2017

Town of Liberty Maine Ordinances

Liberty, Me.

Follow this and additional works at: https://digitalcommons.library.umaine.edu/towndocs

Repository Citation
https://digitalcommons.library.umaine.edu/towndocs/7667

This Plan is brought to you for free and open access by DigitalCommons@UMaine. It has been accepted for inclusion in Maine Town Documents by an authorized administrator of DigitalCommons@UMaine. For more information, please contact um.library.technical.services@maine.edu.
BOARD OF APPEALS ORDINANCE
For the Town of Liberty, Maine

I. GENERAL PROVISIONS:

A. Business of the Board shall be conducted in accord with Maine Statutes, Town Ordinances and Roberts' Rules of Order.

B. It shall be the responsibility of the Board to become familiar with all the duly enacted ordinances of the town which it may be expected to act upon as well as with the applicable state statutes.

C. It shall be the responsibility of the Board to become familiar with the community goals, desires, and policies as expressed in a "comprehensive plan", if any, and grant the minimum relief which will insure that the goals and policies of the plan are preserved and substantial justice is done.

II. APPOINTMENTS:

A. The Board shall consist of (3) members appointed by the municipal officers of the Town of Liberty for terms of (3) years. The initial appointments shall be as follows: (1) member to serve a term to expire as the date of the Annual Town Meeting in 1994, (1) shall member to serve a term to expire as of the date of the Annual Town Meeting in 1995, and (1) member to serve a term to expire as of the date of the Annual Town Meeting in 1996.

B. Thereafter, all appointments to the Board shall be for terms of 3 years.

C. If state law permits, the municipal officers may appoint up to three (3) associate members to the Board. The chairperson of the Board shall designate which shall serve in place of the absent member.

D. Neither a municipal officer nor his or her spouse may be a member or an associate member of the Board.

E. Any member of the Board may be removed from the Board, for cause, by the municipal officers before expiration of his/her term, but only after notice and an opportunity for a hearing at which the member in question has an opportunity to refute specific charges against him/her. The term, "for cause" shall include failure to attend 3 consecutive Board meetings or hearings without sufficient justification, or voting when the member has a "conflict of interest."

F. When there is a permanent vacancy of either a full or associate member, the Secretary shall immediately notify the Town Clerk. The municipal officers shall within 60 days appoint a person to serve for the unexpired term.

III. OFFICERS AND DUTIES:

A. The officers of the Board shall consist of a Chairperson, Acting Chairperson, and Secretary, who shall be elected annually by a majority of the Board.
B. CHAIRPERSON. The chairperson shall perform all duties required by law and these by-laws and preside at all meetings of the Board. The Chairperson shall rule on issues of evidence, order, and procedure, and shall take such other actions as are necessary for the efficient and orderly conduct of hearings, unless directed otherwise by a majority of the Board. The Chairperson shall appoint any committees found necessary to carry out the business of the Board.

C. ACTING CHAIRPERSON. The Acting Chairperson shall serve in the absence of the Chairperson and shall have all the powers of the Chairperson during the Chairperson's absence, disability, or disqualification.

D. SECRETARY. The Secretary, subject to the direction of the Board and the Chairperson, shall keep minutes of all Board proceedings, showing the vote of each member upon every question, or if absent or failing to vote, indicating such fact. The Secretary shall also arrange proper and legal notice of hearings, attend to correspondence of the Board, and to other duties as are normally carried out by a secretary. The Secretary shall keep a record of all resolutions, transactions, correspondence, findings and determinations of the Board, and shall prepare a complete record of each hearing, including: date(s), time(s), place(s) of the hearing(s); subject of the hearing; identification of each participant; any agreements made between parties and the Board regarding procedures; the testimony presented; findings of fact and conclusions; the decision of the Board; and the date of issuance of the decision. All records are public and may be inspected at reasonable times.

IV. CONFLICT OF INTEREST:

Any question of whether a particular issue involves a "conflict of interest" sufficient to disqualify a member from voting thereon, shall be decided by a majority vote of the members, except the member whose potential conflict is under consideration.

The term "conflict of interest" shall be construed to mean direct or indirect pecuniary interest, which shall include pecuniary benefit to any member of the person's immediate family (grandfather, father, wife, son, grandson, e.g.) or to his employer or the employer of any member of the person's immediate family.

V. POWERS AND LIMITATIONS:

A. The Board shall have the following powers to be exercised only upon receipt of a written appeal by an aggrieved party:

1. The Board may interpret the provisions of any applicable town ordinance which are called into question.

2. The Board may approve the issuance of a special exception permit or conditional use permit in strict compliance with any applicable town ordinance.

3. The Board may grant a variance only where strict application of any applicable town ordinance, or a provision thereof, to the petitioner and his property would cause undue hardship. The words "undue hardship" as used in this subsection 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. The hardship is not a result of action taken by the applicant or prior owner.

4. The Board shall have the power to hear and determine all appeals by any person directly or indirectly affected by any decision, action or failure to act with respect to any license, permit, variance or other required approval, or any application therefor, including, the grant, conditional grant, denial, suspension, or revocation of any such license, permit, variance or other approval (hereinafter a "Decision"):

   a. rendered by the Code Enforcement Officer or the Planning Board pursuant to Shoreland Zoning Ordinance;

VI. MEETINGS:

A. The regular meeting of the Board shall be either held once every other month or as necessary.

B. The annual organization meeting of the Board shall be the first regular meeting of the year.

C. Special meetings of the Board may be called by the Chairperson. At least forty-eight (48) hours written notice of the time, place and business or the meeting shall be given each member of the Board, the Selectmen, the Planning Board, and the Code Enforcement Officer.

D. The Chairperson shall call a special meeting within ten (10) days of receipt of a written request from any three members and associates of the Board which request shall specify the matters to be considered at such special meeting.

E. The order of business at regular meetings of the Board shall be as follows: (A) roll call; (B) reading and approval of the minutes of the preceding meeting; (C) action on held cases; (D) public hearing (when scheduled); (E) other business; (F) adjournment.

F. All meetings of the Board shall be open to the public, except executive sessions. No votes may be taken by the Board except in public meeting. The Board shall not hold executive sessions except for consultation between the Board and its legal counsel concerning litigation or other legal matters where premature general public knowledge would clearly place the town or Board at a substantial disadvantage.

VII. VOTING:

A. A quorum shall consist of (3) members or associates of the Board.

B. No hearing or meeting of the Board shall be held, nor any action taken, in the absence of a quorum; however, those members present shall be entitled to request the chairperson to call a special meeting for a subsequent date.
C. All matters shall be decided by a roll call vote. Decisions on any matter before the Board shall require the affirmative vote of a majority of the entire membership of the Board unless otherwise specified herein.

D. A tie vote or favorable vote by a lesser number than the required majority shall be considered a rejection of the application under consideration.

E. If a member has a conflict of interest, said member shall not be counted by the Board in establishing the quorum for such matter.

F. If the Board has associate members, the Chairperson shall appoint an associate member to act for a regular member who is: disqualified from voting, unable to attend the hearing, or absent from a substantial portion of the hearing due to late arrival. The associate member will act for the regular member until the case is decided.

G. If the Board has no associate members, no regular member shall vote on the determination of any matter requiring public hearing unless he or she has attended the public hearing thereon; however, where such a member has familiarized himself or herself with such matter by reading the record, he or she shall be qualified to vote.

VIII. APPEAL PROCEDURE:

A. Any person aggrieved by an action which comes under the jurisdiction of the Board pursuant to Section V must file such application for appeal, in writing on forms provided within thirty (30) days of the granting or denial of a permit. The applicant shall file this appeal at the office of the Town Clerk, setting forth the ground for his/her appeal. Upon receiving the application for appeal, the Town Clerk shall notify the Chairperson of the Board.

B. The fee to accompany applications for appeal shall be twenty-five ($25) dollars. Checks are to be made payable to the Board of Appeals of the Town of Liberty.

IX. HEARINGS:

A. The Board shall schedule a public hearing on all appeals applications within (30) days of the filing of a completed appeal application.

B. The Board shall cause notice of the date, time and place of such hearing, the location of the building or lot, and the general nature of the question involved, to be given to the person making the application and to be published in a newspaper of general circulation in the municipality, the date of the publication to be at least seven days prior to the hearing. The Board shall also cause notice of the hearing to be given to the municipal officers, the Planning Board, the Code Enforcement Officer, and the owners of the property abutting that for which the appeal is taken at least 20 days prior to the date of the hearing.

C. The Board shall provide as a matter of policy for exclusion of irrelevant, immaterial, or unduly repetitious evidence.

D. The order of business at a public hearing shall be as follows:

1. The Chairperson call the hearing to order.
2. The Chairperson determines whether there is a quorum.

3. The Chairperson gives a statement of the case and reads all correspondence and reports received.

4. The Board determines whether it has jurisdiction over the appeal.

5. The Board decides whether the applicant has the right to appear before the Board.

6. The Board determines which individuals attending the hearing are "interested parties." "Interested parties" are those persons who request to offer testimony and evidence and to participate in oral cross-examination. They would include abutting property owners and those who might be adversely affected by the Board's decision. Parties may be required by the Board to consolidate or join their appearances in part or in whole if their interests or contentions are substantially similar and such consolidation would expedite the hearing. Municipal Officers, the Planning Board, the Code Enforcement Officer shall automatically be made parties to the proceeding.

Other persons attending the hearing and federal, state, municipal, and other governmental agencies shall be permitted to make oral or written statements and to submit oral and written questions through the Chair.

7. The appellant is given the opportunity to present his or her case without interruption.

8. The Board and interested parties may ask questions of the appellant though the Chair.

9. The interested parties are given the opportunity to present their case. The Board may call its own witnesses, such as the Code Enforcement Officer.

10. The appellant may ask questions of the interested parties and Board witnesses directly.

11. All parties are given the opportunity to refute or rebut statements made throughout the hearing.

12. The Board shall receive comments and questions from all observers and interested citizens who wish to express their views.

13. The hearing is closed after all parties have been heard. If additional time is needed, the hearing may be continued to a latter date. All participants should be notified of the date, time, and place of the continued hearing.

14. Written testimony may be accepted by the Board for seven days after the close of the hearing.

D. The Board may waive any of the above rules if good cause is shown.

X. DECISIONS:
A. Decisions by the Board shall be made not later than thirty (30) days from the date of the final hearing.

B. The final decision on any matter before the Board shall be made by written order signed by the Chairperson. The transcript of testimony, if any, and exhibits, together with all papers and requests filed in the proceedings, shall constitute the record. All decisions shall become a part of the record and shall include a statement of findings and conclusions, as well as the reasons or basis therefor, upon all the material issues of fact, law or discretion presented and the appropriate order, relief or denial thereof.

C. The Board, in reaching said decision, shall be guided by standards specified in the applicable state laws, local ordinances, policies specified in the Comprehensive Plan (if any) and by Findings of Fact by the Board in each case.

D. In reviewing an application on any matter, the standards in any applicable local ordinance or statute shall take precedence over the standards of these rules whenever a conflict occurs. In all other instances, the more restrictive rule shall apply.

E. The Board may reverse the decision, or failure to act, of the Code Enforcement Officer or Planning Board only upon a finding that the decision, or failure to act, was clearly contrary to specific provisions of this ordinance or unsupported by substantial evidence in the record.

F. Notice of any decision shall be sent by certified or registered mail or hand delivered to the applicant, his representative or agent, the Planning Board, the Code Enforcement Officer, and the municipal officers within seven (7) days of the decision.

G. Decisions of the Board shall be immediately filed in the office of the Town Clerk and shall be made public record. The date of filing of each decision shall be entered in the official records and minutes of the Board.

H. Unless otherwise specified, any order or decision of the Board for a permitted use shall expire if a building or occupancy permit for the use is not obtained by the applicant within ninety (90) days from the date of the decision; however, the Board may extend this time an additional ninety (90) days.

XI. CONSIDERATIONS:

A. The Board may reconsider any decision. The Board must decide to reconsider any decision, notify all interested parties and make any change in its original decision within 30 days of its prior decision. A meeting to decide whether to reconsider shall be called by the Chairperson in accordance with Article VI of these By-laws. The Board may conduct additional hearings and receive additional evidence and testimony.

B. Reconsideration should be for one of the following reasons:

1. The record contains significant factual errors due to fraud or mistake, regarding facts upon which the decision was based; or

2. The Board misinterpreted the ordinance, followed improper procedures, or acted beyond its jurisdiction.

XII. APPEAL TO SUPERIOR COURT:
A. The decision of the Board of Appeals may be taken, within thirty (30) days after the decision is rendered, by any party to Superior Court in accordance with the Maine Rules of Civil Procedure.

XIII. SEVERABILITY:

The invalidity of any section or provision of these By-laws shall not be held to invalidate any other section or provision of these By-laws.
TOWN OF LIBERTY
BUILDING NOTIFICATION ORDINANCE

Section 1 - Title and Purpose
This ordinance shall be known and may be cited as the "Building Notification Ordinance of the Town of Liberty, Maine" and will be referred to herein as "this Ordinance." It is enacted by the inhabitants of the Town of Liberty to promote the health, safety, convenience, welfare and property values of the inhabitants by requiring permits for all dwellings and structures, as defined in this Ordinance.

Section 2 - Authority
2.1 This Ordinance is enacted pursuant to the authority given the Town by 30-A M.R.S.A. Section 3001 (Home Rule); and 30-A.M.R.S.A. Section 4211 (Plumbing Regulations).
2.2 The effective date of this Ordinance shall be thirty (30) days after it is adopted by vote of the legislative body of the Town of Liberty.
2.3 This ordinance shall in no way impair or remove the necessity of compliance with any other rule, regulation, by-law, permit or provision of law.
2.4 This ordinance shall apply to all construction commenced after the effective date of this Ordinance.

Section 3 – Administration
3.1 The Code Enforcement Officer shall enforce all State Plumbing laws and the regulations of this Ordinance, with the assistance of the Town Selectmen.
3.2 The Code Enforcement Officer shall immediately report any violations of this Ordinance to the Board of Selectmen.
3.3 The Town Clerk shall accept completed Intention to Build Notification Forms and shall place submitted forms on file in the Town Office.

Section 4 - Notification of Intention to Build
4.1 Before construction is started on any structure, the owner shall complete an Intention to Build Notification Form. Forms may be obtained from the Town Office.
4.2 Structure is hereby defined as a building or buildings on a single parcel constructed or erected with a fixed location on or in the ground or attached to something on or in the ground which occupies a ground area in excess of 200 sq. ft. and as defined in Liberty's Shoreland Zoning Ordinance.
4.3 A complete Intention to Build Notification Form shall include:
   a. sketch showing location and layout of proposed structure(s),
   b. for new dwellings, proposed septic system location, design, intended use and capacity,
   c. for expansion of existing dwellings or conversion of seasonal to year round use, evidence that the existing subsurface disposal system meets the standards of the Maine State Plumbing Code or that site conditions will permit the installation of a system that meets the requirements of the Plumbing Code if the present system malfunctions;
   d. Shoreland Zoning permit for construction within the shoreland district.
4.4 The Intention to Build Notification Form shall be valid for a period of two (2) years from the date of issuance.
Section 5 - Violation & Penalties

5.1 - Violations

When any violation of any provision of this Ordinance shall be found to exist, the Board of Selectmen is hereby authorized and directed to institute any and all actions and proceedings either legal or equitable that may be appropriate or necessary for the enforcement of this Ordinance, the same to be brought in the name of the Town of Liberty. Any violation of this Ordinance shall be a nuisance.

5.1.1 If the Code Enforcement Officer shall find that any provision of this Ordinance is being violated, notification by said Officer in writing to the person responsible for such violation, indicating the nature of the violation and ordering the action necessary to correct it, including discontinuance or stoppage of any work being done and abatement of nuisance conditions. A copy of such notices shall be submitted to the municipal Officers and shall be maintained as a permanent record.

5.1.2 The Code Enforcement Officer shall investigate all complaints of alleged violations of this Ordinance.

5.1.3 The Code Enforcement Officer shall keep a complete record of all essential transactions, including notices submitted, permits granted or denied, variances granted or denied, revocation actions, revocation of permits, appeals, court actions, violations investigated, violations found, and fees collected.

5.1.4 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 Town of Liberty may prosecute violations of this Ordinance that cannot be resolved through the Rule 80K process in District Court.

5.1.5 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 recording fines without Court action. Such agreements shall not allow an illegal use to continue unless there is clear and convincing evidence that the illegal use was 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.

5.2-Penalties

Any person, firm or corporation being the owner or having control or use of any lot or site of building who violates any provision of this Ordinance shall be subject to the following penalties, payable to the Town of Liberty:

5.2.1 For starting work or undertaking any land use activity without the required notification or for any other specific violation of this Ordinance, the minimum fine shall be $100.00 and the maximum fine for any single violation shall be $2,500.00. Assessment of penalties under this Ordinance shall be in accordance with Title 30-A MRSA § 4452, as amended.

5.2.2 Each day a violation continues may be counted as a separate offense. An offense shall commence on the date of issuance of a Notice of Violation signed by the Code Enforcement Officer to the person or party in violation of this Ordinance. Return of the receipt indicating that the Notice was undeliverable as addressed or otherwise not delivered to the person or party shall not invalidate enforcement of this Ordinance or any penalties provided for herein.
The Town may bring action in District Court to enjoin violation of this Ordinance and for other such relief as the law may provide.

5.3 - After-the-Fact Permits and Appeals

5.3.1 A permit to resume work issued by the Planning Board shall be required for any building operation that has failed to provide notification as required under Section 4 of this Ordinance, following the enforcement procedure and penalties requirements of Section 5 of this Ordinance. Before issuing such permit, the Planning Board shall review all data required under Section 4 of this Ordinance and may conduct a site inspection, if they deem it necessary.

5.3.2 Any landowner who believes the Code Enforcement Officer or the Planning Board made an error or errors in their decisions relating to this Ordinance shall bring an appeal to the Town of Liberty Board of Appeals within forty-five (45) days of the action of the Code Enforcement Officer or the Planning Board that is in dispute.

Section 6 - Amendments

This Ordinance may be amended by majority vote of the Town at any Town Meeting, the warrant for which gives notice of the proposed change.

Adopted at Town Meeting
March 22, 1997
# FLOODPLAIN MANAGEMENT ORDINANCE

## CONTENTS

<table>
<thead>
<tr>
<th>ARTICLE</th>
<th>PAGE</th>
</tr>
</thead>
<tbody>
<tr>
<td>I. PURPOSE AND ESTABLISHMENT</td>
<td>2</td>
</tr>
<tr>
<td>II. PERMIT REQUIRED</td>
<td>2</td>
</tr>
<tr>
<td>III. APPLICATION FOR PERMIT</td>
<td>2</td>
</tr>
<tr>
<td>IV. APPLICATION FEE AND EXPERT’S FEE</td>
<td>4</td>
</tr>
<tr>
<td>V. REVIEW STANDARDS FOR FLOOD HAZARD DEVELOPMENT PERMIT APPLICATIONS</td>
<td>4</td>
</tr>
<tr>
<td>VI. DEVELOPMENT STANDARDS</td>
<td>5</td>
</tr>
<tr>
<td>VII. CERTIFICATE OF COMPLIANCE</td>
<td>9</td>
</tr>
<tr>
<td>VIII. REVIEW OF SUBDIVISIONS AND DEVELOPMENT PROPOSALS</td>
<td>9</td>
</tr>
<tr>
<td>IX. APPEALS AND VARIANCES</td>
<td>10</td>
</tr>
<tr>
<td>X. ENFORCEMENT AND PENALTIES</td>
<td>12</td>
</tr>
<tr>
<td>XI. VALIDITY AND SEVERABILITY</td>
<td>12</td>
</tr>
<tr>
<td>XII. CONFLICT WITH OTHER ORDINANCES</td>
<td>12</td>
</tr>
<tr>
<td>XIII. DEFINITIONS</td>
<td>12</td>
</tr>
<tr>
<td>XIV. ABROGATION</td>
<td>17</td>
</tr>
</tbody>
</table>

60.3 (b) Rev. 01/15
ARTICLE I - PURPOSE AND ESTABLISHMENT

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

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

The areas of special flood hazard, Zone A, for the Town of Liberty, Waldo County, Maine, identified by the Federal Emergency Management Agency in a report entitled “Flood Insurance Study – Waldo County, Maine” dated July 6, 2015 with accompanying “Flood Insurance Rate Map” dated July 6, 2015 with panels: 370E, 390E, 395E, 535E, and 560E derived from the county wide digital Flood Insurance Rate Map entitled “Digital Flood Insurance Rate Map, Waldo County, Maine” 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 Planning Board. This permit shall be in addition to any other permits which may be required pursuant to the codes and ordinances of the Town of Liberty, Maine.

ARTICLE III - APPLICATION FOR PERMIT

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

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

B. An address and a map indicating the location of the construction site;

C. A site plan showing location of existing and/or proposed development, including but not limited to structures, sewage disposal facilities, water supply facilities, areas to be cut and filled, and lot
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), North American Vertical Datum (NAVD) or to a locally established datum in Zone A only, of the:

1. base flood at the proposed site of all new or substantially improved structures, which in Zone A is determined:
   a. from any base flood elevation data from federal, state, or other technical sources (such as FEMA’s Quick-2 model), including information obtained pursuant to Article VI.K. and VIII.D.;
   b. 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,
   c. 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.

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

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

K. The following certifications as required in Article VI by a registered professional engineer or architect:

1. a Floodproofing Certificate (FEMA Form 81-65, as amended), to verify that the floodproofing methods for any non-residential structures will meet the floodproofing criteria of Article III.H.4.; Article VI.G.; and other applicable standards in Article VI;

2. a Hydraulic Openings Certificate to verify that engineered hydraulic openings in foundation walls will meet the standards of Article VI.L.2.a.;

3. a certified statement that bridges will meet the standards of Article VI.M.;

4. a certified statement that containment walls will meet the standards of Article VI.N.;

L. A description of the extent to which any water course will be altered or relocated as a result of the proposed development; and,
M. A statement of construction plans describing in detail how each applicable development standard in Article VI will be met.

ARTICLE IV - APPLICATION FEE AND EXPERT'S FEE

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

An additional fee may be charged if the Planning Board, 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 and the Planning Board shall:

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

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

1. the base flood data contained in the “Flood Insurance Rate Map - Waldo County, Maine," as described in Article I;

2. in special flood hazard areas where base flood elevation and floodway data are not provided, the Code Enforcement Officer shall obtain, review and reasonably utilize any base flood elevation and floodway data from federal, state, or other technical sources, including information obtained pursuant to Article III.H.1.; 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., the community shall submit that data to the Maine Floodplain Management Program.

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

D. In the review of Flood Hazard Development Permit applications, determine that all necessary permits have been obtained from those federal, state, and local government agencies from which prior approval is required by federal or state law, including but not limited to Section 404 of the Federal Water Pollution Control Act Amendments of 1972, 33 U.S.C. 1344;

E. Notify adjacent municipalities, the Department of Environmental Protection, and the Maine Floodplain Management Program, prior to any alteration or relocation of a water course and submit copies of such notifications to the Federal Emergency Management Agency;
F. If the application satisfies the requirements of this Ordinance, approve the issuance of one of the following Flood Hazard Development Permits based on the type of development:

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

2. A Flood Hazard Development Permit for Floodproofing of Non-Residential Structures that are new construction or substantially improved non-residential structures that are not being elevated but that meet the floodproofing standards of Article VI.G.1.,2., and 3. 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.I., 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 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.; Article V.B; or Article VIII.D.

