forty-five (45) days of his/her receipt of the amendment, the amendment is automatically approved. Any application for a permit submitted to the municipality within the forty-five (45) day period shall be governed by the terms of the amendment, if such amendment is approved by the Commissioner.

9. **Districts and Zoning Map**

   A. **Official Shoreland Zoning Map.** The areas to which this Ordinance is applicable are hereby divided into the following districts as shown on the Official Shoreland Zoning Map(s) which is (are) made a part of this Ordinance:

   (1) Resource Protection
   (2) Limited Residential
   (3) Limited Commercial
   (4) General Development I
   (5) General Development II
   (6) Stream Protection

   B. **Scale of Map.** The Official Shoreland Zoning Map shall be drawn at a scale of not less than: 1 inch = 2000 feet. District boundaries shall be clearly delineated and a legend indicating the symbols for each district shall be placed on the map.

   C. **Certification of Official Shoreland Zoning Map.** The Official Shoreland Zoning Map shall be certified by the attested signature of the Municipal Clerk and shall be located in the municipal office. In the event the municipality does not have a municipal office, the Municipal Clerk shall be the custodian of the map.

   D. **Changes to the Official Shoreland Zoning Map.** If amendments, in accordance with Section 8, are made in the district boundaries or other matter portrayed on the Official Shoreland Zoning Map, such changes shall be made on the Official Shoreland Zoning Map within thirty (30) days after the amendment has been approved by the Commissioner of the Department of Environmental Protection.

10. **Interpretation of District Boundaries.** Unless otherwise set forth on the Official Shoreland Zoning Map, district boundary lines are property lines, the centerlines of streets, roads and rights of way, and the boundaries of the shoreland area as defined herein. Where uncertainty exists as to the exact location of district boundary lines, the Board of Appeals shall be the final authority as to location.

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

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

B. **General.**

(1) **Transfer of Ownership.** Non-conforming structures, lots, and uses may be transferred, and the new owner may continue the non-conforming use or continue to use the non-conforming structure or lot, subject to the provisions of this Ordinance.

(2) **Repair and Maintenance.** This Ordinance allows, without a permit, the normal upkeep and maintenance of non-conforming uses and structures including repairs or renovations that do not involve expansion of the non-conforming use or structure, and such other changes in a non-conforming use or structure as federal, state, or local building and safety codes may require.

C. **Non-conforming Structures**

(1) **Expansions.** All new principal and accessory structures, excluding functionally water-dependent uses, must meet the water body, tributary stream, or wetland setback requirements contained in Section 15(B)(1). A non-conforming structure may be added to or expanded after obtaining a permit from the same permitting authority as that for a new structure, if such addition or expansion does not increase the non-conformity of the structure, and is in accordance with subparagraphs (a) and (b) below.

(a) Expansion of any portion of a structure within 25 feet, horizontal distance, of the normal high-water line of a water body, tributary stream, or upland edge of a wetland is prohibited, even if the expansion will not increase nonconformity with the water body, tributary stream or wetland setback requirement. Expansion of an accessory structure that is located closer to the normal high-water line of a water body, tributary stream, or upland edge of a wetland than the principal structure is prohibited, even if the expansion will not increase nonconformity with the water body, tributary stream or wetland setback requirement.

(b) Notwithstanding paragraph (a) above, if a legally existing nonconforming principal structure is entirely located less than 25 feet from the normal high-water line of a water body, tributary stream, or upland edge of a wetland, that structure may be expanded as follows, as long as all other applicable municipal land use standards are met and the expansion is not prohibited by Section 12(C)(1).

(i) The maximum total footprint for the principal structure may not be expanded to a size greater than 800 square feet or 30% larger than the footprint that existed on January 1, 1989, whichever is greater. The maximum height of the principal structure may not be made greater than 15 feet or the height of the existing structure, whichever is greater.
(c) All other legally existing nonconforming principal and accessory structures that do not meet water body, tributary stream, or wetland setback requirements may be expanded or altered as follows, as long as other applicable municipal land use standards are met and the expansion is not prohibited by Section 12(C)(1) or Section 12(C)(1)(a), above.

(i) For structures located less than 75 feet, horizontal distance, from the normal high-water line of a water body, tributary stream, or upland edge of a wetland, the maximum combined total footprint for all structures may not be expanded to a size greater than 1,000 square feet or 30% larger than the footprint that existed on January 1, 1989, whichever is greater. The maximum height of any structure may not be made greater than 20 feet or the height of the existing structure, whichever is greater.

(ii) For structures located less than 100 feet, horizontal distance, from the normal high-water line of a great pond classified as GPA or a river flowing to a great pond classified as GPA, the maximum combined total footprint for all structures may not be expanded to a size greater than 1,500 square feet or 30% larger than the footprint that existed on January 1, 1989, whichever is greater. The maximum height of any structure may not be made greater than 25 feet or the height of the existing structure whichever is greater. Any portion of those structures located less than 75 feet, horizontal distance from the normal high-water line of a water body, tributary stream, or the upland edge of a wetland must meet the footprint and height limits in Section 12(C)(1)(b)(i) and Section 12(C)(1)(c)(i) above.

(iii) In addition to the limitations in subparagraphs (i) and (ii), for structures that are legally nonconforming due to their location within the Resource Protection District when located at less than 250 feet from the normal high-water line of a water body or upland edge of a wetland, the maximum combined total footprint for all structures may not be expanded to a size greater than 1,500 square feet or 30% larger than the footprint that existed at the time the Resource Protection District was established on the lot, whichever is greater. The maximum height of any structure may not be made greater than 25 feet or the height of the existing structure, whichever is greater, except that any portion of those structures located less than 75 feet from the normal high-water line of a water body, tributary stream or upland edge of a wetland must meet footprint and height limits in Section 12(C)(1)(b)(i) and Section 12(C)(1)(c)(i) above.

(d) An approved plan for expansion of a nonconforming structure must be recorded by the applicant with the registry of deeds, within 90 days of approval. The recorded plan must show the existing and proposed footprint of the non-conforming structure, the existing and proposed structure height, the footprint of any other structures on the parcel, the shoreland zone boundary and evidence of approval by the municipal review authority.

(2) **Foundations.** Whenever a new, enlarged, or replacement foundation is constructed under a non-conforming structure, the structure and new foundation must be placed such that the setback requirement is met to the greatest practical extent as determined by the Planning Board or its designee, basing its decision on the criteria specified in Section 12(C)(3) Relocation, below.
(3) **Relocation.** A non-conforming structure may be relocated within the boundaries of the parcel on which the structure is located provided that the site of relocation conforms to all setback requirements to the greatest practical extent as determined by the Planning Board or its designee, and provided that the applicant demonstrates that the present subsurface sewage disposal system meets the requirements of State law and the State of Maine Subsurface Wastewater Disposal Rules (Rules), or that a new system can be installed in compliance with the law and said Rules. In no case shall a structure be relocated in a manner that causes the structure to be more non-conforming.

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

When it is necessary to remove vegetation within the water or wetland setback area in order to relocate a structure, the Planning Board shall require replanting of native vegetation to compensate for the destroyed vegetation in accordance with Section 15(S). In addition, the area from which the relocated structure was removed must be replanted with vegetation. Replanting shall be required as follows:

(a) Trees removed in order to relocate a structure must be replanted with at least one 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.

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

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

In determining whether the building reconstruction or replacement meets the setback to the greatest practical extent the Planning Board or its designee shall consider, in addition to the criteria in Section 12(C)(3) above, the physical condition and type of foundation present, if any.

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

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

D. Non-conforming Uses

(1) Expansions. Expansions of non-conforming uses are prohibited, except that non-conforming residential uses may, after obtaining a permit from the Planning Board, be expanded within existing residential structures or within expansions of such structures as allowed in Section 12(C)(1) above.

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

E. **Non-conforming Lots**

(1) **Non-conforming Lots:** A non-conforming lot of record as of the effective date of this Ordinance or amendment thereto may be built upon, without the need for a variance, provided that such lot is in separate ownership and not contiguous with any other lot in the same ownership, and that all provisions of this Ordinance except lot area, lot width and shore frontage can be met. Variances relating to setback or other requirements not involving lot area, lot width or shore frontage shall be obtained by action of the Board of Appeals.

(2) **Contiguous Built Lots:** If two or more contiguous lots or parcels are in a single or joint ownership of record at the time of adoption of this Ordinance, if all or part of the lots do not meet the dimensional requirements of this Ordinance, and if a principal use or structure exists on each lot, the non-conforming lots may be conveyed separately or together, provided that the State Minimum Lot Size Law (12 M.R.S.A. sections 4807-A through 4807-D) and the State of Maine Subsurface Wastewater Disposal Rules are complied with.

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

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

This provision shall not apply to 2 or more contiguous lots, at least one of which is nonconforming, owned by the same person or persons on November 5, 2001, and recorded in the registry of deeds if the lot is served by a public sewer or can accommodate a subsurface sewage disposal system in conformance with the State of Maine Subsurface Wastewater Disposal Rules; and

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

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

13. **Establishment of Districts**

A. **Resource Protection District.** The Resource Protection District includes areas in which development would adversely affect water quality, productive habitat, biological ecosystems, or
scenic and natural values. This district shall include the following areas when they occur within
the limits of the shoreland zone, exclusive of the Stream Protection District, except that areas
which are currently developed and areas which meet the criteria for the Limited Commercial or
General Development I Districts need not be included within the Resource Protection District.

(1) Areas within 250 feet, horizontal distance, of the upland edge of freshwater wetlands and
wetlands associated with great ponds and rivers, which are rated "moderate" or "high" value
waterfowl and wading bird habitat, including nesting and feeding areas, by the Maine
Department of Inland Fisheries and Wildlife (MDIF&W) that are depicted on a Geographic
Information System (GIS) data layer normally maintained by MDIF&W. For the purposes of
this paragraph "wetlands associated with great ponds and rivers" shall mean areas
characterized by non-forested wetland vegetation and hydric soils that are contiguous with a
great pond or river, and have a surface elevation at or below the water level of the great pond
or river during the period of normal high water. "Wetlands associated with great ponds or
rivers" are considered to be part of that great pond or river.

(2) Floodplains along rivers and floodplains along artificially formed great ponds along rivers,
defined by the 100 year floodplain as designated on the Federal Emergency Management
Agency's (FEMA) Flood Insurance Rate Maps or Flood Hazard Boundary Maps, or the flood
of record, or in the absence of these, by soil types identified as recent floodplain soils.

(3) Areas of two or more contiguous acres with sustained slopes of 20% or greater.

(4) Areas of two (2) or more contiguous acres supporting wetland vegetation and hydric soils,
which are not part of a freshwater wetland as defined, and which are not surficially connected
to a water body during the period of normal high water.

(5) Land areas along rivers subject to severe bank erosion, undercutting, or river bed movement.

B. **Limited Residential District.** The Limited Residential District includes those areas suitable for
residential and recreational development. It includes areas other than those in the Resource
Protection District, or Stream Protection District, and areas which are used less intensively than
those in the Limited Commercial District or the General Development Districts.

C. **Limited Commercial District.** The Limited Commercial District includes areas of mixed, light
commercial and residential uses, exclusive of the Stream Protection District, which should not be
developed as intensively as the General Development Districts. 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. Industrial uses are prohibited.

D. **General Development I District.** The General Development I District includes the following
types of existing, intensively developed areas:

(1) Areas of two or more contiguous acres devoted to commercial, industrial or intensive
recreational activities, or a mix of such activities, including but not limited to the following:

   (a) Areas devoted to manufacturing, fabricating or other industrial activities;

   (b) Areas devoted to wholesaling, warehousing, retail trade and service activities, or other
       commercial activities; and

   (c) Areas devoted to intensive recreational development and activities, such as, but not
       limited to amusement parks, race tracks and fairgrounds.
(2) Areas otherwise discernible as having patterns of intensive commercial, industrial or recreational uses.

E. General Development II District. The General Development II District includes the same types of areas as those listed for the General Development I District. The General Development II District, however, shall be applied to newly established General Development Districts where the pattern of development at the time of adoption is undeveloped or not as intensively developed as that of the General Development I District.

Portions of the General Development District I or II may also include residential development. However, no area shall be designated as a General Development I or II District based solely on residential use.

In areas adjacent to great ponds classified GPA and adjacent to rivers flowing to great ponds classified GPA, the designation of an area as a General Development District shall be based upon uses existing at the time of adoption of this Ordinance. There shall be no newly established General Development Districts or expansions in area of existing General Development Districts adjacent to great ponds classified GPA, and adjacent to rivers that flow to great ponds classified GPA.

F. Stream Protection District. The Stream Protection District includes all land areas within seventy-five (75) feet, horizontal distance, of the normal high-water line of a stream, exclusive of those areas within two-hundred and fifty (250) feet, horizontal distance, of the normal high-water line of a great pond, or river, or within two hundred and fifty (250) feet, horizontal distance, of the upland edge of a wetland. Where a stream and its associated shoreland area are located within two-hundred and fifty (250) feet, horizontal distance, of the above water bodies or wetlands, that land area shall be regulated under the terms of the shoreland district associated with that water body or wetland.

G. Zoning Map. District boundaries are depicted on the Town of Lebanon Shoreland Zoning Map based on the best available information at time of mapping. The actual boundaries of the districts are subject to field verification to determine their exact location on a case by case basis.

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

Key to Table 1:

- **Yes** - Allowed (no permit required but the use must comply with all applicable land use standards)
- **No** - Prohibited
- **PB** - Allowed with permit issued by the Planning Board.
- **CEO** - Allowed with permit issued by the Code Enforcement Officer
- **LPI** - Allowed with permit issued by the Local Plumbing Inspector

Abbreviations:
RP - Resource Protection
LR - Limited Residential
SP - Stream Protection

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

1. In RP not allowed within 75 feet horizontal distance, 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. In RP not allowed in areas so designated because of wildlife value.
4. Provided that a variance from the setback requirement is obtained from the Board of Appeals.
5. Functionally water dependent uses and uses accessory to such water dependent uses only (See note on previous page).
6. See further restrictions in Section 15(L)(2).
7. Except when area is zoned for resource protection due to floodplain criteria in which case a permit is required from the PB.
8. Except as provided in Section 15(H)(4).
9. Single family residential structures may be allowed by special exception only according to the provisions of Section 16(E).
   Special Exceptions. Two-family residential structures are prohibited.
10. Except for commercial uses otherwise listed in this Table, such as marinas and campgrounds, that are allowed in the respective district.
11. Excluding bridges and other crossings not involving earthwork, in which case no permit is required.
12. Permit not required but must file a written “notice of intent to construct” with CEO.

NOTE: A person performing any of the following activities shall require a permit from the Department of Environmental Protection, pursuant to 38 M.R.S.A. section 480-C, if the activity occurs in, on, over or adjacent to any freshwater 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.
15. **Land Use Standards.** All land use activities within the shoreland zone shall conform to the following provisions, if applicable.

### A. Minimum Lot Standards

<table>
<thead>
<tr>
<th>Minimum Lot Standards</th>
<th>Minimum Lot Area (sq. ft.)</th>
<th>Minimum Shore Frontage (ft.)</th>
</tr>
</thead>
<tbody>
<tr>
<td>(1) (a) Residential per dwelling unit within The Shoreland Zone</td>
<td>40,000</td>
<td>200</td>
</tr>
<tr>
<td>(b) Governmental, Institutional, Commercial Or Industrial per principal structure Within the Shoreland Zone</td>
<td>60,000</td>
<td>300</td>
</tr>
<tr>
<td>(c) Public and Private Recreational Facilities within the Shoreland Zone</td>
<td>40,000</td>
<td>200</td>
</tr>
</tbody>
</table>

(2) Land below the normal high-water line of a water body or upland edge of a wetland and land beneath roads serving more than two (2) lots shall not be included toward calculating minimum lot area.

(3) Lots located on opposite sides of a public or private road shall be considered each a separate tract or parcel of land unless such road was established by the owner of land on both sides thereof after September 22, 1971.

(4) The minimum width of any portion of any lot within one hundred (100) feet, horizontal distance, of the normal high-water line of a water body or upland edge of a wetland shall be equal to or greater than the shore frontage requirement for a lot with the proposed use.

(5) If more than one residential dwelling unit, principal governmental, institutional, commercial or industrial structure or use, or combination thereof, is constructed or established on a single parcel, all dimensional requirements shall be met for each additional dwelling unit, principal structure, or use.

### B. Principal and Accessory Structures

(1) All new principal and accessory structures shall be set back at least one hundred (100) feet, horizontal distance, from the normal high-water line of great ponds classified GPA and Salmon Falls River, Little River and seventy-five (75) feet, horizontal distance, from the normal high-water line of other water bodies, tributary streams, or the upland edge of a wetland, except that in the General Development I District the setback from the normal high-water line shall be at least twenty five (25) feet, horizontal distance. In the Resource Protection District the setback requirement shall be 250 feet, horizontal distance, except for structures, roads, parking spaces or other regulated objects specifically allowed in that district in which case the setback requirements specified above shall apply.

**In addition:**

(a) The water body, tributary stream, or wetland setback provision shall neither apply to structures which require direct access to the water body or wetland as an operational
necessity, such as piers, docks and retaining walls, nor to other functionally water dependent uses.

(b) On a non-conforming lot of record on which only a residential structure exists, and it is not possible to place an accessory structure meeting the required water body, tributary stream or wetland setbacks, the code enforcement officer may issue a permit to place a single accessory structure, with no utilities, for the storage of yard tools and similar equipment. Such accessory structure shall not exceed eighty (80) square feet in area nor eight (8) feet in height, and shall be located as far from the shoreline or tributary stream as practical and shall meet all other applicable standards, including lot coverage and vegetation clearing limitations. In no case shall the structure be located closer to the shoreline or tributary stream than the principal structure.

(2) Principal or accessory structures and expansions of existing structures which are permitted in the Resource Protection, Limited Residential, 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.

(3) The lowest floor elevation or openings of all buildings and structures, including basements, shall be elevated at least one foot above the elevation of the 100 year flood, the flood of record, or in the absence of these, the flood as defined by soil types identified as recent flood-plain soils. In those municipalities that participate in the National Flood Insurance Program and have adopted the April 2005 version, or later version, of the Floodplain Management Ordinance, accessory structures may be placed in accordance with the standards of that ordinance and need not meet the elevation requirements of this paragraph.

(4) With the exception of General Development Districts located adjacent to rivers that do not flow to great ponds, non-vegetated surfaces shall not exceed a total of twenty (20) percent of the portion of the lot located within the shoreland zone. This limitation does not apply to public boat launching facilities regardless of the district in which the facility is located.

In a General Development District located adjacent to rivers that do not flow to great ponds, non-vegetated surfaces shall not exceed a total of seventy (70) percent of the portion of the lot located within the shoreland zone.

For the purposes of calculating lot coverage, non-vegetated surfaces include, but are not limited to the following: structures, driveways, parking areas, and other areas from which vegetation has been removed. Naturally occurring ledge and rock outcroppings are not counted as non-vegetated surfaces when calculating lot coverage for lots of record on March 24, 1990 and in continuous existence since that date.

(5) Retaining walls that are not necessary for erosion control shall meet the structure setback requirement, except for low retaining walls and associated fill provided all of the following conditions are met:

(a) The site has been previously altered and an effective vegetated buffer does not exist;

(b) The wall(s) is(are) at least 25 feet, horizontal distance, from the normal high-water line of a water body, tributary stream, or upland edge of a wetland;
(c) The site where the retaining wall will be constructed is legally existing lawn or is a site eroding from lack of naturally occurring vegetation, and which cannot be stabilized with vegetative plantings;

(d) The total height of the wall(s), in the aggregate, are no more than 24 inches;

(e) Retaining walls are located outside of the 100-year floodplain on rivers, streams, wetlands, and tributary streams, as designated on the Federal Emergency Management Agency's (FEMA) Flood Insurance Rate Maps or Flood Hazard Boundary Maps, or the flood of record, or in the absence of these, by soil types identified as recent flood plain soils.

(f) The area behind the wall is revegetated with grass, shrubs, trees, or a combination thereof, and no further structural development will occur within the setback area, including patios and decks; and

(g) A vegetated buffer area is established within 25 feet, horizontal distance, of the normal high-water line of a water body, tributary stream, or upland edge of a wetland when a natural buffer area does not exist. The buffer area must meet the following characteristics:

(i) The buffer must include shrubs and other woody and herbaceous vegetation. Where natural ground cover is lacking the area must be supplemented with leaf or bark mulch;

(ii) Vegetation plantings must be in quantities sufficient to retard erosion and provide for effective infiltration of storm water runoff;

(iii) Only native species may be used to establish the buffer area;

(iv) A minimum buffer width of 15 feet, horizontal distance, is required, measured perpendicularly to the normal high-water line or upland edge of a wetland;

(v) A footpath not to exceed the standards in Section 15(P)(2)(a), may traverse the buffer;

NOTE: If the wall and associated soil disturbance occurs within 75 feet, horizontal distance, of a water body, tributary stream or wetland, a permit pursuant to the Natural Resource Protection Act is required from the Department of Environmental Protection.

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

C. Piers, Docks, Wharves, Bridges and Other Structures and Uses Extending Over or Below the Normal High-Water Line of a Water Body or Within a Wetland, and Shoreline Stabilization
(1) No more than one pier, dock, wharf or similar structure extending or located below the normal high-water line of a water body or within a wetland is allowed on a single lot; except that when a single lot contains at least twice the minimum shore frontage as specified in Section 15(A), a second structure may be allowed and may remain as long as the lot is not further divided.

(2) Access from shore shall be developed on soils appropriate for such use and constructed so as to control erosion.

(3) The location shall not interfere with existing developed or natural beach areas.

(4) The facility shall be located so as to minimize adverse effects on fisheries.

(5) The facility shall be no larger in dimension than necessary to carry on the activity and be consistent with the surrounding character and uses of the area. A temporary pier, dock or wharf shall not be wider than six feet for non-commercial uses.

(6) No new structure shall be built on, over or abutting a pier, wharf, dock or other structure extending beyond the normal high-water line of a water body or within a wetland unless the structure requires direct access to the water body or wetland as an operational necessity.

(7) New permanent piers and docks shall not be permitted unless it is clearly demonstrated to the Planning Board that a temporary pier or dock is not feasible, and a permit has been obtained from the Department of Environmental Protection, pursuant to the Natural Resources Protection Act.

(8) No existing structures built on, over or abutting a pier, dock, wharf or other structure extending beyond the normal high-water line of a water body or within a wetland shall be converted to residential dwelling units in any district.

(9) Except in the General Development Districts, structures built on, over or abutting a pier, wharf, dock or other structure extending beyond the normal high-water line of a water body or within a wetland shall not exceed twenty (20) feet in height above the pier, wharf, dock or other structure.

(10) Vegetation may be removed in excess of the standards in Section 15(P) of this ordinance in order to conduct shoreline stabilization of an eroding shoreline, provided that a permit is obtained from the Planning Board. Construction equipment must access the shoreline by barge when feasible as determined by the Planning Board.

(a) When necessary, the removal of trees and other vegetation to allow for construction equipment access to the stabilization site via land must be limited to no more than 12 feet in width. When the stabilization project is complete the construction equipment accessway must be restored.

(b) Revegetation must occur in accordance with Section 15(S).
NOTE: New permanent structures, and expansions thereof, projecting into or over water bodies shall require a permit from the Department of Environmental Protection pursuant to the Natural Resources Protection Act, 38 M.R.S.A. section 480-C. Permits may also be required from the Army Corps of Engineers if located in navigable waters.

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

(1) Campgrounds shall contain a minimum of five thousand (5,000) square feet of land, not including roads and driveways, for each site. Land supporting wetland vegetation, and land below the normal high-water line of a water body shall not be included in calculating land area per site.

(2) The areas intended for placement of a recreational vehicle, tent or shelter, and utility and service buildings shall be set back a minimum of one hundred (100) feet, horizontal distance, from the normal high-water line of a great pond classified GPA or a river flowing to a great pond classified GPA, and seventy-five (75) feet, horizontal distance, from the normal high-water line of other water bodies, tributary streams, or the upland edge of a wetland.

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

(1) One campsite per lot existing on the effective date of this Ordinance, or thirty thousand (30,000) square feet of lot area within the shoreland zone, whichever is less, may be permitted.

(2) When an individual private campsite is proposed on a lot that contains another principal use and/or structure, the lot must contain the minimum lot dimensional requirements for the principal structure and/or use, and the individual private campsite separately.

(3) Campsite placement on any lot, including the area intended for a recreational vehicle or tent platform, shall be set back one hundred (100) feet, horizontal distance, from the normal water line of a great pond classified GPA or Salmon Falls River and seventy-five (75) feet, horizontal distance, from the normal high-water line of other water bodies, tributary streams, or the upland edge of a wetland.

(4) Only one recreational vehicle shall be allowed on a campsite. The recreational vehicle shall not be located on any type of permanent foundation except for a gravel pad, and no structure except a canopy shall be attached to the recreational vehicle.

(5) The clearing of vegetation for the siting of the recreational vehicle, tent or similar shelter in a Resource Protection District shall be limited to one thousand (1000) square feet.

(6) A written sewage disposal plan describing the proposed method and location of sewage disposal shall be required for each campsite and shall be approved by the Local Plumbing Inspector. Where disposal is off-site, written authorization from the receiving facility or land owner is required.

(7) When a recreational vehicle, tent or similar shelter is placed on-site for more than one hundred and twenty (120) days per year, all requirements for residential structures shall be met, including the installation of a subsurface sewage disposal system in compliance with the
F. **Commercial and Industrial Uses.** The following new commercial and industrial uses are prohibited within the shoreland zone adjacent to great ponds classified GPA, and Salmon Falls River and streams which flow to great ponds classified GPA:

1. Auto washing facilities
2. Auto or other vehicle service and/or repair operations, including body shops
3. Chemical and bacteriological laboratories
4. Storage of chemicals, including herbicides, pesticides or fertilizers, other than amounts normally associated with individual households or farms
5. Commercial painting, wood preserving, and furniture stripping
6. Dry cleaning establishments
7. Electronic circuit assembly
8. Laundromats, unless connected to a sanitary sewer
9. Metal plating, finishing, or polishing
10. Petroleum or petroleum product storage and/or sale except storage on same property as use occurs and except for storage and sales associated with marinas
11. Photographic processing
12. Printing
13. Junk Yards
14. Auto Salvage Yard
15. Recycling Center

G. **Parking Areas**

1. Parking areas shall meet the shoreline and tributary stream setback requirements for structures for the district in which such areas are located. The setback requirement for parking areas serving public boat launching facilities in Districts other than the General Development I District shall be no less than fifty (50) feet, horizontal distance, from the shoreline or tributary stream if the Planning Board finds that no other reasonable alternative exists further from the shoreline or tributary stream.

2. Parking areas shall be adequately sized for the proposed use and shall be designed to prevent storm water runoff from flowing directly into a water body, tributary stream or wetland and where feasible, to retain all runoff on-site.