G. **Non Residential** - New construction or substantial improvement of any non-residential structure located within 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.; Article V.B; or Article VIII.D., or together with attendant utility and sanitary facilities shall:

1. be floodproofed to at least one foot above the base flood elevation utilizing information obtained pursuant to Article III.H.1.; Article V.B; or Article VIII.D., so that below that elevation the structure is watertight with walls substantially impermeable to the passage of water;

2. have structural components capable of resisting hydrostatic and hydrodynamic loads and the effects of buoyancy; and,

3. be certified by a registered professional engineer or architect that the 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.

H. **Manufactured Homes** - New or substantially improved manufactured homes located within Zone A shall:

1. be elevated 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.; Article V.B; or Article VIII.D.;

2. 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,

3. be securely anchored to an adequately anchored foundation system to resist flotation, collapse, or lateral movement. Methods of anchoring may include, but are not limited to:

   a. 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,
b. 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).

c. all components of the anchoring system described in Article VI.H.3.a & b. shall be capable of carrying a force of 4800 pounds.

I. Recreational Vehicles – Recreational Vehicles located within:

1. Zone A 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 Zone 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 – Encroachments, including fill, new construction, substantial improvement, and other development shall not be permitted in a floodway which, in Zone A riverine areas, is the channel of the river or other water course and the adjacent land areas to a distance of one-half the width of the floodplain as measured from the normal high water mark to the upland limit of the floodplain, unless a technical evaluation certified by a registered professional engineer is provided demonstrating that the cumulative effect of the proposed development, when combined with all other existing development and anticipated development:

1. will not increase the water surface elevation of the base flood more than one foot at any point within the community; and,
2. is consistent with the technical criteria contained in FEMA’s guidelines and standards for flood risk analysis and mapping.

L. **Enclosed Areas Below the Lowest Floor** - New construction or substantial improvement of any structure in Zone 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 crawlsaces 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 Zone 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 utilizing information obtained pursuant to Article III.H.1.; Article V.B; or Article VIII.D.; 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 Zone A shall:

1. have the containment wall elevated to at least one foot above the base flood elevation utilizing information obtained pursuant to Article III.H.1., Article V.B., or Article VIII.D.

2. have structural components capable of resisting hydrostatic and hydrodynamic loads and the effects of buoyancy; and

3. be certified by a registered professional engineer or architect that the design and methods of construction are in accordance with accepted standards of practice for meeting the provisions of this section. Such certification shall be provided with the application for a Flood Hazard Development Permit, as required by Article III.K.

O. **Wharves, Piers and Docks** - New construction or substantial improvement of wharves, piers, and docks are permitted in Zone 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 Planning Board subject to the following provisions:

A. For New Construction or Substantial Improvement of any elevated structure the applicant shall submit to the Planning Board 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 Liberty may, upon written application of an aggrieved party, hear and decide appeals where it is alleged that there is an error in any order, requirement, decision, or determination made by, or failure to act by, the Code Enforcement Officer or Planning Board in the administration or enforcement of the provisions of this Ordinance.

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

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

B. Variances shall be granted only upon:

1. a showing of good and sufficient cause; and,

2. a determination that should a flood comparable to the base flood occur, the granting of a variance will not result in increased flood heights, additional threats to public safety, public expense, or create nuisances, cause fraud or victimization of the public or conflict with existing local laws or ordinances; and,

3. a showing that the issuance of the variance will not conflict with other state, federal or local laws or ordinances; and,

4. a determination that failure to grant the variance would result in "undue hardship," which in this sub-section means:

a. that the land in question cannot yield a reasonable return unless a variance is granted; and,

b. that the need for a variance is due to the unique circumstances of the property and not to the general conditions in the neighborhood; and,

c. that the granting of a variance will not alter the essential character of the locality; and,
d. that the hardship is not the result of action taken by the applicant or a prior owner.

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

D. Variances may be issued for new construction, substantial improvements, or other development for the conduct of a functionally dependent use provided that:

1. other criteria of Article IX and Article VI.K. are met; and,
2. the structure or other development is protected by methods that minimize flood damages during the base flood and create no additional threats to public safety.

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

1. the development meets the criteria of Article IX, paragraphs A. through D. above; and,
2. the proposed repair, reconstruction, rehabilitation, or restoration will not preclude the structure’s continued designation as a Historic Structure and the variance is the minimum necessary to preserve the historic character and design of the structure.

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

1. the issuance of a variance to construct a structure below the base flood level will result in greatly increased premium rates for flood insurance up to amounts as high as $25 per $100 of insurance coverage;
2. such construction below the base flood level increases risks to life and property; and,
3. the applicant agrees in writing that the applicant is fully aware of all the risks inherent in the use of land subject to flooding, assumes those risks and agrees to indemnify and defend the municipality against any claims filed against it that are related to the applicant's decision to use land located in a floodplain and that the applicant individually releases the municipality from any claims the applicant may have against the municipality that are related to the use of land located in a floodplain.

G. Appeal Procedure for Administrative and Variance Appeals

1. An administrative or variance appeal may be taken to the Board of Appeals by an aggrieved party within thirty days after receipt of a written decision of the Code Enforcement Officer or Planning Board.
2. Upon being notified of an appeal, the Code Enforcement Officer or Planning Board, as appropriate, shall transmit to the Board of Appeals all of the papers constituting the record of the decision appealed from.
3. The Board of Appeals shall hold a public hearing on the appeal within thirty-five days of its receipt of an appeal request.
4. The person filing the appeal shall have the burden of proof.
5. The Board of Appeals shall decide all appeals within thirty-five days after the close of the hearing, and shall issue a written decision on all appeals.

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

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

ARTICLE 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 Rate Map cited in Article I of this Ordinance.

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

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

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

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

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

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

**Digital Flood Insurance Rate Map (FIRM)** – see **Flood Insurance Rate Map**

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

  a. built, in the case of a building in Zone 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 Zone 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, 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.

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

**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.K. of this ordinance.

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

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

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

**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.I., 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.
**North American Vertical Datum (NAVD)** - means the national datum whose standard was established in 1988, which is the new vertical datum used by the National Flood Insurance Program (NFIP) for all new Flood Insurance Rate Maps. NAVD is based upon vertical datum used by other North American countries such as Canada and Mexico and was established to replace NGVD because of constant movement of the earth's crust, glacial rebound, and subsidence and the increasing use of satellite technology.

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

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

a. built on a single chassis;

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

c. designed to be self-propelled or permanently towable by a motor vehicle; and

d. designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.

**Regulatory Floodway** -

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

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

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

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

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

**Structure** - means, for floodplain management purposes, a walled and roofed building. A gas or liquid storage tank that is principally above ground is also a structure.
**Substantial Damage** - means, damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damage condition would equal or exceed 50 percent of the market value of the structure before the damage occurred.

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

a. Any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions; or

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

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

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

**ARTICLE XIV - ABROGATION**

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

60.3 (b) Rev. 01/15
Prepared by DACF/JP
Town of Liberty
Forest Harvesting Notification Ordinance

Section 100 - Title & Purpose

101 - Title
This Ordinance is entitled "Forest Harvesting Notification Ordinance" and may be referred to as such and shall
be referred to herein as "this Ordinance."

102 - Purpose
The purpose of this Ordinance is to encourage better local knowledge of the use of land throughout the Town of
Liberty. It is not intended to regulate the harvest of forest products in any way but only to provide notification
of such operations to the Citizens of the Town of Liberty.

Section 200 - Authority, Adoption & Separability

201 - Authority
This Ordinance is adopted pursuant to the enabling provisions of Article VIII, Part 2, Section 1 of the Maine
Constitution, the provisions of Title 30-A MRSA § 3001 "Home Rule," Title 30-A MRSA §3001, "Ordinance
Power," and Title 12 MRSA §8867 et. seq., "Forest Practices Act."

202 - Adoption & Amendment
202.1 This Ordinance is effective upon a vote of a regular or special Liberty Town Meeting.
202.2 This ordinance may be amended by a majority vote of the Liberty Town Meeting.

203 - Separability
It is the intention of the Citizens of Liberty that each separate section of this ordinance shall be deemed
independent of all other sections herein. It is the further intention of the Citizens of Liberty that if any
provisions of this ordinance be declared invalid, all other sections remain valid and effective.

Section 300 - Applicability

301 - Commercial Forest Harvesting Operations
This Ordinance shall apply to all Commercial Forest Harvesting Operations as defined herein.

302 - Exempt Forest Harvesting Operations
The following Forest Harvesting Operations are exempt from the provisions of this Ordinance:
302.1 Non-commercial forest harvesting for private or personal use, including, but not limited to firewood,
building materials or clearing of land for approved construction or roadways.
302.2 Precommercial silvicultural activities, as defined herein.

Section 400 - Administration & Enforcement

401 - Administration
This Ordinance shall be administered by the Code Enforcement Officer of the Town of Liberty as specified
herein. A copy of all notices and notifications required under Section 500 of this Ordinance shall be filed by the
Code Enforcement Officer with the Board of Selectmen and the Chairman of the Planning Board of the Town
of Liberty.

402 - Enforcement
This Ordinance shall be enforced by the Code Enforcement Officer of the Town of Liberty and may be
enforced by any state, county or other municipal law enforcement officer, including forest rangers and field
foresters of the Bureau of Forestry and wardens of the Department of Inland Fisheries and Wildlife for
operations regulated by Title 12 MRSA §8867 et. seq., "Forest Practices Act" and for public ways regulated by
Title 29-A M.R.S.A. §2395, "Ways requiring special protection."

Section 500 - Notification Prior to Harvest Required

501 - Forest Harvesting Notification Required to be Filed with the Town of Liberty
501.1 Prior to the commencement of forest harvesting operations, the landowner or legally designated agent
as defined herein shall notify the Town of Liberty Code Enforcement Officer of the intent to conduct
or cause to be conducted forest harvesting operations.
501.2 The notification must be submitted no later than thirty (30) days prior to the commencement of forest
harvesting activities. The Code Enforcement Officer may waive the time frame of this requirement as
specified in Section 604 of this Ordinance.
501.3 Such notification shall be made for each separate tax lot to be harvested and is only valid for the tax
lot designated.
501.4 Notification shall be made to the Town of Liberty and shall include the following information:
501.4.1 The name, address and phone number of the landowner, any designated agent, and, if known, any harvester or harvesters;
501.4.2 The name and address of any licensed professional forester consulting the landowner on forest management or harvesting practices;
501.4.3 The name of the nearest public or private all-weather road;
501.4.4 The definite date the harvest will begin and the approximate date of finish;
501.4.5 Whether the land is being harvested to convert to another use within two (2) years and, if so, what that use is to be;
501.4.6 The signature or signatures of the landowner, designated agent or harvester filing the form together with a clear statement of their capacity;
501.4.7 A map locating the harvest site in relation to known or easily identifiable terrain features, such as a road junction or a stream and road junction, that includes the Town of Liberty Tax Map and Lot Number(s), drawn or copied onto 81/2" x 11" white paper and signed by the preparer. Any map must be acceptable to the Code Enforcement Officer; a copy of that portion or portions of the Town of Liberty Tax Maps may be used; a north arrow and a scale shall be included; and
501.4.8 The date of notification.

501.5 Any Operation may submit a copy of the State of Maine Form: Notification-1, "Notification of Intent to Harvest Forest Products" with the Town of Liberty Tax Map and Lot Number(s) of the site of the operation appended thereto as their notification.

502 - Notification of Landowner and Abutters
502.1 The landowner is required to file a notice of intent to commence forest harvesting operations, including the harvester's name, address and telephone number, with all abutting landowners of the parcel or parcels based on the Town of Liberty Tax Maps where such operations will take place.
502.2 Such notice to abutters shall be sent no later than fifteen (15) days prior to the commencement of forest harvesting activities. The Code Enforcement Officer may waive the time frame of this requirement as specified in Section 604 of this Ordinance.
502.3 A certified return of notice shall be filed by the landowner with the Code Enforcement Officer, giving a listing of each abutter and their address, the date of mailing and a copy of the notice no later than fifteen (15) days prior to the commencement of forest harvesting activities. The Code Enforcement Officer may waive the time frame of this requirement as specified in Section 604 of this Ordinance.

503 - Notification Form to be Posted at Site
503.1 The notification required under Section 501 of this Ordinance must be posted conspicuously at the nearest public way for the public to see.
503.2 The notification must be posted no later than fifteen (15) days prior to the commencement of forest harvesting activities. The Code Enforcement Officer may waive the time frame of this requirement as specified in Section 604 of this Ordinance.

504 - Notification Duration
A notification shall remain valid from the date of notification for two (2) years or upon completion of the harvest, whichever occurs first. If the harvest extends beyond the two (2) year period, a new notice under Section 501 of this Ordinance must be filed.

505 - Protection of Ways
If, in the opinion of the Code Enforcement Officer or the Board of Selectmen of the Town of Liberty, a public way leading to or from a forest harvesting operation is at risk of damage because of condition, seasonal weather, or other reason that may be mitigated by the designation of restrictions on gross weight, speed, operation or equipment, pursuant to Title 29-A M.R.S.A. §2395(4), the Code Enforcement Officer, Road Commissioner, or other authorized municipal official may post a notice specifying the designated sections of a public way, and the prescribed restrictions or exclusions conspicuously at each end of the public way requiring special protection in accordance with 29-A M.R.S.A. §2395, "Ways requiring special protection."

Section 600 - Violation & Penalties
601 - Violations
When any violation of any provision of this Ordinance shall be found to exist, the Board of Selectmen is hereby authorized and directed to institute any and all actions and proceedings either legal or equitable that may be appropriate or necessary for the enforcement of this Ordinance, the same to be brought in the name of the Town of Liberty. Any violation of this Ordinance shall be a nuisance.

601.1 If the Code Enforcement Officer shall find that any provision of this Ordinance is being violated, notification by said Officer in writing to the landowner responsible for such violation, indicating the nature of the violation and ordering the action necessary to correct it, including discontinuance or stoppage of any work being done and abatement of nuisance conditions. A copy of such notices shall be submitted to the municipal officers and shall be maintained as a permanent record.
601.2 The Code enforcement Officer may allow the continuance of work after notice of a violation of this Ordinance as defined in Section 601.1 is completed if he finds that there is clear and convincing evidence that the owner did not act in bad faith and the necessary notifications as required by Section 501 of this Ordinance are completed and filed. Such allowance shall be in writing and a copy submitted to the Board of Selectman. Work stoppage must be ordered and the provisions of Section 603 of this Ordinance must be observed if any abutter has submitted written or verbal objections to the Code Enforcement Officer.

601.3 The Code Enforcement Officer shall conduct on-site inspections to insure compliance with all applicable laws and conditions. The Code Enforcement Officer shall also investigate all complaints of alleged violations of this Ordinance.

601.4 The Code Enforcement Officer shall keep a complete record of all essential transactions, including notices submitted, permits granted or denied, variances granted or denied, revocation actions, revocation of permits, appeals, court actions, violations investigated, violations found, and fees collected.

601.5 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.

601.6 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 recording fines without Court action. Such agreements shall not allow an illegal use to continue unless there is clear and convincing evidence that the illegal use was 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.

602 - Penalties
Any person, firm or corporation being the owner or having control or use of any lot or site of Commercial Forest Harvesting who violates any provision of this Ordinance shall be subject to the following penalties, payable to the Town of Liberty:

602.1 For starting work or undertaking any land use activity without the required notification or for any other specific violation of this Ordinance, the minimum fine shall be $100.00 and the maximum fine for any single violation shall be $2,500.00. Assessment of penalties under this Ordinance shall be in accordance with Title 30-A M.R.S.A § 4452, as amended.

602.2 Each day a violation continues may be counted as a separate offense. An offense shall commence on the date of issuance of a Notice of Violation signed by the Code Enforcement Officer to the person or party in violation of this Ordinance. Return of the receipt indicating that the Notice was undeliverable as addressed or otherwise not delivered to the person or party shall not invalidate enforcement of this Ordinance or any penalties provided for herein. The Town may bring action in District Court to enjoin violation of this Ordinance and for other such relief as the law may provide.

603 - After-the-Fact Permits and Appeals

603.1 A permit to resume work issued by the Planning Board shall be required for any forest harvesting operation that has failed to provide notification as required under Section 500 of this Ordinance, unless the Code Enforcement Officer has allowed work to continue as allowed in Section 601.2 of this Ordinance, following the enforcement procedure and penalties requirements of Section 600 of this Ordinance. Before issuing such permit, the Planning Board shall review all data required under Section 500 of this Ordinance and may conduct a site inspection, if they deem it necessary.

603.2 Any landowner, designated agent or harvester who believes the Code Enforcement Officer or the Planning Board made an error or errors in their decisions relating to this Ordinance shall bring an appeal to the Town of Liberty Board of Appeals within forty-five (45) days of the action of the Code Enforcement Officer or the Planning Board that is in dispute.

604 - Waivers and Variances

604.1 The Code Enforcement Officer may reduce the minimum time frames for notification as defined in this Ordinance to not less than seven (7) days if he finds all of the following facts to be true:

604.1.1 All the necessary notifications as required by Section 501 of this Ordinance are completed and filed; and

604.1.2 The notice to abutters alerts them of the possible reduction of time frame and their right to object either in writing or verbally to the Code Enforcement Officer within the seven (7) day period; and

604.1.3 There is no objection to this time reduction by the abutters of the property received by the Code Enforcement Officer either in writing or verbally within the seven (7) day period.

604.2 Variances under this Ordinance may be granted by the Liberty Planning Board only under the terms of 30-A M.R.S.A. Section 4353.
Section 700 - Definitions

All words not defined herein shall carry their customary and usual meanings.

Commercial forest harvesting operations
A timber harvesting operation on land within the Town of Liberty, Maine for the primary purpose of selling or processing forest products. Land harvested need not be contiguous or under single ownership and more than one harvester may work a harvest operation.

Forest products
Logs, pulpwood, veneer, bolt wood, wood chips, stud wood, poles, pilings, biomass fuel wood, fuel wood, firewood, or other products commonly known as forest products, but does not include Christmas trees, maple syrup, nursery products used for ornamental purposes, wreaths, bough material, cones, or other seed crops.

Harvester
A person, firm, company, corporation or other legal entity which harvests or contracts to harvest a forest product.

Legally designated agent
A person, firm, company, corporation or other legal entity representing the land owner in timber sales or land management, legally and duly authorized in writing, signed by the landowner.

Precommercial silvicultural activities
Chemical or mechanical thinning operations, planting, stand conversion or timber stand improvement activities provided that no forest products are sold.

Timber harvesting
The cutting or removal of at least 50 cords of timber for the primary purpose of selling or processing forest products.

Adopted at March 22, 1997 Town Meeting
MEMO

To: Residents of Liberty, Maine

From: Richard L. King

Date: February 11, 2016

Regarding: Proposed town ordinance titled:

“LOCAL FOOD AND COMMUNITY SELF-GOVERNANCE ORDINANCE (LFCSGO)”

Fellow residents of Liberty,

Among the many items we will be considering at this year’s Town Meeting is my proposed ordinance addressing the subject of our home rule right to food of our own choice. I am sure that there are, and will be, questions about this ordinance. I have created a Facebook page (Food Sovereignty for All of Maine) where you can find various posts relevant to the subject.

In addition, I will be hosting three informational meetings in the Overlock Room at Town Hall. They are scheduled for:

    Thursday, February 18th at 7:00 PM,
    Saturday, February 27th at 10:00 AM, and
    Saturday, March 12th at 10:00 AM

I look forward to seeing you and to answering any questions you might have. Attached is a copy of the ordinance as it will appear in the town meeting warrant, as well as list of some of the questions I anticipate. If you cannot attend a meeting, feel free to contact me with your questions. My email is richard@goatspiritfarm.com and my telephone is 589-3044.
TOWN OF LIBERTY, WALDO COUNTY, MAINE

LOCAL FOOD AND COMMUNITY SELF-GOVERNANCE ORDINANCE (LFCSGO)

SECTION 1. NAME. This Ordinance shall be known as, and may be cited as, the “Local Food and Community Self-Governance Ordinance.”

SECTION 2. DEFINITIONS. As used in this ordinance:

1. LOCAL FOOD. “Local Food” means any food, food product, or drink that is grown, produced, or processed by Producers or Processors, as herein defined, who sell directly to their Patrons through farm- or home-based sales or buying clubs, at roadside stands, fundraisers, or at community social events.

2. PRODUCER. “Producer” means any farmer or gardener who grows any plant for food or drink or raises any animal for food or drink.

3. PROCESSOR. “Processor” means any individual who processes or prepares local food in a private home kitchen.

4. PATRON. “Patron” means, with regard to a local foods, the last person who:
   a. Purchases for home consumption or consumes the local food;
   b. Does not resell the local food; and
   c. Has been informed that the local food was produced in an uninspected, unlicensed establishment and that the local food has not been inspected.

5. COMMUNITY SOCIAL EVENT. “Community social event” means an event where people gather as part of a community for the benefit of those gathering or for the community, including but not limited to a church or religious social, school event, potluck, neighborhood gathering, library meeting, traveling food sale, fundraiser, craft fair, and other public event.

6. FOODWAYS. “Foodways” are the cultural, social, and economic practices relating to the production and consumption of food.

7. HOME CONSUMPTION. “Home consumption” means consumed within a private home.

SECTION 3. PREamble AND PURPOSE. We the People of the Town of Liberty, County of Waldo, Maine have the right to produce, process, sell, purchase, and consume local foods, thus promoting self-reliance, the preservation of family farms, ecologically sound farming practices, and local food traditions. We recognize that environmentally sustainable family farms, and local food processing by individuals and families offer stability to our rural way of life by enhancing the economic, environmental, and social wealth of our community. As such, our right to a local food system requires us to assert our inherent right to self-government. We recognize the authority to protect that right as belonging to the Town of Liberty.

We have faith in our citizens’ ability to educate themselves and make informed decisions. We hold that federal and state regulations impede local food production and constitute a usurpation of our citizens’ right to foods of their choice. We support wholesome food that nourishes individuals and the community, sustains producers and processors, and respects the environment. We are therefore duty bound under the Constitution of the State of Maine to protect and promote unimpeded access to local foods.

The purpose of the Local Food and Community Self-Governance Ordinance is to:

1. Provide citizens with unimpeded access to local food;
2. Enhance the local economy by promoting the purchase of farm food products and homemade food;
3. Protect access to farm-based sales and direct producer/processor to patron sales;
4. Support the economic viability of producers and processors;
5. Preserve community social events where local foods are served or sold; and
6. Preserve local knowledge and traditional foodways.

**SECTION 4. AUTHORITY.** This Ordinance is adopted and enacted pursuant to the inherent, inalienable, and fundamental right of the citizens of the Town of Liberty to self-government, and under the authority recognized as belonging to the people of the Town by all relevant state and federal laws including, but not limited to the following:

**The Declaration of Independence of the United States of America,** which declares that governments are instituted to secure peoples’ rights, and that government derives its just powers from the consent of the governed.