3. In determining the appropriate size of proposed parking facilities, the following shall apply:
   
   a. Typical parking space: Approximately ten (10) feet wide and twenty (20) feet long, except that parking spaces for a vehicle and boat trailer shall be forty (40) feet long.

   b. Internal travel aisles: Approximately twenty (20) feet wide.

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

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

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

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

(2) Existing public roads may be expanded within the legal road right of way regardless of their setback from a water body, tributary stream or wetland.

(3) New roads and driveways are prohibited in a Resource Protection District except that the Planning Board may grant a permit to construct a road or driveway to provide access to permitted uses within the district. A road or driveway may also be approved by the Planning Board in a Resource Protection District, upon a finding that no reasonable alternative route or location is available outside the district. When a road or driveway is permitted in a Resource Protection District the road and/or driveway shall be set back as far as practicable from the normal high-water line of a water body, tributary stream, or upland edge of a wetland.

(4) Road and driveway banks shall be no steeper than a slope of two (2) horizontal to one (1) vertical, and shall be graded and stabilized in accordance with the provisions for erosion and sedimentation control contained in Section 15(T).

(5) Road and driveway grades shall be no greater than ten (10) percent except for segments of less than two hundred (200) feet.

(6) In order to prevent road and driveway surface drainage from directly entering water bodies, tributary streams or wetlands, roads and driveways shall be designed, constructed, and maintained to empty onto an unscarified buffer strip at least (50) feet plus two times the average slope, in width between the outflow point of the ditch or culvert and the normal highwater line of a water body, tributary stream, or upland edge of a wetland. Surface drainage which is directed to an unscarified buffer strip shall be diffused or spread out to promote infiltration of the runoff and to minimize channelized flow of the drainage through the buffer strip.

(7) Ditch relief (cross drainage) culverts, drainage dips and water turnouts shall be installed in a manner effective in directing drainage onto unscarified buffer strips before the flow gains sufficient volume or head to erode the road, driveway, or ditch. To accomplish this, the following shall apply:

(a) Ditch relief culverts, drainage dips and associated water turnouts shall be spaced along the road, or driveway at intervals no greater than indicated in the following table:
<table>
<thead>
<tr>
<th>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 grade is ten percent or less.

(c) On sections having slopes greater than ten (10) percent, ditch relief culverts shall be placed at approximately a thirty (30) degree angle down slope from a line perpendicular to the centerline of the road or driveway.

(d) Ditch relief culverts shall be sufficiently sized and properly installed in order to allow for effective functioning and their inlet and outlet ends shall be stabilized with appropriate materials.

(8) Ditches, culverts, bridges, dips, water turnouts and other storm water runoff control installations associated with roads and driveways shall be maintained on a regular basis to assure effective functioning.

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

(1) Signs relating to goods and services sold on the premises shall be allowed, provided that such signs shall not exceed six (6) square feet in area and shall not exceed two (2) signs per premises. In the Limited Commercial District, however, such signs shall not exceed sixteen square feet in area. Signs relating to goods or services not sold or rendered on the premises shall be prohibited.

(2) Name signs are allowed, provided such signs shall not exceed two (2) signs per premises, and shall not exceed twelve (12) square feet in the aggregate.

(3) Residential users may display a single sign not over three (3) square feet in area relating to the sale, rental, or lease of the premises.

(4) Signs relating to trespassing and hunting shall be allowed without restriction as to number provided that no such sign shall exceed two (2) square feet in area.

(5) Signs relating to public safety shall be allowed without restriction.

(6) No sign shall extend higher than twenty (20) feet above the ground.

(7) Signs may be illuminated only by shielded, non-flashing lights.

J. Storm Water Runoff

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

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

NOTE: The Stormwater Management Law (38 M.R.S.A. section 420-D) requires a full permit to be obtained from the DEP prior to construction of a project consisting of 20,000 square feet or more of impervious area or 5 acres or more of a developed area in an urban impaired stream watershed or most-at-risk lake watershed, or a project with 1 acre or more of developed area in any other stream or wetland watershed. A permit-by-rule is necessary for a project with one acre or more of disturbed area but less than 1 acre impervious area (20,000 square feet for most-at-risk lakes and urban impaired streams and less than 5 acres of developed area. Furthermore, a Maine Construction General Permit is required if the construction will result in one acre or more of disturbed area.

K. Septic Waste Disposal

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

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.

L. Essential Services

(1) Where feasible, the installation of essential services shall be limited to existing public ways and existing service corridors.

(2) The installation of essential services, other than road-side distribution lines, is not allowed in a Resource Protection or Stream Protection District, except to provide services to a permitted use within said district, or except where the applicant demonstrates that no reasonable alternative exists. Where allowed, such structures and facilities shall be located so as to minimize any adverse impacts on surrounding uses and resources, including visual impacts.

(3) Damaged or destroyed public utility transmission and distribution lines, towers and related equipment may be replaced or reconstructed without a permit.

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

(1) A reclamation plan shall be filed with, and approved, by the Planning Board before a permit
is granted. Such plan shall describe in detail procedures to be undertaken to fulfill the
requirements of Section 15 (M)(4) below.

(2) No part of any extraction operation, including drainage and runoff control features, shall be
permitted within one hundred (100) feet, horizontal distance, of the normal high-water line of
a great pond classified GPA or the Salmon Falls River and within seventy-five (75) feet,
horizontal distance, of the normal high-water line of any other water body, tributary stream,
or the upland edge of a wetland. Extraction operations shall not be permitted within fifty (50)
feet, horizontal distance, of any property line without written permission of the owner of such
adjacent property.

(3) Within twelve (12) months following the completion of extraction operations at any
extraction site, which operations shall be deemed complete when less than one hundred (100)
cubic yards of materials are removed in any consecutive twelve (12) month period, ground
levels and grades shall be established in accordance with the following:

(a) All debris, stumps, and similar material shall be removed for disposal in an approved
location, or shall be buried on-site. Only materials generated on-site may be buried or
covered on-site.

(b) The final graded slope shall be two and one-half to one (2 1/2:1) slope or flatter.

(c) Top soil or loam shall be retained to cover all disturbed land areas, which shall be
reseeded and stabilized with vegetation native to the area. Additional topsoil or loam
shall be obtained from off-site sources if necessary to complete the stabilization
project.

(4) In keeping with the purposes of this Ordinance, the Planning Board may impose such
conditions as are necessary to minimize the adverse impacts associated with mineral
extraction operations on surrounding uses and resources.

N. Agriculture

(1) All spreading of manure shall be accomplished in conformance with the Manure Utilization
Guidelines published by the former Maine Department of Agriculture on November 1, 2001,
and the Nutrient Management Law (7 M.R.S.A. sections 4201-4209).

(2) Manure shall not be stored or stockpiled within one hundred (100) feet, horizontal distance,
of a great pond classified GPA or the Salmon Falls River or within seventy-five (75) feet
horizontal distance, of other water bodies, tributary streams, or wetlands. All manure storage
areas within the shoreland zone must be constructed or modified such that the facility
produces no discharge of effluent or contaminated storm water.

(3) Agricultural activities involving tillage of soil greater than forty thousand (40,000) square
feet in surface area, within the shoreland zone shall require a Conservation Plan to be filed
with the Planning Board. Non-conformance with the provisions of said plan shall be
considered to be a violation of this Ordinance.
(4) There shall be no new tilling of soil within one-hundred (100) feet, horizontal distance, of the
normal high-water line of a great pond classified GPA; within seventy-five (75) feet,
horizontal distance, from other water bodies; nor within twenty-five (25) feet, horizontal
distance, of tributary streams and wetlands. Operations in existence on the effective date of
this ordinance and not in conformance with this provision may be maintained.

(5) Newly established livestock grazing areas shall not be permitted within one hundred (100)
feet, horizontal distance, of the normal high-water line of a great pond classified GPA; within
seventy-five (75) feet, horizontal distance, of other water bodies; nor within twenty-five (25)
feet, horizontal distance, of tributary streams and wetlands. Livestock grazing associated with
ongoing farm activities, and which are not in conformance with the above setback provisions
may continue, provided that such grazing is conducted in accordance with a Conservation
Plan.

O. Timber Harvesting – This section has been repealed in its entirety. Timber Harvesting
within the shoreland zone is regulated by the Bureau of Forestry

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

(1) In a Resource Protection District abutting a great pond, there shall be no cutting of vegetation
within the strip of land extending 75 feet, horizontal distance, inland from the normal
highwater line, except to remove safety hazard trees as described in Section Q.

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

(2) Except in areas as described in Section P(1), above, within a strip of land extending one-
hundred (100) feet, horizontal distance, inland from the normal high-water line of a great
pond classified GPA or the Salmon Falls River, or within a strip extending seventy-five (75)
feet, horizontal distance, from any other water body, tributary stream, or the upland edge of a
wetland, a buffer strip of vegetation shall be preserved as follows:

(a) There shall be no cleared opening greater than 250 square feet in the forest canopy (or
other existing woody vegetation if a forested canopy is not present) as measured from the
outer limits of the tree or shrub crown. However, a single footpath not to exceed six (6)
feet in width as measured between tree trunks and/or shrub stems is allowed for accessing
the shoreline provided that a cleared line of sight to the water through the buffer strip is
not created.

(b) Selective cutting of trees within the buffer strip is allowed provided that a well distributed
stand of trees and other natural vegetation is maintained. For the purposes of Section
15(P)(2)(b) a "well-distributed stand of trees" adjacent to a great pond classified GPA or
the Salmon Falls 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>
</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(P)(2)(b) "other natural vegetation" is defined as retaining existing vegetation under three (3) feet in height and other ground cover and retaining at least five (5) saplings less than two (2) inches in diameter at four and one half (4 1/2) feet above ground level for each 25-foot by 50-foot rectangle area. If five saplings do not exist, no woody stems less than two (2) inches in diameter can be removed until 5 saplings have been recruited into the plot.

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

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

(d) Pruning of tree branches, on the bottom 1/3 of the tree is allowed.
(e) In order to maintain a buffer strip of vegetation, when the removal of storm-damaged, dead or hazard trees results in the creation of cleared openings, these openings shall be replanted with native tree species in accordance with Section Q below, unless existing new tree growth is present.

(f) In order to maintain the vegetation in the shoreline buffer, clearing or removal of vegetation for allowed activities, including associated construction and related equipment operation, within or outside the shoreline buffer, must comply with the requirements of Section 15.P(2).

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

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

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

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

Q. Hazard Trees, Storm-Damaged Trees, and Dead Tree Removal

(1) Hazard trees in the shoreland zone may be removed without a permit after consultation with the Code Enforcement Officer if the following requirements are met:

(a) Within the shoreline buffer, if the removal of a hazard tree results in a cleared opening in the tree canopy greater than two hundred and fifty (250) square feet, replacement with native tree species is required, unless there is new tree growth already present. New tree growth must be as near as practicable to where the hazard tree was removed and be at least two (2) inches in diameter, measured at four and one half (4.5) feet above the ground level. If new growth is not present, then replacement trees shall consist of native species and be at least four (4) feet in height, and be no less than two (2) inches in diameter. Stumps may not be removed.

(b) Outside of the shoreline buffer, when the removal of hazard trees exceeds forty (40) percent of the volume of trees four (4) inches or more in diameter, measured at four and one half (4.5) feet above ground level in any ten (10) year period, and/or results in
cleared openings exceeding twenty-five (25) percent of the lot area within the shoreland zone, or ten thousand (10,000) square feet, whichever is greater, replacement with native tree species is required, unless there is new tree growth already present. New tree growth must be as near as practicable to where the hazard tree was removed and be at least two (2) inches in diameter, measured at four and one half (4.5) feet above the ground level. If new growth is not present, then replacement trees shall consist of native species and be at least two (2) inches in diameter, measured at four and one half (4.5) feet above the ground level.

(c) The removal of standing dead trees, resulting from natural causes, is permissible without the need for replanting or a permit, as long as the removal does not result in the creation of new lawn areas, or other permanently cleared areas, and stumps are not removed. For the purposes of this provision dead trees are those trees that contain no foliage during the growing season.

(d) The Code Enforcement Officer may require the property owner to submit an evaluation from a licensed forester or arborist before any hazard tree can be removed within the shoreland zone.

(e) The Code Enforcement Officer may require more than a one–for-one replacement for hazard trees removed that exceed eight (8) inches in diameter measured at four and one half (4.5) feet above the ground level.

(2) Storm-damaged trees in the shoreland zone may be removed without a permit after consultation with the Code Enforcement Officer if the following requirements are met:

(a) Within the shoreline buffer, when the removal of storm-damaged trees results in a cleared opening in the tree canopy greater than two hundred and fifty (250) square feet, replanting is not required, but the area shall be required to naturally revegetate, and the following requirements must be met:

(i) The area from which a storm-damaged tree is removed does not result in new lawn areas, or other permanently cleared areas;

(ii) Stumps from the storm-damaged trees may not be removed;

(iii) Limbs damaged from a storm event may be pruned even if they extend beyond the bottom one-third (1/3) of the tree; and

(iv) If after one growing season, no natural regeneration or regrowth is present, replanting of native tree seedlings or saplings is required at a density of one seedling per every eighty (80) square feet of lost canopy.
(b) Outside of the shoreline buffer, if the removal of storm damaged trees exceeds 40% of the volume of trees four (4) inches or more in diameter, measured at four and one half (4.5) feet above the ground level in any ten (10) year period, or results, in the aggregate, in cleared openings exceeding 25% of the lot area within the shoreland zone or ten thousand (10,000) square feet, whichever is greater, and no natural regeneration occurs within one growing season, then native tree seedlings or saplings shall be replanted on a one-for-one basis.

R. Exemptions to Clearing and Vegetation Removal Requirements

The following activities are exempt from the clearing and vegetation removal standards set forth in Section 15(P), provided that all other applicable requirements of this chapter are complied with, and the removal of vegetation is limited to that which is necessary:

(1) The removal of vegetation that occurs at least once every two (2) years for the maintenance of legally existing areas that do not comply with the vegetation standards in this chapter, such as but not limited to cleared openings in the canopy or fields. Such areas shall not be enlarged, except as allowed by this section. If any of these areas, due to lack of removal of vegetation every two (2) years, reverts back to primarily woody vegetation, the requirements of Section 15(P) apply;

(2) The removal of vegetation from the location of allowed structures or allowed uses, when the shoreline setback requirements of section 15(B) are not applicable;

(3) The removal of vegetation from the location of public swimming areas associated with an allowed public recreational facility;

(4) The removal of vegetation associated with allowed agricultural uses, provided best management practices are utilized, and provided all requirements of section 15(N) are complied with;

(5) The removal of vegetation associated with brownfields or voluntary response action program (VRAP) projects provided that the removal of vegetation is necessary for remediation activities to clean-up contamination on a site in a general development district, commercial fisheries and maritime activities district or other equivalent zoning district approved by the Commissioner that is part of a state or federal brownfields program or a voluntary response action program pursuant 38 M.R.S.A section 343-E, and that is located along:

(a) A coastal wetland; or

(b) A river that does not flow to a great pond classified as GPA pursuant to 38 M.R.S.A section 465-A.
(6) The removal of non-native invasive vegetation species, provided the following minimum requirements are met:

(a) If removal of vegetation occurs via wheeled or tracked motorized equipment, the wheeled or tracked motorized equipment is operated and stored at least twenty-five (25) feet, horizontal distance, from the shoreline, except that wheeled or tracked equipment may be operated or stored on existing structural surfaces, such as pavement or gravel;

(b) Removal of vegetation within twenty-five (25) feet, horizontal distance, from the shoreline occurs via hand tools; and

(c) If applicable clearing and vegetation removal standards are exceeded due to the removal of non-native invasive species vegetation, the area shall be revegetated with native species to achieve compliance.

(7) The removal of vegetation associated with emergency response activities conducted by the Department, the U.S. Environmental Protection Agency, the U.S. Coast Guard, and their agents.

S. Revegetation Requirements

When revegetation is required in response to violations of the vegetation standards set forth in Section 15(P), to address the removal of non-native invasive species of vegetation, or as a mechanism to allow for development that may otherwise not be permissible due to the vegetation standards, including removal of vegetation in conjunction with a shoreline stabilization project, the revegetation must comply with the following requirements.

(1) The property owner must submit a revegetation plan, prepared with and signed by a qualified professional, that describes revegetation activities and maintenance. The plan must include a scaled site plan, depicting where vegetation was, or is to be removed, where existing vegetation is to remain, and where vegetation is to be planted, including a list of all vegetation to be planted.

(2) Revegetation must occur along the same segment of shoreline and in the same area where vegetation was removed and at a density comparable to the pre-existing vegetation, except where a shoreline stabilization activity does not allow revegetation to occur in the same area and at a density comparable to the pre-existing vegetation, in which case revegetation must occur along the same segment of shoreline and as close as possible to the area where vegetation was removed:

(3) If part of a permitted activity, revegetation shall occur before the expiration of the permit. If the activity or revegetation is not completed before the expiration of the permit, a new revegetation plan shall be submitted with any renewal or new permit application.
(4) Revegetation activities must meet the following requirements for trees and saplings:

(a) All trees and saplings removed must be replaced with native noninvasive species;

(b) Replacement vegetation must at a minimum consist of saplings;

(c) If more than three (3) trees or saplings are planted, then at least three (3) different species shall be used;

(d) No one species shall make up 50% or more of the number of trees and saplings planted;

(e) If revegetation is required for a shoreline stabilization project, and it is not possible to plant trees and saplings in the same area where trees or saplings were removed, then trees or sapling must be planted in a location that effectively reestablishes the screening between the shoreline and structures; and

(f) A survival rate of at least eighty (80) percent of planted trees or saplings is required for a minimum five (5) years period.

(5) Revegetation activities must meet the following requirements for woody vegetation and other vegetation under three (3) feet in height:

(a) All woody vegetation and vegetation under three (3) feet in height must be replaced with native noninvasive species of woody vegetation and vegetation under three (3) feet in height as applicable;

(b) Woody vegetation and vegetation under three (3) feet in height shall be planted in quantities and variety sufficient to prevent erosion and provide for effective infiltration of storm water;

(c) If more than three (3) woody vegetation plants are to be planted, then at least three (3) different species shall be planted;

(d) No one species shall make up 50% or more of the number of planted woody vegetation plants; and

(e) Survival of planted woody vegetation and vegetation under three feet in height must be sufficient to remain in compliance with the standards contained within this chapter for minimum of five (5) years

(6) Revegetation activities must meet the following requirements for ground vegetation and ground cover:

(a) All ground vegetation and ground cover removed must be replaced with native herbaceous vegetation, in quantities and variety sufficient to prevent erosion and provide for effective infiltration of storm water;
Where necessary due to a lack of sufficient ground cover, an area must be supplemented with a minimum four (4) inch depth of leaf mulch and/or bark mulch to prevent erosion and provide for effective infiltration of storm water; and

Survival and functionality of ground vegetation and ground cover must be sufficient to remain in compliance with the standards contained within this chapter for a minimum of five (5) years.

### T. Erosion and Sedimentation Control

1. All activities which involve filling, grading, excavation or other similar activities which result in unstabilized soil conditions and which require a permit shall also require a written soil erosion and sedimentation control plan. The plan shall be submitted to the permitting authority for approval and shall include, where applicable, provisions for:
   
   a. Mulching and revegetation of disturbed soil.
   
   b. Temporary runoff control features such as hay bales, silt fencing or diversion ditches.
   
   c. Permanent stabilization structures such as retaining walls or rip-rap.

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

3. Erosion and sedimentation control measures shall apply to all aspects of the proposed project involving land disturbance, and shall be in operation during all stages of the activity. The amount of exposed soil at every phase of construction shall be minimized to reduce the potential for erosion.

4. Any exposed ground area shall be temporarily or permanently stabilized within one (1) week from the time it was last actively worked, by use of riprap, sod, seed, and mulch, or other effective measures. In all cases permanent stabilization shall occur within nine (9) months of the initial date of exposure. In addition:
   
   a. Where mulch is used, it shall be applied at a rate of at least one (1) bale per five hundred (500) square feet and shall be maintained until a catch of vegetation is established.
   
   b. Anchoring the mulch with netting, peg and twine or other suitable method may be required to maintain the mulch cover.
   
   c. Additional measures shall be taken where necessary in order to avoid siltation into the water. Such measures may include the use of staked hay bales and/or silt fences.

5. Natural and man-made drainage ways and drainage outlets shall be protected from erosion from water flowing through them. Drainageways shall be designed and constructed in order to carry water from a twenty-five (25) year storm or greater, and shall be stabilized with vegetation or lined with riprap.

### U. Soils

All land uses shall be located on soils in or upon which the proposed uses or structures can be established or maintained without causing adverse environmental impacts, including severe erosion, mass soil movement, improper drainage, and water pollution, whether during or after
construction. Proposed uses requiring subsurface waste disposal, and commercial or industrial
development and other similar intensive land uses, shall require a soils report based on an on-site
investigation and be prepared by state-certified professionals. Certified persons may include
Maine Certified Soil Scientists, Maine Registered Professional Engineers, Maine State Certified
Geologists and other persons who have training and experience in the recognition and evaluation
of soil properties. The report shall be based upon the analysis of the characteristics of the soil and
surrounding land and water areas, maximum ground water elevation, presence of ledge, drainage
conditions, and other pertinent data which the evaluator deems appropriate. The soils report shall
include recommendations for a proposed use to counteract soil limitations where they exist.

V. Water Quality. No activity shall deposit on or into the ground or discharge to the waters of the
State any pollutant that, by itself or in combination with other activities or substances, will impair
designated uses or the water classification of the water body, tributary stream or wetland.

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

16. Administration

A. Administering Bodies and Agents

(1) Code Enforcement Officer. A Code Enforcement Officer shall be appointed or reappointed
annually by July 1st.

(2) Board of Appeals. A Board of Appeals shall be created in accordance with the provisions of
30-A M.R.S.A. section 2691.

(3) Planning Board. A Planning Board shall be created in accordance with the provisions of State
law.

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

(1) A permit is not required for the replacement of an existing road culvert as long as:

(a) The replacement culvert is not more than 25% longer than the culvert being replaced;

(b) The replacement culvert is not longer than 75 feet; and

(c) Adequate erosion control measures are taken to prevent sedimentation of the water, and
the crossing does not block fish passage in the watercourse.

(2) A permit is not required for an archaeological excavation as long as the excavation is
conducted by an archaeologist listed on the State Historic Preservation Officer’s level 1 or
level 2 approved list, and unreasonable erosion and sedimentation is prevented by means of
adequate and timely temporary and permanent stabilization measures.
(3) Any permit required by this Ordinance shall be in addition to any other permit required by
other law or ordinance.

C. Permit Application

(1) Every applicant for a permit shall submit a written application, including a scaled site plan,
on a form provided by the municipality, to the appropriate official as indicated in Section 14.

(2) All applications shall be signed by an owner or individual who can show evidence of right,
title or interest in the property or by an agent, representative, tenant, or contractor of the
owner with authorization from the owner to apply for a permit hereunder, certifying that the
information in the application is complete and correct.

(3) All applications shall be dated, and the Code Enforcement Officer or Planning Board, as
appropriate, shall note upon each application the date and time of its receipt.

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

(5) When an excavation contractor will perform an activity that requires or results in more than one (1)
cubic yard of soil disturbance, the person responsible for management of erosion and sedimentation
control practices at the site must be certified in erosion control practices by the Maine Department
of Environmental Protection. This person must be present at the site each day earthmoving activity
occurs for a duration that is sufficient to ensure that proper erosion and sedimentation control
practices are followed. This is required until erosion and sedimentation control measures have been
installed, which will either stay in place permanently or stay in place until the area is sufficiently
covered with vegetation necessary to prevent soil erosion. The name and certification number of the
person who will oversee the activity causing or resulting in soil disturbance shall be included on the
permit application. This requirement does not apply to a person or firm engaged in agriculture or
timber harvesting if best management practices for erosion and sedimentation control are used; and
municipal, state and federal employees engaged in projects associated with that employment.

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

The applicant shall have the burden of proving that the proposed land use activity is in conformity
with the purposes and provisions of this Ordinance.
After the submission of a complete application to the Planning Board, the Board shall approve an application or approve it with conditions if it makes a positive finding based on the information presented that the proposed use:

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

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

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

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

If the floodway is not shown on the Federal Emergency Management Agency Maps, it is deemed to be 1/2 the width of the 100-year flood-plain.
(4) The total ground-floor area, including cantilevered or similar overhanging extensions, of all principal and accessory structures is limited to a maximum of 1,500 square feet. This limitation shall not be altered by variance.

(5) All structures, except functionally water-dependent structures, are set back from the normal high-water line of a water body, tributary stream or upland edge of a wetland to the greatest practical extent, but not less than 75 feet, horizontal distance. In determining the greatest practical extent, the Planning Board shall consider the depth of the lot, the slope of the land, the potential for soil erosion, the type and amount of vegetation to be removed, the proposed building site's elevation in regard to the flood-plain, and its proximity to moderate-value and high-value wetlands.

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

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

H. Appeals

(1) Powers and Duties of the Board of Appeals. The Board of Appeals shall have the following powers:

(a) Administrative Appeals: To hear and decide administrative appeals, on an appellate basis, where it is alleged by an aggrieved party that there is an error in any order, requirement, decision, or determination made by, or failure to act by, the Planning Board in the administration of this Ordinance; and to hear and decide administrative appeals on a de novo basis where it is alleged by an aggrieved party that there is an error in any order, requirement, decision or determination made by, or failure to act by, the Code Enforcement Officer in his or her review of and action on a permit application under this Ordinance. Any order, requirement, decision or determination made, or failure to act, in the enforcement of this ordinance is not appealable to the Board of Appeals.

(b) Variance Appeals: To authorize variances upon appeal, within the limitations set forth in this Ordinance.

(2) Variance Appeals. Variances may be granted only under the following conditions:

(a) Variances may be granted only from dimensional requirements including, but not limited to, lot width, structure height, percent of lot coverage, and setback requirements.

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

(c) The Board shall not grant a variance unless it finds that:
(i) The proposed structure or use would meet the provisions of Section 15 except for the specific provision which has created the non-conformity and from which relief is sought; and

(ii) The strict application of the terms of this Ordinance would result in undue hardship. The term "undue hardship" shall mean:

a. That the land in question cannot yield a reasonable return unless a variance is granted;

b. That the need for a variance is due to the unique circumstances of the property and not to the general conditions in the neighborhood;

c. That the granting of a variance will not alter the essential character of the locality; and

d. That the hardship is not the result of action taken by the applicant or a prior owner.

(d) Notwithstanding Section 16(H)(2)(c)(ii) above, the Board of Appeals or the Codes Enforcement Officer if authorized in accordance with 30-A MRSA 4353-A, may grant a variance to an owner of a residential dwelling for the purpose of making that dwelling accessible to a person with a disability who resides in or regularly uses the dwelling. The board shall restrict any variance granted under this subsection solely to the installation of equipment or the construction of structures necessary for access to or egress from the dwelling by the person with the disability. The board may impose conditions on the variance, including limiting the variance to the duration of the disability or to the time that the person with the disability lives in the dwelling. The term "structures necessary for access to or egress from the dwelling" shall include railing, wall or roof systems necessary for the safety or effectiveness of the structure. Any permit issued to this subsection is subject to Sections 16(H)(2)(f) and 16(H)(4)(b)(iv) below.