**The Constitution of the State of Maine, Article I, Section 2,** which declares: “All power is inherent in the people; all free governments are founded in their authority and instituted for their benefit; they have therefore an unalienable and indefeasible right to institute government, and to alter, reform, or totally change the same, when their safety and happiness require it.”

**Maine Revised Statutes, Title 7, Section 1-A,** which states: “The survival of the family farm is of special concern to the people of the State, and the ability of the family farm to prosper, while producing an abundance of high quality food and fiber, deserves a place of high priority in the determination of public policy.”

**Maine Revised Statutes, Title 7-A, Section 201-A,** which states that it is the policy of this State to encourage food self-sufficiency for its citizens. The Department Of Agriculture, Conservation And Forestry shall support policies that:

1. Through local control, preserve the ability of communities to produce, process, sell, purchase and consume locally produced foods;
2. Ensure the preservation of family farms and traditional foodways through small-scale farming and food production;
3. Improve the health and well-being of citizens of this State by reducing hunger and increasing food security through improved access to wholesome, nutritious foods by supporting family farms and encouraging sustainable farming and fishing;
4. Promote self-reliance and personal responsibility by ensuring the ability of individuals, families and other entities to prepare, process, advertise and sell foods directly to patrons intended solely for consumption by the patrons or their families; and
5. Enhance rural economic development and the environmental and social wealth of rural communities.

**Maine Revised Statutes, Title 30-A, Section 3001,** which says that municipalities may enact ordinances to protect the welfare of their inhabitants and that there is a rebuttable presumption that any ordinance enacted under this section is a valid exercise of a municipality’s home rule authority.

**SECTION 5.1. LICENSURE/INSPECTION.** Producers and processors in the Town of Liberty are not subject to licensure or inspection provided:

a) Transactions are only between producers or processors and patrons. This includes sales that: 1) are made directly to a patron and 2) occur on the farm where the farm food product originated, at the home where the homemade food was produced, or at the home of the Patron.
b) Products are prepared for, consumed, or sold at a community social event.
c) Patrons understand that the product is not manufactured under license from or inspected by any governmental agency.
Section 5.2. Right to Access and Produce Food. The Citizens of the Town of Liberty possess the right to save and exchange seed and to produce, process, sell, purchase, and consume local food of their choosing.

Section 5.3. Right to Self-Governance. The Citizens of the Town of Liberty possess the right to a form of governance that recognizes that all power is inherent in the people and that all free governments are founded on the people’s authority and consent.

Section 5.4. Right to Enforce. The Citizens of the Town of Liberty possess the right to adopt measures which prevent the violation of the rights enumerated in this Ordinance.

Section 6. Statement of Law, Implementation. The following restrictions and provisions serve to implement the preceding statements of law.

1) State and Federal Law. It shall be unlawful for any law or regulation adopted by the state or federal government to interfere with the rights recognized by this Ordinance. It shall be unlawful for any corporation to interfere with the rights recognized by this Ordinance. The term “corporation” shall mean any business entity organized under the laws of any state or country.

2) Patron Liability Protection. Patrons purchasing food for home consumption may enter into private agreements with those producers or processors of local foods to waive any liability for the consumption of that food.

Section 7. Civil Enforcement. The Town of Liberty may enforce the provisions of this Ordinance through seeking equitable relief from a court of competent jurisdiction. Any individual citizen of the Town of Liberty shall have standing to vindicate any rights secured by this ordinance which have been violated or which are threatened with violation, and may seek relief both in the form of injunctive and compensatory relief from a court of competent jurisdiction.

Section 8. Town Action against Preemption. The foundation for making and adoption of this law is the people's fundamental and inalienable right to govern themselves, and thereby secure their rights to life, liberty, and the pursuit of happiness. Any attempt to use other units and levels of government to preempt, amend, alter, or overturn this Ordinance or parts of this Ordinance shall require the Town to hold public meetings that explore the adoption of other measures that expand local control and the ability of citizens to protect their fundamental and inalienable right to self-government.

Section 9. Effect. This Ordinance shall be effective immediately upon its enactment.

Section 10. Severability Clause. To the extent any provision of this Ordinance is deemed invalid by a court of competent jurisdiction, such provision will be removed from the Ordinance, and the balance of the Ordinance shall remain valid.

Section 11. Repealer. All inconsistent provisions of prior ordinances adopted by the Town of Liberty are hereby repealed, but only to the extent necessary to remedy the inconsistency.

Section 12. Human Rights and Constitutionality. Nothing in this ordinance shall be construed as authorizing any activities or actions that violate human rights protected by the U.S. Constitution or the Constitution of the State of Maine.
Frequently Asked Questions

1) What is Food Sovereignty?

- In 2007, more than 500 representatives from more than 80 countries and from all walks of life gathered together in the village of Nyéléni in Sélingué, Mali to strengthen a global movement for food sovereignty. The following is an excerpt of a statement they made regarding the meaning of food sovereignty:

  “Food sovereignty is the right of peoples to healthy and culturally appropriate food produced through ecologically sound and sustainable methods, and their right to define their own food and agriculture systems. It puts the aspirations and needs of those who produce, distribute, and consume food at the heart of food systems and policies rather than the demands of markets and corporations.”

- Food Sovereignty is about our right:
  - to healthy local food of our choice without regulation and control of government;
  - to choose food without pasteurization, sterilization, homogenization, or irradiation, all of which alter food’s vitality;
  - to choose non-GMO and pesticide-free food;
  - to choose food from humanely and naturally raised animals; and
  - to be responsible for our choice and consumption of those foods.

2) How many towns have this ordinance?

- At this time there are 16 towns with the ordinance.

3) What does the LFCSGO actually do?

- The intent of the LFCSGO is to remove face-to-face sales of local food from governmental licensure, inspection, and labeling requirements.

4) Is it legal? Won’t it be preempted by state and federal law?

- Maine has strong home rule laws and an ordinance is law until a court says otherwise.

- It is fair to say that the matter of preemption is not completely resolved. There are many forces and interests involved that remain at odds. While the Commissioner of the Department of Agriculture, in 2011, wrote letters to first towns that adopted the Ordinance refusing to recognize the ordinance, no formal steps have been taken by the state’s attorney general to legally challenge the towns that have passed the LFCSGO and no further letters have been received.
• At this writing, the strength of the ordinance relies on the courage and conviction of citizens (and select boards) to adopt the ordinance, which will add to the strength of our voice, increasing pressure on the legislature to recognize the will of the people by passing a food freedom act for Maine.

5) Why not just address this at the state level?

• Maine’s statutes, Title 7-A, §201-A, titled “Local food and rural economic development” states the following:

   It is the policy of this State to encourage food self-sufficiency for its citizens. The department shall support policies that:

   1. **Local control.** Through local control preserve the ability of communities to produce, process, sell, purchase and consume locally produced foods;

   2. **Small-scale farming and food production.** Ensure the preservation of family farms and traditional foodways through small-scale farming and food production;

   3. **Improved health and well-being.** Improve the health and well-being of citizens of this State by reducing hunger and increasing food security through improved access to wholesome, nutritious foods by supporting family farms and encouraging sustainable farming and fishing;

   4. **Self-reliance and personal responsibility.** Promote self-reliance and personal responsibility by ensuring 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; and

   5. **Rural economic development.** Enhance rural economic development and the environmental and social wealth of rural communities.

Driven by Federal pressure (and money), big agribusiness interests (lobbying), and the retail grocery industry (lobbying), the rules and regulations promulgated by the Department favor large farming operations.

• The higher we go in the legislative system, the less access we have to the process. The democratic channels of policy and lawmakers are clogged with corporate dollars and influence. The letter that follows was published July 2, 2015 by Penobscot Bay Press in The Weekly Packet and was written by Rep. Ralph Chapman (Brooksville). Rep. Chapman sponsored LD925, which would have, in essence, made the provisions of local food ordinances the law statewide.

“Small Farms or Concealed Guns

Eighty percent of bills filed in the state legislature end up going nowhere. Some are stopped at the committee level, some by the House or Senate, some by the Appropriations Committee, and some are stopped by the Governor. Unfortunately, citizens have little control over the process once committee hearings are over. Indeed, corporate opponents of bills sometimes skip the public hearings knowing that they can prevail further down the line to block popular legislation.

Two recent cases illustrate how the system works: a bill to promote small diversified farms by reducing regulation of direct farmer to consumer sales, and a bill to de-regulate concealed weapons. Both made it through the legislative process to the Appropriations Table, the place where bills with fiscal notes are stopped unless they are of sufficiently high priority to consume the meager funds available after the budgeting process.

The bill promoting small diversified farms (LD925) had no opposition at the public hearing, received a unanimous Ought To Pass recommendation from the Committee of jurisdiction, received unanimous passage in the House and Senate, received unanimous enactment in the House and went to the Appropriations Table...
because it was determined that revenues would be reduced by $22,800 per year from permit fees that would no longer be required. [And in fact are not even collected at all.]

The bill de-regulating concealed weapons (LD652) had massive opposition (and support) at the public hearing, received a divided report (7 against to 6 in favor) from the Committee of jurisdiction, received a split vote in the Senate (21 - 14) and a split vote in the House (83 - 62) on passage, another split vote in the Senate (23 - 12) and in the House (87 - 60) on enactment and went to the Appropriations Table because it was determined that revenues would be reduced by $274,000 per year from permit fees that would no longer be required.

The Appropriations Committee voted to deny funding of the small diversified farms bill and to allow (the ten times larger) funding of the concealed weapons bill.

The lobbyist working for the Maine Grocers and Food Producers Association (paid $3,000 per month) was talking to Appropriations Committee members during the two days before their vote. The US Food and Drug Administration (FDA) wrote a letter to every member of the state Legislature recommending defeat of the small farm bill because of the health threat posed by unpasteurized milk products. Curiously, the FDA letter provided information showing an average of one death in the US every seven years from unpasteurized dairy. There were twice as many deaths per year in New England from pasteurized milk. (There are twenty to thirty deaths per year in the US from lightning, a risk 200 times greater than unpasteurized dairy.)

As Appropriations was making their choices, citizens of the fifteenth town in Maine voted (unanimously) to enact a local ordinance that reduces the regulation of direct farmer to consumer sales.

Apparently citizens can lead at the local level, whereas the legislature follows corporate interests at the state level.”

• The adoption of LFCSGOs by individual towns is the beginning of a systemic change to Maine’s food laws, and as we change the system it will come to a place where the law supports small, local farms, and traditional foodways—in accordance with Title 7-A, §201-A.

• As of this writing, the legislature is considering an amendment to the Constitution of the State of Maine that will guarantee our right to the food of our choice. Although not yet official, the amendment reads:

  Section 25. Right to food freedom; food self-sufficiency; bodily health and well-being. All individuals have a natural, inherent and unalienable right to acquire, produce, process, prepare, preserve and consume the food of their own choosing, for their own nourishment and sustenance, by hunting, gathering, foraging, farming, fishing, gardening or saving and exchanging seeds, provided that no individual commits trespassing, theft, poaching or other abuses of private property rights, public lands or natural resources in the acquisition of food; furthermore, all individuals have a right to barter, trade or purchase food from the sources of their own choosing, for their own bodily health and well-being; and every individual is fully responsible for the exercise of these rights, which may not be infringed.

6) Why not just get a license—they aren’t expensive?

• The cost of a license is low, but in order to be licensed, one must have approved facilities. For small farms and local food producers, the cost of such facilities can be quite substantial and may not be justified for such a non-retail situation. Rules that apply to large-scale operations often make no sense on a small, diversified farm.

• Licensing requires conformance to all regulations for products considered to be “potentially hazardous foods” (e.g. raw milk products, shell eggs, cooked vegetables, and meat). The intent of this ordinance is to allow freedom from those regulations in face-to-face transactions, which is why the element of community is so important. If a farmer friend invites you and your family to share a meal, would you be concerned about the on-farm slaughtered lamb or the raw milk cheese served?
7) What about food safety?

- Actually, local food is safer than food from industrial agriculture. Almost all food-borne illness is caused by problems in the supply chain, in which food is shipped long distances, mixed with foods from numerous sources, processed by many hands, and again shipped long distances. Direct, face-to-face sales create a supply chain with a single link. A local farmer, selling to friends and neighbors, is far more concerned about his or her customers than is an industrial farmer and most likely would not sell anything he or she would not eat themselves.

- There are very small numbers of illness from local food, especially when compared to the statistics for processed and pasteurized foods. On the other hand, we have seen numerous recalls of, and several deaths attributed to, industrial food.

8) Does the ordinance give unlicensed Producers and Processors an unfair advantage?

- Actually, licensed Producers and Processors have the advantage. They have many more outlets for sales of their food such as farmers’ markets, retail stores (local coops, convenience stores, and supermarkets), restaurants, and public institutions (schools, hospitals, and other service centers). Under the ordinance, unlicensed Producers and Processors have only direct sales to rely on—and this is the intent.

9) Where can Producers and Processors sell their food?

- A sale and delivery may take place at a farm, ranch, home, office, or any location agreed to between the Producers and Processors and the Patron.

10) Why does the Liberty ordinance not include farmers’ markets?

- The author of the Liberty ordinance did not include farmers’ markets as a selling venue because the strength of the ordinance is its reliance on the element of trust that exists between known sellers and buyers. While it is true that most farmers’ market customers are local and know the sellers, and that a sign at the booth may inform an unfamiliar buyer that the product has been produced in an unlicensed facility and has not been inspected, the element of community familiarity is compromised. In addition, as the intent of the ordinance is to promote local, community food ways, farmers’ markets encourage sales beyond that sphere and could provoke the DACF...

11) How does the ordinance affect liability for local food products?

- The ordinance offers no liability protection for the Producer or Processor. In some cases, Producers have required Patrons to enter into agreements that state that the Patron understands the benefits and risks of the purchase.
Section 1. Title and Purpose

This ordinance shall be known and may be cited as the Minimum Lot Size Ordinance of the Town of Liberty, Maine, and will be referred to herein as this “Ordinance.” The purpose of this Ordinance is to protect and promote the safety, welfare and property values of the inhabitants of the Town of Liberty, and to insure adequate and safe subsurface waste disposal.

Section 2. Authority and Administration

2.1 This Ordinance is enacted pursuant to the authority given the Town by 30-A M.R.S.A. Section 3001 (Home Rule).

2.2 The effective date of this Ordinance shall be thirty (30) days after it is adopted by vote of the legislative body of the Town of Liberty.

2.3 The Code Enforcement Officer shall enforce this Ordinance.

2.4 Upon submitting an application or pre-application for permit, or notice of construction, to the Town, applicant/owner accepts that designated town officers and officials have an implicit right to visit property for purposes of validating information provided and to inspect for compliance both work in progress as well completed projects.

Section 3. Minimum Lot Size and Setbacks

3.1 After the effective date of this Ordinance, no lot shall be created which does not meet the minimum lot size requirements of this Ordinance.

3.2 Except as otherwise provided herein, no dwelling, including mobile homes and manufactured housing, shall be constructed, enlarged, located or relocated on a lot of less than one acre.

3.3 Lots in a mobile home park, or in a development which qualifies for state or federal low-income or elderly housing project subsidies, shall meet the following lot size, width, and density requirements:

   a. Lots served by individual subsurface sewage disposal systems:
      minimum lot area: 20,000 square feet
      minimum lot width: 100 feet

   b. Lots served by a central subsurface sewage disposal system:
      minimum lot area: 12,000 square feet
      minimum lot width: 75 feet
c. Where lots front on a curved right-of-way or are served by a driveway, the lot width requirement shall be measured by a straight line between the two side lot lines.

d. The overall density of a mobile home park served by a central subsurface sewage disposal system shall be no greater than one unit per 20,000 sq.ft. of total park area. Total Park area shall be the combined area of the individual mobile home lots, plus the area required for road rights-of-way, plus the area within the shoreland setback or located in a shoreland zone.

e. Lots within a shoreland zoning district shall meet the lot area, width, setback, and shore frontage requirements for the district.

3.4 If more than one dwelling unit is constructed or located on a single lot, the lot shall be a minimum of one acre per dwelling unit; except that in a development which qualifies for state or federal low-income or elderly housing project subsidies, the lot shall have a minimum of 20,000 square feet per dwelling unit.

3.5 Setbacks

Except as otherwise provided in this Ordinance, no portion of any building or freestanding sign may be located on any lot closer to any lot line or to the road centerline than is authorized herein. As used herein, the term “building” includes any substantial structure which by nature of its size, scale, dimension, bulk or use tends to constitute a visual obstruction or generate activity similar to that usually associated with a building. Without limiting the generality of the foregoing, the following structures shall be deemed to fall within this description:

a) Gas pumps and overhead canopies or roofs.
b) Fences running along lot boundaries adjacent to public streets if such fences exceed six feet in height and are substantially opaque.

a. Setback Standards

<table>
<thead>
<tr>
<th>Minimum distance from Lot Boundary Line</th>
<th>Minimum Distance from a Road</th>
</tr>
</thead>
<tbody>
<tr>
<td>Front</td>
<td>Rear*</td>
</tr>
<tr>
<td>Principal Buildings and Mobile Homes</td>
<td>25 ft</td>
</tr>
<tr>
<td>Accessory Structures</td>
<td>25 ft</td>
</tr>
</tbody>
</table>

¹ See paragraphs b. and c. of this section (below).

b. The minimum rear setback requirement shall be four (4) feet for accessory buildings or structures that occupy no more than 100 square feet of land and where the minimum lot coverage of principal plus accessory structures does not exceed 40 percent of the lot.
c. Where the high point of the roof of the accessory building or structure exceeds 12 feet in height, and the accessory building is subject to a four (4) foot rear setback pursuant to paragraph a. above, the accessory building or structure shall be set back from the rear lot boundary line an additional two feet for every foot of height exceeding twelve feet.

Section 4. Non-Conforming Properties

4.1 Any lot in lawful existence on the date of adoption of this Ordinance or subsequent amendments that cannot meet the minimum lot size requirements is grandfathered as a legal non-conforming lot for the purposes of this Ordinance.

4.2 A single lot of record, whether built (where a building exists on the lot) or vacant, which, on the effective date of this Ordinance, does not meet the minimum lot size requirements may be built upon in accordance with State law, provided that the setback requirements of this Ordinance are met to the maximum extent feasible.

4.3 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, and if any of these lots do not individually meet the minimum lot size 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 lot size requirement, and shall be considered a single parcel for the purposes of this Ordinance.

4.4 Any building in lawful existence on the date of adoption of this Ordinance or subsequent amendments that does not conform to the setback requirements of this Ordinance, is grandfathered from the setback provisions of this Ordinance.

4.5 Expansion of a non-conforming building in lawful existence on the date of adoption of this Ordinance as amended is allowed after obtaining a permit from the Planning Board and payment of a $25.00 permit fee. Following the issuance of a permit, if no substantial start is made in construction or in the use of the property within one year of the date of the permit, the permit shall lapse and become void. The planning Board shall grant a permit upon a finding that:

a. the expansion does not increase the non-conformity of the structure with respect to the setback provisions of this Ordinance. An expansion that does not extend the building any closer to any lot line or road centerline than any other existing portion of the building, including decks, steps and railings, and roof overhangs, shall not be considered as increasing the non-conformity of the building; and

b. the expansion will not restrict snow removal or maintenance of drainage ditches or culverts on town roads, and does not restrict visibility for safe egress onto a road, as certified by the Road Commissioner; will not interfere with the provision of fire and ambulance services to any other property (as certified by the Liberty Fire Chief); and the expansion is set back from any public sidewalks by at least 5 feet.
4.5 Any non-conforming structure which is damaged or destroyed by more than 50% of the market value of the structure before such damage or destruction, may be reconstructed or replaced, provided that a permit is obtained within one year of the date of the damage or destruction and provided that such reconstruction or replacement is in compliance with the setback requirements of this Ordinance to the greatest practical extent as determined by the Planning Board in accordance with the purposes of this Ordinance. In no case shall a structure be reconstructed or replaced so as to increase its non-conformity.

Any non-conforming structure which is damaged or destroyed by 50% or less of the market value of the structure, excluding normal maintenance or repair, may be replaced with a permit. In no case shall a structure be reconstructed so as to increase its non-conformity.

Section 5. Violations and Enforcement

5.1. Notice of Violation. If, upon investigation, the Code Enforcement Officer determines that activities are or have occurred that are in violation of this Ordinance or any permits or approvals granted for a project, the Code Enforcement Officer shall give written notice to the owner and/or occupant of the premises. The notice shall specify the nature of the violation, actions necessary to abate the violation, including discontinuance or stoppage of any work being done, and the time frame within which these actions shall occur. In addition, the notice shall advise the party of the right to appeal the Code Enforcement Officer's decision. A copy of such notice shall be submitted to the municipal officers and shall be maintained as a permanent record.

5.2. Enforcement Action. If, after such notice and demand, the violation has not been abated within the time provided, upon notice from the Code Enforcement Officer, the Municipal Officers are hereby directed to institute any and all actions and proceedings, either legal or equitable, including seeking injunctions of violations and imposition of fines, that may be necessary and appropriate or necessary to enforce the provisions of this Ordinance in the name of the municipality.

5.3. Consent Agreements. 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 use to continue unless there is clear and convincing evidence that the illegal use was 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.

5.4. Penalties. Any person, firm, or entity being the owner of or having control or use of or engaged in the construction, alteration, or repair of or receiving a permit for, any building or land or part thereof, found to violate any of the provisions of this Ordinance shall be guilty of a misdemeanor, and upon conviction thereof, shall be fined in accordance with Title 30-A, §4452. Each day such a violation is permitted to exist after written notification thereof by the Code Enforcement officer shall constitute a separate offense. [Note: Current penalties include fines of not less than $100 nor more than $2500 per violation for each day that a violation continues.]
Section 6. Appeals

6.1 Powers and Duties of the Board of Appeals. The Board of Appeals shall have the following powers:

a. Administrative Appeals: To hear and decide 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 in the administration of this Ordinance.

b. Variance Appeals: To authorize variances upon appeal, within the limitations set forth in this Ordinance.

6.2 Variance Appeals. Variances may be permitted only under the following conditions:

a. Variances may be granted only from setback requirements.

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

   (1) The proposed structure would meet the setback provisions of this Ordinance except for the specific provision which has created the non-conformity and from which relief is sought; and

   (2) The strict application of the terms of this Ordinance would result in 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.

   c. The Board of Appeals may grant a variance to a property owner for the purpose of making that property accessible to a person with a disability who is living on the property. The board shall restrict any variance granted under this subsection solely to the installation of equipment or the construction of structures necessary for access to or egress from the property by the person with the disability. The board may impose conditions on the variance, including limiting the variance to the duration of the disability or to the time that the person with the disability lives on the property. The term "structures necessary for access to or egress from the property" shall include railing, wall or roof systems necessary for the safety or effectiveness of the structure.
d. The Board of Appeals shall limit any variances granted as strictly as possible in order to insure conformance with the purposes and provisions of this Ordinance to the greatest extent possible, and in doing so may impose such conditions to a variance as it deems necessary. The party receiving the variance shall comply with any conditions imposed.

6.3 Appeal Procedure

a. Making an Appeal

(1) An administrative or variance appeal may be taken to the Board of Appeals by an aggrieved party from any decision of the Code Enforcement Officer. Such appeal shall be taken within thirty (30) days of the date of the decision appealed from, and not otherwise, except that the Board, upon a showing of good cause, may waive the thirty (30) day requirement.

(2) Such appeal shall be made by filing with the Board of Appeals a written notice of appeal, which includes:

(a). A concise written statement indicating what relief is requested and why it should be granted.

(b). A sketch drawn to scale showing lot lines, location of existing buildings and structures and other physical features of the lot pertinent to the relief sought.

(3) Upon being notified of an appeal, the Code Enforcement Officer shall transmit to the Board of Appeals all of the papers constituting the record of the decision appealed from.

(4) The Board of Appeals may, at its discretion, hold a public hearing on the appeal within thirty-five (35) days of its receipt of an appeal request.

b. Decision by Board of Appeals

(1) A majority of the board shall constitute a quorum for the purpose of deciding an appeal. A member who abstains shall not be counted in determining whether a quorum exists.

(2) The concurring vote of a majority of the members of the Board of Appeals present and voting shall be necessary to reverse an order, requirement, decision, or determination of the Code Enforcement Officer, or to decide in favor of the applicant on any matter on which it is required to decide under this Ordinance, or to affect any variation in the application of this Ordinance from its stated terms. The board may reverse the decision, or failure to act, of the Code Enforcement Officer only upon a finding that the decision, or failure to act, was clearly contrary to specific provisions of this Ordinance.

(3) The person filing the appeal shall have the burden of proof.
(4) The Board shall decide all appeals within thirty-five (35) days after the close of the hearing, and shall issue a written decision on all appeals.

(5) All decisions shall become a part of the record and shall include a statement of findings and conclusions as well as the reasons or basis therefor, and the appropriate order, relief or denial thereof.

6.4 Appeal to Superior Court. Any aggrieved party who participated as a party during the proceedings before the Board of Appeals may take an appeal to Superior Court in accordance with State laws within forty-five (45) days from the date of any decision of the Board of Appeals.

6.5 Reconsideration. The Board of Appeals may reconsider any decision within thirty (30) days of its prior decision. The Board may conduct hearings and receive evidence and testimony in its reconsideration.

Section 7. Amendments

This Ordinance may be amended by a majority vote of the Town Meeting.

Section 8. Validity, Severability, and Conflict with Other Ordinances

Should any section of this Ordinance be declared to be invalid, such decision shall not invalidate any other section. Whenever the requirements of this Ordinance are inconsistent with the requirements of any other ordinance, code, or statute, the more restrictive shall apply.
TOWN OF LIBERTY

NUISANCE ANIMAL ORDINANCE

Section 1.

No person having the care of animals, whether domestic, or otherwise, shall permit, or allow, the same to go at large on any highway, street, land, alley, common square, or any other public place within the Town, or upon the property of another person without the consent of that person.

Upon complaint of any person, any animal found in violation of this ordinance may be seized and impounded by any law enforcement officer, animal control officer, or other public official authorized for these purposes, and that animal's owner or keeper shall be liable for all related costs.

Any animal, so found, not bearing the identification of its owner may be classified as a stray and may be impounded in the shelter designated by the Town as the Town's animal shelter and there confined in a humane manner. After a period of seven (7) days, the animal may be humanely disposed of, sold, or placed in the custody of some person deemed to be a responsible and suitable owner.

If an animal is taken to the Town's designated animal shelter, any owner repossessing the animal shall pay an impound fee of $35.00. Proof of registration may also be required.

In addition to, or in lieu of, seizing the animal, the officer having jurisdiction may bring suit against the owner of any animal running at large and that owner commits a civil violation for which a forfeiture of not less than $25.00, and not more than $100.00 shall be adjudged for the first offense.

The words "at large" shall mean off the premises of the owner, or keeper, and not under the control of any person by means of a chain, rope, cord of sufficient strength to control the animal, or such personal presence and attention as will reasonably control the conduct of such animal.

Section 2

It shall be unlawful for the owner, or keeper, of any dog, six months or older, to maintain such a dog unless it has been vaccinated by a veterinary with anti-rabies vaccine. Proof of vaccination shall be filed with the Town Clerk. Proof of vaccination shall be affixed to said dog in an acceptable manner. Failure to file proof of vaccination or failure to produce proof of vaccination upon demand of any law enforcement officer, animal control officer, or other public official authorized for these purposes, shall be prima facie evidence that said dog has not been vaccinated. Any person found violating this ordinance commits a civil violation for which a forfeiture of not less than $25.00 and not more than $100.00 shall be authorized for the first offense.
TOWN OF LIBERTY

NUISANCE ANIMAL ORDINANCE

Section 3

It shall be unlawful for any person to keep, or maintain an animal which creates a nuisance by habitually barking, biting, howling, or in any other manner disturbing the peace and quiet of any other person, after that owner or keeper has been warned by any law enforcement officer, animal control officer, or other public official authorized for these purposes, that his animal(s), have been disturbing the peace and quiet of another person, and that owner, or keeper, commits a civil violation for which a forfeiture of not less than $25.00, and not more than $100.00, shall be adjudged for the first offense.
PARKING ORDINANCE
TOWN OF LIBERTY

1. AUTHORITY AND PURPOSE: This ordinance is adopted by the Municipal Officers (Board of Selectmen) of the Town of Liberty in accordance with 30-A MRSA § 3009. The Selectmen find that unrestricted parking of motor vehicles on certain portions of public ways in Town creates a traffic hazard and is dangerous to motorists and pedestrians alike. Unrestricted parking causes traffic congestion, reduces sight distances for motorists, impedes winter maintenance, and causes motorists to drive outside the designated travel lane and into oncoming traffic. The purpose of this ordinance is to regulate parking as necessary to protect the public health, safety and welfare.

2. DEFINITIONS: Words used in this ordinance shall be defined in accordance with 29-A MRSA §101; any undefined word shall have its common, ordinary meaning.

3. RESTRICTIONS: No person shall park a motor vehicle on portions of public ways, where "No Parking/Tow Away Zone" signs or signs bearing similar language have been erected or written on the pavement by the Town.

4. TOWING: A motor vehicle parked in violation of this ordinance may be towed by a wrecker authorized by the Town, at the request of the Selectmen. Towing under this section shall not be allowed unless, at the time of the tow, there is at least 1 sign stating that violators may be towed and indicating the telephone number and address of the place at which a towed car may be recovered. Within 5 days of the tow the Town official who supervised the tow shall send to the registered owner a notice stating the date and time of the tow, the location where the motor vehicle is impounded, and the requirements for release of the motor vehicle.

5. RELEASE OF TOWED VEHICLE: Any person seeking release of a motor vehicle towed pursuant to this ordinance must first (a) pay all towing charges and storage charges and (b) present satisfactory evidence of his or her right to possession and sign a receipt for the vehicle.
6. **PRIMA FACIE EVIDENCE OF OPERATION**: No person shall cause, allow or permit a motor vehicle registered in his or her name to park in violation of this ordinance. The fact that a motor vehicle is unlawfully parked shall be prima facie evidence of the unlawful parking of such vehicle by the person in whose name such vehicle is registered.

7. **ENFORCEMENT AND PENALTIES**: This ordinance shall be enforced by an appropriate law enforcement agency. A violation of this ordinance is a civil violation punishable by a fine of $50.00. Any person charged with a violation of this ordinance may waive court action by paying a fee of $25.00 to the Town Clerk within 30 days of the violation.

8. **SEVERABILITY AND EFFECTIVE DATE**: In the event that any provision of this ordinance is declared by a court to be unenforceable, the remaining provisions continue in full force and effect.
1. **Title and Purpose**

This ordinance shall be known and cited as the “Town of Liberty Personal Wireless Service Facilities Siting Ordinance” hereinafter referred to as “this Ordinance”.

The purpose of this Ordinance is to establish balanced regulations for the siting of personal wireless service facilities within the Town of Liberty. The requirements of the Ordinance are intended to:

- Provide for siting of personal wireless service facilities while avoiding potential damage to abutting properties;
- To minimize any adverse impact on sensitive environmental areas as designated by the Department of Inland Fisheries and Wildlife;
- To maximize the use of approved or preexisting sites within the coverage area to reduce the number of personal wireless service facilities needed to serve the community; and
- To maintain to the greatest extent possible, the character of the existing site.
- To accommodate the communication needs of residents and businesses, while protecting the public health, safety and general welfare of the community.

2. **Authority**

This Ordinance is adopted pursuant to Home Rule provisions of Title 30-A of the Maine Revised Statutes Annotated, Section 3001, et. seq.

3. **Conflict with other Ordinances**

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

4. **Severability**

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

5. **Effective Date**

The effective date of this Ordinance shall be the date of adoption by voters at a Town Meeting scheduled for this purpose.

6. **Definitions**

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

a. “Accessory Structure” is a structure which is incidental and subordinate to the principal use or structure.

b. “Accessory Use” is a use which is incidental and subordinate to the principal use. Accessory uses, when aggregated, shall not subordinate the principal use of the lot.

c. “Alternative Tower Structure” is defined as clock towers, church steeple, light poles, water towers and similar alternative-design mounting structures that camouflage or conceal the presence of towers.

d. “Antenna” is the surface from which electromagnetic frequency signals are sent or received by the personal wireless service facility.

e. “Camouflaged” means personal wireless service facilities are disguised, hidden, part of an existing or proposed structure or placed within an existing or proposed structure.

f. “Co-location” means the use of a single mount on the ground by more than one carrier and/or several mounts on an existing building or structure by more than one carrier.

g. “Equipment Shelter” is an enclosed structure, shed or box at or near the base of the mount within which are housed equipment for personal wireless service facilities, such as batteries and electrical equipment. Equipment shelters sometimes are referred to as base receiver stations.

h. “FAA” means the Federal Aviation Administration, or its lawful successor.

i. “FCC” means the Federal Communications Commission, or its lawful successor.

j. “Guyed Tower” is a tower that is tied to the ground or other surface by diagonal cables for lateral support.

k. “Height” means, when referring to a tower or other structure, the distance measured from ground level to the highest point on the tower or other structure, even if said highest point is an antenna.
l. “Lattice Tower” means a type of mount that is self-supporting with multiple legs and cross-bracing of structural steel.

m. “Licensed Carrier” is a company authorized by the FCC to construct and operate a commercial mobile radio services system.

n. “Mast” is a pole that resembles a street light standard or telephone pole.

o. “Monopole” is a type of mount, normally thicker than a mast that is self supporting with a single shaft of concrete, steel or wood, which is designed for the placement of antennas or arrays along the shaft.

p. “Mount” is the structure or surface upon which antennas are mounted. Antennas may be mounted on the roof of a building (roof-mounted), on the side of a building (side-mounted), mounted on the ground (ground-mounted), or mounted on a structure other than a building (structure-mounted).

q. “Parabolic Antenna” means an antenna which is bowl-shaped, designed for the reception and/or transmission of electromagnetic radiation signals in a specific directional pattern.

r. “Personal Wireless Service Facility” or “Wireless Service Facility” or “Facility” means any structure, antenna, tower or other device which provides personal wireless services.

s. “Personal Wireless Services” includes any personal wireless service defined in the Federal Telecommunications Act of 1996, which includes FCC licensed commercial wireless telecommunications services, including cellular, personal communications services (PCS), specialized mobile radio (SMR), enhanced specialized mobile radio (ESMR), paging and unlicensed wireless services, and common carrier wireless exchange access services.

t. “Propagation Studies” are computer generated estimates prepared by a professional radio frequency engineer of the signal emanating, and prediction of coverage, from antennas or repeaters sited on a specific personal wireless service facility or structure.

u. “Site” means the lot, tract or parcel upon which the personal wireless service facility is located.

v. “Structure” means anything built for the support, shelter or enclosure of persons, animals, goods or property of any kind, together with anything constructed or erected with a fixed location on or in the ground, exclusive of fences.

w. “Tower” means any structure, whether free standing or in association with a building or other permanent structure, primarily for the purposes of supporting one or more antennas, including self-supporting lattice towers, guy towers, or monopole towers.

7. Exemptions
The following are exempt from the provisions of this Ordinance:

a. Amateur (Ham) radio stations licensed by the FCC.

b. Parabolic antennas of 10 feet or less in diameter that are an accessory use of the property.

c. Maintaining or repair of a personal wireless service facility and existing equipment, provided that there is no change in the height or other dimensions of the facility.

d. Temporary personal wireless service facility in operation for a maximum period of 30 (thirty) days.

e. Residential antennas that are an accessory to a residential dwelling unit, such as a television or radio antenna.

8. Permit Required

No person shall place, construct, erect, or expand a wireless service facility unless a permit first has been obtained from the Town of Liberty Planning Board.

9. General Filing Requirements

An application for a personal wireless service facility siting permit must include the name, address, and telephone number of the applicant and any co-applicants, including landowners, as well as agents for the same.

10. Specific Application Requirements

An application for a personal wireless service facility siting permit must also include the following, at the cost of the applicant:

a. A site plan prepared and reviewed by a professional engineer registered to practice in Maine indicating the location, type, and height of the proposed facility and any accessory structure, loading/antenna capacity, on-site and abutting off-site land uses, means of access, and setbacks from property lines. The site plan must include certification by a professional engineer registered in Maine that the design and construction of the proposed facility meets accepted industry standards and satisfies all federal, state, and local building code requirements. The Board may also require an independent review of the site plan by a professional engineer or independent consultant at the applicant’s expense.

b. A United States Geological Survey 7.5 minute topographical map showing the current location of all structures and personal wireless service facilities above 100 feet in height from ground level, except antennas located on roof tops, within a 5 mile radius of the proposed facility.

c. Documentation of the applicant's search for appropriate sites for the location of a personal
wireless communications facility and the rationale for selecting the site under consideration.

d. Verification of contact with all other owners of facilities for commercial mobile radio or wireless transmission operating within a 5 mile radius, inquiring as to the feasibility of co-locating the proposed personal wireless service facility on a pre-existing tower or structure.

e. Proof of the need for a new structure and that co-location on an existing structure is not available. In addition, the applicant shall present proof that there is a contracted first tenant.

f. Propagation studies for the proposed location as well as for any existing or approved personal wireless service facility within a 5 mile radius of the proposed site.

g. Photo simulations of the proposed facility taken from perspectives determined by the Planning Board. Each photo should be labeled with line of sight, elevation, and the date taken. Photos must demonstrate the color of the proposed facility and method of screening.

h. Elevation drawings of the proposed facility, showing height above ground level.

i. A landscaping plan indicating the proposed placement of the facility on the site; location of existing structures, trees, and other significant site features; the type and location of plants proposed to screen the facility; the method of fencing, the access road design and the color of the structure.

j. A balloon test, illustrating the proposed height and location of a personal wireless service facility, may be required at applicant expense. Adequate notice to the public of the test shall be given by the applicant. The Planning Board will determine what photos will be taken.

11. Location/Co-location

a. Co-Location Opportunities: Applicants seeking approval for siting of new personal wireless service facilities shall first evaluate the suitability of existing structures or approved sites. Only after finding that there are no suitable existing structures or approved sites for co-location, shall a provider propose a new ground mounted facility. Personal wireless service facilities that may be suitable for co-location include but are not limited to buildings, water towers, flag poles, telecommunication facilities, utility poles or existing personal wireless service facilities and related facilities.

b. Burden of Proof: The applicant shall have the burden of proving that there are no co-location opportunities which are suitable to locate its personal wireless service facility.

c. The applicant and owner shall allow other future wireless service carriers, using functionally equivalent personal wireless technology to co-locate antennas, equipment and facilities on the personal wireless service facility they are proposing, unless satisfactory evidence is presented and the Planning Board concurs that technical constraints prohibit co-location. In addition, space shall be provided at no charge to public agencies that benefit the Town of Liberty; namely police,
fire, ambulance, communication and highway, including internet access if requested at the time of review of the application by the Planning Board and as determined to be appropriate by the Planning Board.

12. Dimensional Requirements

a. The height of any proposed personal wireless service facility shall not exceed one hundred fifty (150) feet. The Planning Board may consider a request to add up to thirty (30) additional feet to the facility at a later date. At that time the applicant must provide the Planning Board with proof that the additional height is needed to accommodate an additional contracted tenant, as well as evidence of an acceptable design and co-location. No expanded personal wireless service facility shall exceed the height of one hundred eighty (180) feet.

b. Subject to approval of a Town of Liberty Planning Board permit, new personal wireless service facilities that are located on water towers, electric transmission and distribution towers, utility poles and similar existing utility structures, guyed towers, lattice towers, masts, and monopoles, may be increased in height, but in no event shall the resulting height be more than one hundred fifty (150) feet.

13. Setbacks/Appearance

a. All personal wireless service facilities, guys and accessory facilities shall be setback from any residences or property lines by a minimum of 125% (percent) of the height of the facility; however it may not be closer than 300 feet of a structure located on abutting property without written consent of the abutting property owner.

b. All personal wireless service facilities shall be galvanized steel or finished in a neutral color so as to reduce visual obstructiveness.

c. When a personal wireless service facility extends above the roof height of a building on which it is mounted, every effort shall be made to conceal or camouflage the facility within or behind existing or new architectural features to limit its visibility from public ways.


a. Personal wireless service facilities shall not be artificially lit, except for manually operated emergency lights for use when operating personnel are on site.

b. A security fence or wall of not less than eight (8) feet in height from the finished grade shall be provided around the tower. Access to the tower shall be through a locked gate.

c. No advertising signs or signage is permitted on personal wireless service facilities, except for signs that are needed to identify the property and the owner and to warn of potential hazards.

d. Road access to the personal wireless service facility shall be limited to a single roadway,
which must be designed to harmonize with the topographic and natural features of the site by minimizing filling, grading, excavation, or similar activities which result in unstable soil conditions and soil erosion. The access roadway must follow the natural contour of the land and should not involve excessive grading or tree removal. Curvilinear roads shall be used as access roads to prevent direct line of site from the town road access point to the tower site. Existing vegetation should be maintained to the extent practical. All practical steps must be taken to prevent a visible scar up or across a ridgeline.

e. The base of the tower shall not be located in a wetland or floodplain.

f. At the site, the design of the facility and accessory structures shall use materials, colors, textures, screening and landscaping that will blend the personal wireless service facility to the natural setting as much as possible. The required security fence shall also use materials that blend in to the natural setting as much as possible. The Planning Board will determine if the style of fencing and/or landscape buffer is compatible with the surrounding area.

15. Application Procedure

Applicants must fulfill the application requirements as outlined in this Ordinance and present the material to the Liberty Planning Board.

16. Application Fee

A non-refundable application fee of $2,000.00 per proposed personal wireless service facility, payable to the Town of Liberty, must be submitted with the application. In addition, the applicant is responsible for all out of pocket expenses, relating to the application.

17. Hazardous Waste

No hazardous waste shall be discharged on the site of any personal wireless service facility. If any hazardous materials are to be used on site, there shall be provisions for full containment of such materials and the owner or operator of the personal wireless services facility shall comply with all local, state and federal laws, codes, rules regulations, orders and ordinances in the handling and disposal of such materials. An enclosed containment area shall be provided with a sealed floor, designed to contain at least one hundred and ten (110) percent of the volume of the hazardous materials stored or used on site. In the event of leakage, the owner is responsible for all costs related to cleanup of the site and affected surrounding areas.

18. Maintenance

The owner and/or operator of the personal wireless service facility shall maintain the structure in good condition. Such maintenance shall include, but is not limited to, painting, structural integrity of the mount and security barrier, any buffer areas, fencing and landscaping.

19. Monitoring
a. On an annual basis, the personal wireless service facility owner shall provide the Town of Liberty with evidence of compliance with federally mandated safety levels for radio frequency electromagnetic fields and radio frequency radiation exposure levels, to include copies of any reports filed with the FCC.

b. The personal wireless service facility owner shall arrange for a licensed structural engineer to conduct regular inspections of the personal wireless service facility's structural integrity and safety at least every five years. A report of the inspection results shall be submitted to the Town of Liberty Selectmen and members of the Planning Board.

20. Bond for Removal

At the time of approval of a permit application, and prior to initiating construction of any personal wireless service facility within the Town of Liberty, the applicant must post a bond to cover costs for the removal of the personal wireless service facility, including site reclamation. The amount of the bond shall be based on the removal and reclamation costs plus fifteen (15) percent, provided by the applicant and certified by a professional civil engineer licensed in Maine. The owner of the facility shall provide the Planning Board with a revised removal and reclamation cost estimate prepared by a professional civil engineer licensed in Maine every five (5) years from the date of the Planning Board's approval of the site plan. If the cost has increased more than fifteen (15) percent, then the owner of the facility shall provide additional security in the amount of the increase.

21. Abandonment or Discontinuation of Use/Removal

a. A personal wireless service facility that is not operated for a continuous period of twelve (12) months shall be considered abandoned. The Town shall notify the owner of an abandoned facility in writing, certified mail, return receipt requested, ordering the removal of the facility within 180 days of receipt of the written notice. The owner of the facility shall have thirty (30) days from the receipt of the notice to demonstrate to the Town that the facility has not been abandoned.

b. If the owner fails to show that the facility is not abandoned, the owner shall have one hundred fifty (150) days to remove the facility. If the facility is not removed within that time period, the Town shall remove the facility at the owner’s expense and the Town may draw upon the bond required in Section 20 above to defray the costs of removal of the facility. Removal shall include, but not be limited to, antennas, mounts, equipment shelters and security barriers. The owner of the facility shall pay all site reclamation costs deemed necessary and reasonable to return the site to its pre-construction condition, including the removal of roads, and reestablishment of any vegetation.

23. Appeals

Any person aggrieved by a decision of the Planning Board under this Ordinance may appeal the decision to the Board of Appeals as an administrative appeal within thirty (30) days after receipt of the notification. Administrative appeals submitted under this Ordinance shall be subject to the
standards and procedures established by the Town of Liberty.

Certified by the Municipal Officers on July 22, 2002:

Judith A. Fuller, First Selectman
Clifford A. Randall, Second Selectman
Leonard W. Knowlton, Third Selectman


Warren Steeves, Town Clerk

I certify that I have this day posted one copy of an ordinance entitled, “The Town of Liberty Personal Wireless Service Facilities Siting Ordinance,” attested by the Town Clerk, with the Warrant at the following locations:

____________________________________
____________________________________
____________________________________
____________________________________
____________________________________

Liberty, Maine, July , 2002

SIGNED: ________________________________ Resident
PLANNING BOARD ORDINANCE
TOWN OF LIBERTY

Establishment: Pursuant to Art. VIII, pt. 2, Section 1 of the Maine Constitution and 30-A M.R.S.A. §§ 3001, the Town of Liberty hereby establishes the following by-laws for its Planning Board:

Appointment:

A. Board members shall be appointed by the Selectmen and sworn by the Town Clerk or other person authorized to administer oaths.

B. The board shall consist of 5 members and 2 alternate members.

C. The term of each member shall be 3 years. The term of office of an alternate member shall be 3 years.

D. When there is a permanent vacancy, the Selectmen 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 ceases to be a legal resident of the town, 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. When a vacancy occurs, the Chairperson of the board shall immediately so advise the Selectmen in writing. The board may recommend to the municipal officers that the attendance provision be waived for the cause, in which case no vacancy will then exist until the Selectmen disapprove the recommendation. The Selectmen may remove members of the planning board by unanimous vote, for cause, after notice and hearing.