(e) The Board of Appeals shall limit any variances granted as strictly as possible in order to ensure conformance with the purposes and provisions of this Ordinance to the greatest extent possible, and in doing so may impose such conditions to a variance as it deems necessary. The party receiving the variance shall comply with any conditions imposed.

(f) A copy of each variance request, including the application and all supporting information supplied by the applicant, shall be forwarded by the municipal officials to the Commissioner of the Department of Environmental Protection at least twenty (20) days prior to action by the Board of Appeals. Any comments received from the Commissioner prior to the action by the Board of Appeals shall be made part of the record and shall be taken into consideration by the Board of Appeals.

(3) Administrative Appeals

When the Board of Appeals reviews a decision of the Code Enforcement Officer the Board of Appeals shall hold a "de novo" hearing. At this time the Board may receive and consider new evidence and testimony, be it oral or written. When acting in a "de novo" capacity the Board of Appeals shall hear and decide the matter afresh, undertaking its own independent analysis of evidence and the law, and reaching its own decision.
When the Board of Appeals hears a decision of the Planning Board, it shall hold an appellate hearing, and may reverse the decision of the Planning Board only upon finding that the decision was contrary to specific provisions of the Ordinance or contrary to the facts presented to the Planning Board. The Board of Appeals may only review the record of the proceedings before the Planning Board. The Board of Appeals shall not receive or consider any evidence which was not presented to the Planning Board, but the Board of Appeals may receive and consider written or oral arguments. If the Board of Appeals determines that the record of the Planning Board proceedings are inadequate, the Board of Appeals may remand the matter to the Planning Board for additional fact finding.

(4) Appeal Procedure

(a) Making an Appeal

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

(ii) Applications for appeals shall be made by filing with the Board of Appeals a written notice of appeal which includes:

a. A concise written statement indicating what relief is requested and why the appeal or variance should be granted.

b. A sketch drawn to scale showing lot lines, location of existing buildings and structures and other physical features of the lot pertinent to the relief sought.

(iii) Upon receiving an application for an administrative appeal or a variance, the Code Enforcement Officer or Planning Board, as appropriate, shall transmit to the Board of Appeals all of the papers constituting the record of the decision appealed from.

(iv) The Board of Appeals shall hold a public hearing on an administrative appeal or a request for a variance within thirty-five (35) days of its receipt of a complete written application, unless this time period is extended by the parties.

(b) Decision by Board of Appeals

i. A majority of the full voting membership of the Board shall constitute a quorum for the purpose of deciding an appeal.

ii. The person filing the appeal shall have the burden of proof.

iii. The Board shall decide all administrative appeals and variance appeals within thirty five (35) days after the close of the hearing, and shall issue a written decision on all appeals.

iv. The Board of Appeals shall state the reasons and basis for its decision, including a statement of the facts found and conclusions reached by the Board. The Board shall cause written notice of its decision to be mailed or hand-delivered to the applicant and to the Department of Environmental Protection within seven (7) days of the
Board’s decision. Copies of written decisions of the Board of Appeals shall be given to the Planning Board, Code Enforcement Officer, and the municipal officers.

(5) **Appeal to Superior Court.** Except as provided by 30-A M.R.S.A. section 2691(3)(F), any aggrieved party who participated as a party during the proceedings before the Board of Appeals may take an appeal to Superior Court in accordance with State laws within forty-five (45) days from the date of any decision of the Board of Appeals.

(6) **Reconsideration.** In accordance with 30-A M.R.S.A. section 2691(3)(F), the Board of Appeals may reconsider any decision within forty-five (45) days of its prior decision. A request to the Board to reconsider a decision must be filed within ten (10) days of the decision that is being reconsidered. A vote to reconsider and the action taken on that reconsideration must occur and be completed within forty-five (45) days of the date of the vote on the original decision. Reconsideration of a decision shall require a positive vote of the majority of the Board members originally voting on the decision, and proper notification to the landowner, petitioner, planning board, code enforcement officer, and other parties of interest, including abutters and those who testified at the original hearing(s). The Board may conduct additional hearings and receive additional evidence and testimony.

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

I. **Enforcement**

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

(2) **Code Enforcement Officer**

(a) It shall be the duty of the Code Enforcement Officer to enforce the provisions of this Ordinance. If the Code Enforcement Officer shall find that any provision of this Ordinance is being violated, he or she shall notify in writing the person responsible for such violation, indicating the nature of the violation and ordering the action necessary to correct it, including discontinuance of illegal use of land, buildings or structures, or work being done, removal of illegal buildings or structures, and abatement of nuisance conditions. A copy of such notices shall be submitted to the municipal officers and be maintained as a permanent record.

(b) The Code Enforcement Officer shall conduct on-site inspections to insure compliance with all applicable laws and conditions attached to permit approvals. The Code Enforcement Officer shall also investigate all complaints of alleged violations of this Ordinance.

(c) The Code Enforcement Officer shall keep a complete record of all essential transactions of the office, including applications submitted, permits granted or denied, variances granted or denied, revocation actions, revocation of permits, appeals, court actions, violations investigated, violations found, and fees collected.

(3) **Legal Actions.** When the above action does not result in the correction or abatement of the violation or nuisance condition, the Municipal Officers, upon notice from the Code Enforcement Officer, are hereby directed to institute any and all actions and proceedings, either legal or equitable, including seeking injunctions of violations and the imposition of fines, that may be appropriate or necessary to enforce the provisions of this Ordinance in the name of the municipality. The municipal officers, or their authorized agent, are hereby
authorized to enter into administrative consent agreements for the purpose of eliminating violations of this Ordinance and recovering fines without Court action. Such agreements shall not allow an illegal structure or use to continue unless there is clear and convincing evidence that the illegal structure or use was constructed or conducted as a direct result of erroneous advice given by an authorized municipal official and there is no evidence that the owner acted in bad faith, or unless the removal of the structure or use will result in a threat or hazard to public health and safety or will result in substantial environmental damage.

(4) **Fines.** Any person, including but not limited to a landowner, a landowner's agent or a contractor, who violates any provision or requirement of this Ordinance shall be penalized in accordance with 30-A, M.R.S.A. section 4452.

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 4 1/2 feet above ground level and inclusive of bark.

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

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

**Bureau of Forestry** - State of Maine Department of Agriculture, Conservation, and Forestry, Bureau of Forestry.

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

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

**Commercial use** - the use of lands, buildings, or structures, other than a "home occupation," defined below, the intent and result of which activity is the production of income from the buying and selling of goods and/or services, exclusive of rental of residential buildings and/or dwelling units.
Cross-sectional area – the cross-sectional area of a stream or tributary stream channel is determined by multiplying the stream or tributary stream channel width by the average stream or tributary stream channel depth. The stream or tributary stream channel width is the straight line distance from the normal high-water line on one side of the channel to the normal high-water line on the opposite side of the channel. The average stream or tributary stream channel depth is the average of the vertical distances from a straight line between the normal high-water lines of the stream or tributary stream channel to the bottom of the channel.

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

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

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

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

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

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

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

Excavation contractor – an individual or firm engaged in a business that causes the disturbance of soil, including grading, filling and removal, or in a business in which the disturbance of soil results from an activity that the individual or firm is retained to perform.

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

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

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

Floodway - the channel of a river or other watercourse and adjacent land areas that must be reserved in order to discharge the 100-year flood without cumulatively increasing the water surface elevation by more than one foot in height.
**Floor area** - the sum of the horizontal areas of the floor(s) of a structure enclosed by exterior walls, plus the horizontal area of any unenclosed portions of a structure such as porches and decks.

**Footprint** – the entire area of ground covered by the structure(s) on a lot, including but not limited to cantilevered or similar overhanging extensions, as well as unenclosed structures, such as patios and decks.

**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, excluding wooden sills and post supports, but including basements, slabs, frostwalls, or other base consisting of concrete, block, brick or similar material.

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

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

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

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

**Functionally water-dependent uses** - those uses that require, for their primary purpose, location on submerged lands or that require direct access to, or location in, inland waters and that 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-related storage and retail and wholesale fish marketing facilities, waterfront dock and port facilities, shipyards and boat building facilities, marinas, navigation aids, basins and channels, shoreline structures necessary for erosion control purposes, industrial uses dependent upon water-borne transportation or requiring large volumes of cooling or processing water that can not reasonably be located or operated at an inland site, and uses that primarily provide general public access to inland waters. Recreational boat storage buildings are not considered to be functionally water-dependent use.

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

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

**Ground cover** – small plants, fallen leaves, needles and twigs, and the partially decayed organic matter of the forest floor.
**Hazard tree** - a tree with a structural defect, combination of defects, or disease resulting in a structural defect that under the normal range of environmental conditions at the site exhibits a high probability of failure and loss of a major structural component of the tree in a manner that will strike a target. A normal range of environmental conditions does not include meteorological anomalies, such as, but not limited to: hurricanes; hurricane-force winds; tornados; microbursts; or significant ice storm events. Hazard trees also include those trees that pose a serious and imminent risk to bank stability. A target is the area where personal injury or property damage could occur if the tree or a portion of the tree fails. Targets include roads, driveways, parking areas, structures, campsites, and any other developed area where people frequently gather and linger.

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

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

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

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

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

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

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

**Marina** - a business establishment having frontage on navigable water and, as its principal use, providing for hire offshore moorings or docking facilities for boats, and which may also provide accessory services such as boat and related sales, boat repair and construction, indoor and outdoor storage of boats and marine equipment, bait and tackle shops and marine fuel service facilities.
**Market value** - the estimated price a property will bring in the open market and under prevailing market conditions in a sale between a willing seller and a willing buyer, both conversant with the property and with prevailing general price levels.

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

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

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

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

**Native** - indigenous to the local forests.

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

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

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

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

**Non-native invasive species of vegetation** - species of vegetation listed by the Maine Department of Agriculture, Conservation and Forestry as being invasive in Maine ecosystems and not native to Maine ecosystems.

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

**Outlet stream** - any perennial or intermittent stream, as shown on the most recent highest resolution version of the national hydrography dataset available from the United States Geological Survey on the website of the United States Geological Survey or the national map, that flows from a freshwater wetland.

**Person** - an individual, corporation, governmental agency, municipality, trust, estate, partnership, association, two or more individuals having a joint or common interest, or other legal entity.
Piers, docks, wharves, bridges and other structures and uses extending over or beyond the normal high-water line or within a wetland.

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

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

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

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

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

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

- Fryeburg
- Lovewell
- Alluvial
- Podunk
- Suncook

- Hadley
- Medomak
- Cornish
- Rumney
- Sunday

- Limerick
- Ondawa
- Charles
- Saco
- Winooski

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

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

Replacement system - a system intended to replace:

1) an existing system which is either malfunctioning or being upgraded with no significant change of design flow or use of the structure, or

2) Any existing overboard wastewater discharge.

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

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

River - a free-flowing body of water including its associated floodplain wetlands from that point at which it provides drainage for a watershed of twenty five (25) square miles to its mouth. For the purposes of this
ordinance the term river shall include the Little River from the confluence of Bog Brook to the North Berwick Town line and the Salmon Falls River, from the Acton town line to the Berwick town line.

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

Sapling - a tree species that is less than two (2) inches in diameter at four and one half (4.5) feet above ground level.

Seedling - a young tree species that is less than four and one half (4.5) feet in height above ground level.

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

1) in the case of electric service
   a. the placement of wires and/or the installation of utility poles is located entirely upon the premises of the customer requesting service or upon a roadway right-of-way; and
   b. the total length of the extension is less than one thousand (1,000) feet.

2) in the case of telephone service
   a. the extension, regardless of length, will be made by the installation of telephone wires to existing utility poles, or
   b. the extension requiring the installation of new utility poles or placement underground is less than one thousand (1,000) feet in length.

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

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

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

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

Significant River Segments - See 38 M.R.S.A. section 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, highest resolution version of the national hydrography dataset available from the United States Geological Survey on the website of the United States Geological Survey or the national map to the point where the stream becomes a river or where the stream meets the shoreland zone of another water body or wetland. When a stream meets the shoreland zone of a waterbody or wetland and a channel forms downstream of the waterbody or wetland as an outlet, that channel is also a stream.
**Structure** - anything temporarily or permanently located, built, constructed or erected for the support, shelter or enclosure of persons, animals, goods or property of any kind or anything constructed or erected on or in the ground. The term includes structures temporarily or permanently located, such as decks, patios, and satellite dishes. Structure does not include fences; poles and wiring and other aerial equipment normally associated with service drops, including guy wires and guy anchors; subsurface waste water disposal systems as defined in Title 30-A, section 4201, subsection 5; geothermal heat exchange wells as defined in Title 32, section 4700-E, subsection 3-C; or wells or water wells as defined in Title 32, section 4700-E, subsection 8.

**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.

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

**Tree** - a woody perennial plant with a well-defined trunk(s) at least two (2) inches in diameter at four and one half (4.5) feet above the ground, with a more or less definite crown, and reaching a height of at least ten (10) feet at maturity.

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

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

**Upland edge of a wetland** - the boundary between upland and wetland. For purposes of a Freshwater wetland, the upland edge is formed where the soils are not saturated for a duration sufficient to support wetland vegetation; or where the soils support the growth of wetland vegetation, but such vegetation is dominated by woody stems that are six (6) meters (approximately twenty (20) foot) tall or taller.

NOTE: Water setback requirements apply to tributary streams within the shoreland zone.
Vegetation - all live trees, shrubs, and other plants including without limitation, trees both over and under 4 inches in diameter, measured at 4 1/2 feet above ground level.

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

Water body - any great pond, river or stream.

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

Wetland - a freshwater wetland.

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

Adopted this day June 12, 2018 by Town Meeting vote
Yes: 713 No: 310

A True Copy Attest

Dale Fisk - Town Clerk
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Town of Lebanon
Site Plan Review Ordinance

A. Purpose
The site plan review provisions set forth in this section are intended to protect the public health and safety, promote the general welfare of the community, and manage environmental impacts by assuring that non-residential and multiplex residential construction is designed and developed in a manner which assures that adequate provisions are made for traffic safety and access, emergency access, water supply, sewage disposal, management of storm water, erosion, and sedimentation; protection of the groundwater, protection of the environment, wildlife habitat, fisheries, and unique natural areas; protection of historic and archeological resources; minimizing the adverse impacts on adjacent properties; and fitting the project harmoniously into the fabric of the community.

B. 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.

C. Applicability
The owner of a parcel of land shall obtain site plan approval prior to commencing any of the following activities on the parcel, obtaining a building or plumbing permit for the activities, or undertaking any alteration or improvement of the site including grubbing or grading:

1. The construction or placement of any new building or structure for a nonresidential use, including accessory buildings and structures.
2. The expansion of an existing nonresidential building or structure including accessory buildings that increase the total floor area.
3. The conversion of an existing building, in whole or in part, from a residential use to a nonresidential use.
4. The establishment of a new nonresidential use even if no buildings or structures are proposed, including uses such as gravel pits, golf courses, and other nonstructural nonresidential uses.
5. The conversion of an existing nonresidential use, in whole or in part, to another nonresidential use if the new use changes the basic nature of the existing use such that it increases the intensity of on- or off-site impacts of the use subject to the standards and criteria of site plan review described in section XX of this Ordinance.
6. The construction of a residential building containing three (3) or more dwelling units (Multiplex housing) and eldercare facilities.
7. Modification or expansion of an existing residential structure that increases the number of dwelling units in the structure by three (3) or more in any five (5) year period.
8. The conversion of an existing nonresidential use, in whole or in part, into three (3) or more dwelling units within a five (5) year period.
9. The construction or expansion of a paved area or other impervious surfaces, including walkways, access drives, and parking lots involving an area of more than two thousand
five hundred (2,500) square feet within any three (3) year period.

The following activities shall not require site plan approval. Some of these activities will, however, require the owner to obtain a building permit, plumbing permit, or other State and local approvals:

1. Agricultural activities, including agricultural buildings and structures.
2. Timber harvesting and forest management activities.
3. The establishment and modification of home occupations that do not result in changes to the site or exterior of the building.
4. Activities involving nonresidential buildings or activities that are specifically excluded from review by the provisions of this section.

D. Administration and Enforcement
The Code Enforcement Officer (CEO) shall be responsible for administering and enforcing the provisions of this Ordinance including interpreting the provisions hereof.

E. Review and Approval Authority
The Planning Board is authorized to review and act on all site plans for development requiring site plan review as defined above.

In each instance where the Planning Board is required to review the site plan for a proposed use, it shall approve, deny, or conditionally approve the application based on its compliance with the standards in Sec. F, Approval Standards, which action shall be binding upon the applicant.

The Planning Board, by a majority vote, may delegate the CEO as the reviewing and approval authority for specific uses and activities.

F. Review Procedures
The Planning Board and CEO shall use the following procedures in reviewing applications for site plan review.

1. Workshop
Prior to submitting a formal application, the applicant shall schedule a pre-application workshop with the Planning Board. The pre-application workshop shall be informal and informational in nature. There shall be no fee for a pre-application review, and such review shall not cause the plan to be a pending application. No decision on the substance of the plan shall be made at the pre-application workshop. The applicant is encouraged to meet informally with the Town CEO prior to the workshop.

The purposes of the pre-application workshop are to:
   a) Allow the Planning Board to understand the nature of the proposed use and the issues involved in the proposal
   b) Allow the applicant to understand the development review process and required submissions
   c) Identify issues that need to be addressed in future submissions.
There are no formal submission requirements for a pre-application workshop. However, the applicant should be prepared to discuss the following with the Planning Board:

a) The proposed site, including its location, size, and general characteristics
b) The natural characteristics of the site that may limit its use and development
c) The nature of the proposed use and potential development, including a conceptual site plan
d) Any issues or questions about existing municipal regulations and their applicability to the project
e) Any requests for waivers from the submission requirements.

The Planning Board workshop shall be informational and shall not result in any formal action. The Planning Board shall identify any issues or constraints which need to be addressed in the formal site plan application.

2. Application Review Procedures

The applicant must prepare and submit a site plan review application, including the development plan and supporting documents that meet the submission requirements set forth below along with an application fee. This material must be submitted to the CEO.

Completeness

After an application has been submitted with the requisite fees, and after any required Board of Appeals approval has been obtained, the Town CEO shall accept and date an application for Planning Board review. In consultation with the Planning Board Chair or Vice Chair, the Town CEO shall review the site plan application and accompanying materials to determine whether the application is complete or incomplete. If, in consultation with the Planning Board Chair or vice Chair, the application is preliminarily determined to be incomplete, the Town CEO shall notify the applicant in writing and shall list in the written determination the materials that must be submitted in order to make the application complete. If the applicant fails to submit a complete application within four (4) months of the written determination of incompleteness, the application shall be deemed withdrawn. When the Town CEO makes the preliminary determination that an application is complete, the application shall be scheduled for consideration at the next available Planning Board meeting. The Planning Board may require other information in addition to that required under Submission Requirements. The Planning Board may also request an evaluation of specific aspects of the site plan from the Conservation Commission, or others. In the event that the Planning Board requires additional information or evaluation, it may deem the application incomplete. No action taken by the CEO, either alone or in consultation with the Planning Board chair or vice Chair, with respect to reviewing a site plan application, shall result in an application being deemed pending for the purposes of 1 M.R.S.A. §302. The Town CEO, either alone or in consultation with the Planning Board Chair or Vice Chair, shall have no authority to review the substance of a site plan application to determine whether it complies with the site plan review criteria.

Technical Review

A technical review fee may be required to pay reasonable costs incurred by the Planning
Board to review the application for technical conformance with the ordinance requirements. The municipality shall provide the applicant, upon written request, with an accounting of his or her account and shall refund all of the remaining monies, in the account after the payment by Town of all costs and services related to the review, provided, however, that where the cost of technical reviews exceeds the amount of monies in the escrow account the applicant shall pay to the Town prior to the issuance of any building permit the amount by which the technical reviews exceed the amount of monies in the escrow account.

Public Hearing
Upon certification by the Planning Board that an application is complete, the Planning Board, at its discretion, may hold a public hearing. If the Planning Board determines to hold a public hearing, it shall hold the hearing within thirty-five (35) days of the date that the application is deemed complete and shall provide public notice in accordance with the Subdivision Regulations.

The Planning Board shall conduct the hearing to assure full, but not repetitive, public participation. The applicant shall be prepared to respond fully to questions from the Planning Board or issues raised by the public that the Planning Board deems significant. The Planning Board may, upon its own motion, extend the hearing once for a period not exceeding thirty (30) days and to a date that shall be announced.

Planning Board Decision
The Planning Board shall vote to approve, approve with conditions, or disapprove the Site Plan upon the conclusion of review of the development’s compliance with Approval Standards. The Planning Board decision shall include written findings of fact and shall be provided to the applicant.

Performance Guarantee/Inspection Fees/Post Approval

The Planning Board, at its discretion, may require that a performance guarantee be established with the Town for the cost of site improvements, as well as any Inspection fees needed to cover the administrative costs associated with inspecting construction activity to ensure that it conforms with plans and specifications. Each performance guarantee and Inspection fee shall comply with Sec. 8.4 of the Subdivision Regulations.

Approval Expiration

Site plan approval shall be valid for a period of one (1) year from the date of the Planning Board vote. Prior to the expiration of the site plan approval, the applicant may request an extension of up to one year from the Planning Board for cause shown. Site plan approval shall remain valid if a building permit has been issued for the project prior to the expiration date. Expiration of the building permit prior to completion of the project shall render the site plan approval null and void. Failure to comply with conditions placed upon site plan approval, to post any necessary performance guarantees, to comply with any other
permitting processes or to address any other issues of site development, except pending litigation challenging the site plan approval, shall render the approval null and void unless an extension is granted by the Planning Board for good cause.

3. Fees

The Municipal Officers may, from time to time and after consultation with the Planning Board, establish the appropriate application fees and technical review fees following posting of the proposed schedule of fees and a public hearing.

G. Submission Requirements

1. General Submission parameters.

The applicant shall submit ten (10) copies of building and site plans and supporting information drawn to a scale of not less than one inch equals fifty feet (1"=50'). The size of plan sheets submitted to the Planning Board shall be no larger than twenty-four (24) by thirty-six (36) inches, but a smaller size may be used with the permission of the Planning Board. A digital copy of the complete application shall also be made available upon request.

2. List of Submission items

The application for approval of a Site Plan shall include all the following information, unless waived by the Planning Board as described below. Information that must be shown on a plan is in bold type. Submission information shall be shown on the number of plans needed to depict the information in a readable format and each plan shall be individually labeled with a title generally based on the information depicted on the plan, with one plan titled “Site Plan”

(a) A fully executed and signed copy of application and evidence of payment of application and technical review fees.

(b) Right, Title or Interest. Evidence of right, title, and interest in the site of the proposed project.

(c) Written description. Written description of the proposed project including proposed uses quantified by square footage, number of seats, number of units or beds or number of students, and how development has been placed on the portions of the site most suited for development; application form; identification of the zoning district in which the property is located and the location of any zoning district boundary that bisects or abuts the property.

(d) Name of Project/Applicant. Proposed name of the project; name and address of record owner and applicant, names and addresses of all property owners within five hundred (500) feet of any and all boundaries; date of submission; north point; graphic map scale.

(e) Survey. A standard boundary survey of the site, giving complete descriptive data by bearings and distances, made and certified by a licensed land surveyor in the State of Maine; a copy of the deed for the property to be developed, as well as copies of any easements, restrictions or covenants; location map, showing the relative location of
the proposed project in relation to surrounding neighborhoods or areas of Town.

(f) Existing Conditions. All significant existing physical features on the site including streams, watercourses, watershed areas, existing woodlands and existing trees at least eight (8) inches in diameter as measured four and one-half (4 ½) feet above grade, and other significant vegetation; soil boundaries and names in wetland locations and where subsurface wastewater disposal systems are proposed; when applicable, any portion of the property located in the floodplain, within two hundred and fifty (250) feet of the Normal High Water Line, or in a Resource Protection 1, Resource Protection 1 Buffer or Resource Protection 2 District.

(g) Topography. Contour lines, existing and proposed, at intervals of two (2) feet or at such intervals as the Planning Board may require, based on United States Geological Survey datum, referenced to mean sea level.

(h) Buildings. Location of all existing and proposed buildings and structures with the distance from the nearest property lines labeled; size in square feet of existing and proposed building footprints and total size of building; elevations of each vertical side of a new building with dimensions, location of doors and windows, exterior materials and roof pitch labeled; elevations of each side of an existing building proposed to be altered with dimensions, location of doors and windows, exterior materials and roof pitch labeled; floor plans; building footprints located on adjacent properties within fifty (50) feet of the project property line.

(i) Traffic Access and Parking. Location and width of the nearest public road, and if the project will have access to a private road or driveway, the location and width of the private road or driveway; location of existing and proposed driveways, parking areas and other circulation improvements; site distances for all access points onto public roads; location of parking, loading and unloading areas, which shall include dimensions, traffic patterns, access aisles, parking space dimensions and curb radii; calculation of parking required in conformance with Sec. 19-7-8, Off Street Parking; existing and proposed pedestrian facilities including the location, dimension and surface treatment of sidewalks and paths, and description of high-demand pedestrian destinations within ¼ mile of the development; improvements shall include design details, cross sections and dimensions as needed. Estimated number of trips to be generated based on the latest edition of the Trip Generation Manual of the Institute of Traffic Engineers or equivalent quality information; For developments which generate one hundred (100) or more peak hour trips based on the latest edition of the Trip Generation Manual of the Institute of Traffic Engineers, a traffic study shall be submitted measuring current traffic, estimating traffic generated by the new development and assessing impacts on adjacent roadways and nearby intersections. Where the development may have a substantial traffic impact, the traffic study shall also include recommended mitigation; information on proposed, funded road improvements and town evaluation of road improvements.

(j) Storm water. Calculation of existing and proposed impervious surface; a storm water management plan, with flow arrows, profiles, cross sections, and invert elevations prepared, showing existing and design of all facilities and conveyances, LID (Low Impact Development) methods, and identification and location of known existing deficiencies that result in storm water surcharge or flooding; location of proposed drainage easements; narrative description of how storm water will be managed;
description of any Low Impact Development (LID) methods incorporated into the plan; note on plan for maintenance of private storm water infrastructure; storm water maintenance plan that lists infrastructure that needs to be maintained, inspection frequency and maintenance requirements.

When the project increases impervious surface by an area of ten thousand (10,000) sq. ft. or more, or when requested by the Planning Board, the storm water management plan must be prepared, signed and stamped by a professional engineer licensed in the State of Maine, pre- and post-development calculations for the 2 and 25 year storm must be provided, and time of concentration path segments shown.

(k) Erosion Control. An erosion control plan including details of erosion control methods used; written erosion control plan with notes.
(l) Utilities
   a. Water & Sewer - Estimated demand for water supply and sewage disposal together with the location and dimension of all provisions for water supply and wastewater disposal, and evidence of their adequacy for the proposed use, including soils test pit data if on-site sewage disposal is proposed and evidence to demonstrate suitability of soils for subsurface wastewater disposal; the location of the subsurface wastewater system; all designs, specifications and details for a clustered, private or public sewage system.
   b. Electricity - Ability to serve letter from Central Maine Power; location of existing and proposed above and below ground electrical lines, other utility conduits and location of gas storage tanks and fuel lines.
   c. Solid/Other Waste Disposal - Description of how solid waste will be stored and removed from the site; location and details of solid waste and recycling storage containers and screening; identification of chemicals, chemical wastes, hazardous, special or radioactive materials to be handled and/or stored onsite.
(m) Landscaping. Location and description of existing vegetation to be preserved; methods of preserving vegetation to be used during construction/landscaping and buffering plan showing what will be planted, indicating botanical and common names of plants and trees, fencing location, type, material and size.
(n) Lighting. Location and type of lighting to be installed; lighting fixture details indicating type of standards wattage and mounting height.
(o) Signs. Location, dimensions, materials, and details of signs.
(p) Noise. Statement of the typical activities, structures and equipment proposed on the site that will generate exterior noise, and then identify the unique activities, structures and equipment that are not generally occurring on abutting or neighborhood properties; for the unique noises, provide the decibel (dBA) level at the property line (decibel level source information may be provided from equipment specifications, standard noise tables or other sources); characterize the unique noise as recurring, intermittent, or constant; the time of day the unique noise will occur.
(q) Exterior storage. Location of outside storage or display areas; screening.
(r) Financial and Technical Capability. Demonstration of technical and financial capability to complete the project. If the applicant concludes that public disclosure of confidential financial information may be detrimental to the success of the project,
the applicant may disclose such financial information to the Selectmen, who shall explore with due diligence, the applicant's financial capability to complete the project as proposed in a timely fashion and make a recommendation to the Planning Board.

3. **Waiver of Submission items**

Where the Planning Board finds that the submission of any information listed in Sec. XIII.E, Submission Requirements, is not required in the interest of public health, safety, and general welfare, the Planning Board may waive such requirements. Such waiver shall be in writing and include the rational for such waiver. Without limitation, the following circumstances may support a waiver of certain submission requirements.

(a) **Existing conditions.** When no change to existing site conditions for that submission item is proposed, the Planning Board may designate a submission item as not applicable.

(b) **Substitution.** Alternative information has been submitted more suited to the scope of the project.

(c) **Small project.** The limited nature of the project allows the Planning Board to apply the Approval Standards and safeguard public health, safety and general welfare without submission of additional information.

H. **Approval Standards**

The following criteria shall be used by the Planning Board in reviewing applications for site plan review and shall serve as minimum requirements for approval of the application. The application shall be approved unless the Planning Board determines that the applicant has failed to meet one or more of these standards. In each instance, the burden of proof shall be on the applicant to produce evidence sufficient to warrant a finding that all applicable criteria have been met.

1. **Utilization of the Site**

   The plan for the development will reflect the natural capabilities of the site to support development. Buildings, lots, and support facilities will be clustered in those portions of the site that have the most suitable conditions for development. Environmentally sensitive areas including but not limited to, wetlands, steep slopes, flood plains, significant wildlife habitats, scenic areas, and unique natural features shall be maintained and preserved to the maximum extent feasible. Natural drainage areas shall also be preserved to the maximum extent feasible.

2. **Adequacy of Road System**

   Vehicular access to the site will be on roads which have adequate capacity to accommodate the additional traffic generated by the development. For developments which generate one hundred (100) or more peak hour trips based on the latest edition of the Trip Generation Manual of the Institute of Transportation Engineers, intersections on major access routes to the site within one (1) mile of any entrance road which are functioning at a Level of Service C or better prior to the development will function at a minimum at Level of Service C after development. If any such intersection is functioning
at a Level of Service D or lower prior to the development, the project will not reduce the current level of service. A development not meeting this requirement may be approved if the applicant demonstrates that:

(a) A public agency has committed funds to construct the improvements necessary to bring the level of access to this standard.
(b) The applicant will assume financial responsibility for the improvements necessary to bring the level of service to this standard and will assure the completion of the improvements with a financial guarantee acceptable to the municipality.

3. Access into the Site

Vehicular access to and from the development shall be safe and convenient.

(a) All entrance and exit driveways are located to afford maximum safety to traffic, provide for safe and convenient ingress and egress to and from the site and to minimize conflict with the flow of traffic.
(b) Any driveway or proposed street must be designed so as to provide the minimum sight distance according to the Maine Department of Transportation standards, to the maximum extent possible.
(c) Points of access and egress must be located to avoid hazardous conflicts with existing turning movements and traffic flows.
(d) The grade of any proposed drive or street must be not more than +/- 3% for a minimum of two (2) car lengths, or forty (40) feet, from the intersection.
(e) The intersection of any access/egress drive or proposed street must function:
   i. At a Level of Service of D following development if the project will generate one thousand (1,000) or more vehicle trips per twenty four (24) hour period; or
   ii. At a level which will allow safe access into and out of the project if less than one thousand (1,000) trips are generated.
(f) Where a site has frontage on two (2) or more streets, the primary access to and egress from the site must be provided from the street where there is less potential for traffic congestion and for traffic and pedestrian hazards. No driveway entrance or exit is located within fifty (50) feet of the point of tangency of the existing or proposed curb radius of that site.
(g) Where it is necessary to safeguard against hazards to traffic and pedestrians and/or to avoid traffic congestion, the applicant shall be responsible for providing turning lanes, traffic directional islands, and traffic controls within public streets.
(h) Accessways must be designed and have sufficient capacity to avoid queing of entering vehicles on any public street.
(i) No part of any driveway shall be located within a minimum of ten (10) feet of a side property line. However, the Planning Board may permit a driveway serving two (2) or more adjacent sites to be located on or within ten (10) feet of a side property line dividing the adjacent sites.
(j) Driveways intersect the road at an angle as near ninety degrees (90°) as site conditions will permit.
(k) Road, driveway, and parking lot construction comply with the construction and design standards in Sec. 16-3-2 of the Subdivision Ordinance.
4. **Internal Vehicular Circulation**

The layout of the site shall provide for the safe movement of passenger, service, and emergency vehicles through the site.

(a) Nonresidential projects that will be served by delivery vehicles will provide a clear route for such vehicles with appropriate geometric design to allow for turning and backing up.

(b) Clear routes of access shall be provided and maintained for emergency vehicles to and around buildings and shall be posted with appropriate signage (fire lane – no parking).

(c) The layout and design of parking areas shall provide for safe and convenient circulation of vehicles throughout the lot.

(d) All roadways shall be designed to harmonize with the topographic and natural features of the site insofar as practical by minimizing filling, grading, excavation, or other similar activities which result in unstable soil conditions and soil erosion, by fitting the development to the natural contour of the land and avoiding substantial areas of excessive grade and tree removal, and by retaining existing vegetation during construction. The road network shall provide for vehicular, pedestrian, and cyclist safety, all season emergency access, snow storage, and delivery and collection services.

5. **Parking Layout and Design**

Off-street parking shall conform to the following standards:

(a) Parking areas with more than two (2) parking spaces shall be arranged so that vehicles do not need to back into the street.

(b) All parking spaces, access drives, and impervious surfaces shall be located at least five (5) feet from any side or rear lot line, except where standards for buffer yards require a greater distance. No parking spaces or asphalt type surface shall be located within five (5) feet of the front property line. Parking lots on adjoining lots may be connected by accessways not exceeding twenty-four (24) feet in width.

(c) In lots utilizing diagonal parking, the direction of proper traffic flow shall be indicated by signs, pavement markings or other permanent indication.

(d) Parking areas for nonresidential uses shall be designed to permit each motor vehicle to proceed to and from the parking space provided for it without requiring the moving of any other motor vehicles. “Stacked” parking may be permitted for resident parking in conjunction with residential uses if both spaces in the stack are assigned to the occupants of the same dwelling unit.

(e) The “overhang” of parked vehicles shall be restricted when it might restrict traffic flow on adjacent through roads, restrict pedestrian or bicycle movement on adjacent walkways, or damage landscape materials.

6. **Pedestrian Circulation**

The site plan shall provide for a system of pedestrian ways within the development appropriate to the type and scale of development. This system shall connect the major building entrances/exits with parking areas and with existing or planned sidewalks in the vicinity of the project. The pedestrian network may be located either in 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 the project with residential, recreational and commercial facilities,
schools, bus stops, and sidewalks in the neighborhood.

7. Storm Water Management
Adequate provisions must be made for the collection and disposal of all stormwater that
runs off proposed streets, parking areas, roofs, and other surfaces, through a stormwater
drainage system and maintenance plan, which must not have adverse impacts on abutting
or downstream properties.
(a) To the extent practical, the plan will retain storm water on the site using the natural
features of the site.
(b) Unless the discharge is directly to a major water body or river segment, stormwater
runoff systems must detain water such that the rate of flow from the site after
development does not exceed the predevelopment rate.
(c) The applicant must demonstrate that on- and off-site downstream channel or system
capacity is sufficient to carry the flow without adverse effects, including but not
limited to flooding and erosion of shoreland areas, or that he/she will be responsible
for whatever improvements are needed to provide the required increase in capacity
and/or mitigation.
(d) All natural drainage ways must be preserved at their natural gradients and must not be
filled or converted to a closed system unless approved as part of the site plan review.
(e) The design of the stormwater drainage system must provide for the disposal of
stormwater without damage to streets, adjacent properties, downstream properties,
soils, and vegetation.
(f) The design of the storm drainage system must be fully cognizant of upstream runoff
which must pass over or through the site to be developed and provide for this
movement.
(g) The biological and chemical properties of the receiving waters must not be degraded
by the stormwater runoff from the development site. The use of oil and grease traps in
manholes, the use of on-site vegetated waterways, and vegetated buffer strips along
waterways and drainage swales, and the reduction in use of deicing salts and
fertilizers may be required, especially where the development stormwater discharges
into a gravel aquifer area or other water supply source, or great pond.

8. Erosion Control
All building, site, and roadway designs and layouts will harmonize with existing
topography and conserve desirable natural surroundings to the fullest extent possible.
Filling, excavation and earth moving activity will be kept to a minimum. Parking lots on
sloped sites must be terraced to avoid undue cut and fill, and/or the need for retaining
walls. Natural vegetation must be preserved and protected wherever possible.

During construction, soil erosion and sedimentation of watercourses and water bodies
will be minimized by an active program meeting the requirements of the Maine Erosion
and Sediment Control Best Management Practices (BMP’s) as prepared by the Bureau of
Land and Water Quality of the Maine Department of Environmental Protection, March
2003 or most recent edition.
9. Water Supply
The development will be provided with a system of water supply that is adequate in quantity and quality to the proposed use. An adequate supply of water for fire protection purposes is provided.

10. Sewage Disposal
The development will be provided with a method of disposing of sewage which is in compliance with the State Plumbing Code.
(a) If the public system cannot serve or be extended to serve a new or expanded use, the sewage shall be disposed of by an on-site sewage disposal system meeting the requirements of the State Subsurface Wastewater Disposal Rules.
(b) When two or more lots or buildings in different ownership share the use of a common subsurface disposal system, the system shall be owned and maintained in common by an owners' association. Covenants in the deeds for each lot shall require mandatory membership in the association and provide for adequate funding of the association to assure proper maintenance of the system.

11. Utilities
The development must be provided with electrical service adequate to meet the anticipated use of the project. New utility lines and facilities shall be screened from view to the extent feasible. If the service in the street or on adjoining lots is underground, the new service shall be placed underground. Except for propane tanks, no flammable or explosive liquids or solids shall be stored in bulk above ground unless they are located at least seventy-five (75) feet from any lot line, or forty (40) feet in the case of underground storage. Propane tanks less than 500 gallons in size shall be set back a minimum of ten (10) feet from the property line and tanks of 500 gallons or more in size shall be set back twenty-five (25) feet from the property line. All materials shall be stored in a manner and location that is in compliance with appropriate rules and regulations of the Maine Department of Public Safety and other appropriate federal, state, and local regulations.

12. Solid Waste
The proposed development will provide for adequate storage and disposal of solid wastes.
(a) Any solid waste stored on the property prior to removal to an authorized facility shall be secured and screened from public view.
(b) All storage facilities for fuel, chemicals, chemical or industrial wastes, and biodegradable raw materials, shall meet the standards of the State Department of Environmental Protection and the State Fire Marshall’s Office.
(c) The handling, storage, and use of all materials identified by the standards of a federal or state agency as hazardous, special or radioactive shall be done in accordance with the standards of these agencies. Any waste produced which is classified as a hazardous, special or radioactive waste by either federal or state standards shall be disposed of at a licensed disposal facility appropriate for the type of waste and done in accordance with applicable state and federal regulations.
13. Shoreland Relationship
The development will not adversely affect the water quality or shoreline of any adjacent water body. The development plan will provide for access to abutting navigable water bodies for the use of the occupants of the development if appropriate.

14. Landscaping and Buffering
The landscape must be preserved in its natural state insofar as practical by minimizing tree removal, disturbance and compaction of soil, and by retaining existing vegetation insofar as practical during construction. Extensive grading and filling will be avoided as far as possible.

(a) Areas of vegetation to be retained shall be designated on a preservation plan. Within the drip line of trees to be preserved, activity and disturbance shall be prohibited and a physical barrier shall be provided to separate these areas from the construction area.
(b) The development plan will provide for landscaping that defines street edges, mitigates the expanse of parking areas, enhances the appearance of the development and reduces the impact of the development on abutting properties. Landscaping materials shall be chosen for their ability to thrive at the planting site, provide screening, create visual interest and promote diversity of the community forest.
(c) The development shall provide for screening of service and storage areas.

15. Exterior Lighting
(a) The proposed development shall provide for adequate exterior lighting to provide for the safe use of the development in nighttime hours, if such use is contemplated, without excessive illumination. Lighting may be used which serves security, safety and operational needs but which does not directly or indirectly produce deleterious effects on abutting properties or which would impair the vision of a vehicle operator on adjacent roadways.
(b) Direct or indirect illumination shall not exceed 0.5 footcandles at the lot line. Lighting fixtures shall be shielded or hooded so that the lighting elements are not exposed to normal view by motorists, pedestrians, or from adjacent dwellings and so that they do not unnecessarily light the night sky. All exterior lighting, except security lighting, shall be turned off between 11 p.m. and 6 a.m. unless located on the site of a commercial or industrial use which is open for business during that period.

16. Signs
Signs shall be in accordance with the Lebanon Addressing Ordinance.

17. Storage of Materials
(a) Exposed nonresidential storage areas, exposed machinery, and areas used for the storage or collection of discarded automobiles, auto parts, metals or other articles of salvage or refuse shall have sufficient setbacks and screening (such as a stockade fence or a dense evergreen hedge) to minimize their impact on abutting residential uses and users of public streets.
(b) All dumpsters or similar large collection receptacles for trash or other wastes shall be
located on level surfaces which are paved or graveled. Dumpsters or receptacles shall be screened by fencing or landscaping.
(c) All sites potentially hazardous to children shall require physical screening sufficient to deter small children from entering the premises. This screening shall be maintained in good conditions.

18. Technical and Financial Capacity
The applicant has demonstrated the financial and technical capacity to carry out the project in a timely fashion in accordance with this ordinance and the approved plan.

I. Post Approval Activities

1. Limitation of Approval
Substantial construction of the improvements covered by any site plan approval must be commenced within twelve (12) months of the date upon which the approval was granted. If construction has not been substantially commenced and substantially completed within the specified period, the approval shall be null and void. The applicant may request an extension of the approval deadline prior to the expiration of the period. Such request must be in writing and must be made to the Planning Board. The Planning Board may grant up to two (2), six (6) month extensions to the periods if the approved plan conforms to the ordinances in effect at the time the extension is granted and any and all federal and state approvals and permits are current.

2. Incorporation of Approved Plan
One copy of the approved site plan must be included with the application for the building permit for the project and all construction activities must conform to the approved plan, including any conditions of approval and minor changes approved by Code Enforcement Officer to address field conditions.

3. Recording of the Approved Plan
One copy of the approved site plan must be recorded in the York County Registry of Deeds within thirty (30) days of approval and the book and page number provided to the Code Enforcement Officer. Failure to record the plan within thirty (30) days shall void the approval. The Planning Board may extend this period for cause.

J. Site Review Amendments
Any alteration to a site which is inconsistent with the approved site plan shall require an amendment to the site plan. Planning Board approval must be obtained prior to the alteration.

1. De minimus Change
The intent of this section is to process minor deviations from the approved plan that typically arises as a project moves from conception to completion of construction. De minimus changes shall not include (1) a change to a public or private right-of-way or easement, (2) a decrease in proposed buffering or landscaping, (3) any issue involving a condition placed on the site plan approval, or (4) any change in a building footprint greater than five (5) feet in any direction. Site plan changes which do not receive de
minimus approval shall be submitted to the Planning Board.

Review: The applicant shall meet with the CEO and provide a written description of the proposed amendments and all applicable plans impacted by the amendments. The CEO shall review the submission with the applicant and consult with appropriate town staff. The CEO will make a preliminary determination that the proposed changes do comply with the approval standards, do not comply with the approval standards, or that the nature of the amendments merit review by the Planning Board.

Decision: The CEO shall forward the De Minimus Change application and a recommendation to the Planning Board Chair. The Planning Board Chair shall make the final determination to approve a de minimus change or to forward the site plan amendment to the Planning Board for review.

2. Amendment
Any change to a plan approved by the Planning Board must be submitted to the Planning Board for review and approval; unless the amendment is a de Minimus Change. The Planning Board shall review the amendments in accordance with the Review Procedures. Submission requirements may be limited to the information related to the proposed amendments. Any Planning Board Decision to approve amendments to a previously approved Site Plan shall incorporate the original Site Plan Approval, except as specifically amended.

K. Appeals
Any person who believes that the CEO has made an error in the interpretation or application of the provisions of this ordinance, may appeal such determination to the Board of Appeals as an administrative appeal.

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.

Appeals of an action taken by the Planning Board regarding site plan review shall be to the Superior Court in accordance with the Maine Rules of Civil Procedure, Rule 80B.

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

M. Effective Date of the Ordinance and Ordinance Amendments
The effective date of this Ordinance shall be the date of adoption by the citizens of Lebanon on November 6, 2018.

N. Ordinance Amendments
This Ordinance may be amended by a majority vote of the citizens of Lebanon.

O. Definitions
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. 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 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 “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 include the words “intended, arranged, or designed to be used or occupied.”

The words “Town” or “municipality” means the Town of Lebanon, Maine.

The word "may" is permissive; "shall" is mandatory and not discretionary.

**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.

**Abutting property:** Any lot which is physically contiguous with the subject lot or is located directly across a public or private way from the subject lot.

**Accessory Building:** A detached, subordinate building, the use of which is clearly incidental and related to that of the principal building or use of the land and which is located on the same lot as that of the principal building or use.

**Accessory Use or Structure:** A use or structure that is customarily both incidental and subordinate to the principal use or structure on the same lot. The term “incidental” in reference to the principal use or structure shall mean both a) subordinate and minor in significance to the principal use or structure, and b) attendant to the principal use or structure. Such accessory uses, when aggregated, shall not subordinate the principal use of the lot.

**Aggrieved party:** A person whose land is directly or indirectly affected by the granting or denial of a permit or variance under this Ordinance, or a person whose land abuts or is across the road or street or body of water from 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.

**Agricultural Activities:** Agricultural activities means the growing of vegetables, fruits, seeds, nursery crops, poultry, livestock, field crops, cultivated or pasture hay and farm wood lots products, including Christmas trees. Marijuana related activities are excluded from this definition.

**Agricultural Land Management Practices:** Means those devices and procedures utilized in the cultivation of land in order to further crop and livestock production and conservation of related soil and water resources.
**Arterial:** A controlled access road or a street or road with traffic signals at important intersections and/or stop signs on side streets or which is functionally classified by the Maine Department of Transportation as an arterial.

**Building:** Any three-dimensional enclosure, which is used for the housing, shelter or enclosure of persons, animals or property.

**Change of Use:** A change in the type of occupancy/use of a building, structure, or a portion thereof, and/or the land, such that the basic type of use is changed, such as from retail to office or storage to a restaurant, but not including a change in the occupants.

**Code Enforcement Officer (CEO):** A person appointed by the Board of Selectmen to administer and enforce this Ordinance. Reference to the Code Enforcement Officer may be construed to include Building Inspector, Plumbing Inspector, and the like where applicable.

**Collector Street:** A street that collects traffic from local streets and connects with arterials or a street or road functionally classified as a collector by the Maine Department of Transportation.

**Curb Cut:** The opening along the curb line or street right-of-way line at which point vehicles may enter or leave the street.

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

**Expansion of Use:** Any intensification of use in time, volume, or function, whether or not resulting from an increase in the footprint, height, floor area, land area or cubic volume occupied by a particular use.

**Fisheries, Significant Fisheries:** Areas identified by a governmental agency such as the Maine Department of Inland Fisheries and Wildlife, Atlantic Salmon Authority, or Maine Department of Marine Resources as having significant value as fisheries and any areas so identified in the municipality’s comprehensive plan.

**Floor Area:** The sum of the horizontal areas of the floor(s) of a structure enclosed by exterior walls.

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

**Historic or Archaeological Resources:** Areas identified by a governmental agency such as the Maine Historic Preservation Commission as having significant value as an historic or archaeological resource and any areas identified in the municipality’s comprehensive plan.
**Impervious Area:** The total area of a parcel that consists of buildings and associated constructed facilities or areas that will be covered with a low-permeability material, such as asphalt or concrete, and areas such as gravel roads and unpaved parking areas that will be compacted through design or use to reduce their permeability. Common impervious areas include, but are not limited to, rooftops, walkways, patios, driveways, parking lots or storage areas, concrete or asphalt paving, gravel roads, packed earthen materials, and macadam or other surfaces which similarly impede the natural infiltration of stormwater.

**Local Street:** A public street or road which is not identified as an arterial or collector. A local street includes a proposed street shown on an approved and recorded subdivision.

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

**Natural Areas and Natural Communities, Unique Natural Area and Natural Communities:** Areas identified by a governmental agency such as the Maine Department of Conservation Natural Areas Program as having significant value as a natural area and any areas identified in the municipality’s comprehensive plan.

**Principal Structure:** A structure other than one which is used for purposes wholly incidental or accessory to the use of another structure or use on the same lot.

**Principal Use:** a use other than one which is wholly incidental or accessory to another use on the same lot.

**Setback, Front:** an open area extending the entire width of a lot sideline to lot sideline and extending in depth at a right angle from the street R-O-W to such depth as specified. Such area shall be unoccupied and unobstructed by any building from the ground upward.

**Setback, Rear:** an open area extending the entire width of a lot sideline to lot sideline and extending in depth at a right angle from the rear property line of such lot to such depth as specified. Such area shall be unoccupied and unobstructed by any building from the ground upward.

**Setback, Side:** an open area extending along each sideline of a lot between the front setback and the rear setback on such lot and extending at a right angle from the sidelines of such lot to such depth as specified. Such area shall be unoccupied and unobstructed by any building from the ground upward.

**Structure:** Anything temporarily or permanently located, built, constructed or erected for the support, shelter or enclosure of persons, animals, goods or property of any kind, or anything constructed or erected on or in the ground. The term includes structures temporarily or permanently located, such as decks, patios, and satellite dishes.

**Use:** The purpose for which land or a building is arranged, designed, or intended, or for which either land or a building is or may be occupied or maintained.
**Vegetation:** all live trees, shrubs, and other plants including without limitation, trees both over and under 4 inches in diameter, measured at 4 1/2 feet above ground level.

**Wildlife Habitat, Significant Wildlife Habitat:** Areas identified by a governmental agency such as the Maine Department of Inland Fisheries and Wildlife as having significant value as habitat for animals and any areas identified in the municipality’s comprehensive plan.

Adopted by the Town of Lebanon voters on November 6, 2018 by a vote of **YES: 1161  NO: 926**

A True Attest Copy
Marybeth Parden  Lebanon  Town Clerk
Town of Lebanon

SOLID WASTE DISPOSAL ORDINANCE

I. Purpose and Authority

1. The purpose of this Solid Waste ordinance is to protect the health, safety and general well-being of the citizens of the Town; to enhance and maintain the quality of the environment; conserve natural resources; prevent water and air pollution; gain management control over solid waste; and enable the reclamation of natural resources, including energy, from solid wastes by providing a comprehensive, rational and effective means of regulating the disposal of solid waste generated in the Town of Lebanon.

2. This ordinance is enacted in accordance with the authority granted to the Town within State law under 30-A M.R.S.A §§ 3001 and 38 M.R.S.A §§ 1304-B and 1305, as amended from time to time.

II. Definitions - As used in this ordinance, the following terms shall have the following meanings:

Abandoned Vehicle: Any gasoline, diesel or electric powered equipment, or part thereof, originally designed for carrying persons or goods for commercial, business, private or recreational purposes, which is:

A. No longer used for the purpose originally intended;
B. Has not been converted to another commercial, business, private, or recreational vehicular use;
C. Is not exempted or regulated under existing state or federal law; or
D. Has been left out in the elements to deteriorate.

It includes, but is not limited to, automobiles, trucks, buses, campers, trailers, boats, snowmobiles, jet skis and ATVs.


Agricultural Waste: As defined in Maine Department of Environmental Protection (“DEP”) regulations, 06-096 C.M.R. Ch. 400, Sec. 1(D) as may be amended from time to time, Solid Waste that results from “agricultural activities,” as defined in 38 M.R.S.A. § 361-A(1-B), which are returned to the soil as fertilizers. It includes waste pesticides when generated by a farmer, provided that he/she triple rinses each emptied pesticide container in accordance with DEP regulations and disposes of the pesticide residues in a manner consistent with the disposal instructions on the pesticide label. It does not include any materials regulated as a residual under Chapter 419 of the Department’s Regulations. This is also referred to as “waste resulting from agricultural activities” in 38 M.R.S.A. § 1303-C(45),
Ashes: Residue from burning wood, coal, coke, or other combustible material.

Biomedical Waste: Special Waste as defined in regulations promulgated by the DEP in 06-096 C.M.R. Ch. 900, as may be amended from time to time.

Brown Goods: Small household appliances including, but not limited to, radios, televisions, sound systems, and other small electric or electronic appliances or devices.

Collection Facility: The Collection Facility is the designated storage disposal site for Solid Wastes that are to be compacted and shipped to the Waste Management Facility.

Commercial Waste Hauler: Any person, firm, partnership, association, corporation or other legal entity that collects, transports and disposes of Solid Waste for a fee as herein prescribed.

Commercial Waste: Solid Waste generated by businesses, stores, offices, restaurants, warehouses and other manufacturing or processing activities with more than 10 employees. The Town of Lebanon is exempt from this definition.

Composting: The biological decomposition and stabilization of organic matter under controlled aerobic conditions of high temperature.