E. A municipal officer may not be a member or associate member.

Organization and Rules:

A. The board shall elect a Chairperson and Vice Chairperson from among its members. The board may either elect a secretary from among its members or hire a non-board member to serve as secretary. The term of all offices shall be 1 year with eligibility for re-election. Election of
Chairperson and Vice Chairperson shall take place at the first Board meeting following the Town annual meeting.

B. When a member is unable to act because of interest, physical incapacity, absence or any other reason satisfactory to the Chairperson, the Chairperson shall designate an alternate member to sit in that member's stead.

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

D. 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.

E. The Chairperson shall call at least one regular meeting of the board each month unless no applications are pending; however, a meeting may be scheduled for internal Planning Board work.

F. No meeting of the board shall be held without a quorum consisting of 3 members or associate members authorized to vote. The board shall act by majority vote of the members present and voting.

G. 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.

Duties and Powers:

A. The board shall perform such duties and exercise such powers as are provided by the Town of Liberty and its pertaining ordinances and the laws of the State of Maine.

B. The board may obtain goods and services necessary to its proper function within the limits of appropriations made for the purpose.
TOWN OF LIBERTY

Ordinance for the Recall of Elected Municipal Officials

SECTION 1. Authority
This Ordinance is adopted pursuant to Title 30-A MRSA § 2602(6).

SECTION 2. Applicability
Any elected official of the Town of Liberty, Maine, may be recalled and removed from office as provided herein.

SECTION 3. Grounds for Recall
An elected official may be recalled for reasons specified by the petitioner.

SECTION 4. Petitions for Recall
a. Each page of the petition shall state the name and office of the person whose removal is being sought, and the full text of the statement of the reasons for the recall of the elected official.
b. Each signature shall be executed in ink and shall include the signer’s printed name, and shall state the legal residence of the voter with street address or other description sufficient to identify the place of residence.
c. The petition must contain only signatures of the registered voters of the Town of Liberty, and be equal to at least 10% of the last gubernatorial election, but not less than twenty (20).
d. If the recall is for more than one official is being sought there shall be a separate petition for each official whose removal is being sought.
e. All petition pages shall be filed as one document.
f. The petition shall be addressed to those members of the Board of Selectmen who are not subjects of the petition; if petitions for the recall of all Selectmen are submitted, the petitions shall be addressed to the Town Clerk.
g. At the bottom of each page of the petition, the circulator of that page shall certify that to the best of his or her knowledge, each signature is genuine.

SECTION 5. Clerk’s Certification
Within ten (10) days of the receipt of the petition, the Town Clerk, or Deputy Town Clerk in cases where the removal of the Town Clerk is sought, shall certify the signatures contained on the petition and shall determine if the petition meets all of the procedural qualifications as set forth in Section 3 and 4 of this Ordinance. Should the petition be found insufficient, the petition shall be filed in the Clerk’s office and the voter who filed the petition shall be notified.

SECTION 6. Call the Recall Election
If the petition is certified by the Town Clerk to be sufficient, he or she shall submit the same with his or her certification to the Board of Selectmen at their next regular meeting and shall notify the person or persons whose removal is being sought of such action.

The Selectmen, upon receipt of the certified petition, shall within ten (10) days time of receipt order an election by secret ballot, pursuant to 30-A MRSA § 2528 to be held not less than 45 nor more than 60 days thereafter, provided that a regular municipal election is not scheduled to be held within 90 days of receipt of the certified petition and, in this case, the Selectmen may at their discretion provide for the holding of the recall election on the date of the regular municipal election.

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 not less than 45 days nor more than 60 days following the Selectmen’s failure or refusal to order the required election.

SECTION 7. Ballots for Recall Election

Unless the official or officials whose removal is being sought, have resigned within ten (10) days of receipt of the petition by the Board of Selectmen, the ballots shall be printed and shall read, "Shall (name of official and his or her title) be Recalled?,” and provide adjacent boxes for “Yes” or “No” responses.

SECTION 8. Result of Election

In case a majority of those voting for and against the recall of any elected official shall vote in favor of recalling such official, he or she shall be thereby removed, and, in that event, the candidate to succeed such person for the balance of the unexpired term shall be determined as provided for in the case of a vacancy in the office.

SECTION 9. Separability

It is the intention of the municipality that each section of this ordinance shall be deemed independent of all other sections herein and that if any provision within this ordinance is declared invalid, all other sections shall remain valid and enforceable.

SECTION 10. Amendments

This ordinance may be amended by a majority vote of any legal Town meeting when such amendment is published in the warrant calling for the meeting.
Section 1. Purpose and Authority
The purpose of this "Ordinance Restricting Vehicle Weight on Posted Ways" (hereinafter, the "Ordinance") is to prevent damage to town ways and bridges in the Town of Liberty which may be caused by vehicles of excessive weight, to lessen safety hazards and the risk of injury to the traveling public, to extend the life expectancy of town ways and bridges, and to reduce the public expense of their maintenance and repair. This Ordinance is adopted pursuant to 30-A M.R.S.A. § 3009 and 29-A M.R.S.A. §§ 2395 and 2388.

Section 2. Definitions
The definitions contained in Title 29-A M.R.S.A. shall govern the construction of words contained in this Ordinance. Any words not defined therein shall be given their common and ordinary meaning.

Section 3. Restrictions and Notices
The Municipal Officers/Road Commissioner may, either permanently or seasonally, impose such restrictions on the gross registered weight of vehicles as may, in their judgment, be necessary to protect the traveling public and prevent abuse of the highways, and designate the town ways and bridges to which the restrictions shall apply.

Whenever notice has been posted as provided herein, no person may thereafter operate any vehicle with a gross registered weight in excess of the restriction during any applicable time period on any way or bridge so posted unless otherwise exempt as provided herein.

The notice shall contain, at a minimum, the following information: the name of the way or bridge, the gross registered weight limit, the time period during which the restriction
applies, the date on which the notice was posted, and the signatures of the Municipal Officers/Road Commissioner. The notice shall be conspicuously posted at each end of the restricted portion of the way or bridge in a location clearly visible from the traveled way.

Whenever a restriction expires or is lifted, the notices shall be removed wherever posted. Whenever a restriction is revised or extended, existing notices shall be removed and replaced with new notices. No person may remove, obscure or otherwise tamper with any notice so posted except as provided herein.

Section 4. Exemptions

Vehicles that are exempt from the Maine Department of Transportation’s (MDOT) "Rules and Regulations Restricting Heavy Loads on Closed Ways" dated December 31, 1996 and amended on March 4, 1998, are exempt from this Ordinance. In addition, any vehicle delivering home heating fuel and operating in accordance with a permit issued by the MDOT under 29-A M.R.S.A. § 2395 (4) and, when necessary during a period of drought emergency declared by the governor, any vehicle transporting well-drilling equipment for the purpose of drilling a replacement well or for improving an existing well on property where that well is no longer supplying sufficient water for residential or agricultural purpose and operating in accordance with a permit issued by the MDOT under 29-A M.R.S.A. § 2395 (4-A).

Section 5. Permits

The owner or operator of any vehicle not otherwise exempt as provided herein may apply in writing to the Municipal Officers/Road Commissioner for a permit to operate on a posted way or bridge notwithstanding the restriction. The Municipal Officers/Road Commissioner may issue permits subject to reasonable conditions, including but not limited to restrictions on the actual load weight and the number or frequency of vehicle trips, which shall be clearly noted on the permit.

Section 6. Administration and Enforcement

This Ordinance shall be administered and may be enforced by the Municipal Officers/Road Commissioner or their duly authorized designee [law enforcement officer].
Section 7. Penalties
Any violation of this Ordinance shall be a civil infraction subject to a fine of not less than $250.00 nor more than $1000.00. Each violation shall be deemed a separate offense. In addition to any fine, the municipality may seek restitution for the cost of repairs to any damaged way or bridge and reasonable attorney fees and costs. Prosecution shall be in the name of the municipality and shall be brought in the Maine District Court.

Section 8. Amendments
This Ordinance may be amended by the Municipal Officers/Road Commissioner at any properly noticed meeting.

Section 9. Severability; Effective Date
In the event any portion of this Ordinance is declared invalid by a court of competent jurisdiction, the remaining portions shall continue in full force and effect. This Ordinance shall take effect immediately upon enactment by the Municipal Officers/Road Commissioner at any properly noticed meeting.

GIVEN UNDER OUR HANDS, THIS 23rd DAY OF MAY, 2005.

Judith A. Fuller, First Selectman

Henry Hall, Second Selectman

John A. Krueger, Third Selectman
“Upon submitting an application or pre-application for permit, or notice of construction, to the Town, applicant/owner accepts that designated town officers and officials have an implicit right to visit property for purposes of validating information provided and to inspect for compliance both work in progress as well as completed projects.”

SHORELAND ZONING ORDINANCE
PROPOSED MARCH 1972

ACCEPTED DECEMBER 15, 1973
AMENDED MARCH 1984
AMENDED MARCH 1985
REVISED / AMENDED MARCH 1992
AMENDED MARCH 2001
AMENDED MARCH 2004
AMENDED MARCH 2005
AMENDED MARCH 2006
APPROVED MARCH 2009
APPROVED MARCH 2010
AMENDED MARCH 2011
MINOR CORRECTIONS SEPTEMBER 2013
APPROVED MARCH 25, 2017
# TABLE OF CONTENTS

<table>
<thead>
<tr>
<th>SEC</th>
<th>CONTENTS</th>
<th>PAGE</th>
</tr>
</thead>
<tbody>
<tr>
<td>Table 1. Land Uses in the Shoreland Zone</td>
<td>3</td>
<td></td>
</tr>
<tr>
<td>1</td>
<td>Purposes</td>
<td>6</td>
</tr>
<tr>
<td>2</td>
<td>Authority</td>
<td>6</td>
</tr>
<tr>
<td>3</td>
<td>Applicability</td>
<td>6</td>
</tr>
<tr>
<td>4</td>
<td>Effective Date</td>
<td>6</td>
</tr>
<tr>
<td>5</td>
<td>Availability</td>
<td>7</td>
</tr>
<tr>
<td>6</td>
<td>Severability</td>
<td>7</td>
</tr>
<tr>
<td>8</td>
<td>Conflicts with Other Ordinances</td>
<td>7</td>
</tr>
<tr>
<td>8</td>
<td>Amendments</td>
<td>7</td>
</tr>
<tr>
<td>9</td>
<td>Districts and Zoning Map</td>
<td>7</td>
</tr>
<tr>
<td>10</td>
<td>Interpretation of District Boundaries</td>
<td>8</td>
</tr>
<tr>
<td>11</td>
<td>Land Use Requirements</td>
<td>8</td>
</tr>
<tr>
<td>12</td>
<td>Non-conformance</td>
<td>9</td>
</tr>
<tr>
<td>13</td>
<td>Establishment of Districts</td>
<td>15</td>
</tr>
<tr>
<td>A</td>
<td>Resource Protection District (RP)</td>
<td>15</td>
</tr>
<tr>
<td>B</td>
<td>Limited Residential District (LR)</td>
<td>16</td>
</tr>
<tr>
<td>C</td>
<td>Limited Commercial District (LC)</td>
<td>16</td>
</tr>
<tr>
<td>D</td>
<td>General Development I District</td>
<td>16</td>
</tr>
<tr>
<td>E</td>
<td>General Development II District</td>
<td>16</td>
</tr>
<tr>
<td>F</td>
<td>Commercial Fisheries/Maritime Activities District</td>
<td>16</td>
</tr>
<tr>
<td>G</td>
<td>Stream Protection District (SP)</td>
<td>16</td>
</tr>
<tr>
<td>H</td>
<td>Wetland Preservation District (WP)</td>
<td>17</td>
</tr>
<tr>
<td>I</td>
<td>Wetland Conservation District (WC)</td>
<td>17</td>
</tr>
<tr>
<td>14</td>
<td>Table of Land Uses</td>
<td>3 &amp; 18</td>
</tr>
<tr>
<td>15</td>
<td>Land Use Standards</td>
<td>18</td>
</tr>
<tr>
<td>A</td>
<td>Minimum Lot Standards</td>
<td>18</td>
</tr>
<tr>
<td>B</td>
<td>Principal and Accessory Structures</td>
<td>19</td>
</tr>
<tr>
<td>C</td>
<td>Piers, Docks, Wharves, Bridges and Other Structures</td>
<td>22</td>
</tr>
<tr>
<td>D</td>
<td>Campgrounds</td>
<td>23</td>
</tr>
<tr>
<td>E</td>
<td>Individual Private Campsites</td>
<td>24</td>
</tr>
<tr>
<td>F</td>
<td>Commercial and Industrial Uses</td>
<td>25</td>
</tr>
<tr>
<td>G</td>
<td>Parking Areas</td>
<td>25</td>
</tr>
<tr>
<td>H</td>
<td>Roads and Driveways</td>
<td>26</td>
</tr>
<tr>
<td>I</td>
<td>Signs</td>
<td>28</td>
</tr>
<tr>
<td>J</td>
<td>Storm Water Runoff</td>
<td>28</td>
</tr>
<tr>
<td>K</td>
<td>Septic Waste Disposal</td>
<td>29</td>
</tr>
<tr>
<td>L</td>
<td>Essential Services</td>
<td>29</td>
</tr>
<tr>
<td>M</td>
<td>Mineral Exploration and Extraction</td>
<td>29</td>
</tr>
<tr>
<td>N</td>
<td>Agriculture</td>
<td>30</td>
</tr>
<tr>
<td>O</td>
<td>Timber Harvesting</td>
<td>31</td>
</tr>
<tr>
<td>P</td>
<td>Clearing of Vegetation for Purposes Other than Timber Harvesting</td>
<td>41</td>
</tr>
<tr>
<td>Q</td>
<td>Hazard Trees, Storm-Damaged Trees, and Dead Tree Removal</td>
<td>44</td>
</tr>
<tr>
<td>R</td>
<td>Exemptions to Clearing and Vegetation Removal Requirements</td>
<td>46</td>
</tr>
<tr>
<td>S</td>
<td>Revegetation Requirements</td>
<td>47</td>
</tr>
<tr>
<td>T</td>
<td>Erosion and Sedimentation Control</td>
<td>48</td>
</tr>
<tr>
<td>U</td>
<td>Soils</td>
<td>49</td>
</tr>
<tr>
<td>V</td>
<td>Water Quality</td>
<td>50</td>
</tr>
<tr>
<td>W</td>
<td>Archaeological Site</td>
<td>50</td>
</tr>
<tr>
<td>X</td>
<td>Site Limitations</td>
<td>50</td>
</tr>
<tr>
<td>Page</td>
<td>Administration</td>
<td></td>
</tr>
<tr>
<td>------</td>
<td>----------------</td>
<td></td>
</tr>
<tr>
<td>16</td>
<td>A. Administering Bodies and Agents 51</td>
<td></td>
</tr>
<tr>
<td></td>
<td>B. Permits Required 51</td>
<td></td>
</tr>
<tr>
<td></td>
<td>C. Permit Application 52</td>
<td></td>
</tr>
<tr>
<td></td>
<td>D. Procedure for Administering Permits 54</td>
<td></td>
</tr>
<tr>
<td></td>
<td>E. Expiration of Permit 55</td>
<td></td>
</tr>
<tr>
<td></td>
<td>F. Installation of Public Utility Service 55</td>
<td></td>
</tr>
<tr>
<td></td>
<td>G. Appeals 56</td>
<td></td>
</tr>
<tr>
<td></td>
<td>H. Enforcement 60</td>
<td></td>
</tr>
<tr>
<td>17</td>
<td>Definitions 62</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Appendix A - Shoreland Zoning Map 74</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Appendix B - Fee Schedule 76</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Signatures 77</td>
<td></td>
</tr>
</tbody>
</table>
# TABLE 1. LAND USES IN THE SHORELAND ZONE DISTRICT
(See Section 14)

<table>
<thead>
<tr>
<th>Use</th>
<th>WP</th>
<th>WC</th>
<th>SP</th>
<th>RP</th>
<th>LR</th>
<th>LC</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. Non-intensive recreational uses not requiring structures such as</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>hunting, fishing and hiking</td>
<td>yes</td>
<td>yes</td>
<td>yes</td>
<td>yes</td>
<td>yes</td>
<td>yes</td>
</tr>
<tr>
<td>2. Motorized vehicular traffic on existing roads and trails</td>
<td></td>
<td>yes</td>
<td>yes</td>
<td>yes</td>
<td>yes</td>
<td>yes</td>
</tr>
<tr>
<td>3. Forest management activities except for timber harvesting &amp; land</td>
<td></td>
<td>yes</td>
<td>yes</td>
<td>yes</td>
<td>yes</td>
<td>yes</td>
</tr>
<tr>
<td>management roads</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>4. Timber harvesting</td>
<td></td>
<td>CEO</td>
<td>yes</td>
<td>CEO</td>
<td>yes</td>
<td>yes</td>
</tr>
<tr>
<td>5. Clearing or removal of</td>
<td></td>
<td></td>
<td>yes</td>
<td>CEO</td>
<td>CEO</td>
<td>yes</td>
</tr>
<tr>
<td>vegetation for approved construction and other allowed uses other</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>than timber harvesting</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>6. Fire prevention activities</td>
<td>yes</td>
<td>yes</td>
<td>yes</td>
<td>yes</td>
<td>yes</td>
<td>yes</td>
</tr>
<tr>
<td>7. Wildlife management practices</td>
<td>yes</td>
<td>yes</td>
<td>yes</td>
<td>yes</td>
<td>yes</td>
<td>yes</td>
</tr>
<tr>
<td>8. Soil and Water conservation practices</td>
<td>yes</td>
<td>yes</td>
<td>yes</td>
<td>yes</td>
<td>yes</td>
<td>yes</td>
</tr>
<tr>
<td>9. Mineral exploration</td>
<td></td>
<td>no</td>
<td>no</td>
<td>no</td>
<td>yes</td>
<td>yes</td>
</tr>
<tr>
<td>10. Mineral extraction including</td>
<td></td>
<td>no</td>
<td>no</td>
<td>no</td>
<td>PB</td>
<td>PB</td>
</tr>
<tr>
<td>sand and gravel extraction</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>11. Surveying and resource analysis</td>
<td>yes</td>
<td>yes</td>
<td>yes</td>
<td>yes</td>
<td>yes</td>
<td>yes</td>
</tr>
<tr>
<td>12. Emergency Operations</td>
<td>yes</td>
<td>yes</td>
<td>yes</td>
<td>yes</td>
<td>yes</td>
<td>yes</td>
</tr>
<tr>
<td>13. Agriculture</td>
<td></td>
<td>PB</td>
<td>yes</td>
<td>PB</td>
<td>yes</td>
<td>yes</td>
</tr>
<tr>
<td>14. Aquaculture</td>
<td></td>
<td>PB</td>
<td>PB</td>
<td>PB</td>
<td>PB</td>
<td>yes</td>
</tr>
<tr>
<td>15. Principal structures and uses including driveways:</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>A. One and two family residential</td>
<td>no</td>
<td>no</td>
<td>PB</td>
<td>no</td>
<td>PB</td>
<td>PB</td>
</tr>
<tr>
<td>B. Multi-unit residential</td>
<td>no</td>
<td>no</td>
<td>no</td>
<td>no</td>
<td>PB</td>
<td>PB</td>
</tr>
<tr>
<td>C. Commercial</td>
<td>no</td>
<td>no</td>
<td>no</td>
<td>no</td>
<td>no</td>
<td>PB</td>
</tr>
<tr>
<td>D. Industrial</td>
<td>no</td>
<td>no</td>
<td>no</td>
<td>no</td>
<td>no</td>
<td>no</td>
</tr>
<tr>
<td>E. Governmental and Institutional</td>
<td>no</td>
<td>no</td>
<td>no</td>
<td>no</td>
<td>no</td>
<td>PB</td>
</tr>
<tr>
<td>F. Small non-residential facilities for educational, scientific,</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>or nature interpretation purposes</td>
<td>no</td>
<td>PB</td>
<td>PB</td>
<td>PB</td>
<td>PB</td>
<td>PB</td>
</tr>
<tr>
<td>16. Structures accessory to allowed uses</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>A. Buildings or additions to buildings where the building or</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>addition occupy 100 square feet or more of land</td>
<td>no</td>
<td>PB</td>
<td>PB</td>
<td>PB</td>
<td>CEO</td>
<td>CEO</td>
</tr>
<tr>
<td>B. All other structures listed elsewhere in this Table</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

17. Piers, docks, wharfs, bridges and other structures and uses extending over or below the normal high-water line or within a wetland
   A. Temporary
   B. Permanent

<table>
<thead>
<tr>
<th>Activity</th>
<th>CEO</th>
<th>PB</th>
<th>CEO</th>
<th>PB</th>
<th>CEO</th>
<th>CEO</th>
</tr>
</thead>
<tbody>
<tr>
<td>Piers, docks, wharfs, bridges and other structures and uses extending over or below the normal high-water line or within a wetland</td>
<td>no</td>
<td>no</td>
<td>CEO</td>
<td>CEO</td>
<td>CEO</td>
<td>CEO</td>
</tr>
</tbody>
</table>

18. Conversions of seasonal residences to year-round residences

<table>
<thead>
<tr>
<th>Activity</th>
<th>CEO</th>
<th>PB</th>
<th>CEO</th>
<th>PB</th>
<th>CEO</th>
<th>CEO</th>
</tr>
</thead>
<tbody>
<tr>
<td>Conversions of seasonal residences to year-round residences</td>
<td>no</td>
<td>no</td>
<td>LPI</td>
<td>no</td>
<td>LPI</td>
<td>LPI</td>
</tr>
</tbody>
</table>

19. Home occupations

<table>
<thead>
<tr>
<th>Activity</th>
<th>CEO</th>
<th>PB</th>
<th>CEO</th>
<th>PB</th>
<th>CEO</th>
<th>CEO</th>
</tr>
</thead>
<tbody>
<tr>
<td>Home occupations</td>
<td>no</td>
<td>no</td>
<td>PB</td>
<td>no</td>
<td>PB</td>
<td>CEO</td>
</tr>
</tbody>
</table>

20. Private sewage disposal systems for allowed uses

<table>
<thead>
<tr>
<th>Activity</th>
<th>CEO</th>
<th>PB</th>
<th>CEO</th>
<th>PB</th>
<th>CEO</th>
<th>CEO</th>
</tr>
</thead>
<tbody>
<tr>
<td>Private sewage disposal systems for allowed uses</td>
<td>no</td>
<td>no</td>
<td>LPI</td>
<td>no</td>
<td>LPI</td>
<td>LPI</td>
</tr>
</tbody>
</table>

21. Essential services

<table>
<thead>
<tr>
<th>Activity</th>
<th>CEO</th>
<th>PB</th>
<th>CEO</th>
<th>PB</th>
<th>CEO</th>
<th>CEO</th>
</tr>
</thead>
<tbody>
<tr>
<td>Essential services</td>
<td>PB</td>
<td>PB</td>
<td>PB</td>
<td>PB</td>
<td>PB</td>
<td>PB</td>
</tr>
</tbody>
</table>

22. Service drops, as defined, to allowed uses

<table>
<thead>
<tr>
<th>Activity</th>
<th>CEO</th>
<th>PB</th>
<th>CEO</th>
<th>PB</th>
<th>CEO</th>
<th>CEO</th>
</tr>
</thead>
<tbody>
<tr>
<td>Service drops, as defined, to allowed uses</td>
<td>yes</td>
<td>yes</td>
<td>yes</td>
<td>yes</td>
<td>yes</td>
<td>yes</td>
</tr>
</tbody>
</table>

23. Public and private recreational areas involving minimal structural development

<table>
<thead>
<tr>
<th>Activity</th>
<th>CEO</th>
<th>PB</th>
<th>CEO</th>
<th>PB</th>
<th>CEO</th>
<th>CEO</th>
</tr>
</thead>
<tbody>
<tr>
<td>Public and private recreational areas involving minimal structural development</td>
<td>PB</td>
<td>PB</td>
<td>PB</td>
<td>PB</td>
<td>PB</td>
<td>CEO</td>
</tr>
</tbody>
</table>

24. Individual, private campsites

<table>
<thead>
<tr>
<th>Activity</th>
<th>CEO</th>
<th>PB</th>
<th>CEO</th>
<th>PB</th>
<th>CEO</th>
<th>CEO</th>
</tr>
</thead>
<tbody>
<tr>
<td>Individual, private campsites</td>
<td>no</td>
<td>CEO</td>
<td>CEO</td>
<td>CEO</td>
<td>CEO</td>
<td>CEO</td>
</tr>
</tbody>
</table>

25. Campgrounds

<table>
<thead>
<tr>
<th>Activity</th>
<th>CEO</th>
<th>PB</th>
<th>CEO</th>
<th>PB</th>
<th>CEO</th>
<th>CEO</th>
</tr>
</thead>
<tbody>
<tr>
<td>Campgrounds</td>
<td>no</td>
<td>no</td>
<td>no</td>
<td>no</td>
<td>PB</td>
<td>PB</td>
</tr>
</tbody>
</table>

26. Road construction

<table>
<thead>
<tr>
<th>Activity</th>
<th>CEO</th>
<th>PB</th>
<th>CEO</th>
<th>PB</th>
<th>CEO</th>
<th>CEO</th>
</tr>
</thead>
<tbody>
<tr>
<td>Road construction</td>
<td>no</td>
<td>no</td>
<td>PB</td>
<td>no</td>
<td>PB</td>
<td>PB</td>
</tr>
</tbody>
</table>

27. Land management roads

<table>
<thead>
<tr>
<th>Activity</th>
<th>CEO</th>
<th>PB</th>
<th>CEO</th>
<th>PB</th>
<th>CEO</th>
<th>CEO</th>
</tr>
</thead>
<tbody>
<tr>
<td>Land management roads</td>
<td>no</td>
<td>no</td>
<td>PB</td>
<td>no</td>
<td>PB</td>
<td>PB</td>
</tr>
</tbody>
</table>

28. Parking facilities

<table>
<thead>
<tr>
<th>Activity</th>
<th>CEO</th>
<th>PB</th>
<th>CEO</th>
<th>PB</th>
<th>CEO</th>
<th>CEO</th>
</tr>
</thead>
<tbody>
<tr>
<td>Parking facilities</td>
<td>no</td>
<td>no</td>
<td>no</td>
<td>no</td>
<td>PB</td>
<td>PB</td>
</tr>
</tbody>
</table>

29. Marinas

<table>
<thead>
<tr>
<th>Activity</th>
<th>CEO</th>
<th>PB</th>
<th>CEO</th>
<th>PB</th>
<th>CEO</th>
<th>CEO</th>
</tr>
</thead>
<tbody>
<tr>
<td>Marinas</td>
<td>no</td>
<td>no</td>
<td>no</td>
<td>no</td>
<td>PB</td>
<td>PB</td>
</tr>
</tbody>
</table>

30. Filling and earth moving of <10 cubic yards

<table>
<thead>
<tr>
<th>Activity</th>
<th>CEO</th>
<th>PB</th>
<th>CEO</th>
<th>PB</th>
<th>CEO</th>
<th>CEO</th>
</tr>
</thead>
<tbody>
<tr>
<td>Filling and earth moving of &lt;10 cubic yards</td>
<td>no</td>
<td>CEO</td>
<td>CEO</td>
<td>CEO</td>
<td>CEO</td>
<td>CEO</td>
</tr>
</tbody>
</table>

31. Filling and earth moving of >10 cubic yards

<table>
<thead>
<tr>
<th>Activity</th>
<th>CEO</th>
<th>PB</th>
<th>CEO</th>
<th>PB</th>
<th>CEO</th>
<th>CEO</th>
</tr>
</thead>
<tbody>
<tr>
<td>Filling and earth moving of &gt;10 cubic yards</td>
<td>no</td>
<td>no</td>
<td>PB</td>
<td>PB</td>
<td>PB</td>
<td>CEO</td>
</tr>
</tbody>
</table>

32. Signs

<table>
<thead>
<tr>
<th>Activity</th>
<th>CEO</th>
<th>PB</th>
<th>CEO</th>
<th>PB</th>
<th>CEO</th>
<th>CEO</th>
</tr>
</thead>
<tbody>
<tr>
<td>Signs</td>
<td>no</td>
<td>yes</td>
<td>yes</td>
<td>yes</td>
<td>yes</td>
<td>yes</td>
</tr>
</tbody>
</table>

33. Uses similar to allowed uses

<table>
<thead>
<tr>
<th>Activity</th>
<th>CEO</th>
<th>PB</th>
<th>CEO</th>
<th>PB</th>
<th>CEO</th>
<th>CEO</th>
</tr>
</thead>
<tbody>
<tr>
<td>Uses similar to allowed uses</td>
<td>CEO</td>
<td>CEO</td>
<td>CEO</td>
<td>CEO</td>
<td>CEO</td>
<td>CEO</td>
</tr>
</tbody>
</table>

34. Uses similar to uses requiring a CEO permit

<table>
<thead>
<tr>
<th>Activity</th>
<th>CEO</th>
<th>PB</th>
<th>CEO</th>
<th>PB</th>
<th>CEO</th>
<th>CEO</th>
</tr>
</thead>
<tbody>
<tr>
<td>Uses similar to uses requiring a CEO permit</td>
<td>CEO</td>
<td>CEO</td>
<td>CEO</td>
<td>CEO</td>
<td>CEO</td>
<td>CEO</td>
</tr>
</tbody>
</table>

35. Uses similar to uses requiring a PB permit

<table>
<thead>
<tr>
<th>Activity</th>
<th>CEO</th>
<th>PB</th>
<th>CEO</th>
<th>PB</th>
<th>CEO</th>
<th>CEO</th>
</tr>
</thead>
<tbody>
<tr>
<td>Uses similar to uses requiring a PB permit</td>
<td>PB</td>
<td>PB</td>
<td>PB</td>
<td>PB</td>
<td>PB</td>
<td>PB</td>
</tr>
</tbody>
</table>
1 In RP not permitted within 75 feet of the normal high-water line of great ponds, except to remove safety hazards.
2 Requires permit from the Code Enforcement Officer if more than 100 square feet of surface area, in total, is disturbed.
3 Provided there is no adverse impact on lakes and ponds.
4 Provided that a variance from the setback requirement is obtained from the Board of Appeals.
5 See further restrictions in Section 15(L)(2)
6 When the proposed activity is to occur on any of the following site conditions, use restrictions and permit requirements designated in this table for the Resource Protection (RP) district and Section 15, Paragraph X., Site Limitations shall apply: (a) Within the 100 year flood plain (b) Areas with sustained slopes of 20% or greater, (c) Within an area supporting wetland vegetation and hydric soils. See also Section 15, Paragraph X. Site Limitations, for further explanation.
7 Except to provide access to permitted uses within the district, or where no reasonable alternative route or location is available outside the RP, WP or WC area, in which case a permit is required from the PB.
8 Construction of an accessory structure that is a building occupying less than 100 square feet of land that is permitted by the CEO may be required to be relocated or removed in the future if it is found that the land occupied by the building is needed for a replacement wastewater system pursuant to Section 15.B.1 and Section 16.C.4.b. or pursuant to an enforcement action.
9 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 Title 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
D. Any construction or alteration of any permanent structure.
WP: WETLAND PRESERVATION
WC: WETLAND CONSERVATION
SP: STREAM PROTECTION
RP: RESOURCE PROTECTION
LR: LIMITED RESIDENTIAL
LC: LIMITED COMMERCIAL
Shoreland Zoning Ordinance for the Municipality of Liberty, Maine

Section 1. Purposes
The purposes of this Ordinance are to further the maintenance of safe and healthful conditions; to prevent and control water pollution; to protect fish spawning grounds, aquatic life, bird and other wildlife habitat; to protect buildings and lands from flooding and accelerated erosion; to protect archaeological and historic resources; to protect 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.

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

Section 3. Applicability
This Ordinance applies to

• land areas within 250 feet, horizontal distance, of the normal high-water line of any great pond or river,

• all forested and freshwater wetlands that fall within the definition of a wetland as defined in Section 17,

• land areas within 250 feet as depicted on the official shoreland zoning map, horizontal distance, of the upland edge of a freshwater wetland which is 10 acres or more in size,

• 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 below the normal high-water line of a water body or within a wetland.

NOTE: The proper understanding of this Ordinance is dependant on a thorough understanding of the definitions found in Section 17.

Section 4. Effective Date
Effective Date of Ordinance and Ordinance Amendments: This Ordinance, which was adopted by the municipal legislative body on March 25, 2017, repeals and replaces the ordinance adopted on March 28 2009, as amended, when approved by the Commissioner of the Department of Environmental Protection. A certified copy of
the Ordinance attested and signed by the Municipal Clerk, shall be forwarded to the Commissioner for approval. If the Commissioner fails to act on this Ordinance within forty-five (45) days of his/her receipt of the Ordinance, it shall be automatically approved.

Any application for a permit submitted to the Planning Board of the Town of Liberty within the forty-five (45) day period shall be governed by the terms of this Ordinance if the Ordinance is approved by the Commissioner.

**Section 5. Availability**

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

**Section 6. Severability**

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

**Section 7. Conflicts with Other Ordinances**

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

**Section 8. Amendments**

This Ordinance may be amended by majority vote of the townspeople attending an official town meeting. 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.

**Section 9. Districts and Zoning Map**

A. **Official Shoreland Zoning Map**

The areas to which this Ordinance is applicable are hereby divided into the following districts as shown on the Official Shoreland Zoning Map, which is made a part of this Ordinance:
a. Wetland Preservation (WP)
b. Resource Protection (RP)
c. Limited Residential (LR)
d. Limited Commercial (LC)
e. Stream Protection (SP)
f. Wetland Conservation (WC)
g. General Development I
h. General Development II
i. Commercial Fisheries/Maritime Activities

B. Scale of Map
The Official Shoreland Zoning Map has been drawn at a scale of not less than 1 inch = 2,000 feet. District boundaries shall be clearly delineated and a legend indicating the symbols for each district shall be placed on the map.

C. Certification of Official Shoreland Zoning Map
The Official Shoreland Zoning Map, certified by the attested signature of the Municipal Clerk, is located in the municipal office.

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

Section 10. Interpretation of District Boundaries
The depiction of the Shoreland Districts on the Shoreland Zoning Map are merely illustrative of their general location. The upland boundaries of these districts shall be determined by measurement of the horizontal distance from the normal high-water mark of the water body or the upland edge of wetland vegetation, regardless of the location of the boundary shown on the map. Boundaries between Districts shall follow property lines or lines drawn perpendicular to the shoreline. Where uncertainty exists as to the exact location of district boundary lines, the Planning Board shall determine the location, in consultation with the Code Enforcement Officer and others as deemed appropriate by the Planning Board. In cases involving the determination of the upland edge of a wetland, the Planning Board shall consider evidence presented from an on-site evaluation conducted by a qualified wetlands or soils scientist in making its determination. The Planning Board shall record, in writing, the basis for its determination. The decision of the Planning Board may be appealed to the Board of Appeals, pursuant to Section 16.G of this Ordinance.
Section 11. Land Use Requirements

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

Section 12. Non-conformance

A. Purpose

It is the intent of this Ordinance to promote land use conformities, except that non-conforming conditions that existed before the effective date of this Ordinance 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.

NOTE: See Section 17 for the definitions of non-conforming structures, non-conforming uses and non-conforming lots.

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, 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.

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

(b) Notwithstanding paragraph (a.), above, if a legally existing nonconforming principal structure is entirely located less than 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 smaller. 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 the water body, tributary stream, or wetland setback requirements may be expanded or altered as follows, as long as other applicable municipal land use standards are met and the expansion is not prohibited by Section 12(C)(1) or Section 12(C)(1)(a), above.

(i) For structures located less than 75 feet from the normal high-water line of a water body, tributary stream, or upland edge of a wetland, the maximum combined total footprint for all structures may not be expanded to a size greater than 1,000 square feet or 30% larger than the footprint that existed on January 1, 1989, whichever is smaller. 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 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 smaller. 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 from the normal high-water line of a water body, tributary stream, or upland edge of a wetland must meet the footprint and height limits in Section 12(C)(1)(b)(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 the 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 smaller. 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 the footprint and height limits in Section 12(C)(1)(b)(i) and Section 12(C)(1)(c)(i), above.

(d) No structure which is less than the required setback from the normal high-water line of a water body, tributary stream, or upland edge of a wetland shall be expanded toward the water body, tributary stream, or wetland.

(e) 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.

a. 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.

b. 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)(4) above.

E. Non-conforming Lots

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

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

If two or more principal uses or structures existed on a single lot of record on the effective date of this ordinance, each may be sold on a separate lot provided that the above referenced law and rules are complied with. When such lots are divided each lot thus created must be as conforming as possible to the dimensional requirements of this Ordinance.
3. Contiguous Lots - Vacant or Partially Built: If two or more contiguous lots or parcels are in single or joint ownership of record at the time of or since adoption or amendment of this Ordinance, and 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 March 28, 1992 and recorded in the registry of deeds if the lot 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 43,560 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 43,560 square feet of lot area.

4. Lots in the same ownership separated by a right of way or town road: Any land in the same ownership and being separated by a right of way or town road may not be conveyed separately unless that land contains two acres or more with each lot having at least one acre and each lot meeting the land use requirements of this Ordinance, except if a principal structure exists on each lot and each lot can comply with the State Minimum Lot Size Law and the State of Maine Subsurface Wastewater Disposal Rules, or if each lot was recorded as a separate lot prior to September 23, 1971.

Section 13. Establishment of Districts

A. Resource Protection District (RP)

(1) 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 includes areas within 250 feet, horizontal distance, of the upland edge of freshwater wetlands, and wetlands associated with great ponds and rivers, which have been 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) as shown on the official shoreland zoning map and that are depicted on a Geographic Information System (GIS) data layer. For the purposes of this paragraph "wetlands associated with great ponds and rivers" shall mean areas characterized by non-forested wetland vegetation and hydric soils that are contiguous with a great pond or river, and have a surface elevation at or below the water level of the great pond or river during the period of normal high water. "Wetlands
associated with great ponds or rivers" are considered to be part of that great pond or river.

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

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

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

**NOTE:** these usually consist of forested wetlands abutting waterbodies and non-forested wetlands

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

(6) Areas designated by federal, state or municipal governments as natural areas of significance to be protected from development.

(7) Other significant areas which should be included in this district to fulfill the purposes of this Ordinance, such as, but not limited to, existing public access areas and certain significant archaeological and historic sites deserving of long-term protection as determined by the municipality after consultation with the Maine Historic Preservation Commission.

**B. Limited Residential District (LR)**

The Limited Residential District includes those areas suitable for residential and recreational development. It includes areas other than those in the Wetland Preservation District, Wetland Conservation District, Resource Protection District, or Stream Protection District, and areas which are used less intensively than those in the Limited Commercial District. Development is allowed except in areas which lie within the 100 year flood hazard area, or which are characterized by slopes of 20% or greater, or which are comprised of hydric soils supporting wetland vegetation, as described further in Section 15, Land Use Standards, Paragraph X. Site Limitations.
C. Limited Commercial District (LC)
The Limited Commercial District allows mixed, light commercial and residential uses. Industrial uses are prohibited. Like the Limited Residential District, development must meet certain location criteria related to slopes, flood hazards, and soils. This district includes an area on the west side of Route 3 extending from approximately 2500 feet south of the Crie Hill Road to approximately 2000 feet south of the Marshall Shore Road.

D. General Development I District Not Allowed

E. General Development II District Not Allowed

F. Commercial Fisheries/Maritime Activities District Not Allowed

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

The Stream Protection District includes the stream connecting Cargill Pond and Lake St. George; a section of the St. George river from two hundred and fifty (250) feet below the outlet dam at Route 220 to a point two hundred and fifty (250) feet upstream of the upland edge of the wetlands adjacent to the river near the inlet to Steven’s Pond; and two segments of Fish Brook: one west of Route 220 extending approximately 2000 feet upstream from Route 220, and one flowing east and south out of the Fish Brook wetland preservation district (refer to the official shoreland zoning map for exact location).

H. Wetland Preservation District (WP)
The Wetland Preservation District includes non-forested wetlands identified by the Maine Department of Inland Fisheries and Wildlife to be of moderate or high value as waterfowl and wading bird habitat, which are 10 acres or more in size. These areas are to be kept in a natural, undisturbed state, with uses restricted primarily to hunting, fishing and hiking. Removal or alteration of soil or vegetation is prohibited. These areas shall be defined generally, subject to field assessment as to the exact boundaries, to include the Palustrine Emergent (PEM)
and Palustrine Shrub Scrub (PSS) wetlands associated with the following complexes, as shown on the official shoreland zoning map:

a. Colby Pond and surrounding non-forested wetland area;
b. Fish Brook wetland area east of South Liberty, and located generally south of the Fishtown and Plains Roads;
c. Stevens Pond: two adjacent non-forested wetlands at the southern end; and a shallow marshy area at the north end.
d. All other as defined in MDIF&W map included in Appendix A

**NOTE:** Not all wetlands have been evaluated; future evaluations may identify additional wetlands of high or moderate value for waterfowl and wading bird habitat.

**I. Wetland Conservation District (WC)**

The Wetland Conservation District includes all wetlands both forested and non-forested, identified by the current U.S. Fish and Wildlife National Wetlands Inventory; excepting areas rated as moderate or high value for waterfowl and wading bird by MDIF+W which are included in the Wetland Preservation District described above in paragraph H.

The Wetland Conservation District, like the Resource Protection District, prohibits structural development, mineral extraction, and road construction, but allows timber harvesting, agriculture, aquaculture and individual private campsites provided there is no adverse hydrologic or water quality impact on downstream lakes or ponds.

**Section 14. Table of Land Uses**

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

**NOTE:** This Table has been placed at the beginning of this ordinance, preceding Section 1

**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
Section 15. Land Use Standards

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

A. Minimum Lot Standards

1. Use | Minimum Lot Area (sq. ft.) | Minimum Shore Frontage (ft.)
--- | --- | ---
Residential per dwelling unit | 43,560 | 200
Governmental, Institutional, Commercial, or Industrial per principal structure | 60,000 | 300
Public and Private Recreational Facilities | 43,560 | 200

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

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

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

5. If more than one residential dwelling unit or more than one 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. Setback distances: All new principal and accessory structures shall be set back at least

   (a) one hundred (100) feet, horizontal distance, from the normal high-water line of great ponds classified GPA and rivers that flow to great ponds classified GPA,

   (b) 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.

   (c) two hundred fifty (250) feet, horizontal distance in the Resource Protection District 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.

**NOTE**: The Natural Resources Protection Act, 38 M.S.R.A. sections 480-A through 480-HH, requires the Department of Environmental Protection to designate areas of "significant wildlife habitat".

Permitting under the Natural Resources Protection Act for activities adjacent to significant wildlife habitat areas may require greater setbacks. Contact your local Department of Environmental Protection office to see if additional permitting is required.

In addition:

   (d) 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.

   (e) The Planning Board may increase the required setback of a proposed structure, as a condition to permit approval, if necessary to accomplish the purposes of this ordinance. Instances where a greater setback may be appropriate include, but not be limited to, areas of steep slope; shallow or erodible soils; or where an adequate vegetative buffer does not exist.

   (f) 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.

(g) A tributary stream may be perennial or intermittent. Where a tributary stream is present within the shoreland zone, setback standards from that tributary stream are applicable.

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 floodplain soils. In those municipalities that participate in the National Flood Insurance Program and have adopted the April 2005 version, or later version, of the Floodplain Management Ordinance, accessory structures may be placed in accordance with the standards of the current Town of Liberty Flood Plain ordinance and need not meet the elevation requirements of this paragraph.

4. The total footprint area of all structures, parking lots and other non-vegetated surfaces, within the shoreland zone shall not exceed twenty (20) percent of the lot or a portion thereof, located within the shoreland zone, including land area previously developed. 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. In the Shoreland Zone Retaining walls are to be permitted for the purposes of erosion control and ground stabilization only. Such walls must meet all of the following conditions

   (a) The site has been previously altered and an effective vegetated buffer does not exist; or, a natural disturbance has damaged the existing vegetative buffer and has caused an erosion problem that cannot be stabilized vegetatively;

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

(d) Retaining walls are located outside of the 100-year floodplain on rivers, streams, 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.

(e) The area behind the wall is revegetated in such a manner as to restore a well-functioning vegetative buffer and provide maximum stabilization of the soils with shrubs and trees in accordance with the criteria defined in section 15.B.5(f); however, where the area behind the wall was an established lawn or field, the area may be revegetated with grass, shrubs or trees, or a combination thereof. In any case, no further structural development will occur within the setback area, including patios and decks; and

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

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

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

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

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

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

Note: A permit has been acquired from the Maine Department of Environmental Protection if the wall and associated soil disturbance occurs within 75 feet, horizontal distance, of a waterbody or tributary stream, pursuant to the Natural Resource Protection Act.

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

C. Piers, Docks, Wharfs, Bridges and Other Structures and Uses Extending Over or 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. 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. All docks and floats are seasonal (except for grandfathered permanent docks on Stevens and Cargill Ponds) and may be placed in water at ice-out and must be removed by the Monday after Columbus Day weekend. A Special Extension Permit extending removal date to the Sunday after Thanksgiving may be obtained from the Code Enforcement Officer. Docks left in place, after specified date, or adrift, may be removed by the Town and a fine of $300 will be assessed to the owner.

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.

11. 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: A permit pursuant to the Natural Resource Protection Act is required from the Department of Environmental Protection for Shoreline Stabilization activities.

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.
3. Recreational vehicles or tents shall not be sited at a campground for more than seven (7) months in a year. This provision does not apply to recreational vehicles or similar shelters which are placed in a designated storage area on a campground.

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 forty thousand (40,000) 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 high-water line of a great pond classified GPA or river flowing to a great pond classified GPA, and seventy-five (75) feet, horizontal distance, from the normal high-water line of other water bodies, tributary streams, or the upland edge of a wetland.

4. 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 State of Maine Subsurface Wastewater Disposal Rules.