Construction/Demolition Debris: The debris resulting from construction, remodeling, repair, and demolition of structures, excluding asbestos, paints, and chemicals, regardless of their being a by-product of such activity.

Contractor: Any individual, company, or corporation hired to provide a service for a fee, including but not limited to: roofing, siding, window replacement, general carpentry and repair, landscaping or tree and brush removal.

Disposal: The discharge, deposit, dumping or placing of any Solid Waste into or on any land or body of water, or the incineration of any Solid Waste.

Garbage: All table refuse, animal and vegetable matter, offal from meat, fish, and fowls, vegetables and fruits and parts thereof, and other articles and materials ordinarily used for food and which have become unfit for such use or composting, for which reasons they are discarded.

Hazardous Waste: Waste in any physical state, designated as hazardous by the Maine Board of Environmental Protection under 38 M.R.S.A. § 1319-O. It does not include Waste resulting from normal household or agricultural activities. The fact a hazardous waste or part or a constituent may have value or other use or may be sold or exchanged does not exclude it from this definition. Waste with inherent properties which make such waste dangerous to manage by ordinary means, including, but not limited to: chemicals, explosives, pathological Wastes, radioactive wastes, toxic wastes or any other wastes defined as hazardous by Federal, State or Local laws, regulations or orders.

Household Waste: Refuse that is generated by common domestic activities. It does not include Construction/Demolition Debris, masonry debris, Wood Waste, Landscape Refuse, household furniture, White Goods or Brown Goods.

Industrial Waste: Solid Waste generated by manufacturing or processing activities. It does not include Household Waste, Commercial Waste or Special Waste.
**Inert Fill:** A clean solid material, including rocks, bricks, and cured concrete, which is not mixed with other Solid Waste or liquid Waste, and which is not derived from an ore mining activity.

**Land Clearing Debris:** Solid Waste resulting from the clearing of land and consisting solely of brush, stumps, soil material and rocks.

**Landscape Refuse:** Grass, leaves, plant cuttings, garden waste, shrubs, branches, trees and wood, whether finished or unfinished. It does not include Construction/Demolition Debris, Land Clearing Debris, plastic bags or other plastic containers used to collect, store or transport Landscape Refuse.

**Liquid Waste:** All unwanted or discarded material with sufficient liquid content to be free flowing. This includes, but is not limited to: gasoline, kerosene, diesel fuel, antifreeze, solvents, hydraulic oil, transmission fluid, paint, septic tank waste or any other liquids containing chemicals that may be harmful to the environment.

**Municipality:** The Town of Lebanon, Maine.

**Municipal Waste:** Solid Waste generated by municipal activities, with insufficient liquid to be free flowing. It shall not include Unacceptable Waste or material required by this Ordinance to be either recycled or disposed of separately.

**Owner:** The actual owner of the land and/or buildings, whether an individual, partnership or corporation, or the agent of the owner, or other person having custody of the land or building or to whom the rent is paid.

**Person:** Any individual, partnership, association, firm, company, corporation, department, agency, group (including a city, town, county, state, federal or other government unit), or any other entity responsible in any way for an activity subject to this Ordinance.

**Recyclable: Materials** which the town is separating as part of its recycling program, including but not limited to; glass, tin cans, aluminum cans, plastics, reusable (furniture, appliances, tools, toys, and other equipment).

**Recyclable Waste:** Solid Waste, which when properly segregated, can be recovered, reused, or recycled. It shall include newspapers, corrugated box material, plastic, glass and metal containers, scrap metal, waste oil, mixed paper, automotive batteries, White Goods, and other materials deemed recyclable by the Town.

**Recycling Center:** The area designated as the storage site for those items that have been designated as recyclable.

**Resident:** Any person who lives in the Town, either on a permanent or seasonal basis.

**Rubbish:** All miscellaneous waste material, not otherwise included herein, resulting from the ordinary conduct of business or housekeeping.

**Scrap Metal:** Bicycles, metal shelving, tire rims, wood stoves, snow blowers, lawnmowers, and other metal Solid Waste. It shall not include junk cars, trucks, motor vehicles, or White Goods.

**Secured:** With respect to carrying Rubbish in open-bodied vehicles or vehicles with trailers, the use of a canvas, tarpaulin, strapping, or other covering of sufficient strength and size to adequately cover and/or contain the load being transported, being affixed to the vehicle in
such a fashion as to prevent spillage.  

**Solid Waste:** Useless, unwanted or discarded solid material with insufficient liquid content to be free flowing, including by way of example and not by limitation: Rubbish, Garbage, refuse-derived fuel, Scrap Metal, junk, refuse, Inert Fill and Landscape Refuse. It shall not include sludge from air or water pollution control facilities, septic tank sludge or Agricultural Waste. The fact that Solid Waste, or any part of or constituent of the waste, may have value or other use, or may be recycled, sold or exchanged, does not exclude it from the definition of Solid Waste.  

**Special Waste:** As defined in 38 M.R.S.A. § 1303-C(34), as may be amended from time to time, any non-Hazardous Waste generated by sources other than domestic and typical commercial establishments that exists in such an unusual quantity or in such a chemical or physical state, or any combination thereof, which may disrupt or impair effective waste management or threaten the public health, human safety or the environment and requires special handling, transportation and disposal procedures. It includes, but is not limited to:  

A. Oil (except for used motor oil), coal, wood and multi-fuel boiler and incinerator ash;  
B. Industrial Waste and processed Industrial Waste;  
C. Wastewater treatment plant sludge, paper mill sludge and other sludge waste;  
D. Debris and residuals from non-hazardous chemical spills and cleanup of those spills;  
E. Contaminated soils and dredge spoils;  
F. Asbestos and asbestos-containing waste;  
G. Sand blast grit and non-liquid paint waste;  
H. Medical and other potentially infectious or pathogenic waste;  
I. High and low PH waste;  
J. Spent filter media residue;  
K. Shredder residue; and  
L. Other waste designated by the Town, through this Ordinance.  

**Town:** The Town of Lebanon, County of York, State of Maine.  

**Transfer Station:** Facility in the Town constructed and managed for storage and placement of Acceptable Waste in large containers or vehicles for movement to another Disposal Facility. It includes the collection facility and the recycling center.  

**Tree and Brush Waste:** Trees or limbs that are 18 inches or less in diameter with a maximum length of 8 feet or less. Also included in this definition is brush from tree pruning or from woody plant growth. It shall not include tree stumps.  

**Unacceptable Waste:** That portion of Solid Waste which is not Acceptable Waste and includes, but is not limited to, sewage and its derivatives, special nuclear or by-product materials within the meaning of the Atomic Energy Act of 1954, as amended, and Hazardous Waste and Special Waste, or any other waste determined to be unacceptable by the Town or its authorized agents. The following materials will normally not be accepted for disposal at the waste disposal facility.  

A. Any asbestos material  
B. Barrels or cans with liquid contents in them (contents must be removed)
C. Liquid wastes, (except for used motor oil)
D. Dead animals or parts thereof (including animal wastes)
E. Ammunition/explosives
F. Chemicals
G. Pathological wastes
H. Pesticides
I. Other hazardous wastes
J. Other materials as designated by the Board of Selectmen
K. As acceptable storage or disposal means become available, the Selectmen may change
   the above list of materials that are, normally, not accepted at the Waste Disposal Facility.

Waste: Items, materials or substances delivered to a Disposal Facility by the Town, its
employees, agents or contractors.

Waste Disposal Facility: The area designated as the storage site for wastes generated in the
municipality.

White goods: Any appliance surrounded by metal, such as a refrigerator, stove, washing
machine, dryer, or water heater.

Wood Waste: Lumber and wood furniture free of large metal attachments, roofing shingles,
gypsum board or any other material reducing the acceptability as boiler fuel.

III. Designation
In accordance with the provisions of 38 M.R.S.A. SS 1304-B, the Town hereby designates
the Lebanon Maine Transfer Facility located on Merchants Row as its Waste Disposal
Facility for the purposes cited in Section 1 of this ordinance. Disposal of any acceptable
waste within the Town of Lebanon, must be at the designated facility; provided, however,
the owner of any lot, or any other person with permission of the lot owner, may dispose of
inert substances such as earth, rocks, concrete or similar material at such lot for fill purposes
only, subject to state or local land use regulations.

IV. Administration
1. This ordinance shall be administered by the Board of Selectmen. They shall:
   A. Adopt reasonable rules and regulations as needed to enforce this ordinance
   B. Consider all license applications and grant or deny each application within 60 days after
      receipt of a completed application at the municipal offices or within such other time as
      they and the applicant shall agree is reasonable
   C. Review any alleged violation of this ordinance, and to impose appropriate penalties
      thereof after notice and hearing as required by this ordinance
   D. Institute necessary proceedings, either legal or equitable, to enforce this ordinance

2. The accumulation, collection, transportation and disposal of wastes generated within the
Town of Lebanon shall be regulated in the following manner:
   A. The Board of Selectmen may establish by policy, the rules and regulations governing the
availability and use of the Transfer Station. The operation of the Transfer Station shall conform to all pertinent regulations and directives of all local, county, state or federal agencies that may have jurisdiction. It shall be the duty of the Transfer Station Attendants to enforce the provisions of this Ordinance.

B. Upon reviewing recommendations made by the Transfer Station Attendants, the Board of Selectmen may establish, by order, schedules of waste disposal charges. Any user fees are to approximate the total cost of disposal of such items. All schedules shall be kept on file in the Town Clerk’s office.

C. The Transfer Station Attendants shall report to the Selectmen and be given such authority as deemed necessary for the purpose of upholding state and federal solid waste management laws, rules and regulations, the provisions of this Ordinance, and any rules made in accordance with this Ordinance.

D. From and after the effective date of this Ordinance, it shall be unlawful for any Person to accumulate or permanently dispose of, within the corporate limits of the Town, Abandoned Vehicles, Garbage, refuse, Rubbish, combustible or incombustible refuse, White Goods, Brown Goods, Recyclable Waste, reusable material or other Solid Waste, excepting Inert Fill, compost and other material, for which specific permission has been granted by the Town. Failure to remove any existing accumulation of Garbage, refuse, Recyclable Waste, Rubbish, Abandoned Vehicles or other Solid Waste within thirty (30) days after the effective date of this Ordinance shall be deemed in violation of this section of the Ordinance.

E. No person shall deposit any material or wastes on any private or public properties without authorization by the property owner.

F. No person, firm, business, or corporation shall deposit any waste material at the Transfer Station that comes from outside the Town of Lebanon.

G. No waste material which might cause litter, constitute a fire hazard, or be attractive to rodents or insects shall be allowed to be stored outdoors unless enclosed in containers adequate to eliminate such hazards.

H. No person other than residents or property owners of the Town of Lebanon, and no firm, business, corporation, or other legal entity not located in the Municipality shall deposit any waste material at the Transfer Station without first having obtained a permit or license to do so from the Municipal Officers.

I. To reduce costs and to adhere to State and Federal environmental regulations, it is highly recommended that wastes be separated at the waste disposal facility.

J. The owner of any lot, or any Person with the permission of the lot owner and the Code Enforcement Officer, may deposit or dump Inert Fill or similar material for fill purposes only, subject to state and/or local land use regulations

V. **Authorized Use of the Transfer Station**

1. The availability and use of the Transfer Station shall be limited to Residents and/or property
owners of the Town, or their contractors, for the sole purpose of disposing of Solid Waste generated within the Town.

2. All vehicles utilizing the Transfer Station must display a valid Transfer Station permit. Permits are issued annually, valid for one year. Permits are available at the Municipal Office. Proof of residency or property ownership is required in order to acquire a permit. Verification shall be made by showing a valid vehicle registration, or for non-resident property owners, a Lebanon property tax bill, and proof of residency elsewhere.

3. Non-resident contractors must provide a letter or contract from the Resident for whom the work is being done to include the name, address, telephone number and a description of the work being conducted in the Town of Lebanon prior to their being allowed to dispose of Acceptable Waste. This in no way removes the responsibility of any disposal fees due from the contractor.

4. Commercial waste must be disposed of at a licensed disposal facility. Tipping fees are the responsibility of the owner. Resident commercial haulers shall be exempt from this provision.

5. Federal agencies, state agencies, and non-profit organizations may bring Recyclable Waste to the Transfer Station.

VI. Recycling Program

1. Recyclable materials constitute a good portion of the solid waste stream and when properly handled, and can help defray the Town's cost of waste disposal.

2. All recyclable materials shall be deposited at the Recycling Center. Materials shall be clean and free of any food, oil, or chemical contamination.

3. To encourage recycling, all commercial haulers shall be required to provide a recyclable materials pickup at least weekly and deposit such at the Recycling Center.

VII. Transfer Station Facility

1. Only wastes that are to be compacted and shipped to Waste Management's Turnkey Landfill shall be deposited at the Collection Facility. All other acceptable wastes or recyclable materials shall be deposited at the recycling areas or open bins in accordance with Transfer Station policy.

2. The following wastes are unacceptable and shall not be disposed of at the Transfer Station:
   A. Abandoned or junk vehicles, trailers
   B. Hazardous waste
   C. Putrefied waste
D. * Pathological waste
E. Water treatment residues or by-products of any kind
F. Tree stumps
G. Tannery and sewer sludge of any kind
H. Waste oil or solvents
I. Liquid wastes or sludge
J. Pesticides and other organic fluids
K. Firearms, ammunition, and explosives
L. Other waste which is in the good faith judgment of Transfer station attendants could (a) reasonably be expected to cause jam-ups, slowdowns, stoppages, failures or damage to the facility, (b) is an item similar in kind or effect to those enumerated above
M. Any wastes deemed unacceptable for processing at the facility by federal, state or local law, ordinance, regulation rule or order

VIII. Property Rights

1. Prior to disposal of waste into the compactor, the Transfer Station Attendant at his/her discretion may open the bag to ensure all contents are acceptable waste. All acceptable waste collected for transfer shall become the property of the Town. No one may salvage, remove or carry off any such waste without prior approval of the Board of Selectmen or its designee.

IX. Licensing of Commercial Haulers

1. Any person, firm, corporation, institution, industry or business that collects, transports or disposes of acceptable waste or unacceptable waste (i.e., solid waste, garbage, swill, offal, rubbish, scrap metals, junk, refuse, inert fill material, landscape refuse or other like waste substances) generated within Town limits, other than a self-hauler handling only materials generated by the hauler, must first obtain a Commercial Waste Hauler's license from the Town.

2. Any person or other entity required by this ordinance to obtain a Commercial Waste Hauler's license shall make application to the Board of Selectmen on an annual basis, providing the information required on the proper form approved by the Selectmen. Each application shall be accompanied by a nonrefundable application fee of $25.00.

3. The application shall contain all information required by the Board of Selectmen, including, but not limited to:
   A. A description of the activity, e.g. collection, transport, or disposal of acceptable and/or unacceptable waste
   B. The type and amount of waste handled in each service area
   C. A description of the facility operated and used, and an equipment inventory, including, for vehicles, a description of the make, model and year of each vehicle used for the collection or transportation of solid waste, which information shall be revised annually
upon license renewal.

D. Copy of current vehicle registration(s) for any vehicle to be used along with proof of insurance for each vehicle.

E. Copy(s) of State of Maine Department of Environmental Protection Non-Hazardous Waste Transporters License if applicable.

F. A signature by applicant as verification that he/she has read, understands and will abide by all provisions of this Ordinance.

G. A signed affidavit that the Commercial Hauler will only deposit waste collected within the Town of Lebanon at the Lebanon Transfer Station.

H. If the Board of Selectmen determines the application to be incomplete, they shall notify the applicant in writing of the specific information necessary to complete it. The Board of Selectmen shall be informed immediately of any changes in, or additions to equipment, including vehicles.

4. Licenses are not transferable.

5. Trucks or other vehicles used for the transportation of Garbage or other Solid Waste mixed with refuse shall be of the compactor type; water tight, with an enclosed cargo space. Collection of dry refuse, Rubbish, Recyclable Waste and other Solid Waste is permitted in open trucks. No trucks or other vehicles shall be permitted to scatter any of the contents on the streets, highways, or roads of the Town. Trucks used to haul Garbage, refuse, Recyclable Waste, Rubbish or other Solid Waste over the streets of the Town must be maintained in a clean and sanitary condition and shall meet all the requirements of the Town or appropriate State agency where applicable. No such container or vehicle shall be permitted to become foul or offensive.

6. Commercial Waste Haulers who are residents of the Town of Lebanon shall be allowed to deposit Household waste at the Towns Collection Facility. Times are to be scheduled as to cause the least interference with deposit flow by Town residents.

7. Non-resident Commercial Waste Haulers shall deposit all Household Waste, Commercial Waste and acceptable Industrial Waste generated within the boundaries of the Town at a licensed Disposal Facility. Tipping fees are the responsibility of the Commercial Hauler. The Town shall not be responsible for the collection, transportation or disposal of any Household Waste, Commercial Waste, Industrial Waste, or Unacceptable Waste.

8. In the event the Board of Selectmen denies a license application, they shall notify the applicant in writing and shall state the reasons for the denial. The applicant may request a public hearing in accordance with the procedures in Section XI.

9. In the event the Board of Selectmen grants a license application, the applicant shall pay a permit fee of $100.00 for each vehicle licensed. This fee is in addition to the application fee. The permit stamp or decal shall be affixed to each vehicle licensed, such stamp or decal to be obtained from the Town and affixed as instructed. The Board of Selectmen may prorate this fee where appropriate. The Board of Selectmen may not refund any portion of this fee if the license is suspended or revoked.

10. The Board of Selectmen may grant a special license to a licensee for a limited period and
upon such terms and conditions as it deems appropriate using a procedure that it deems appropriate for a replacement vehicle in the event of an emergency or a vehicle breakdown.

11. The Board of Selectmen may deny a license application upon a finding that applicant:
   A. Does not have the financial capacity and technical ability to conduct the activity described in the application
   B. Has not made adequate provision for the control of offensive odors, or has not made adequate provision to prevent air and water pollution
   C. Has not previously secured any necessary state or federal permits
   D. Failure to respond within 14 days of an inquiry shall be reason for denial
   E. Failure to transport waste loads in in such a way as to prevent any spillage on public ways
   F. Has failed to comply with any other provisions of this ordinance

12. Any license issued may be suspended or revoked by order of the Selectmen after benefit of a hearing in accordance with the procedures in Section XI, for the following causes:
   A. Violation of this ordinance
   B. Violation of any provision of any state or local law, ordinance, code or regulation which relates directly to the provisions of this ordinance
   C. Violation of any license condition
   D. Falsehoods, misrepresentations or omissions in the license application

X. **Disposal of Construction/Demolition Debris**

1. Only residents of the Town and owners of property located within the Town may dispose of Construction/Demolition Debris at the Transfer Station.
2. Disposal of Construction/Demolition Debris shall occur in accordance with the policies of the Transfer Station and only in the presence of a Town employee or agent.
3. Contaminated Construction/Demolition Debris, cannot be deposited at the Transfer Station. The Town shall not be responsible for any costs incurred with the disposal of contaminated Construction/Demolition Debris.

XI. **Hearings**

1. Anyone denied a license or whose license is suspended or revoked pursuant to Section IX is entitled to a public hearing before the Board of Selectmen, if such request is made in writing within 10 days of the denial, suspension or revocation. Such hearings shall be held within thirty (30) days after receipt of the written request for a hearing.
2. The licensee or applicant shall be notified in writing as to the time and place of the hearing at least ten (10) days prior to the hearing date. The applicant or licensee has the right to be represented by counsel, to offer evidence, and to cross-examine witnesses. But the hearing is not subject to rules of evidence or formal rules for Adjudicatory proceedings.
3. A determination shall be made by the Board of Selectmen within ten (10) days after the
conclusion of the hearing, and notice of the decision shall be served upon the applicant or licensee by registered mail, return receipt requested.

4. The Board of Selectmen's final determination relative to the denial or suspension or revocation of a license and the period of suspension or revocation shall take effect as provided in the notice unless, at the time of final determination, the Board of Selectmen made it effective immediately. The Board of Selectmen's determination shall set forth the reasons for the denial, suspension or revocation and the effective dates thereof together with a statement that such decision may be appealed as provided in this ordinance.

5. Any controversy or claim arising out of or relating to the Board of Selectmen's determination may be appealed to Superior Court pursuant to M.R. Civ. Procedure, Rule 80B, within thirty (30) days after the Board of Selectmen's final determination.

XII. **Enforcement: Penalties**

1. Any person violating any provision of this Ordinance commits a civil violation shall:
   A. Be subject to a forfeiture of not less than $100.00 nor more than $500.00. Each day of violation constitutes a separate offense. Any violation is deemed to be a nuisance. In addition, the Town may seek equitable relief, including, but not limited to, injunctive relief and attorney's fees and costs, to ensure compliance with the terms of this Ordinance.
   B. Pay the actual costs to remove and dispose of Solid Waste deposited in violation of this Ordinance.
   C. Pay for any damages to the Town's facilities or equipment caused by said violation.
   D. Be prohibited from using the Transfer Station for a period of six (6) months, after notice and hearing by the Selectmen and consultation with the lead Transfer Station Attendant. An appeal of this prohibition may be made to the Board of Selectmen within fourteen (14) days from the notice upon request. Furthermore, an aggrieved party may appeal to Superior Court, pursuant to Rule 80B of the Maine Rules of Civil Procedure.
   E. The fine for violation of this Ordinance is as set forth in the Town's fine and fee schedule.

XIII. **Exemptions**

1. This Ordinance in no way prevents any property owner, business or corporation from disposing of any materials or wastes on their own property that is allowed by state or federal laws, rules, or regulation.

XIV. **Conflict/Severability**

1. This ordinance specifically repeals the "Garbage and Rubbish Ordinance" of March 14, 1970 and the "Lebanon Solid Waste Disposal Control Ordinance" of March 12, 1988.
2. The provisions of this law shall supersede all other local laws, ordinances, resolutions, rules or regulations contrary thereto, or in conflict therewith.

3. The provisions of this ordinance shall be severable and if any phrase, clause, sentence or provision, or the application thereof to any person or circumstances shall be held invalid, the remainder of this ordinance and the application thereof shall not be affected thereby.

XV. Effective Date

1. This Ordinance shall become effective on the date of adoption. Any person, firm or corporation required to obtain a license hereunder shall have sixty (60) days from the date of adoption of this ordinance to secure such license, which shall become effective on the date specified therein.

Adopted this day June 12, 2018 by Town Meeting vote
Yes: 652 No: 356

A True Copy Attest
Dale Fisk - Town Clerk
Town of Lebanon, Maine
Special Amusement Ordinance
I. Purpose
The purpose of this ordinance is to control the issuance of special permits for music, dancing or entertainment in facilities licensed by the State of Maine to sell liquor and/or malt liquor as required by 28-A M.R.S.A. 1054

II. Definitions

Disseminate - means to transfer possession of with or without consideration.

Entertainment - For the purposes of this ordinance, entertainment shall include any amusement, performance, exhibition, or diversion for patrons or customers of the licensed premises whether provided by professional or amateur entertainers or by full or part time employees of the licensed premises whose incidental duties include activities with an entertainment value.

Knowingly - means to be aware of the character and the content or any material or act described in the ordinance.

Licensee - Licensee shall include the holder of the license issued under alcoholic beverages statutes of the State of Maine, or any person, individual, partnership, firm, association, corporation, or other legal entity, or any agent or employee of any such licensee.

Material - means any book, magazine, newspaper, or other printed or written material, any picture, drawing, photograph, motion picture, video, slide show, or any statue or other figure or any recording, transcription or mechanical or electrical reproduction or any other articles, equipment or machines.

Obscene - means that to the average person applying contemporary community standards, the predominant appeal of the matter or act taken as a whole, it to prurient interest, and the matter or act depicts or describes in a patently offensive manner sexual conduct or lewd exhibition of the genitals or other body parts mentioned in this ordinance and the matter or act or performance, when considered as a whole lacks serious literary, artistic, political or scientific value; or any matter, acts or performances which are prohibited by the statutes of the State.
**Performance** - means any preview, play, show, skit, film, dance, or other exhibition or entertainment performed before an audience.

**Promote** - means to cause, permit, procure counsel or assist.

**Service to Patrons** - means the provisions of services to customers, patrons or any other persons present in establishments providing food and beverages including, but not limited to, hostess work, hat checking, cooking, bartending, serving, table setting, table waiting and clearing and entertainment.

### III. Permit Required

No licensee for the sale of liquor to be consumed on the licensed premises shall permit, on the licensed premises, any music (with the exception of radio or other mechanical device), any dancing or entertainment of any kind unless the licensee shall have first obtained from the Town of Lebanon, a special amusement permit issued and signed by at least a majority of the municipal officers.

Applications for all special amusement permits shall be made in writing to the municipal officers and shall state:

- Name of the applicant
- His/her residence address
- Name of the business to be conducted
- Business address
- Nature of the business
- Whether the applicant has ever had a license to conduct the business therein described either denied or revoked and, if so, the applicant shall describe those circumstances specifically
- Whether the applicant, including all partners or corporate officers, has ever been convicted of a felony and if so, the applicant shall describe specifically those circumstances
- Any additional information as may be needed by the municipal officers in the issuing of the permit, including, but not limited to a copy of the applicants current liquor license.
No permit shall be issued for anything or act or premises if the premises and building to be used for the purposes do not fully comply with all ordinances, articles, by-laws, codes, or rules and regulations of the municipality.

The fee for the special amusement permit is $75. The municipal officers shall have the authority to adjust this fee as they may deem necessary.

The municipal officers shall, prior to granting a permit and after reasonable notice to the municipality and the applicant, hold a public hearing at which testimony of the applicant and that of any interested members of the public shall be taken.

The municipal officers shall grant a permit unless they find the issuance of the permit will be detrimental to the public health, safety, or welfare or would violate municipal ordinances, or rules and regulations, articles or by-laws, or any State laws.

A permit shall be valid only for the license year of the applicant’s existing liquor license.

IV. Inspections
Wherever inspections of the premises used for or in connection with the operation of a licensed business which has obtained a special amusement permit are provided or required by ordinance or State law, or are reasonably necessary to secure compliance with any ordinance or State law, it shall be the duty of the licensee, or the person in charge of the premises to be inspected, to admit any officer, official or employee of the municipality authorized to make the inspection at any reasonable time that admission is requested.

Whenever an analysis of any commodity or material is reasonably necessary to secure conformance with any ordinance provision or State law, it shall be the duty of the licensee, or person in charge of the premises, to give to any authorized officer, official or employee of the municipality requesting the same sufficient samples of the material or commodity for analysis.
In addition to any other penalty which may be provided, the municipal officers may revoke the special amusement permit of any licensee in the Town of Lebanon who refuses to permit any such officer, official or employee to make an inspection or take sufficient samples for analysis, or who interferes with such officer, official, or employee while in the performance of his/her duty.

V. Conduct Constituting Offenses by Licensee

• Tumultuous Conduct - The licensee shall not knowingly allow on any licensed premises any person to disturb, aid in disturbing or disrupt the peace of others of ordinary sensibilities or to be disorderly by violent, tumultuous conduct, or to permit or gather a crowd, audience or patrons to witness any entertainment, amusement or show as to create a dangerous condition due to fire or other risks in derogation of the public health, comfort, convenience, safety or welfare.