F. Commercial and Industrial Uses

The following new commercial and industrial uses are prohibited within the shoreland zone adjacent to great ponds classified GPA, and rivers and streams which flow to great ponds classified GPA:
1. Auto washing facilities
2. Auto or other vehicle service and/or repair operations, including body shops
3. Chemical and bacteriological laboratories
4. Storage of chemicals, including herbicides, pesticides or fertilizers other than amounts normally associated with individual households or farms

**NOTE:** 22 M.R.S.A. section 1471-U requires municipal ordinances that apply to pesticide storage, distribution or use be filed with the Maine Board of Pesticides Control, 28 State House Station, Augusta, ME 04333. If a municipality’s ordinance is more inclusive or restrictive than these Guidelines, as it pertains to pesticides, a copy of the ordinance must be filed with the Board of Pesticides Control.

5. Commercial painting, wood preserving, and furniture stripping
6. Dry cleaning establishments
7. Electronic circuit assembly
8. Laundromats, unless connected to a sanitary sewer
9. Metal plating, finishing, or polishing
10. Petroleum or petroleum product storage and/or sale except storage on same property as use occurs and except for storage and sales associated with marinas
11. Photographic processing
12. Printing

**G. Parking Areas**

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

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

3. In determining the appropriate size of proposed parking facilities, the following shall apply:

   (a) Typical parking space: Approximately ten (10) feet wide and twenty (20) feet long, except that parking spaces for a vehicle and boat trailer shall be forty (40) feet long.

   (b) Internal travel aisles: Approximately twenty (20) feet wide.
H. Roads and Driveways

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

1. Roads and driveways shall be set back at least one-hundred (100) feet, horizontal distance, from the normal high-water line of a great pond classified GPA or a river that flows to a great pond classified GPA, and seventy-five (75) feet, horizontal distance, from the normal high-water line of other water bodies, tributary steams, or the upland edge of a wetland unless no reasonable alternative exists as determined by the Planning Board. If no other reasonable alternative exists, except as provided under H.3 below, 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, Wetland Conservation and Wetland 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 or in adjoining landlocked districts. 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. Planning Board permitting for roads and driveways in a Resource Protection, Wetland Conservation and Wetland Protection District shall be
contingent upon conformance with applicable state and federal wetland alteration permitting regulations.

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. Except as provided in H.3 for roads and driveways allowed in Resource Protection, Wetland Conservation and Wetland Protection Districts in order to prevent road and driveway surface drainage from directly entering water bodies, tributary streams or wetlands, roads and driveways shall be designed, constructed, and maintained to empty onto an unscarified buffer strip at least (50) feet plus two times the average slope, in width between the outflow point of the ditch or culvert and the normal high-water line of a water body, tributary stream, or upland edge of a wetland. Surface drainage which is directed to an unscarified buffer strip shall be diffused or spread out to promote infiltration of the runoff and to minimize channelized flow of the drainage through the buffer strip.

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

   (a) Ditch relief culverts, drainage dips and associated water turnouts shall be spaced along the road or driveway at intervals no greater than indicated in the following table:

<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 (10) percent or less.

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

   (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. 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 stormwaters.

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, coastal 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* (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 Rules, among other requirements, include:

   a. The minimum setback for new subsurface sewage disposal systems, excluding fill extensions, shall be no less than one hundred (100) horizontal feet from the normal high-water line of a perennial water body. The minimum setback distances from water bodies for new subsurface sewage disposal systems may not be reduced by variance.

   b. Replacement systems shall meet the standards for replacement systems as contained in the Rules.

**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)(3) below.

2. No part of any extraction operation, including drainage and runoff control features shall be permitted within one hundred (100) feet, horizontal distance, of the normal high-water line of a great pond classified GPA or a river flowing to a great pond classified GPA, and within seventy-five (75) feet, horizontal distance, of the normal high-water line of any other water body, tributary stream, or the upland edge of a wetland. Extraction operations shall not be permitted within seventy-five (75) (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 or disposal of manure shall be 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 a river flowing to a great pond classified GPA, or within seventy-five (75) feet horizontal distance, of other water bodies, tributary streams, or wetlands. All manure storage areas within the shoreland zone must be constructed or modified such that the facility produces no discharge of effluent or contaminated storm water.

3. Agricultural activities involving tillage of soil greater than forty thousand (40,000) square feet in surface area within the shoreland zone shall require a Conservation Plan to be filed with the Planning Board. Non-conformance with the provisions of said plan shall be considered to be a violation of this Ordinance.

**NOTE:** Assistance in preparing a Conservation Plan may be available through the local Soil and Water Conservation District office.

4. There shall be no new tilling of soil within one-hundred (100) feet, horizontal distance, of the normal high-water line of a great pond classified GPA; within seventy-five (75) feet, horizontal distance, from other water bodies; 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 freshwater wetlands. Livestock grazing associated with ongoing farm activities, and which are not in conformance with the above setback provisions may continue, provided that such grazing is conducted in accordance with a Conservation Plan that has been filed with the planning board.

**NOTE:** 7 M.R.S.A. section 155 requires a municipality to provide the Commissioner of Agriculture, Conservation and Forestry with a copy of any proposed ordinance that impacts farm operations. The law further requires the Commissioner to review the proposed ordinance and advise the municipality if the proposed ordinance would restrict or prohibit the use of best management practices. A copy of a shoreland zoning ordinance that regulates no more restrictively than contained in these Guidelines need not be provided to the Commissioner of Agriculture, Food and Rural Resources.
O. Timber Harvesting — Statewide Standards [Effective on effective date established in Section 4(B)]

(1) **Shoreline integrity and sedimentation.** Persons conducting timber harvesting and related activities must take reasonable measures to avoid the disruption of shoreline integrity, the occurrence of sedimentation of water, and the disturbance of water body and tributary stream banks, water body and tributary stream channels, shorelines, and soil lying within water bodies, tributary streams and wetlands. If, despite such precautions, the disruption of shoreline integrity, sedimentation of water, or the disturbance of water body and tributary stream banks, water body and tributary stream channels, shorelines, and soil lying within water bodies, tributary streams and wetlands occurs, such conditions must be corrected.

(2) **Slash treatment.** Timber harvesting and related activities shall be conducted such that slash or debris is not left below the normal high-water line of any water body or tributary stream, or the upland edge of a wetland. Section 15(0)(2) does not apply to minor, incidental amounts of slash that result from timber harvesting and related activities otherwise conducted in compliance with this section.

(a) Slash actively used to protect soil from disturbance by equipment or to stabilize exposed soil, may be left in place, provided that no part thereof extends more than 4 feet above the ground.

(b) Adjacent to great ponds, rivers and wetlands:

(i) No accumulation of slash shall be left within 50 feet, horizontal distance, of the normal high-water line or upland edge of a wetland; and

(ii) Between 50 feet and 250 feet, horizontal distance, of the normal high-water line or upland edge of a wetland, all slash larger than 3 inches in diameter must be disposed of in such a manner that no part thereof extends more than 4 feet above the ground.

(3) Timber harvesting and related activities must leave adequate tree cover and shall be conducted so that a well-distributed stand of trees is retained. This requirement may be satisfied by following one of the following three options:

(a) **Option 1 (40% volume removal),** as follows:

(i) Harvesting of no more than 40 percent of the total volume on each acre of trees 4.5 inches DBH or greater in any 10 year period is allowed. Volume may be considered to be equivalent to basal area;
(ii) A well-distributed stand of trees which is windfirm, and other vegetation including existing ground cover, must be maintained; and,

(iii) Within 75 feet, horizontal distance, of the normal high-water line of rivers, streams, and great ponds, and within 75 feet, horizontal distance, of the upland edge of a freshwater wetlands, there must be no cleared openings. At distances greater than 75 feet, horizontal distance, of the normal high-water line of a river or great pond or upland edge of a wetland, timber harvesting and related activities must not create single cleared openings greater than 14,000 square feet in the forest canopy. Where such openings exceed 10,000 square feet, they must be at least 100 feet, horizontal distance, apart. Such cleared openings will be included in the calculation of total volume removal. Volume may be considered equivalent to basal area.

(b) **Option 2 (60 square foot basal area retention)**, as follows:

(i) The residual stand must contain an average basal area of at least 60 square feet per acre of woody vegetation greater than or equal to 1.0 inch DBH, of which 40 square feet per acre must be greater than or equal to 4.5 inches DBH;

(ii) A well-distributed stand of trees which is windfirm, and other vegetation including existing ground cover, must be maintained; and,

(iii) Within 75 feet, horizontal distance, of the normal high-water line of water bodies and within 75 feet, horizontal distance, of the upland edge of wetlands, there must be no cleared openings. At distances greater than 75 feet, horizontal distance, of the normal high-water line of a river or great pond, or upland edge of a wetland, timber harvesting and related activities must not create single cleared openings greater than 14,000 square feet in the forest canopy. Where such openings exceed 10,000 square feet, they must be at least 100 feet, horizontal distance, apart. Such cleared openings will be included in the calculation of the average basal area. Volume may be considered equivalent to basal area.

(c) **Option 3 (Outcome based)**, which requires: An alternative method proposed in an application, signed by a Licensed Forester or certified wildlife professional, submitted by the landowner or designated agent to the State of Maine Department of Conservation’s Bureau of Forestry (Bureau) for review and approval, which provides equal or better protection of the shoreland area than this rule.

Landowners must designate on the Forest Operations Notification form required by 12 M.R.S.A. chapter 805, subchapter 5 which option they choose to use. If landowners
choose Option 1 or Option 2, compliance will be determined solely on the criteria for the option chosen. If landowners choose Option 3, timber harvesting and related activities may not begin until the Bureau has approved the alternative method.

The Bureau may verify that adequate tree cover and a well-distributed stand of trees is retained through a field procedure that uses sample plots that are located randomly or systematically to provide a fair representation of the harvest area.

(4) Skid trails, yards, and equipment operation. This requirement applies to the construction, maintenance, and use of skid trails and yards in shoreland areas.

(a) Equipment used in timber harvesting and related activities shall not use river, stream or tributary stream channels as travel routes except when surface waters are frozen and snow covered, and the activity will not result in any ground disturbance.

(b) Skid trails and yards must be designed and constructed to prevent sediment and concentrated water runoff from entering a water body, tributary stream, or wetland. Upon termination of their use, skid trails and yards must be stabilized.

(c) Setbacks

(i) Equipment must be operated to avoid the exposure of mineral soil within 25 feet, horizontal distance, of any water body, tributary stream, or wetland. On slopes of 10 percent or greater, the setback for equipment operation must be increased by 20 feet, horizontal distance, plus an additional 10 feet, horizontal distance, for each 5 percent increase in slope above 10 percent. Where slopes fall away from the resource, no increase in the 25-foot setback is required.

(ii) Where such setbacks are impracticable, appropriate techniques shall be used to avoid sedimentation of the water body, tributary stream or wetland. Such techniques may include the installation of sump holes or settling basins, and/or the effective use of additional ditch relief culverts and ditch water turnouts placed to avoid sedimentation of the water body, tributary stream, or wetland. If, despite such precautions, sedimentation or the disruption of shoreline integrity occurs, such conditions must be corrected.

(5) Land Management Roads. Land management roads, including approaches to crossings of water bodies, tributary stream channels, and freshwater wetlands, ditches and other related structures, must be designed, constructed, and maintained to prevent sediment and concentrated water runoff from directly entering the water body, tributary stream or wetland. Surface water on or adjacent to water crossing approaches must be
diverted through vegetative filter strips to avoid sedimentation of the watercourse or wetland. Because roadside ditches may not extend to the resource being crossed, vegetative filter strips must be established in accordance with the setback requirements in Section 15(0)(7) of this rule.

(a) Land management roads and associated ditches, excavation, and fill must be set back at least:

(i) 100 feet, horizontal distance, from the normal high-water line of a great pond, river or freshwater wetland;

(ii) 50 feet, horizontal distance, from the normal high-water line of streams; and

(iii) 25 feet, horizontal distance, from the normal high-water line of tributary streams

(b) The minimum 100 foot setback specified in Section 15(0)(5)(a)(i) above may be reduced to no less than 50 feet, horizontal distance, and the 50 foot setback specified in Section 15(0)(5)(a)(ii) above may be reduced to no less than 25 feet, horizontal distance, if, prior to construction, the landowner or the landowner’s designated agent demonstrates to the Planning Board’s satisfaction that no reasonable alternative exists and that appropriate techniques will be used to prevent sedimentation of the water body, tributary stream, or wetland. Such techniques may include, but are not limited to, the installation of settling basins, and/or the effective use of additional ditch relief culverts and turnouts placed to avoid sedimentation of the water body, tributary stream or wetland. If, despite such precautions, sedimentation or the disruption of shoreline integrity occurs, such conditions must be corrected.

(c) On slopes of 10 percent or greater, the land management road setback must be increased by at least 20 feet, horizontal distance, plus an additional 10 feet, horizontal distance, for each 5 percent increase in slope above 10 percent.

(d) New land management roads are not allowed within the shoreland area along Significant River Segments as identified in 38 M.R.S.A. section 437, nor in a Resource Protection District, unless, prior to construction, the landowner or the landowner’s designated agent makes a clear demonstration to the Planning Board’s satisfaction that no reasonable alternative route exists outside the shoreland zone, and that the new road must be set back as far as practicable from the normal high-water line and screened from the river by existing vegetation.
(e) Ditches, culverts, bridges, dips, water turnouts and other water control installations associated with roads must be maintained on a regular basis to assure effective functioning. Drainage structures shall deliver a dispersed flow of water into an unscarified filter strip no less than the width indicated in the setback requirements in Section 15(0)(7). Where such a filter strip is impracticable, appropriate techniques shall be used to avoid sedimentation of the water body, tributary stream, or wetland. Such techniques may include the installation of sump holes or settling basins, and/or the effective use of additional ditch relief culverts and ditch water turnouts placed to avoid sedimentation of the water body, tributary stream, or wetland. If, despite such precautions, sedimentation or the disruption of shoreline integrity occurs, such conditions must be corrected.

(f) Road closeout and discontinuance. Maintenance of the water control installations required in Section 15(0)(5)(e) must continue until use of the road is discontinued and the road is put to bed by effective installation of water bars or other adequate road drainage structures at appropriate intervals, constructed to avoid surface water flowing over or under the water bar, and extending a sufficient distance beyond the traveled way so that water does not reenter the road surface.

(g) Upgrading existing roads. Extension or enlargement of presently existing roads must conform to the provisions of Section 15(0). Any nonconforming existing road may continue to exist and to be maintained, as long as the nonconforming conditions are not made more nonconforming.

(h) Exception. Extension or enlargement of presently existing roads need not conform to the setback requirements of Section 15(0)(5)(a) if, prior to extension or enlargement, the landowner or the landowner’s designated agent demonstrates to the Planning Board’s satisfaction that no reasonable alternative exists and that appropriate techniques will be used to prevent sedimentation of the water body, tributary stream, or wetland. Such techniques may include, but are not limited to, the installation of settling basins, and/or the effective use of additional ditch relief culverts and turnouts placed to avoid sedimentation of the water body, tributary stream, or wetland. If, despite such precautions, sedimentation or the disruption of shoreline integrity occurs, such conditions must be corrected.

(i) Additional measures. In addition to the foregoing minimum requirements, persons undertaking construction and
maintenance of roads and river, stream and tributary stream crossings must take reasonable measures to avoid sedimentation of surface waters.

(6) **Crossings of waterbodies.** Crossings of rivers, streams, and tributary streams must allow for fish passage at all times of the year, must not impound water, and must allow for the maintenance of normal flows.

(a) **Determination of flow.** Provided they are properly applied and used for the circumstances for which they are designed, methods including but not limited to the following are acceptable as a means of calculating the 10 year and 25 year frequency water flows and thereby determining water crossing sizes as required in Section 15(0): The United States Geological Survey (USGS) Methods; specifically: Hodgkins, G. 1999. Estimating the Magnitude of Peak Flows for Streams in Maine for Selected Recurrence Intervals. U.S. Geological Survey. Water Resources Investigations Report 99-4008. 45 pp.

(b) **Upgrading existing water crossings.** Extension or enlargement of presently existing water crossings must conform to the provisions of Section 15(0). Any nonconforming existing water crossing may continue to exist and be maintained, as long as the nonconforming conditions are not made more nonconforming; however, any maintenance or repair work done below the normal high-water line must conform to the provisions of Section 15(0).

(c) **Other Agency Permits.** Any timber harvesting and related activities involving the design, construction, and maintenance of crossings on waterbodies other than a river, stream or tributary stream may require a permit from the Land Use Regulation Commission, the Department of Environmental Protection, or the US Army Corps of Engineers.

(d) Any timber harvesting and related activities involving the design, construction, and maintenance of crossings of freshwater wetlands identified by the Department of Inland Fisheries and Wildlife as essential wildlife habitat require prior consultation with the Department of Inland Fisheries and Wildlife.

(e) **Notice to Bureau of Forestry.** Written notice of all water crossing construction maintenance, alteration and replacement activities in shoreland areas must be given to the Bureau prior to the commencement of such activities. Such notice must contain all information required by the Bureau, including:

(i) a map showing the location of all proposed permanent crossings;
(ii) the GPS location of all proposed permanent crossings;

(iii) for any temporary or permanent crossing that requires a permit from state or federal agencies, a copy of the approved permit or permits; and

(iv) a statement signed by the responsible party that all temporary and permanent crossings will be constructed, maintained, and closed out in accordance with the requirements of this Section.

(f) Water crossing standards. All crossings of rivers require a bridge or culvert sized according to the requirements of Section 15(0)(6)(g)) below. Streams and tributary streams may be crossed using temporary structures that are not bridges or culverts provided:

(i) concentrated water runoff does not enter the stream or tributary stream;

(ii) sedimentation of surface waters is reasonably avoided;

(iii) there is no substantial disturbance of the bank, or stream or tributary stream channel;

(iv) fish passage is not impeded; and

(v) water flow is not unreasonably impeded.

Subject to Section 15(0)(6)(f)(i-v) above, skid trail crossings of streams and tributary streams when channels of such streams and tributary streams are frozen and snow-covered or are composed of a hard surface which will not be eroded or otherwise damaged are not required to use permanent or temporary structures.

(g) Bridge and Culvert Sizing. For crossings of river, stream and tributary stream channels with a bridge or culvert, the following requirements apply:

(i) Bridges and culverts must be installed and maintained to provide an opening sufficient in size and structure to accommodate 25 year frequency water flows or with a cross-sectional area at least equal to 3 times the cross-sectional area of the river, stream, or tributary stream channel.

(ii) Temporary bridge and culvert sizes may be smaller than provided in Section 15(0)(6)(g)(i) if techniques are effectively employed such that in the event of culvert or bridge failure, the natural course of water flow is maintained and sedimentation of the water body or tributary stream is avoided. Such crossing structures must be at least as wide as the channel and placed above the normal high-water line. Techniques may include, but are
not limited to, the effective use of any, a combination of, or all of the following:
1. use of temporary skidder bridges;
2. removing culverts prior to the onset of frozen ground conditions;
3. using water bars in conjunction with culverts;
4. using road dips in conjunction with culverts.

(iii) Culverts utilized in river, stream and tributary stream crossings must:
1. be installed at or below river, stream or tributary stream bed elevation;
2. be seated on firm ground;
3. have soil compacted at least halfway up the side of the culvert;
4. be covered by soil to a minimum depth of 1 foot or according to the culvert manufacturer's specifications, whichever is greater; and
5. have a headwall at the inlet end which is adequately stabilized by riprap or other suitable means to reasonably avoid erosion of material around the culvert.

(iv) River, stream and tributary stream crossings allowed under Section 15(0), but located in flood hazard areas (i.e. A zones) as identified on a community's Flood Insurance Rate Maps (FIRM) or Flood Hazard Boundary Maps (FHBM), must be designed and constructed under the stricter standards contained in that community's National Flood Insurance Program (NFIP). For example, a water crossing may be required to pass a 100-year flood event.

(v) Exception. Skid trail crossings of tributary streams within shoreland areas and wetlands adjacent to such streams may be undertaken in a manner not in conformity with the requirements of the foregoing subsections provided persons conducting such activities take reasonable measures to avoid the disruption of shoreline integrity, the occurrence of sedimentation of water, and the disturbance of stream banks, stream channels, shorelines, and soil lying within ponds and wetlands. If, despite such precautions, the disruption of shoreline integrity, sedimentation of water, or the disturbance of stream banks, stream channels, shorelines, and soil lying
within ponds and wetlands occurs, such conditions must be corrected.

(h) **Skid trail closeout.** Upon completion of timber harvesting and related activities, or upon the expiration of a Forest Operations Notification, whichever is earlier, the following requirements apply:

(i) Bridges and culverts installed for river, stream and tributary stream crossings by skid trails must either be removed and areas of exposed soil stabilized, or upgraded to comply with the closeout standards for land management roads in Section 15(0)(6)(i) below.

(ii) Water crossing structures that are not bridges or culverts must either be removed immediately following timber harvesting and related activities, or, if frozen into the river, stream or tributary stream bed or bank, as soon as practical after snowmelt.

(iii) River, stream and tributary stream channels, banks and approaches to crossings of water bodies and tributary streams must be immediately stabilized on completion of harvest, or if the ground is frozen and/or snow-covered, as soon as practical after snowmelt. If, despite such precautions, sedimentation or the disruption of shoreline integrity occurs, such conditions must be corrected.

(i) **Land management road closeout.** Maintenance of the water control features must continue until use of the road is discontinued and the road is put to bed by taking the following actions:

(i) Effective installation of water bars or other adequate road drainage structures at appropriate intervals, constructed to reasonably avoid surface water flowing over or under the water bar, and extending sufficient distance beyond the traveled way so that water does not reenter the road surface.

(ii) Water crossing structures must be appropriately sized or dismantled and removed in a manner that reasonably avoids sedimentation of the water body or tributary stream.

(iii) Any bridge or water crossing culvert in roads to be discontinued shall satisfy one of the following requirements:

1. it shall be designed to provide an opening sufficient in size and structure to accommodate 25 year frequency water flows;
2. it shall be designed to provide an opening with a cross-sectional area at least 3\(\frac{1}{2}\) times the cross-sectional area of the river, stream or tributary stream channel; or

3. it shall be dismantled and removed in a fashion to reasonably avoid sedimentation of the river, stream or tributary stream.

If, despite such precautions, sedimentation or the disruption of shoreline integrity occurs, such conditions must be corrected.

(7) Slope Table

Filter strips, skid trail setbacks, and land management road setbacks must be maintained as specified in Section 15(0), but in no case shall be less than shown in the following table.

<table>
<thead>
<tr>
<th>Average slope of land between exposed mineral soil and the shoreline (percent)</th>
<th>Width of strip between exposed mineral soil and shoreline (feet along surface of the ground)</th>
</tr>
</thead>
<tbody>
<tr>
<td>0</td>
<td>25</td>
</tr>
<tr>
<td>10</td>
<td>45</td>
</tr>
<tr>
<td>20</td>
<td>65</td>
</tr>
<tr>
<td>30</td>
<td>85</td>
</tr>
<tr>
<td>40</td>
<td>105</td>
</tr>
<tr>
<td>50</td>
<td>125</td>
</tr>
<tr>
<td>60</td>
<td>145</td>
</tr>
<tr>
<td>70</td>
<td>165</td>
</tr>
</tbody>
</table>

(8) Definitions. Unless otherwise provided herein, this Section 0 incorporates by reference the definitions contained in the Maine Forest Service Rules Chapter 20, “Forest Regeneration and Clearcutting Standards”, and Chapter 21, “Statewide Standards for Timber Harvesting and Related Activities in Shoreland Areas”.