• Riots- The licensee shall not allow on any licensed premises any public entertainment or amusement or show of any kind which tends to or is calculated to cause or promote any riot or disturbance.

• Unnecessary Noise- The licensee shall not allow on any licensed premises the making, creation, or maintenance of excessive, unusually loud noise.

• Nuisances - The licensee shall not allow any licensed premises to be so conducted or operated as to amount to a nuisance in fact under any ordinances, sections of ordinances, rules and regulations of the Town of Lebanon or State statutes.

• Prostitution and Public Indecency - The licensee shall not allow on any licensed premises or aid in or offer or agree to or allow in or near licensed premises any prostitution, or any public indecency under any or in derogation of any State statutes, or any meretricious display, lewd act or act of moral perversion; or knowingly receive or offer to receive any person on such licensed premises for the purpose of performing a lewd act, an act of prostitution or moral perversion, or public indecency; or to knowingly permit any person to remain on such licensed premises for any such purpose; or to aid, abet, allow, permit
or participate in the commission of any such acts.

- Gambling - The licensee shall not allow on any licensed premises the use or occupancy of the premises for gambling or for games of chance as prohibited by State statutes.

- Obscenity/Prohibited Acts - The licensee on any licensed premises shall not:
  1. Material. Knowingly disseminate, distribute or make available to the public any obscene material as defined in this ordinance.
  3. Commercial Activity. Knowingly engage in commerce and/or for commercial gain with materials depicting explicit sexual conduct, nudity or excretion, utilizing displays, circulars, advertisements or any other public sales efforts that promote such commerce primarily on the basis of their prurient appeal.
  4. Exposure. Provide service to patrons in such a manner as to expose public view:
     a. The licensee's or any agents or employees of the licensee's, genitals, pubic hair, buttocks, perineum, or anal region.
     b. Any device, costume or covering which gives the appearance of or simulates the genitals, pubic hair, buttocks, perineum or anal region; or
     c. Any portion of the female breast at or below its areola.
  5. Promotion. Knowingly promote the commission of any act listed in this subsection.

VI. Suspension or Revocation of a Permit

The municipal officers may, after a public hearing, preceded by notice to interested parties, suspend, or revoke any special amusement permits which have been issued under this ordinance on the grounds that the music, dancing or entertainment so permitted constitutes a detriment to the public health, safety, or welfare, or violates any municipal ordinances, articles, by-laws, or rules and regulations.

VII. Rules and Regulations

The municipal officers are hereby authorized, after public notice and hearing, to establish written rules and regulations governing the issuance, suspension and revocation of special amusement permits, the classes of permits, the music, dancing or entertainment permitted under each class and other limitations on
these activities required to protect the public health, safety and welfare. These rules and regulations may specifically determine the location and size of permitted premises, the facilities that may be required for the permitted activities on those premises, and the hours during which permitted activities are permitted.

VIII. Enforcement
Officers of the Maine State Police and Deputies of the York County Sheriff’s Department are authorized enforcement agents of the Town of Lebanon under this ordinance. The Lebanon Fire Department is authorized to enforce State Life Safety Codes in any licensed premises. The Lebanon Building Code Enforcement Officer is authorized to enforce any building codes as adopted by the Town of Lebanon and/or the State of Maine.

IX. Penalties
Whoever violates any of the provisions of this ordinance shall be punished by a fine of not more than $500 for the first offense and up to $1,000 for the second and subsequent offenses to be recovered, on complaint, for the use of the Town of Lebanon. Each day shall be considered a separate violation or offense. The Town of Lebanon shall be entitled to be reimbursed for any expenses incurred as a result of any enforcement actions, including legal fees.

X. Appeals Procedure
Any appeal from the decision of the Municipal Officers may be made to Superior Court pursuant to Rule 80B of the Maine Rules of Civil Procedure.

XI. Effective Date
This ordinance shall be in effect following its approval by the voters in the Town of Lebanon.

Adopted June 11, 2013  Vote of Yes 495  No 483
STREETS AND ROADS ORDINANCE
TOWN OF LEBANON

Effective this date, all new roads, streets, lanes, and drives, etc., constructed in the Town of Lebanon, will have to meet State TR1 standards, plus Tar and/or asphalt paving. These standards will apply to the master plan submitted to the Planning Board and final approval shall be made on site inspection by the Selectmen prior to insertion in the Town Warrant for acceptance by the Townspeople.

Historical Note: This ordinance was originally adopted by Town Meeting pore March 12, 1977.
State Law Reference: As to power of municipality to regulate streets and roads see 30 M.R.S.A. §2151(2).
SUB-DIVISION ORDINANCE

"To limit any Subdivision Development to a maximum of ten (10) units, with no subdivider receiving more than one approval in any five (5) year period."

Subdivision Fees:
On a fee schedule determined by the Board

Historical Note: This ordinance was originally adopted by Town Meeting vote April 5, 1976.
State Law Reference: As to state guidelines for municipal review of subdivisions see 30 M.R.S.A. §4956.
A. Parks
All Tent and Recreational vehicle parks shall conform to the minimum requirements imposed under state licensing procedures and regulations (See 22 M.R.S.A. § 2491 to 2501) and the following standards:

Parks shall be open only between April 15 and October 31, inclusive. From November 1 of one year to April 14 of the following year, no person shall occupy any site, the water services to all sites shall be turned off or disconnected and the electrical service to all sites shall be turned off or disconnected.

B. Individual Private Campsites
Individual private campsites not associated with campgrounds are allowed provided the following conditions are met:
1. One campsite per lot.
2. Campsite placement on any lot, including the area intended for a recreational vehicle or tent platform, shall meet all required setbacks.
3. Only one recreational vehicle shall be allowed on a campsite. The recreational vehicle shall not be located on any type of permanent foundation except for a gravel pad, and no structure except a canopy shall be attached to the recreational vehicle.
4. 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.
5. When a recreational vehicle, tent or similar shelter is placed on-site for more than one hundred and twenty (120) days per year, all requirements for residential structures shall be met, including the installation of a subsurface sewage disposal system in compliance with the State of Maine Subsurface Wastewater Disposal Rules.
6. Unoccupied travel trailers, motor homes, or recreational camping vehicles may be parked or stored on a lot provided the lot is owned by the owner of the unit, or there is written permission from the owner.

C. Penalty:
Any violation of this ordinance shall be punishable by a fine of $100.00 per day plus legal and court fees for each offense. Each day that such unlawful act or violation continues shall be considered a separate offense.

D. Effective Date:
This ordinance shall become effective upon enactment.
TOXIC WASTE ORDINANCE

To prohibit aerial spraying of toxic materials (pesticides within the Town of Lebanon.

*Historical Note:* This ordinance was originally adopted by Town Meeting vote March 10, 1980.
To prevent any commercial spraying for non-agricultural reasons of herbicides in our Town unless approved by Town Meeting vote.

*Historical Note:* This ordinance was originally adopted by Ballot Vote on March 12, 1983.
ARTICLE 1... WORDS AND PHRASES

1.1. DEFINITION OF WORDS AND PHRASES

A) The following words and phrases, when used in this Ordinance, shall, for the purpose of this Ordinance, have, the meanings respectively ascribed to them in this Article, except when the context otherwise requires.

B) Whenever any words and phrases used herein are not defined herein but are defined in the State Laws regulating the operation of vehicles, any such definition therein shall be deemed to apply to such words and phrases used herein, except when the context otherwise requires.

1.2. ALLEY-A street or highway intended to provide access to the rear or side of lots or buildings in urban districts and not intended for the purpose of through vehicular traffic.

1.3. CENTRAL BUSINESS DISTRICT- All streets and portions of streets within the area designated.

1.4. COMMERCIAL VEHICLE-Every vehicle designed, maintained or used primarily for the transportation of property.

1.5. CONTROLLED ACCESS HIGHWAY-Every highway, street or roadway in respect to which owners or occupants of abutting lands and persons have no legal right of access to or from the same except at such points only and in such manner as may be determined by the public authority having jurisdiction over such highway, street or roadway.

1.6. PASSENGER, FREIGHT CURB LOADING ZONES-Spaces adjacent to a curb reserved for the exclusive use of vehicles during the loading or unloading of passengers, commercial freight, or materials.

1.7. DRIVER-Every person who drives or is in actual physical control of vehicle.

1.8. FIRE DEPARTMENT OFFICIALS-Any Fireman, Fireward, Engineer, volunteer and those appointed under special laws or emergencies.

1.9. LANED ROADWAY- Roadway which is divided into two or more clearly marked lanes for vehicular traffic.

1.10. OFFICIAL TIME STANDARD-Whenever certain hours are named herein they shall mean standard time or daylight-saving time as may be in current use in this municipality.

1.11. PARK-Means the leaving of a vehicle, whether occupied or unoccupied otherwise than temporarily for the purpose of and while actually engaged in loading or unloading merchandise or passengers.

1.12. PEDESTRIAN-Any person afoot.

1.13. PERSON-Any natural person, firm, copartnership, association or corporation.

1.14. POLICE OFFICER-Any Officer of the Police Department, any Constable, or any person authorized to direct or regulate traffic or to make arrests for violations of traffic regulations.

1.15. PRIVATE ROAD OR DRIVEWAY-Every way or place in private ownership and used for vehicular travel by the owner and those having express of implied permission from the owner, but not by other persons.

1.16. RIGHT-OF-WAY-The right of one vehicle or pedestrian to proceed in a lawful manner in preference to another vehicle or pedestrian approaching under such circumstances of direction, speed and proximity as to give rise to danger of collision unless one grants precedence to the other.

1.17. ROADWAY-That portion of a highway improved, designed or ordinarily used for vehicular travel, exclusive of the berm or shoulder. In the event a highway includes, two or more separate roadways, the term "roadway" as used herein shall refer to any such roadway separately but not to all such roadways collectively.

1.18. SAFETY ZONE-The area or space officially set apart within a roadway for the exclusive use of pedestrians and which is protected or is so marked or indicated by adequate signs as to be plainly visible at all times while set apart as a safety zone.

1.19. SIDEWALK-That portion of a street between the curb lines, or the lateral lines of a roadway, and the adjacent property lines, intended for use by pedestrians.

1.20. STAND- Means the halting of a vehicle, whether occupied or unoccupied, temporarily for the purpose of and while actually engaged in receiving or discharging passengers.

1.21. PATROL/TRAFFIC UNIT-The Patrol/Traffic Unit of the Police Department of this municipality, or in the event a Patrol/Traffic Unit is not established, then said term whenever used herein shall be deemed to refer to the Police Department of this Town.
ARTICLE 2 ... TRAFFIC ADMINISTRATION

2.1 ... TRAFFIC ACCIDENT STUDIES
Whenever the accidents at any particular location become numerous, the Patrol/Traffic Unit shall conduct studies of such accidents and determine remedial measures. (The Maine State Highway Commission provides technical assistance on request.)

2.2 ... TRAFFIC ENGINEER
The office of Traffic Engineer is hereby established. The Chief of Police shall serve as Traffic Engineer in addition to his other functions, and shall exercise the powers and duties with respect to traffic as provided in this Ordinance.

2.3 ... EMERGENCY AND EXPERIMENTAL REGULATIONS
A) The Chief of Police by and with the approval of the Board of Selectmen and the State Highway Commission is hereby empowered to make regulations necessary to make effective the provisions of the Traffic Ordinances of this Town and to make and enforce temporary or experimental regulations to cover emergencies or special conditions. No such temporary or experimental regulation shall remain in effect for more than ninety (90) days.
B) The Traffic Engineer may test traffic control devices under actual conditions of traffic.

2.4 ... POWERS AND DUTIES
The Traffic Engineer will receive complaints having to do with traffic matters. Complaints or actions before them will receive a response within a thirty (30) day period.

ARTICLE 3 ... ENFORCEMENT AND OBEDIENCE TO TRAFFIC REGULATIONS

3.1 ... AUTHORITY OF POLICE AND FIRE DEPARTMENT OFFICIALS
A) It shall be the duty of any Police Officer to enforce all traffic laws of this municipality and all of the State vehicle laws.
B) Police Officers are hereby authorized to direct all traffic by voice, hand or signal in conformance with traffic laws, provided that, in the event of a fire or other emergency or to expedite traffic or to safeguard pedestrians. Police Officers may direct traffic as conditions may require, notwithstanding the provision of the traffic laws.
C) Officers of the Fire Department, when at the scene of a fire, or traffic accident may direct or assist the Police in directing traffic there at or in the immediate vicinity.

3.2 ... REQUIRED OBEDIENCE TO TRAFFIC ORDINANCE
It is unlawful and an infraction for any person to do any act forbidden or fail to perform any act required in this Ordinance.

3.3 ... OBEDIENCE TO POLICE AND FIRE OFFICIALS
No person shall willfully fail or refuse to comply with any lawful order or direction of any Police Officer or Fire Department official.

3.4 PUBLIC EMPLOYEES TO OBEY TRAFFIC REGULATIONS
The provisions of this Ordinance shall apply to the drivers of all vehicles owned or operated by the United States, this State, or any County, Town, District, or any other political subdivision of the State, subject to such specific exceptions as are set forth in this Ordinance or in the State Vehicle Code.

3.5 AUTHORIZED EMERGENCY VEHICLES
A) The driver of an authorized emergency vehicle, when responding to an emergency call, or when in the pursuit of an actual or suspected violator of the law, or when responding to but not upon returning from a fire alarm, may park or stand, irrespective of the provisions of this Ordinance.
B) The foregoing provision shall not relieve the driver of an authorized emergency vehicle from the duty to park or stand with due regard for the safety of all persons, nor shall such provision protect the driver from the consequences of his reckless disregard for the safety of others.

3.6 ... CERTAIN NONMOTORIZED TRAFFIC TO OBEY TRAFFIC REGULATIONS
A) Every person propelling any push cart upon a roadway shall be granted all of the rights and shall be subject to all of the duties applicable to the driver of a vehicle by this Ordinance and by the rules of the road portion of the State Vehicle Code, except those provisions which by their nature have no application.
B) Every person riding an animal or driving an animal-drawn vehicle upon a roadway shall be granted all of the rights and shall be subject to all of the duties applicable to the driver of a vehicle by this Ordinance, except those provisions of this Ordinance which by their very nature can have no application.
3.7 USE OF COASTERS, ROLLER SKATES, SKATEBOARDS, MOTORIZED TOYS AND SIMILAR DEVICES RESTRICTED

No person upon roller skates, skateboards, or riding in or by means of any coaster, toy vehicle, motorized toy vehicle, or similar device, shall go upon any roadway except while crossing a street on a crosswalk and when so crossing, such person shall be granted all of the rights and shall be subject to all of the duties applicable to pedestrians. This Section shall not apply upon any street while set aside as a play street as authorized herein.

ARTICLE 4. TRAFFIC CONTROL DEVICES

4.1 AUTHORITY TO INSTALL TRAFFIC CONTROL DEVICES

The Road Commissioner shall place and maintain official traffic control devices when and as required under the Traffic Ordinances of this municipality to make effective the provisions of said Ordinances. The Police Chief, with the Board of Selectmen, may direct the Road Commissioner to place and maintain such additional official traffic control devices as they may deem necessary to regulate, warn, or guide traffic under the Traffic Ordinances of this municipality of the State Vehicle Code. The installation of traffic control devices on State aid and State highways shall be subject to State Highway Commission approval.

4.2 SPECIFICATIONS FOR TRAFFIC CONTROL DEVICES

All traffic control signs, signals and devices shall conform to specifications approved by the State Highway Commission. All signs and signals required hereunder for a particular purpose shall, so far as practicable, be uniform as to type and location throughout the municipality. All traffic control devices so erected and not inconsistent with the provisions of State law or this Ordinance shall be official traffic control devices.

4.3 OBEDIENCE TO OFFICIAL TRAFFIC CONTROL DEVICES

The driver of any vehicle shall obey the instructions of any official traffic control device applicable thereto placed in accordance with the provisions of this Ordinance, unless otherwise directed by a Police Officer subject to the exceptions granted the driver of an authorized emergency vehicle.

4.4 WHEN OFFICIAL TRAFFIC CONTROL DEVICES REQUIRED FOR ENFORCEMENT PURPOSES

A) No provision of this Ordinance for which official traffic control devices are required shall be enforced against an alleged violator if at the time and place of the alleged violation an official device is not in proper position and sufficiently legible to be seen by an ordinarily observant person.

B) When a particular section does not state that official traffic control devices are required, such section shall be effective even though no devices are erected or in place.

4.5 OFFICIAL TRAFFIC CONTROL DEVICES - PRESUMPTION OF LEGALITY

Whenever official traffic control devices are placed in position approximately conforming to the requirements of this Ordinance, such devices shall hereby be determined to have been so placed by the official act or direction of lawful authority, unless the contrary shall be established by competent evidence.

4.6 AUTHORITY TO ESTABLISH PLAY STREETS

The Board of Selectmen shall have authority to declare any street or part thereof a play street and to place appropriate signs or devices in the roadway indicating and helping to protect the same.

4.7 PLAY STREETS

Whenever authorized signs are erected indicating any street or part thereof as a play street, no person shall drive a vehicle upon any such street or portion thereof except drivers of vehicles having business or whose residences are within such closed area, and then any said driver shall exercise the greatest care in driving upon any such street or portion thereof.

4.8 CHIEF OF POLICE AND BOARD OF SELECTMEN TO DESIGNATE CROSSWALKS AND ESTABLISH SAFETY ZONES

The Chief of Police and Board of Selectmen are hereby authorized:

1) To designate and have maintained, by appropriate devices, marks, or lines upon the surface of the roadway, crosswalks at intersections where, in their opinions, there is a particular danger to pedestrians crossing the roadway, and at such other places as they may deem necessary.

2) To establish safety zones of such kind and character and at such places as they may deem necessary for the protection of pedestrians.

3) On State aid and State highways their authority is subject to approval by the State Highway Commission.
ARTICLE 4 ... TRAFFIC LANES
The Board of Selectmen are hereby authorized to mark traffic lanes upon the roadway of any street or highway where a regular alignment of traffic is necessary. On State aid and State highways, their authority is subject to State Highway Commission approval.

ARTICLE 5 ... SPEED REGULATION
5.1 STATE SPEED LAWS APPLICABLE
The State traffic laws regulating the speed of vehicles shall be applicable upon all streets within this municipality.

5.2 .... REGULATION OF SPEED BY TRAFFIC SIGNALS
The Chief of Police and Board of Selectmen are authorized, subject to State Highway Commission and State Police approval, to regulate the timing of traffic signals so as to permit the movement of traffic in an orderly and safe manner at speeds slightly at variance from the speeds otherwise applicable with the district or at intersections and shall erect appropriate signs giving notice thereof.

ARTICLE 6 ... TURNING MOVEMENTS
6.1 .... AUTHORITY TO PLACE DEVICES ALTERING NORMAL COURSE FOR TURNS
The Chief of Police and Board of Selectmen are authorized to place official traffic control devices within or adjacent to intersections, and such course to be traveled as so indicated may conform to or be other than as prescribed by law. On State aid and State highways, their authority is subject to State Highway Commission approval.

6.2 .... AUTHORITY TO PLACE RESTRICTED TURN SIGNS
The Chief of Police and Board of Selectmen are hereby authorized to determine those intersections at which drivers of vehicles shall not make a right, left, or U-turn, and shall place proper signs at such intersections. The making of such turns may be prohibited between certain hours of any day and permitted at other hours, in which event the same shall be plainly indicated on the signs, or the signs may be removed when such turns are permitted. On State aid and State highways, their authority is subject to State Highway Commission approval.

ARTICLE 7 ... ONE-WAY STREETS AND ALLEYS
7.1. - - AUTHORITY TO SIGN ONE-WAY STREETS AND ALLEYS -
Whenever any Ordinance of this municipality designates any one-way street or alley, the Road Commissioner shall place and maintain signs giving notice thereof, and no such regulation shall be effective unless such signs are in place. Signs indicating the direction of lawful traffic movement shall be placed at every intersection where movement of traffic in the opposite direction is prohibited.

7.2 .... ONE-WAY STREETS AND ALLEYS
Upon those streets and parts of streets and in those alleys so designated, vehicular traffic shall move only in the indicated direction when signs indicating the direction of traffic are erected and maintained at every intersection where movement in the opposite direction is prohibited. (Schedule 1)

7.3 - - STATE APPROVAL
On State aid and State highways, installation of one-way street signs is subject to State Highway Commission approval.

ARTICLE 8 ... STOP AND YIELD INTERSECTIONS
8.1 .... THROUGH STREETS DESIGNATED
Those streets and parts of streets described in Schedule 2 and made a part hereof, are hereby declared to be through streets for the purpose of this Section.

8.2 .... SIGNS REQUIRED AT THROUGH STREETS
Whenever this Ordinance designates and describes a through street, it shall be the duty of the Road Commissioner to place and maintain a stop sign, or on the basis of an engineering and traffic investigation at any intersection a yield sign, on each and every street intersecting such through street unless traffic at any such intersection is controlled at all times by traffic control signals; provided, however, that at the intersection of two such through streets or at the intersection of through street and a heavy traffic
street not so designated, stop signs shall be erected at the approaches of either of said streets as may be determined by the Chief of Police and Board of Selectmen upon the basis of an engineering and traffic study.

8.3. OTHER INTERSECTIONS WHERE STOP OR YIELD REQUIRED
The Chief of Police and Board of Selectmen are hereby authorized to determine and designate intersections where a particular hazard exists upon other than through streets and to determine:
A) Whether vehicles shall stop at one or more entrances to any such intersection, in which event he shall cause to be erected a stop sign at every such place where a stop is required, or;
B) Whether vehicles shall yield the right-of-way to vehicles on a different street at such intersection, in which event he shall cause to be erected a yield sign at every place where obedience is required.

8.4. STATE APPROVAL
On State aid and State highways, the designation of through streets and the installation of stop and yield signs are subject to State Highway Commission approval.

ARTICLE 9... MISCELLANEOUS DRIVING RULES

9.1. STOP WHEN TRAFFIC OBSTRUCTED
No driver shall enter an intersection or a marked crosswalk unless there is sufficient space on the other side of the intersection or sidewalk to accommodate the vehicle he is operating without obstructing the passage of other vehicles or pedestrians, notwithstanding any traffic control signal to proceed.

9.2. DRIVING THROUGH FUNERAL OR OTHER PROCESSION
No driver of a vehicle shall drive between the vehicles comprising a funeral or other authorized procession while they are in motion and when such vehicles are conspicuously designated as required in this Ordinance. This provision shall not apply at intersections where traffic is controlled by traffic control signals or police officers.

9.3. DRIVERS IN A PROCESSION
Each driver in a funeral or other procession shall drive as near to the right-hand edge of the roadway as practicable and safe.

9.4. FUNERALS PROCESSIONS TO BE IDENTIFIED
A funeral composed of a procession of vehicles shall be identified as such by a pennant or other identifying technique, i.e., headlights on, or by such other method as may be recommended by the patrol/traffic unit.

9.5. WHEN PERMITS REQUIRED FOR PARADES AND PROCESSIONS
No organized procession or parade containing three (3) or more persons or three (3) or more vehicles, except the Armed Forces of the United States, the military forces of this State, the Police Department and Fire Department, shall occupy, march or proceed along any way except in accordance with a permit issued by the (Chief of Police) and such other regulations as are set forth herein which may apply.

ARTICLE 10... PEDESTRIANS RIGHTS AND DUTIES

10.1. CROSSING AT RIGHT ANGLES
Except where otherwise indicated by a crosswalk or other official traffic control device, a pedestrian shall cross a roadway at right angles to the curb or by the shortest route to the opposite curb.

10.2. PROHIBITED CROSSING
In accordance with applicable State law.

10.3. DRIVERS TO EXERCISE DUE CARE TO PEDESTRIANS
In accordance with applicable State law.

ARTICLE 11... REGULATION FOR BICYCLES

11.1. GENERAL
No person shall ride or propel a bicycle upon any Public street, highway or across any sidewalk except in a careful and prudent manner and at a reasonable rate of speed. Persons riding bicycles shall observe all traffic rules and regulations applicable thereto; signal for all turns, ride at the right-hand side of any street or highway, pass only to the left when passing slow moving vehicles with the exception that a pass may be made to the right when slow moving vehicles are about to make left-hand turns. No person shall operate or propel any bicycle without having at least one hand on the handlebars thereof. No person shall ride or propel a bicycle
with any passenger where said bicycle is designed to carry only one person. No bicycle shall be used to carry more persons at one time than the number for which it is designed and equipped.

No person riding or operating a bicycle shall hold on to any vehicle while said vehicle is in a moving motion. No person shall ride or propel a bicycle on any street or highway of the Town after dark unless the same shall be equipped with sufficient light, attached to the front of said bicycle, visible from the front thereof not less than 200' and properly lighted, nor without a rear taillight, or in lieu of, a reflector attached to and visible from the rear of said bicycle for a distance of 50'. No person shall ride or propel a bicycle upon any street or highway or across any sidewalk in the Town, abreast or to the left of any person so riding or propelling another bicycle.

11.2 ... PARKING
No person shall park a bicycle upon a street other than upon the roadway against the curb or upon the sidewalk in a rack to support the bicycle or against a building or at the curb, in such manner as to afford the least obstruction to pedestrian traffic.

11.3 ... RIDING ON SIDEWALKS
A) No person shall ride a bicycle upon a sidewalk within a business district.
B) The Chief of Police is authorized to erect signs on any sidewalk or roadway prohibiting the riding of bicycles thereon by any person and when such signs are in place, no person shall disobey the same.
C) Whenever any person is riding a bicycle upon a sidewalk, such person shall yield the right-of-way to any pedestrian and shall give an audible signal before overtaking and passing such a pedestrian.

11.4 ... REGISTRATION REQUIRED
No resident shall operate or use a bicycle propelled wholly or in part by muscular power upon any street or public highway of the Town of Lebanon without first obtaining from the Lebanon Police Department a registration card and bicycle registration sticker.

11.5 ... REGISTRATION ISSUED
The Lebanon Police Department is hereby authorized and directed to issue, upon written application, bicycle registrations which shall be effective for an indefinite period, upon issue. Said registration shall entitle the owner to operate such bicycle for which the registration has been issued, upon any street, alley, and public way, exclusive of the sidewalks within the business districts thereof, in the Town of Lebanon.

11.6 ... REFLECTIVE STICKERS
The Town of Lebanon, under the direction of the Lebanon Police Department, shall provide reflective stickers, together with registration cards. The Lebanon Police Department will be responsible for the registration records and enforcing the Bicycle Ordinance law. The reflective stickers and registration cards shall have numbers indicated thereon in numerical order, beginning with the number 1, and shall have letters "LBR" indicated thereon (Lebanon Bicycle Registration). Such reflective stickers shall be suitable for attachment to the frames of bicycles. It shall be the duty of the Lebanon Police Department to attach one such reflective sticker to each bicycle and to issue a corresponding registration card to the owner. Such sticker shall remain attached to and during the ownership period of such registration. The Police Department shall keep a record of the date of issuance of each registration, the person to whom issued and the number thereon.

11.7 ... DUTIES OF OWNERS' BICYCLES
It shall be the duty of every person who owns a bicycle in the Town of Lebanon, prior to operating or propelling said bicycle upon any street or highway in the Town of Lebanon, to register said bicycle with the Lebanon Police Department. It shall be the duty of every person who sells or transfers ownership of any bicycle to report such sale or transfer by returning to the Police Department the registration card issued to such person as having the registration issued thereof together with the name and address of the person to whom said bicycle was sold or transferred. It shall be the duty of the purchaser or transferee of such bicycle to apply for a new registration within five (5) days of said transfer or sale.

11.8 ... DUTIES OF DEALERS OF BICYCLES
It shall not be required of dealers of bicycles to register said bicycles that are for sale in business establishments thereof. It shall be the duty of dealers of bicycles to register said bicycles that are being used on a rental basis prior to allowing said bicycles to be ridden or propelled on any street or highway in the Town of Lebanon.

11.9 ... REFUSAL TO ISSUE REGISTRATION
The Lebanon Police Department is authorized to refuse any application for bicycle registration if said bicycle does not meet minimum standards in safety and equipment required thereon. The following standards will be required on all bicycles operated or propelled on any street or highway of the Town of Lebanon prior to the issuance of registration Cards and registration stickers:

A) Handlebars and Tight Grips
B) Good Tires  
C) Good Seat  
D) Good Brakes  
E) Tight Wheels  
F) Headlight and Reflectors (Night operation only)  
G) Tight Spokes and all Spokes must be present

11.10 REMOVAL OF NUMBERS
No person shall willfully or maliciously remove, destroy, mutilate or alter the number of any bicycle frame registered pursuant to this section.

DESTRUCTION OF STICKERS
No person shall remove, destroy, mutilate or alter any registration sticker, seal or registration card during the time in which such sticker, seal or registration card is operative. Nothing in this section shall prohibit the Police Department from stamping numbers on the frames of bicycles on which no serial numbers can be found or on which the number is illegible or insufficient for identification purposes.

11.12 - TIMES OF REGISTRATION
Bicycles shall be registered at the Lebanon Police Department on Wednesdays and Saturdays between the hours of 9:00 am and 5:00 pm.

11.13 - FEES
There shall be no fee for bicycle registration

11.14 - IMPOUNDMENT OF BICYCLES
The Lebanon Police Department, or any member thereof, may impound and retain possession of any bicycle operated in violation of any of the provisions of this Ordinance, and for impoundment for unregistered, retain possession of the seine until registered by the owner.

11.15 - UNCLAIMED BICYCLES
Any bicycle that has been in possession of the Lebanon Police Department for a period of ninety (90) days and is not claimed by the owner will be disposed of by the direction of the Chief of Police of Lebanon. One item will be printed in the local newspaper(s) for one week prior to the disposal of said bicycle or bicycles giving a complete description of bicycle or bicycles, and that the said bicycles will be disposed of if not claimed by a given date. The Chief of Police will cause to have printed in the local newspaper a list of disposed bicycles, indicating description of bicycle and place of disposition; i.e. charity organization, etc.

11.16 - PENALTIES
Any person or persons maliciously removing, destroying, mutilating or altering any registration card, fender stickers or seals during which time such registration cards, fender stickers or seals are operative, shall be summoned to the 10th District Court, Western York Division in Sanford, on such; and if found guilty, will be subject to a fine of not more than ten dollars ($10). Any portion of this fine shall be used to reimburse the owner of said bicycle who may have suffered such loss of said bicycle.

Any person the age of 17 or over who violates any of the provisions of this Town Ordinance shall, upon conviction, be punished by a fine of not more than ten dollars (10). The Chief of Police, when satisfied that a juvenile under the age of 17-years has ridden a bicycle in violation of any of the provisions of this Ordinance, may impound the bicycle for a period not to exceed five (5) days for the first offense and for a period not to exceed thirty (30) days for any subsequent offense.

ARTICLE 12 ... ANGLE PARKING

12.1 - SIGNS FOR MARKING INDICATING ANGLE PARKING
A) The Chief of Police shall determine upon what streets angle parking shall be permitted and shall have marked or sign such streets, but such angle parking shall not be indicated upon any State aid or State highway within the municipality unless the State Highway commission has determined by resolution or order entered in its minutes that the roadway is of sufficient width to permit angle parking without interfering with the free movement of traffic.

B) Angle parking shall not be indicated or permitted at any place where passing traffic would thereby be caused or required to drive upon the left side of the street.
12.2 ... OBEDIENCE TO ANGLE PARKING SIGNS OR MARKINGS
On those streets which have been signed or marked by the Road Commissioner for angle parking, no person shall park or stand a
vehicle other than at an angle to the curb or edge of the roadway indicated by such signs or markings.

12.3 ... PERMITS FOR LOADING OR UNLOADING AT AN ANGLE TO THE CURB IN A BUSINESS DISTRICT
A) The Police Department is authorized to issue special permits to allow the backing of a vehicle to the curb in a business district for
the purpose of loading or unloading merchandise or materials subject to the terms and conditions of such permit. Such permits may
be issued either to the owner or lessee of real property or to the owner of the vehicle and shall grant to such person the privilege as
stated and authorized herein.
B) It shall be unlawful for any person receiving a permit or other person to violate any of the special terms or conditions of any such
permit.

ARTICLE 13 ... STOPPING, STANDING, OR PARKING PROHIBITED IN SPECIFIED PLACES
13.1 .. PARKING NOT TO OBSTRUCT TRAFFIC
No person shall park any vehicle upon a street, other than an alley, in such a manner or under such conditions as to leave available
less than 10' of the width of the roadway for free movement of vehicular traffic.

13.2 ... PARKING IN ALLEYS
No person shall park a vehicle within an alley in such a manner or under such conditions as to leave available less than 10' of the
width of the roadway for the free movement of vehicular traffic, and no person shall stop, stand or park a vehicle within an alley in
such position as to block the driveway entrance to any abutting property.

13.3 ... ALL NIGHT PARKING PROHIBITED BETWEEN THE DATES OF NOVEMBER 1ST TO APRIL 15TH
No person shall park a vehicle on any street for a period of time longer than 30-minutes between the hours of 2:00am and 5:00am.

13.4 ... PARKING FOR CERTAIN PURPOSES PROHIBITED
No person shall park a vehicle upon any roadway for the principal purpose of:
1) Displaying such vehicle for sale.
2) Washing, greasing or repairing such vehicle except repair necessitated by an emergency within a reasonable time.

13.5 ... PARKING ADJACENT TO SCHOOLS
A) The Chief of Police and Board of Selectmen are hereby authorized to cause to be erected, signs indicating no parking upon either
or both sides of any street adjacent to any school property when such parking would, in their opinions, interfere with traffic or
create a hazardous situation.
B) When official signs are erected indicating no parking upon either side of a street, adjacent to any school property as authorized
herein, no person shall park a vehicle in any such designated place.

13.6 ... PARKING PROHIBITED ON NARROW STREETS
A) The Chief of Police and Board of Selectmen are hereby authorized to cause to be erected, signs indicating no parking upon any
street when the width of the roadway does not exceed 201, or upon one side of a street as indicated by such signs when the width
of the roadway does not exceed 30'.
B) When official signs prohibiting parking are erected upon narrow streets as authorized herein, no person shall park a vehicle upon
any such street in violation of any such sign.

13.7 ... STANDING OR PARKING ON ONE-WAY STREETS
The Chief of Police and Board of Selectmen are authorized to cause to be erected, signs upon the left-hand side of any one-way
street to prohibit the standing or parking of vehicles, and when such signs are in place, no person shall stand or park a vehicle upon
such left-hand side in violation of any such sign.

13.8 ... STANDING OR PARKING ON ONE-WAY ROADWAYS
In the event a highway includes two or more separate roadways and traffic restricted to one direction upon any such roadway, no
person shall stand or park a vehicle upon the left-hand of such one-way roadway unless signs are erected to permit such standing or
parking. The Chief of Police and Board of Selectmen are authorized to determine when standing or parking may be permitted upon
the left-hand side of any such one-way roadway and to cause to be erected, signs giving notice thereof.

13.9 ... NO STOPPING, STANDING OR PARKING NEAR HAZARDOUS OR CONGESTED PLACES
A) The Chief of Police and Board of Selectmen are hereby authorized to determine and designate by proper signs placed not
exceeding 100' in length in which the stopping, standing or parking of vehicles would create unusual delay to traffic.
B) When official signs are erected at hazardous or congested places as authorized herein, no person shall stop, stand or park a vehicle in any such designated place.

ARTICLE 14 ... STOPPING FOR LOADING OR UNLOADING ONLY

14.1 ... THE CHIEF OF POLICE AND BOARD OF SELECTMEN TO DESIGNATE CURB LOADING ZONES

The Chief of Police and Board of Selectmen are hereby authorized to determine the location of passenger and freight curb loading zones and shall place and maintain appropriate signs indicating the same and stating the hours during which the provisions of this section are applicable.

14.2 ... PERMITS FOR CURB LOADING ZONES

A person(s) must make application for a permit for such zone and for two signs to indicate the ends of each such zone. The Chief of Police, upon granting a permit and issuing such signs, shall collect from the applicant and deposit in the municipal treasury a service fee of fifty dollars ($50) per year or fraction thereof and may, by general regulations, impose conditions upon the use of such signs and for reimbursement of the municipality for the value thereof in the event of their loss or damage and their return in the event of misuse or upon expiration of a permit. Every permit shall expire at the end of one year.

14.3 ... STANDING IN PASSENGER CURB LOADING ZONE

No person shall stop, stand or park a vehicle for any purpose of period of time other than for the expeditious loading or unloading of passengers in any place marked as a passenger curb loading zone during hours when the regulations applicable to such curb loading zone are effective and then only for a period not to exceed that which is reasonable.

14.4 ... STANDING IN FREIGHT CURB LOADING ZONE

No person shall stop, stand or park a vehicle for any purpose of length of time other than for the expeditious unloading and delivery or pick-up and loading of materials in any place marked as a freight curb loading zone during hours when the provisions applicable to such zones are in effect. In no case shall the stop for loading and unloading of materials exceed twenty (20) minutes or when reasonable time permission is given by a Police Officer.

14.5 ... THE CHIEF OF POLICE TO DESIGNATE PUBLIC CARRIER STOPS AND STANDS

The Chief of Police is hereby authorized and required to establish bus stops, bus stands, taxi stands and stands for other passenger common-carrier motor vehicles on such public streets in such places and in such numbers as he shall determine to be of the greatest benefit and convenience to the public, and every such bus stop, bus stand, taxicab stand or other stand shall be designated by appropriate signs. These shall be listed in Schedule 3.

14.6 ... STOPPING, STANDING AND PARKING OF BUSES AND TAXICABS REGULATED

A) The operator of a bus, except school bus, or granted permission by the Chief of Police, shall no stand or park such vehicle upon any street at any place other than a bus stand so designated as provided herein.

B) The operator of a bus, except school buses, shall not stop such vehicle upon any street at any place for the purpose of loading or unloading passengers other than at a bus stop, bus stand or passenger loading zone so designated as provided herein, except in the case of any emergency.

C) The operator of a bus, except school buses, shall enter a bus stop, bus stand or passenger loading zone on a public street in such manner that the bus, when stopped to load or unload passengers or baggage, shall be in a position with the right front wheel of such vehicle not farther than 18" from the curb so as not to unduly impede the movement of other vehicular traffic. It shall be permissible in the case of loading or unloading handicapped persons to allow such vehicles to park in such a manner to allow discharge of such persons.

14.7 ... RESTRICTED USE OF BUS AND TAXICAB STANDS

In the time restricted use for bus or taxicab stands, no person shall stop, stand or park a vehicle other than a bus in a bus stop, or other than a taxicab in a taxicab stand when any such stop or stand has been officially designated and appropriately signed, except that the driver of a passenger vehicle may temporarily stop therein for the purpose of and while actually engaged in loading or unloading passengers when such stopping does not interfere with any bus or taxicab waiting to enter or about to enter such zone.
ARTICLE 15 ... STopping, StAnding OR PARKING RESTRICTED OR PROHIBITED ON CERTAIN STREETS

15.1 ... APPLICATION OF THIS ARTICLE
The provisions of this Article prohibiting the standing or parking of a vehicle shall apply at all times or at those times herein specified or as indicated on official signs except when it is necessary to stop a vehicle to avoid conflict with other traffic or in compliance with the directions of a Police Officer or official traffic control device.

15.2 ... REGULATIONS NOT EXCLUSIVE
The provisions of this Article imposing a time limit on parking shall not relieve any person from the duty to observe other and more restrictive provisions prohibiting or limiting the stopping, standing or parking of vehicles in specified places or at specified times.

15.3 .. PARKING PROHIBITED AT ALL TIMES ON CERTAIN STREETS
When signs are erected giving notice thereof, no person shall park a vehicle at any time upon any of the streets described in Schedule 4, and made a part of this Ordinance.

15.4 ... PARKING PROHIBITED DURING CERTAIN HOURS ON CERTAIN STREETS
When signs are erected in each block giving notice thereof, no person shall park a vehicle between the hours specified in Schedule 5, or any day except Sundays and public holidays within the district or upon any of the streets described in said Schedule 5, and made a part of this Ordinance.

15.5 ... PARKING TIME LIMITED ON CERTAIN STREETS
When signs are erected in each block giving notice thereof, no person shall park a vehicle for longer than two (2) hours at any time between the hours of 9:00/a and 9:00/p of any day except Sundays within the district or upon any of the streets described in Schedule 6. (See also 15.5A below.)

ADDITION

15.5A . PARKING TIME LIMITED ON CERTAIN STREETS
When signs are erected in each block giving notice thereof, no person shall park a vehicle for longer than one (1) hour at any time between the hours of 9:00/a and 9:00/p of any day except Sundays within the district or upon any of the streets described in Schedule 6.

15.6 ... PARKING TIME LIMITED ON CERTAIN STREETS
When signs are erected in each block giving notice thereof, no person shall park a vehicle for longer than thirty (30) minutes at any time between the hours of 9:00am and 5:00 pm of any day except Sundays within the district or upon any of the streets described in Schedule 7.

15.7 ... PARKING SIGNS REQUIRED
Whenever by this or any other Ordinance of this municipality, any parking time limit is imposed or parking is prohibited on designated streets, it shall be the duty of the Road Commissioner to erect appropriate signs giving notice thereof and no such regulations shall be effective unless said signs are erected and in place at the time of any alleged offense.

15.8 PROHIBITED PARKING
Parking prohibited during snow emergency along route designated as snow emergency routes by the Chief of Police.

ARTICLE 16 ... REGULATING THE KINDS OF CLASSES OF TRAFFIC ON CERTAIN HIGHWAYS

16.1 ... COMMERCIAL VEHICLES PROHIBITED FROM USING CERTAIN STREETS
When signs are given giving notice thereof, no person shall operate any commercial vehicle exceeding 10,000 pounds gross weight at any time upon any of the streets or parts of streets described in Schedule 8, made a part of this Ordinance, except that such vehicles may be operated thereon for the purpose of delivering or picking up materials or merchandise and then only by entering such street at the intersection nearest the destination of the vehicle and proceeding thereon no further than the nearest intersection thereafter.

16.2 ... RESTRICTION UPON USE OF STREETS BY CERTAIN VEHICLES
A) The Board of Selectmen are hereby authorized to determine and designate those heavily traveled streets upon which shall be prohibited the use of the roadway by motor-driven cycles, bicycles, horse-drawn vehicles or other non motorized traffic and shall erect appropriate signs giving notice thereof.
B) When signs are so erected giving notice thereof, no person shall disobey the restriction stated on such signs.
16.3 - STATE APPROVAL
On State aid and State highways, the installation of signs is subject to State Highway Commission approval.

ARTICLE 17 - PENALTIES
17.1 - PENALTIES
In lieu of court action, a person shall pay fines as follows:
- No Parking Zone ............................... 5.00
- Wrong Side of Street ......................... 5.00
- Too Close to Hydrant ......................... 10.00
- Double Parking ................................ 5.00
- All Night Parking .............................. 5.00
- Bus Stop ....................................... 5.00
- Blocking Driveway ............................ 5.00
- Parking in Crosswalk ......................... 5.00
- Improper Parking .............................. 5.00
- Overtime Parking .............................. 3.00
- Parking in Designated Handicapped Spaces 10.00
- Other ......................................... 5.00
- Snow Emergency ............................. 15.00
- Unreasonable Deposit - Snow/Ice ........... 25.00
- Impeding Traffic ............................. 10.00
- Vehicular Trespassing ....................... 20.00

17.2 - CITATION ON ILLEGALLY PARKED VEHICLE
Whenever any motor vehicle without driver is found parked, standing or stopped in violation of any of the restrictions imposed by Ordinance of this municipality or by State law, the Officer finding such vehicle shall take its registration number and may take any other information displayed on the vehicle which may identify its user, and shall conspicuously affix to such vehicle a traffic citation, on a form provided by the municipality for the owner to answer to the charge against him within 5-days during the hours and at a place specified in the citation.

17.3 - FAILURE TO COMPLY WITH TRAFFIC CITATION ATTACHED TO PARKED VEHICLE
If a violator of the restrictions on stopping, standing or parking under the traffic laws or Ordinances does not appear in response to a traffic citation affixed to such motor vehicle within a period five (5) days, the Chief of Police or someone acting under his authority shall send to the owner of the motor vehicle to such the traffic citation was affixed, a letter informing him of the violation and warning him that in the event such letter is disregarded for a period of five (5) days, the amount of the penalty shall be doubled.

17.4 - IN THE EVENT SUCH NOTICE IS DISREGARDED
If the five (5) day warning lapses and the double fine is not responded to for a period of ten (10) days thereafter, a warning shall be sent to the owner by Certified Mail. It shall be prima facie evidence that the owner failed to respond to the warning of court summons issuance and payment of penalty and after fifteen (15) days has lapsed, a court summons shall constitute a presumption of notice. Upon delivery in hand of the court summons, the matter is transferred to the courts.

17.5 - PRESUMPTION IN REFERENCE TO ILLEGAL PARKING
In any prosecution charging a violation of any law or regulation governing the standing or parking of a vehicle, proof that the particular vehicle described in the complaint was parked in violation of such law or regulation, together with proof that the defendant named in the complaint was, at the time of such parking, the registered owner of such vehicle, shall constitute in evidence a prima facie presumption that the registered owner of such vehicle at the point where, and for the time during which, such violation occurred.

17.6 - DISPOSITION OF TRAFFIC FINES AND FORFEITURES
All fines and penalties collected upon conviction of any person charged with a violation of any of the provisions of this Ordinance shall be paid into the municipal treasury.

17.7 - IMPOUNDING VEHICLES
A) When, and as authorized by the laws of this State, a Police Officer may cause a vehicle to be removed from a Street or highway.
B) Any vehicle parked in violation of any provisions of this Ordinance may be removed from a street or highway by a Lebanon Police Officer or by a person acting under authorization of the Lebanon Police Department.

ARTICLE 18 ... MISCELLANEOUS

18.1 ... STANDING OR PARKING CLOSE TO THE CURB
No person shall stand or park a vehicle in a roadway other than parallel with the edge of the roadway, heading in the direction of traffic, and with the curbside wheels of the vehicle within 12" of the edge of the roadway, except as provided elsewhere in the Ordinance.

18.2 ... STOPPING, STANDING OR PARKING PROHIBITED IN SPECIFIED PLACES
No person shall stop, stand, park a vehicle, except when necessary to avoid conflict with other traffic, when there exists an emergency, etc., or in compliance with any direction of a Police Officer or traffic control device, in any of the following places:
1) On a sidewalk.
2) In front of a public or private driveway.
3) Within 10' of a fire hydrant.
4) On a crosswalk.
5) Within 20' of the near corner of the curbs at an intersection.
6) Alongside or opposite any street excavation or obstruction when such stopping, standing or parking would obstruct traffic.
7) On the roadway side of any vehicle stopped or parked at the edge or curb of a street or double-parked, so called.
8) Upon any bridge or other elevated structure upon a highway.
9) At any place where official signs prohibit parking or stopping.
10) Trespassing - Parking of vehicle by trespassing on private or Town-owned property is prohibited.
11) Impeding Traffic - No vehicle shall be permitted to remain stationary within the limits of the street or public ways of the Town in such a manner as to constitute a traffic hazard or to impede or to obstruct the free movement of traffic thereon.

18.3 ... EMERGING FROM A PRIVATE DRIVEWAY
The driver of a vehicle emerging from a private driveway, automobile service station or building shall stop such vehicle immediately prior to driving onto the sidewalk and upon entering the roadway shall yield the right-of-way to all vehicles approaching on said roadway.

18.4 ... MOTOR VEHICLES SHALL NOT BE DRIVEN ON THE SIDEWALK
The driver of any motor vehicle shall not drive within any sidewalk area except at a permanent or temporary driveway.

18.5 ... CLINGING TO MOVING VEHICLES
Any person riding, clinging, or therefore being dragged upon any motor-cycle, coaster, sled, skis, toboggan, roller skates, skateboard, or any toy vehicle shall not attach the same or himself/herself to any moving vehicle upon any roadway.

18.6 ... CROSSING FIRE HOSE
No vehicle shall be driven over any unprotected hose of a Fire Department when laid down on any street or private driveway, to be used at any fire or alarm of fire, without the consent of the Fire Department official in command.

18.7 ... UNLAWFUL PARKING
No vehicle or combination of vehicles, except when permission of the Chief of Police is granted in excess of twenty (20) feet in length shall remain parked in controlled or regulated parking areas prohibited in Schedules 5, 6 and 7 for more than twenty (20) minutes on any public way within the urban limits of the Town.

18.8 ... LOUD, UNUSUAL OR UNNECESSARY NOISE
No person shall operate a motor vehicle upon any street or way, or in any other place, so as to make a loud, unusual, unnecessary noise against the peace, quiet or good order of the Town.

18.9 ... THE TRANSPORTATION OF RUBBISH, REFUSE, ASHES AND OTHER WASTE MATERIAL
No person shall operate or cause to be operated upon any public way a vehicle with a load, unless such load is fastened, secured, confined or loaded to prevent any possibility, reasonably to be anticipated, or any portion of said load from falling to the ground. The word "load" as used in this paragraph shall include, but shall not be limited to, paper, wood products, rubbish, refuse, ashes, garbage, or other waste material.
18.10.. UNREASONABLE DEPOSIT OF SNOW OR ICE
Whoever unreasonable deposits or drops snow or ice within the built-up sections of the Town of Lebanon, except upon the written authority of the municipal officers, shall be punished by a fine of not more than twenty-five dollars ($25).

ARTICLE 19... EFFECT OF AND SHORT TITLE OF ORDINANCE
19.1... APPLICATION
The provisions of this Ordinance relating to the operation of vehicles refer exclusively to the operation of vehicles upon highways except where a different place is specifically referred to in a given section.

19.2... UNIFORMITY OF INTERPRETATION
This Ordinance shall be so interpreted and construed as to effectuate its general purpose to make uniform the law of those local authorities which enact it.

19.3... EFFECT OF HEADINGS
Article and Section headings contained herein shall not be deemed to govern, limit, modify or in any manner affect the scope, meaning or extent of the provisions of any Article or Section hereof.

19.4... SHORT TITLE
This Ordinance may be known and cited as the Lebanon Traffic Ordinance.

19.5... ORDINANCE NOT RETROACTIVE
This Ordinance shall not have a retroactive effect and shall not apply to any traffic accident or judgment arising therefrom, or to any violation of the motor vehicle Ordinance of this Town, occurring prior to the effective date of this Ordinance.

19.6... EFFECT OF PARTIAL INVALIDITY
If any part or parts of this Ordinance are for any reason held to be invalid, such decision shall not affect the validity of the remaining portions of this Ordinance.

*Historical Note: This Ordinance was originally adopted by Town Meeting vote March 12, 1988.*
UTILITY LINE ORDINANCE
TOWN OF LEBANON, MAINE

Limit all utility lines to one side of the road.

*Historical note: This ordinance was originally adopted by Town Meeting vote March 8, 1975. State Law Reference: As to power of municipality to regulate see 30 M.R.S.A. §2151(2)B.*
WASTE DISPOSAL FACILITY LICENSING ORDINANCE
TOWN OF LEBANON

Article 1. Purpose & Authority

1.1 To provide the Town of Lebanon with a means of overseeing the activities of waste disposal facilities to ensure that they comply with regulations the Town deems essential to protect the health, safety and welfare of its residents, pursuant to Title 30, Section 1917 of the Maine Revised Statutes Annotated.

1.2 To protect air, surface and groundwater resources of Lebanon from contaminants which can reasonably be expected to accompany the activities of waste disposal facilities and thereby to preserve the quantity and quality of these resources for present and future use.

1.3 The Board of Environmental Welfare of the Town of Lebanon is hereby authorized and empowered to regulate the storage, collection, transportation, processing and disposal of garbage and rubbish as provided in Title 30 Section 1917 of the Maine Revised Statutes Annotated.

Article 2. Definitions

2.1 Board: A board of citizens of the town, to be designated or appointed by the Lebanon Board of Selectmen.

2.2 Disposal: The discharge, deposit, injection, dumping, or incineration of any waste into or on any land or water so that the waste or any constituent thereof may enter the environment, be emitted into the air, or discharged into any waters, including ground waters. Within 30 days of a waste being placed into or on any land or water, it shall be presumed that the waste has been disposed of, for purposes of this ordinance.

2.3 Hazardous waste: As defined in 38 M.R.S.A., Sec. 1303 (5), means a waste substance or material, in any physical state, designated as hazardous by the Board of Environmental Protection under 38 M.R.S.A. Sec. 1303—A. It does not include wastes resulting from normal, household or agricultural activities.

2.4 Liquid waste: Any free—flowing, semi-solid, or liquid waste, including but not limited to those generated by a municipal, commercial, or industrial wastewater treatment plant, water supply treatment plant, or air pollution control facility.

2.5 Liquid waste lagoon: A facility or part of a facility which is a natural topographic depression, man-made excavation, or diked area formed primarily of earthen materials, although it may be lined with man-made materials, which is designed to hold an accumulation of liquid wastes, special wastes, or wastes containing free liquids.

2.6 Solid waste: Useless, unwanted or discarded solid material with insufficient liquid content to be free flowing, including but not limited to rubbish, garbage, scrap materials, junk refuse, inert fill material, and landscape refuse.

2.7 Special waste: Any waste emanating from sources other than typical domestic and commercial establishments that is not readily compatible within a waste facility at which it may be handled. A waste is considered special when it exists in such an unusual quantity or such a chemical or physical state, or any combination thereof, as to disrupt or impair effective waste management or threaten public health, human safety or surrounding natural resources when it is to be handled at a waste facility that is not appropriately located, designed, or operated to receive such waste.
2.8 Waste: This term shall include Solid waste, liquid waste, hazardous waste, and special waste. This term shall not include domestic waste disposed of in subsurface wastewater disposal systems which meet the State of Maine Subsurface Wastewater Disposal Rules.

2.9 Waste Disposal Facility: Any land area, structure, location, equipment or combination thereof used for the treatment or disposal of waste, including liquid waste impoundments. A land area or structure does not become a waste disposal facility solely because:

A. It is used by its owner for disposing of septage from his residence;

B. It is used by individual homeowners or lessees to open burn leaves, brush, dead wood and tree cutting accrued from normal maintenance of their residential property, when such burning is permitted pursuant to 33 M.P.S.A. Section 599(3); or

C. It is used by its residential owner to burn highly combustible domestic, household trash such as paper, cardboard cartons or wood boxes, when such burning is permitted pursuant to 38 M.R.S.A. Section 599(3).

Article 3. Licensing

3.1 No person, firm, or corporation shall construct or operate a new waste disposal facility within the Town of Lebanon after the passage of this ordinance without obtaining a license from the town. Therefore, the disposal of any solid waste, liquid waste, hazardous waste, or special waste, (hereafter referred to as 'waste') is strictly prohibited within the Town except at the site of a waste disposal facility which has secured all applicable state and local licenses and permits.

3.2 Said license shall not be transferred without the prior written approval of the Board where the purpose and consequence of the transfer is to transfer any of the obligations of the holder of the license as incorporated in the license. Such approval shall be granted only if the transferee demonstrates to the reviewing Board that the transferee has the technical capacity and financial ability to comply with conditions of the license and with all proposals, plans, and supporting documents contained in the application for license.

3.3 The license shall be posted on the premises.

3.4 All licenses shall expire three (3) years from the date of issue unless otherwise stated on the license or revoked or suspended prior to expiration in accordance with the provisions of Article 10. It shall be the responsibility of the licensee to reapply for license renewal in a timely manner. A licensee applying for license renewal may continue to operate the waste disposal facility while the application is pending, provided said licensee applied for license renewal in a timely manner.

3.5 Waste disposal facilities operating on the effective date of this ordinance are grandfathered from the provisions of this ordinance for a period of three (3) years. The owner/operator of an existing waste disposal facility shall appear before the Board within 180 days to provide information on future plans for the facility. A license shall be issued for the normal license term of three (3) years. Renewal of this license shall be contingent upon a showing that the facility complies with the terms of this ordinance.

Article 4. Applications

4.1 The applicant shall have the burden of proof that the facility will be in full compliance with the requirements of this ordinance.
4.2 An application for a new license shall be submitted to the Board, including the following information:

a. The name and address of the applicant, the names and addresses of any persons or entities associated with the applicant for the purpose of waste disposal, and the names and addresses of any waste disposal facilities with which the applicant has had previous experience.

b. A complete copy of the application submitted to the Maine Department of Environmental Protection under the requirements of the Site Location of Development rules (chapter 372 et seq.) and/or DEPs Solid Waste Management Rules (chapter 400 et seq.). This copy shall include all submissions required under chapter 372 et seq. of the Site Location of Development rules and chapter 400 of the Solid Waste Management Rules.

c. If not included in 4.2.b, a description of methods to control leachate generation and movement.

d. If not included in 4.2.b, plans for final closure of the facility and post-closure maintenance of the site, including information on the timing of closure, cover materials to be used, frequency of maintenance following closure, and methods to control methane generation and movement.

e. Plans for an alternate water supply to replace private wells which could be affected by the disposal facility, including proof of the availability of an alternate source of supply, and estimates of the cost to develop this alternate supply (as outlined in Article 7.2).

f. General characterization of wastes proposed for disposal; estimate of the proportions of different types of waste proposed for disposal; compatibility of different wastes with each other; compatibility of wastes with a liners.

g. Public health risk assessment.

h. Economic and Growth impact assessment.

The Board shall, within 30 days of receiving a license application, notify the applicant whether the application is complete. If the application is determined to be incomplete, the Board shall notify the applicant in writing of the specific information necessary to complete it. In reviewing applications determined to be complete, the Board may require additional relevant information which is necessary to determine whether the proposed facility fulfills the purpose of the ordinance and its specific standards of review, as listed in Article 5.2.

4.3 An application for a new license shall be accompanied by a fee of 2% of the estimated construction cost of the waste disposal facility. Construction cost, defined as the cost to design, engineer, and construct the waste disposal facility including all on- and off-site improvements, shall be estimated by the design engineer. An application for a license for an existing facility or for a facility which will not involve construction shall be accompanied by a fee of 2% of the fair market value of the land and facility, or one thousand dollars ($1,000.00) whichever is greater. Such fee shall be deposited in a special account designated for that application, to be used by the Board for hiring independent engineering, geological, planning or other consulting services necessary to review the proposal. If the balance in this special account is drawn down by 90% of the original deposit, the Board shall notify the applicant and require that an additional 0.5% be deposited by the applicant. The Board shall continue to notify the applicant and require an additional 0.5% whenever the balance is drawn down by 90% of the original deposit. The unexpended balance on the account shall be returned to the applicant after a final decision on the application is rendered. If the Board and the applicant mutually agree upon the qualifications and acceptability of all technical experts employed in the design and construction of the facility, the Board
may waive all or part of this requirement, provided the public health, safety, and welfare are protected and the purposes of these regulations are met.

4.4 An application to renew a license shall be submitted to the Board accompanied by a fee of two thousand dollars ($2,000.00), payable to the Town, a written report on the facility's operation since the previous license was issued which demonstrates the facility's continuing compliance with the ordinance, any documents showing changes in other licenses and the federal or state level, and copies of all groundwater monitoring results from the previous license period.

Article 5. Procedures

5.1 A hearing shall be held by the Board within ninety (90) working days of the receipt of a complete application for a new license or thirty (30) working days for a license renewal or modification. When considering an application for a new license, license renewal, or license modification, the Board may extend this period to no more than 180 days if more time is necessary to conduct a thorough review of the application. At the hearing, the Board shall receive evidence on the location and operation of the proposed facility, including but not limited to: location and design, volume of traffic generated, condition of screening, proximity of residences to the site, proximity of drinking water wells, adequacy of methods to control leachate generation and movement, adequacy of methods to control methane generation and movement, compatibility of liner and wastes, and other factors relevant to the proposed facility and its operation.

5.2 Within thirty (30) working days of the hearing, the Board shall issue, renew, or modify a license only if it finds, based on clear evidence, that:

1. The proposed facility meets the specific requirements set forth in this Ordinance;

2. Adequate provision has been made for the containment and treatment of leachate so as to prevent ground or surface water contamination;

3. Wastes proposed for disposal are compatible with each other and with the liner(s);

4. The proposed use will meet fire safety standards by providing adequate access for emergency vehicles to the site and to buildings on the site;

5. The provisions for buffers and on-site landscaping adequately protect neighboring properties from detrimental features of the facility which cannot avoided by reasonable modification of the plan;

6. The proposed use will not have a significant detrimental effect on the use and peaceful enjoyment of abutting property as a result of noise, vibrations, fumes, odor, dust, glare, or other nuisances which cannot be avoided by reasonable modification of the plan;

7. Adequate provision has been made for routing truck traffic through the town in a manner which will not create safety hazards;

8. The design of the site will not result in significant flood hazards or flood damage and is in conformance with applicable flood hazard protection requirements;

9. Adequate provision has been made to control erosion and sedimentation;

10. Adequate provision has been made to control stormwater runoff and prevent drainage problems;
11. Adequate provision has been made for the transportation, storage, and disposal of hazardous materials as defined by state law;

12. The proposed facility will not have an adverse impact on significant scenic vistas, significant wildlife habitat, or significant wetlands as identified in the Comprehensive Plan which could be avoided by reasonable modification of the plan;

13. The closure plan and long-term maintenance plan provide adequate protection that the waste disposal facility will not create future health of safety hazards.

14. No adverse impact on public health.

15. No adverse impact on the economics and growth of the municipality. The Board shall issue a written report stating its findings of fact and its decision and, if a license is issued, any conditions attached to the license which the Board finds necessary to fulfill the purposes of this ordinance.

5.3 Except where otherwise stated in this ordinance, a license shall not take effect until the applicant has secured and complied with all applicable federal, state, and local licenses and permits.

Article 6. Performance Standards

6.1 The facility shall comply with all operational and performance standards included in the Maine Department of Environmental Protection’s Solid Waste Management Rules (chapter 400 et seq.).

6.2 The facility shall provide a landscaped buffer strip to visually screen the use. Where no natural vegetation can be maintained due to varying site conditions, the landscaping may consist of fences, walls, tree planting, hedges or combinations thereof. The buffering shall be sufficient to minimize the impacts of any kind of potential use, such as: loading and unloading operations, outdoor storage areas, waste collection and disposal areas. The buffer areas shall be maintained and vegetation replaced to ensure continuous year-round screening.

6.3 Access to the disposal site shall be strictly controlled, and all access roads to public or private ways shall be secured when the facility is not open for operation to ensure that unauthorized or unsupervised disposal does not occur.

6.4 The operator shall continuously supervise the unloading of refuse to ensure that only permitted wastes are handled at the facility. The operator shall maintain a record of every vehicle which brings waste to the facility, including the following information:

1) name of driver;
2) name of person, firm, or corporation which owns the vehicle;
3) license plate of vehicle;
4) type/characterization of waste;
5) source and origin of waste.

Article 7. Performance Guarantees

7.1 The Board may, as a condition of the license, establish any reasonable requirements to ensure that the owner has the ongoing technical ability to meet state air and water pollution control standards, such as:
a. Requiring the owner to employ a capable engineer or other professional who is sufficiently knowledgeable and experienced in the disciplines necessary to ensure that state air and water pollution control standards are met.

b. Requiring a training program for the appropriate personnel to ensure proper installation, operation, and maintenance of pollution control equipment, and proper operation of the facility.

c. Requiring on-site inspection during construction by an independent consultant, at the developer’s expense, to ensure proper execution of plans as approved, including any conditions imposed by the Board. If an independent consultant is required by the Board, the developer shall establish an account, in an amount to be determined by the Board, to provide for the hiring of engineering, geological, or other expertise to monitor and inspect construction of the facility. The unexpended balance on the account shall be returned to the applicant. As an alternative, the Board and the applicant may agree upon who the applicant will use to monitor construction.

7.2 The owner must submit with his application proof of adequate provision for accidental occurrences during the active life of the facility and for a reasonable period following closure, consisting of either (1) liability insurance, or (2) establishment of a trust fund. The insurance and trust fund shall be equivalent in coverage or dollar amount to the cost of installing an alternate or replacement water supply to serve the area susceptible to contamination by landfill leachate and shall meet the specific requirements of section 7.2. A certified geologist shall identify and map the area susceptible to contamination by the waste disposal facility based on local groundwater flow patterns, directions of flow, volume of water present and other relevant factors. Geologists and engineers shall identify and provide proof of the availability of an alternate water source adequate to supply the susceptible area, and shall provide an estimate of the cost of providing this area with a replacement water supply.

a. Liability insurance shall provide coverage equivalent in amount to the cost of providing a public water supply as set forth in 7.2. This coverage shall meet the following criteria:

1. Coverage must be provided for sudden and accidental occurrences during active life and for a reasonable period following closure.

2. Coverage must be provided for non-sudden and accidental occurrences during active life and for a reasonable period following closure.

3. If a liability insurance policy is written as a claims made policy, an endorsement must provide for a discovery period of at least twelve months beyond the date of expiration or cancellation of the policy. The endorsement must also provide that the underwriter will notify the public in the following manner:

   At least sixty days, but no more than ninety days, prior to the date upon which the policy will expire or be cancelled, give written notification to all owners of property abutting the facility and to the chief elected official of the Town, that insurance for the facility will expire or be cancelled, give date of expiration or cancellation, and that claims against the insured must be filed within 12 months from the date of expiration or cancellation, specifying where and how claims can be filed.

b. A trust fund shall meet the following criteria:

1. The total cost to provide the susceptible area with a replacement water supply shall be divided by the total estimated volume of waste to be handled by the facility over its lifetime to determine a per unit of volume contingency fee. Prior to opening the facility, the owner shall deposit a minimum of 10% of the total cost of the alternate water supply in the trust fund. After opening the facility, the owner shall deposit monthly into the
trust fund the fee per unit of volume multiplied by the total volume of waste received during the previous month, until such time as the total amount necessary to provide the replacement water supply has accumulated in the fund.

2. The trust fund shall be administered jointly by the owner and the town.

3. The trust shall be handled by a trust company which manages no less than 200 million worth of funds. Funds in the account shall be invested in SEC-approved securities only, using the "prudent man" standard of investment. Real estate investments are prohibited. Accumulated interest shall be re-invested in the fund.

4. The cost of installing a replacement water supply shall be re-evaluated annually and the per unit of volume contingency fee adjusted to reflect changes in actual costs and inflation as a condition of the license.

5. The trust fund shall be reserved for 20 years after final closure of the site. At that time, a portion of the trust fund shall be allocated for a detailed assessment of the facility's present and future impact on groundwater quality based on a comprehensive groundwater quality testing program. Fund administrators shall formulate a long-term groundwater management plan based on the results of the assessment and the recommendations of the qualified geologist or engineer experienced in hydrogeology who conducted the assessment, and shall distribute or maintain the funds in accordance with the aforementioned plan.

7.3 For all facilities proposing on-site disposal of more than 28 tons of waste, the owner shall establish a closure/post-closure trust fund adequate in terms and amount to assure closing of the site at the end of its useful life in accordance with all state and federal requirements and maintenance of the site subsequent to its closure. The total amount of the trust fund shall be based upon a registered Professional Engineers estimate, approved by the Board or its agent, of closure costs and post—closure maintenance costs. The owner or operator shall pay into this fund according to the following requirements:

a. The total estimated closure cost and an endowment sufficient in amount to generate in interest the annual post—closure maintenance cost, plus a 10% contingency, shall be divided by the total estimated volume handled by the facility over its lifetime to determine a per unit of volume closure fee. The owner/operator shall deposit monthly into the trust fund an amount equal to the closure fee per unit of volume multiplied by the volume deposited in the landfill during the previous month, until such time as the total amount necessary for closure and long-term maintenance has accumulated in the fund. Estimated closure and post-closure maintenance costs and total landfill capacity shall be reassessed annually and adjusted to reflect current conditions as a condition of the license.

b. The trust fund shall be administered jointly by the town or an agent approved by the town and the owner.

c. The trust shall be handled by a trust company which manages no less than $200 million worth of funds. Funds in the account shall be invested in SEC-approved securities only, using the "prudent man" standard of investment. Real estate investments are prohibited.

d. The trust shall remain active for a minimum of 20 years following closure to cover long-term maintenance costs. At the end of the twenty years, an assessment shall be made of the integrity of the cap and the need for future maintenance. Fund administrators shall formulate a long-term management plan based on the results of the assessment and the recommendations of the qualified engineer experienced in hydrogeology who
conducted the assessment, and shall distribute or maintain the funds in accordance with the aforementioned plan.

7.4 The requirements of Article 7 may be waived if the Board makes written findings that alternative performance guarantees, such as trust funds administered between Maine DEP and the applicant, are adequate, appropriate, and fulfill the purposes of this ordinance.

Article 8. Right of entry

8.1 Any duly authorized representative or agent of the Town may, upon presentation of appropriate credentials, at any reasonable time, enter and inspect the facility, obtain samples of any waste, inspect and copy records, reports, information, or test results relating to the disposal of solid waste, take photographs, or other actions necessary to ensure compliance with the license.

8.2 An agent or representative of the Town shall be permitted to independently sample monitoring wells installed around the landfill.

Article 9. Enforcement

9.1 All provisions of this ordinance are enforceable by duly authorized Police officers, the Code Enforcement Officer, the Municipal Officers or their agent.

9.2 Any person who violates any provision of this ordinance is subject to fines as provided for in Article 11.

Article 10. Revocation of a license

10.1 Any license issued herein may be suspended, subsequent to notification procedures listed in 10.2, by order of the Police, Code Enforcement Officer, or Municipal Officers for the following causes:

   a. Violation of this ordinance.
   b. Violation of any provision of any state or local law, ordinance, code or regulation which relates directly to the provisions of this ordinance.
   c. Violation of any license conditions.
   d. Falsehoods, misrepresentations, or omissions in the license application.
   e. Failure to construct or operate the facility in accordance with the plans.
   f. Failure to meet air and water pollution control standards.

10.2 Whenever the Municipal Officers or Code Enforcement Officer determine that there has been a violation by virtue of one of the conditions listed in 10-1.a- 10.1-f they shall give written notice of such violation to the violator:

   a. The citation shall include a description of the violation and shall allow reasonable time for remedial action
   b. The citation may contain an outline of remedial action which, if taken, will effect compliance.
c. The citation shall state that unless corrections are made within the allotted time, the violator is subject to prosecution and/or license suspension pursuant to the provisions of this ordinance.

10.3 If the violator does not meet the terms of the citation, the Municipal Officers, Code Enforcement Officer, or Police shall, after due notice, a public hearing, and a finding that any of the conditions or the provisions of this ordinance have been violated, notify the license holder in writing of the suspension of the license.

10.4 The Municipal Officers, Code Enforcement Officer, or Police may issue an emergency suspension of a license if continued operation of a facility poses a clear and present danger to the public health, safety, and welfare. An emergency suspension may be issued for a maximum of 14 days until such time as a hearing before the Board may be held.

Article 11. Penalties

11.1 Civil penalties: Any person, firm, or corporation violating any of the provisions of this ordinance or any conditions of the license, shall upon conviction be punished by a minimum fine of five hundred dollars ($500.00) and a maximum fine of two thousand five hundred dollars ($2,500.00) for a first offense. Subsequent violations shall be punished by a minimum fine of one thousand dollars ($1,000.00) and a maximum fine of twenty-five thousand dollars ($25,000). Each day such violation exists shall constitute a separate offense. Reasonable attorney's fees and court costs incurred by the Town in prosecuting a violation shall be awarded by the Town if the Town is the prevailing party.

Article 12. Severability

12.1 The provisions of this ordinance shall be severable and if any portion of it shall be held invalid, the remainder of this ordinance and its application thereof shall not be affected.

Article 13. Conflicts

13.1 If any provision of this ordinance conflicts with any provisions in another municipal ordinance or state statute, the stricter provision shall apply.

Article 14. Appeal

14.1 An aggrieved party may appeal any decision under these regulations to Superior Court.

Historical Note: This Ordinance was originally adopted by Town Meeting vote March 12, 1988.
LEBANON WETLANDS CONSERVATION ORDINANCE
Lebanon, Maine

Article I. Findings of Fact and Purpose

1.1 The wetlands of Lebanon are sensitive natural resources which benefit residents by filtering and purifying surface water, controlling flood waters, reducing soil erosion, providing opportunities for recreation, education and scientific study, and providing valuable wildlife habitat. Many wetlands have been lost due to draining, filling and other actions which destroy wetlands and their beneficial functions. The purpose of this ordinance is to prevent the loss of those wetlands which remain.

1.2 It is therefore the policy of Lebanon:

A. To prevent the loss of wetlands which benefit present and future citizens of the town by:
   1. Storing large amounts of stormwater and controlling flooding;
   2. Controlling erosion by storing and slowly releasing water;
   3. Filtering silt, organic matter, and other pollutants from surface waters;
   4. Providing living, feeding, and breeding areas for waterfowl and wildlife and critical habitat for unique plant life;

B. To encourage appropriate uses in wetland areas that do not impair their beneficial functions;

C. To restrict inappropriate land uses which adversely affect wetland functions.

Article 2. Definitions

Draining: The artificial lowering of the water table by ditching, channeling, or pumping water.

Dredging: The removal of more than one (1) cubic yard of saturated soil.

Filling: The placement of more than one (1) cubic yard of soil, rock, or other material on the ground.

Grading: The movement or removal of more than one (1) cubic yard of soil material.

Hazardous waste: As defined in M.R.S.A., Section 1303(5), a waste substance or material, in any physical state, designated as hazardous by the Board of Environmental Protection under 38 M.R.S.A., Sec. 1303—A. It does not include wastes resulting from normal household or agricultural activities.

Structure: Anything constructed or erected, the use of which requires a fixed location on or in the ground, or an attachment to something having a fixed location on the ground, including buildings, carports, porches, and other building features.

Wetland (hydric) soil: A soil that in its undrained condition is saturated, flooded or ponded long enough during the growing season to develop anaerobic conditions that favor the growth and regeneration of hydrophilic(wetland) vegetation. Definition from Hydric Soils of the State of Maine 1985, USDA, SCS.

Hydric soils found in Lebanon include but are not limited to: Biddeford, Chocorua, Rumney, Scantic, Sebago, Vasselboro, Waskish.

Waste: Any useless, unwanted or discarded substance or material, whether or not such substance or material has any future use and includes any substance or material that is spilled, leaked, pumped, poured, emitted, disposed of, emptied, or dumped onto the land or into the water.

Wetland: An area characterized by wetland soils and wetland vegetation.
**Wetland vegetation:** Those plants classified as Obligate, Facultative Wetland, or Facultative in the U.S. Fish and Wildlife publication, *Wetland Plants of the State of Maine 1985*,

**Article 3. Determination of Wetlands**

3.1 This ordinance regulates only those wetlands which are two (2) or more acres in size. A map showing wetland soils be available at the Town Clerks office for use as a general guide in determining where wetlands are located, but wetland location shall be confirmed by field investigation.

3.2 The Conservation Commission shall make the final determination of wetland location, considering its field investigation, other reliable sources, and information provided by the individual.

3.3 If an individual is uncertain as to whether an area is a wetland regulated under this ordinance, he or she may request a determination from the Conservation Commission prior to submitting an application. The Conservation Commission shall undertake a field investigation of the area in question. If the size or the complexity of soil and vegetative conditions make determination of wetland boundaries difficult, Commission may direct the individual to provide it with additional information from a licensed Soil Scientist or an experienced wetland scientist, such as a high intensity soil survey, vegetative survey, or wetland evaluation of the area proposed for use. The Conservation Commission shall make its field investigation and render its decision on whether the area is a wetland within 30 days of the request, or, if additional information is required, within 15 days of receiving the required information.

**Article 4. Land Uses**

4.1 Any lawfully existing use or structure located in a wetland which is made non-conforming by the enactment of this ordinance is grandfathered and may be continued. New uses and expansions of existing uses are subject to the provisions of the Wetlands Conservation Ordinance.

4.2 The following uses are permitted in wetlands as of right (except that any structure, grading, filling, draining, or dredging required in connection with any such use requires a Special Permit under Section 5).

- Agriculture, including pasturing, farming, haying, truck gardening, and harvesting of crops. Agriculture shall not cause or contribute to surface or groundwater pollution by use of pesticides, toxic chemicals or other pollutants and shall not cause soil erosion.
- Conservation of soil, water, vegetation, fish, and wildlife
- Education and scientific research
- Forestry, tree farming
- Non-intensive and non-commercial recreation, such as hunting, hiking, boating, trapping, fishing, horseback riding
- Open space (including land fulfilling lot size requirements)
- Repair and maintenance of existing ways, roads, railroad beds, or utilities, provided no watercourse is substantially altered.
- Repair and maintenance of existing permanent structures requiring the addition or removal of less than one (1) cubic yard of material
• Wilderness areas, wildlife refuges
In addition, the following structures are permitted by right providing they do not involve draining, grading, fill or dredging: catwalks, piers, fences, duck blinds, wildlife management shelters, footbridges and similar structures. All such structures must be constructed so as to permit the unobstructed flow of waters and must preserve the natural contour of the wetland, unless otherwise authorized by Special Permit.

4.3 The following uses are prohibited in wetlands:
• Disposal or storage of waste and/or hazardous materials
• Gasoline storage tanks
• Manure stockpiles
• Road salt stockpiles
• Topsoil removal
• Underground oil storage tanks

4.4 Uses other than those specifically mentioned in 4.2 and 4.3 are permitted in wetlands only upon issuance of a Special Permit by the Conservation Commission as outlined in Article 5.

4.5 Performance standards:
Setbacks: Disposal or storage of waste and/or hazardous materials, gasoline storage tanks, road salt stockpiles, and underground oil storage tanks shall be set back a minimum of 300 feet from a wetland.

Article 5. Standards and Procedures for Special Permit Uses
5.1 Application for a Special Permit shall be made to the Conservation and the cumulative effect of reasonably anticipated future uses similar to the one proposed. Preference shall be given to activities that must have a wetland location in order to function and that will have as little impact as possible upon the wetland area. In general, a permit shall not be granted for dredging or ditching solely for the purpose of draining wetlands, and building structures that may be located elsewhere. The activity must to the greatest extent feasible, be confined to the portion of a lot outside of a wetland. In evaluating the proposed activity, the Conservation Commission may consult with expert persons or agencies. The Conservation Commission shall grant a Special Permit, or grant a permit with conditions, if it finds that all of the above criteria will be met.

Article 6. Appeals
6. 1 if the Conservation Commission disapproves an application or grants approval with conditions that are objectionable to the applicant or abutting landowner, the aggrieved party may appeal the decision to the Board of Appeals. The appeal must be filed with the Board of Appeals within 30 days of final action by the Conservation Commission.
6.2 If the Special Permit application is denied because the proposed use does not meet the performance standards in Article 5, the Appeals Board has the authority to override the denial provided the Board finds that the property cannot yield a reasonable return without a Special Permit. If the Board overturns the denial, the applicant may reapply to the Conservation Commission to obtain a Special Permit.

6.3 If the applicant appeals because a condition of the Special Permit is objectionable, the Appeals Board has the authority to change the condition only if the Board finds that the property cannot yield a reasonable return if the condition is enforced.

6.4 If an abutter initiates an appeal, the Board of Appeals has the authority to order the Conservation Commission to reconsider the case only if the Board of Appeals finds that the Conservation Commission made an error in procedure or failed to implement the criteria of this ordinance.

6.5 All appeals shall be heard in accordance with the procedure set forth in Title 30, Section 2411. If a public hearing is held, all abutters and the applicant shall be notified in writing of the time and place of the hearing at least 10 days in advance.

6.6 The application for an appeal shall include a copy of the Special Permit application and the written decision of the Conservation Commission.

6.7 The Appeals Board shall make a decision within 30 days of the public hearing.

Section 19. Violation Penalties.
The violation of any provision of this article shall be punished by a fine of not less than two hundred fifty dollars ($250.00) nor more than five hundred dollars ($500.00) for each offense. Each act of violation and every day upon which any such violation shall occur shall constitute a separate offense. In addition to such penalty, the Town may enjoin or abate any violation of this article, by appropriate action, including but not limited to revocation of the license. The Town shall be entitled to recover its costs of any enforcement action, including its attorney's fees.

Section 20. Validity of Ordinance.
If any portion of this Ordinance is held to be invalid or unconstitutional by a Court of competent jurisdiction, then this shall not effect the validity of the remaining provisions of this Ordinance.

Historical Note: This Ordinance was passed at a Special Town Meeting on March 27, 1993.