P. Clearing of Vegetation for Purposes Other than Timber Harvesting

1. In a Resource Protection District abutting a great pond, there shall be no cutting of vegetation within the strip of land extending 75 feet, horizontal distance, inland from the normal high-water line, except to remove 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 a river flowing to a great pond classified GPA, or within a strip extending seventy-five (75) feet, horizontal distance, from any other water body, tributary stream, or the upland edge of a wetland, a buffer strip of vegetation shall be preserved as follows:

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

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

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

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

**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:

\[(4 \times 1) + (2 \times 2) + (3 \times 4) + (2 \times 8) = 36\] 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 ½) feet above ground level for each 25-foot by 50-foot rectangle area. If five saplings do not exist, no woody stems less than two (2) inches in diameter can be removed until 5 saplings have been recruited into the plot.

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

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

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

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

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

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 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.

NOTE: An updated list of non-native invasive vegetation is maintained by the Department of Agriculture, Conservation and Forestry’s Natural Areas Program: http://www.maine.gov/dacf/mnap/features/invasive_plants/invasives.htm

(5) 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;
   i. No one species shall make up 50% or more of the number of trees and saplings planted;

(d) 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

(e) 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 stormwater;

(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 stormwater;

(b) Where necessary due to a lack of sufficient ground cover, an area must be supplemented with a minimum four (4) inch depth of leaf mulch and/or bark mulch to prevent erosion and provide for effective infiltration of stormwater; and

(c) Survival and functionality of ground vegetation and ground cover must be sufficient to remain in compliance with the standards contained within this chapter for minimum of five (5) years.

T. Erosion and Sedimentation Control

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

a. Mulching and revegetation of disturbed soil.

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

c. Permanent stabilization structures such as retaining walls or riprap.

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 rip-rap.

U. Soils

All land uses shall be located on soils in or upon which the proposed uses or structures can be established or maintained without causing adverse environmental impacts, including severe erosion, mass soil movement, improper drainage, and water pollution, whether during or after construction. Proposed uses requiring subsurface waste disposal, and commercial or industrial development and other similar intensive land uses, shall require a soils report based on an on-site investigation and be prepared by state-certified professionals. Certified persons may include Maine Certified Soil Scientists, Maine Registered Professional Engineers, Maine State Certified Geologists and other persons who have training and experience in the recognition and evaluation of soil properties. The report shall be based upon the analysis of the characteristics of the soil and surrounding land and water areas, maximum ground water elevation, presence of ledge, drainage conditions, and other
pertinent data, which the evaluator deems appropriate. The soils report shall include recommendations for a proposed use to counteract soil limitations where they exist.

V. Water Quality

No activity shall deposit on or into the ground or discharge to the waters of the State any pollutant that, by itself or in combination with other activities or substances will impair designated uses or the water classification of the water body tributary stream or wetland.

W. Archaeological Sites

Any proposed land use activity involving structural development or soil disturbance on or adjacent to sites listed on, or eligible to be listed on the National Register of Historic Places, as determined by the permitting authority, shall be submitted by the applicant to the Maine Historic Preservation Commission for review and comment, at least twenty (20) days prior to action being taken by the permitting authority. The permitting authority shall consider comments received from the Commission prior to rendering a decision on the application.

X. Site Limitations:

When a proposed activity is to occur in a District other than Resource Protection on any of the following site conditions, the use restrictions, permit requirements, and standards described below shall apply:

1. Within the 100 year flood plain: As designated on the Federal Emergency Management Agency's (FEMA) Flood Insurance Rate Maps or Flood Hazard Boundary Maps, resulting from a detailed Flood Hazard study; or the flood of record; or in the absence of these, by soil types identified as recent flood plain soils, land uses shall be regulated by standards and permit requirements for the Resource Protection District except that campgrounds and parking facilities shall be allowed subject to a Planning Board permit.

2. Areas with sustained slopes of 20 % or greater: When the site of a proposed project contains at least 20,000 square feet of sustained slopes of 20% or greater, and when the area disturbed within this area of sustained steep slopes exceeds 10,000 square feet, including driveways and parking area, areas cleared for lawns, septic systems, and construction of buildings, then standards and permit requirements defined for the Resource Protection District shall apply, except that there shall be no grading or filling within 100 feet of the normal high water mark of a pond or wetland edge where slopes exceed 25% except to protect the shoreland and prevent erosion. In such an instance, an erosion control plan certified by a registered soil scientist or by the Waldo County Soil and Water Conservation District shall be submitted.
3. Areas supporting wetland vegetation and hydric soils:
Areas within a project site which encompass 2 or more acres of wetland vegetation and hydric soils (which are not otherwise designated as a Wetland Conservation or Wetland Preservation District) shall be subject to the same standards and permit requirements as defined for the Resource Protection District.

4. Land areas along rivers subject to severe bank erosion, undercutting, or river bed movement shall be subject to the same standards and permit requirements as defined for the Resource Protection District.

Section 16. Administration

A. Administering Bodies and Agents

1. Code Enforcement Officer
   A Code Enforcement Officer shall be appointed or reappointed annually by July 1st.

2. Board of Appeals
   A Board of Appeals shall be created in accordance with the provisions of Title 30-A, M.R.S.A., section 2691.

3. Planning Board
   A Planning Board shall be created in accordance with the provisions of State law.

B. Permits Required

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

1. A permit is not required for the replacement of an existing road culvert as long as the replacement culvert is:
   (a) Not more than 25% longer than the culvert being replaced; and
   (b) Not longer than 75 feet
   (c) Adequate erosion control measures are taken to prevent sedimentation of the water, and that 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, together with an application fee as defined in Appendix B, on a form provided by the municipality, to the appropriate official as indicated in Section 14. Applications for a Planning Board Permit must be received by the Town Agent not less than three weeks prior to the next regularly scheduled monthly Planning Board meeting in order to be placed on the agenda for the following month’s Planning Board meeting.

Should the Applicant fail to file a permit prior to work commencing, the Applicant must file an After the Fact Permit for a fee as defined in Appendix B. It should be noted that all other procedures must be followed and civil penalties or other legally binding actions may ensue.

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 written 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. All applications shall include the following information related to wastewater disposal:

   a. 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. The subsurface sewage disposal system shall treat all wastes generated at the property, including both “gray-water” and “black-water;” this applies to all types of systems, including primitive disposal systems.

   b. For applications requiring a Planning Board Permit as defined in Section 14. Table 1 (inside cover of this Ordinance) to expand, reconstruct, or replace a non-conforming structure or to place an accessory structure on a lot containing a non-conforming principal structure, the applicant shall include evidence that the existing
subsurface wastewater disposal system is grandfathered under Section 103 the State of Maine Subsurface Waste Water Disposal Rules, or “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” as required under Sections 12.C.1 and 12.C.3 of this Ordinance. Such evidence shall include:

(1) a copy of a valid plumbing permit for an installed or planned wastewater disposal system; and for installed systems certification by the Plumbing Inspector that all wastewater is being treated by the system, and the system is not malfunctioning; or

(2) if a copy of a valid plumbing permit cannot be obtained; other evidence, which may include a description of the type and condition of the existing system based on remote sensing technologies, that the system is grandfathered (“the type of system and its layout and use complies with the subsurface waste water or plumbing code provisions prevailing when the system was first put into use” [144A CMR 241 section 103.3); and that all wastewater is being treated by the system and the system is not malfunctioning; or

(3) If the applicant cannot document the type of system and its conformance to the wastewater rules or plumbing code in effect at the time it was installed, a copy of a wastewater disposal system design prepared by a licensed Site Evaluator for a replacement system to be installed on the property, either in the same location, or in another location if available, if the existing system fails in the future. The replacement system design must be recorded in the registry of deeds as an attachment to the deed, restricting use of the area specified for the replacement system to uses that would not preclude future installation of the replacement system if needed.

c. A seasonal conversion permit obtained from the local Plumbing Inspector shall be submitted with the Shoreland Zoning Permit Application when the nature of the use of a dwelling changes its status from being a “seasonal dwelling” to a “principal or year-round residence.” A dwelling becomes a principal or year-round residence if the dwelling becomes the legal residence for purposes of either voting, filing a state tax return, or automobile registration; or if the duration of occupancy of the residence becomes greater than seven (7) months in any calendar year.
5. At the discretion of the permitting authority, after a review of the proposed development site, the applicant may be required to submit detailed site elevations in order to determine slope and floodplain conditions which may affect the application relative to Section 15, paragraph X. Site Limitations.

6. 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. Prior to making this determination, the Board or its designee shall conduct a site visit to assess slope and soil limitations relative to Section 15, paragraph X. 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.

The Board may, at its discretion, decide to hold a public hearing on the application, once a completed application is received. Within 35 days of the public hearing the Board shall either notify the applicant that additional information is needed, based on concerns and issues raised at the public hearing, or the Board shall notify the applicant in writing of
its decision to approve, approve with conditions, or deny the project.

Permits shall be approved if the proposed use or structure is found to be in conformance with the purposes and provisions of this Ordinance.

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

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

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. 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.

F. Installation of Public Utility Service

No public utility, water district, sanitary district or any utility company of any kind may install services to any new structure located in the shoreland zone unless written authorization attesting to the validity and currency of all
local permits required under this or any previous Ordinance has been issued by the appropriate municipal officials. Following installation of service, the company or district shall forward the written authorization to the municipal officials, indicating that installation has been completed.

G. 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

Variance 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(G)(2)(c)(ii) above, the Board of Appeals may grant a variance to an owner of a residential dwelling for the purpose of making that dwelling accessible to a person with a disability who resides in or regularly uses the dwelling. The board shall restrict any variance granted under this subsection solely to the installation of equipment or the construction of structures necessary for access to or egress from the dwelling by the person with the disability. The board may impose conditions on the variance, including limiting the variance to the duration of the disability or to the time that the person with the disability lives in the dwelling. The term "structures necessary for access to or egress from the dwelling" shall include railing, wall or roof systems necessary for the safety or effectiveness of the structure. Any permit issued pursuant to this subsection is subject to Sections 16(G)(2)(f) and 16(G)(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(G)(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.
H. 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.

NOTE: Current penalties include fines of not less than $100 nor more than $2500 per violation for each day that the violation continues. However, in a resource protection district the maximum penalty is increased to $5000 (38 M.R.S.A. section 4452).
Section 17. Definitions Section

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 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 green-house products. Agriculture does not include forest management and timber harvesting activities.

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

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

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

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

Campground - any area or tract of land to accommodate two (2) or more parties, or 1 party of more than 10 individuals 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.

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

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

**Emergency operations** – operations conducted for the public health, safety or general welfare, such as protection of resources from immediate destruction or loss, law enforcement, and operations to rescue human beings, property and livestock from the threat of destruction or injury.
**Essential services** - gas, electrical or communication facilities; steam, fuel, electric power or water transmission or distribution lines, towers and related equipment; telephone cables or lines, poles and related equipment; gas, oil, water, slurry or other similar pipelines; municipal sewage lines, collection or supply systems; and associated storage tanks. Such systems may include towers, poles, wires, mains, drains, pipes, conduits, cables, fire alarms and police call boxes, traffic signals, hydrants and similar accessories, but shall not include service drops or buildings which are necessary for the furnishing of such services.

**Expansion of a structure** - an increase in the 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 footprint of a structure or ground area devoted to a particular use.

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

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

**Floor area** - the sum of the horizontal areas of the floor(s) of a structure enclosed by exterior walls.

**Footprint** - the entire area of ground covered by the structure(s) on a lot, including but not limited to cantilevered or similar overhanging extensions, as well as unenclosed structures, such as patios and decks.

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

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

**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, coastal or inland waters and that can not be located away from these waters. The uses include, but are not limited to, commercial and recreational fishing and boating facilities, 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 coastal or inland waters. Recreational boat storage buildings are not considered to be a functionally water-dependent use.

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

**Great pond classified GPA** - any great pond classified GPA, pursuant to Title 38 Article 4-A, M.R.S.A. section 465-A. This classification includes some, but not all impoundments of rivers that are defined as great ponds.
Ground cover — small plants, fallen leaves, needles and twigs, and the partially decayed organic matter of the forest floor.

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

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, campites, 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 which have no floor area.

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

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

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

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

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

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

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

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

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

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

**Mineral exploration** - hand sampling, test boring, or other methods of determining the nature or extent of mineral resources which create minimal disturbance to the land and which include reasonable measures to restore the land to its original condition.
Mineral extraction - any operation within any twelve (12) month period which removes more than one hundred (100) cubic yards of soil, topsoil, loam, sand, gravel, clay, rock, peat, or other like material from its natural location and to transport the product removed, away from the extraction site.

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

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

Native - indigenous to the local forests.

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

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

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

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

Non-native invasive species of vegetation - species of vegetation listed by the Maine Department of Agriculture, Conservation and Forestry as being invasive in Maine ecosystems and not native to Maine ecosystems.

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

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

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

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

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

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

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

<table>
<thead>
<tr>
<th>Soil Series</th>
<th>Soil Series</th>
<th>Soil Series</th>
</tr>
</thead>
<tbody>
<tr>
<td>Alluvial</td>
<td>Cornish</td>
<td>Charles</td>
</tr>
<tr>
<td>Fryeburg</td>
<td>Hadley</td>
<td>Limerick</td>
</tr>
<tr>
<td>Lovewell</td>
<td>Medomak</td>
<td>Ondawa</td>
</tr>
<tr>
<td>Podunk</td>
<td>Rumney</td>
<td>Saco</td>
</tr>
<tr>
<td>Suncook</td>
<td>Sunday</td>
<td>Winooski</td>
</tr>
</tbody>
</table>

Recreational facility - a place designed and equipped for the conduct of sports, leisure time activities, and other customary and usual recreational activities, excluding boat launching facilities.
Recreational vehicle - a vehicle or an attachment to a vehicle designed to be towed, and designed for temporary sleeping or living quarters for one or more persons, and which may include a pick-up camper, travel trailer, tent trailer, camp trailer, and motor home. In order to be considered as a vehicle and not as a structure, the unit must remain with its tires on the ground, and must be registered with the State Division of Motor Vehicles.

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

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

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

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

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

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

Road - a route or track consisting of a bed of exposed mineral soil, gravel, asphalt, or other surfacing material constructed for or created by the repeated passage of motorized vehicles, excluding a driveway 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, horizontal distance, of the upland edge of a freshwater or forested wetland; or within seventy-five (75) feet, horizontal distance, of the normal high-water line of a stream.

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

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

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

**Storm-damaged tree** - a tree that has been uprooted, blown down, is lying on the ground, or that remains standing and is damaged beyond the point of recovery as the result of a storm event.

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

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

**Tree** — a woody perennial plant with a well-defined trunk(s) at least two (2) inches in diameter at four and one half (4.5) feet above the ground, with a more or less definite crown, and reaching a height of at least ten (10) feet at maturity.
**Tributary stream** - 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.

**NOTE:** Water setback requirements apply to tributary streams within the shoreland zone.

**Upland edge of a wetland** - the boundary between upland and wetland. For purposes of a freshwater or forested 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) feet) tall or taller.

**Vegetation** - all live trees, shrubs, ground cover, and other plants including without limitation, trees both over and under 4 inches in diameter, measured at 4 1/2 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, forested wetland.

**Wetlands associated with great ponds and rivers** - wetlands contiguous with or adjacent to a great pond or river, and which during normal high water, are connected by surface water to the great pond or river. Also included are wetlands which are separated from the great pond or river by a berm, causeway, or similar feature less than 100 feet in width, and which have a
surface elevation at or below the normal high water line of the great pond or river. Wetlands associated with great ponds or rivers are considered to be part of that great pond or river.

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

**Woody Vegetation** - live trees or woody, non-herbaceous shrubs
Appendix A
Liberty Shoreland Zoning with State-Identified Moderate and High Value Freshwater Wetland Habitats

LEGEND
- State roads
- Perennial streams
- Town roads
- 20 foot contours
- Private roads
- Water

SHORELAND ZONING
- Limited Commercial District
- Limited Residential District
- Resource Protection (town-defined) and Resource Protection Associated with Moderates and High Value Freshwater Wetland Habitats (state-defined)
- Stream Protection District
- Wetland Conservation
- Wetland Preservation - including Moderate and High Value Freshwater Wetland Habitats - >10+ Ac. (regulated as Resource Protection)

Sources: Town of Liberty, USGS, MEDOT, MEIFW and MEGIS
Map revised: March 2, 2010
### Appendix B

<table>
<thead>
<tr>
<th>Service</th>
<th>Fee</th>
</tr>
</thead>
<tbody>
<tr>
<td>Shoreland Zoning Application</td>
<td>$25.00</td>
</tr>
<tr>
<td>After the Fact Permit</td>
<td>$250.00</td>
</tr>
</tbody>
</table>
To Gail Philippi, the Town Clerk of the Town of Liberty: 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 Liberty Shoreland Zoning Ordinance,” which is to be presented to the voters for their consideration on March 25, 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 on the day of the vote.

Dated: March 13, 2017

Melinda Steeves, First Selectman
Carrie Peavey, Second Selectman
Henry Hall, Third Selectman

ATTEST: A true copy of an ordinance entitled “Town of Liberty Shoreland Zoning Ordinance,” as certified to me by the municipal officers of the Town of Liberty on the 13th day of March, 2017.

Gail Philippi, Town Clerk
TABLE OF CONTENTS

ARTICLE I. PURPOSES, AUTHORITY, AND ADMINISTRATION

Section 1.1 Purposes 4
Section 1.2 Authority and Administration 6
A. Authority 6
B. Administration 6

ARTICLE II. ADMINISTRATIVE PROCEDURES

Section 2.1 Purpose and Agenda 7
A. Purpose 7
B. Agenda 7

Section 2.2 Preapplication Preliminary Phase 7
A. Procedure 7
B. Submission Content 8
C. On-site Inspection 9
D. Rights Not Vested 9
E. Site Clearing 9

Section 2.3 All Subdivisions 9
A. General 9
B. Procedure 9
C. Final Plan Submissions 10
D. Additional Final Plan Submissions 12
E. Meetings and Hearings 13
F. Final Submissions for Receipt of Approval and Permit 14
G. Final Approval and Filing 14

Section 2.4 Special Requirements and Additional Procedures for Major Subdivisions 16
A. Special Requirements for Major Subdivisions 16
B. Additional Procedures for Major Subdivisions 17

Section 2.5 Enforcement 18
A. Inspection of Required Improvements 18
B. Violations and Enforcement 18

ARTICLE III. PERFORMANCE STANDARDS

Section 3.1 General Standards 20
A. Conformance with State and Local Codes 20
B. Retention of Open Spaces, Natural or Historic Features 20
C. Lots 21
D. Utilities 22
E. Monuments 22
F. Water Supply 22
G. Erosion and Sedimentation Controls 23
H. Stormwater Runoff Controls 25
I. Land Features 27
J. Cluster Development 27
K. Dedication and Maintenance of Common Open Space and Services 28
L. Construction in Flood Hazard Areas 29
M. Soils Surveys - Standards for Conducting 29

Section 3.2 Street and Street-Related Storm Drainage Design and Construction Standards 29
A. Purpose 29
B. General Street Design Standards 30
C. Street Design Specifications 30
D. Street Construction Specifications 32
E. Storm Drainage Street Construction Standards 34
F. Additional Improvements and Requirements 35
G. Certification of Construction 35

ARTICLE IV. PERFORMANCE GUARANTEES

Section 4.1 Performance Guarantees 35
A. Improvements Guarantees 35
B. Types of Guarantees 36
C. Contents of Guarantee 36
D. Performance Bond 36
E. Letter of Credit 36
F. Escrow Account 36
G. Release of Guarantee 37
H. Default 37

ARTICLE V. APPEALS

Section 5.1 Appeals 37

ARTICLE VII. VALIDITY, SEPARABILITY, AND CONFLICT WITH OTHER ORDINANCES

Section 6.1 Validity, Separability, and Conflict With Other Ordinances 37
A. Validity and Separability 37
B. Conflict with Other Ordinances 37
ARTICLE VII DEFINITIONS

Section 7.1 Definitions

Abutter 38
Applicant 38
Authorized Agent 38
Channel 38
Cluster Subdivision 38
Code Enforcement Officer 38
Complete Application 38
Comprehensive Plan or Policy Statement 38
Contiguous Lots 38
Developed Area 38
Direct Drainage of a Lake or Pond 39
Driveway 39
Dwelling Unit 39
Final Plan 39
Frontage 39
Frontage, Shore 39
High Intensity Soil Survey 39
Lot 39
100 Year Flood 39
Normal High Water Elevation of Inland Waters 39
Net Residential Acreage 40
Net Residential Density 40
Official Submittal Date 40
Owner 40
Person 40
Planned Unit Development 40
Planning Board 40
Preliminary Plan 40
Recording Plan 40
Resubdivision 40
Street 41
Street Classifications 41
Subdivider 41
Subdivision 41
Subdivision, Major 41
Subdivision, Minor 41
Submissions 41
Tract or Parcel of Land 41

APPENDIX A: STATE DEFINITION OF A SUBDIVISION 42

APPENDIX B: APPLICATION CHECK LIST -As adjusted 43
ARTICLE I: PURPOSES, AUTHORITY, AND ADMINISTRATION

SECTION 1.1: PURPOSES

The purposes of this Ordinance are to assure the comfort, convenience, safety, health, and welfare of the people of the Town of Liberty, to protect the environment and to promote the orderly development of an economically sound and stable community. To this end, in approving subdivisions within the Town of Liberty, Maine, the Planning Board shall consider the following criteria and before granting approval shall make written findings of fact that the provisions of these regulations have been met and that the proposed subdivision will meet the guidelines of Title 30-A, M.R.S.A., section 4403, as amended. In accordance with Title 30-A, M.R.S.A, section 4404, as amended, the subdivision:

A. will not result in undue water or air pollution. In making this determination, the Planning Board shall at least consider the elevation of the land above the sea level and its relation to the flood plains; the nature of the soils and subsoils and their ability to adequately support waste disposal; the slope of the land and its effect on effluents; availability of streams for disposal of effluents; and will meet applicable state and local health and water resource rules and regulations;

B. will have sufficient water available for the reasonably foreseeable needs of the subdivision;

C. will not cause an unreasonable burden on an existing water supply;

D. will not cause unreasonable soil erosion or reduction in the capacity of the land to hold water so that a dangerous or unhealthy condition may result;

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

F. will provide for adequate solid and sewage waste disposal;
G. will not cause an unreasonable burden on the ability of the Town of Liberty to dispose of solid waste and sewage if Town services are to be utilized;

H. will not have an adverse effect on the scenic or natural beauty of the area, aesthetics, historic sites or rare and irreplaceable natural areas or any public rights for physical or visual access to Liberty's ponds, lakes and rivers;

I. will be in conformance with all applicable State and local plans, regulations, and ordinances;

J. that applicant will demonstrate proven adequate financial and technical capacity to meet the above stated standards;

K. that whenever situated in whole or in part within the watershed of any lake, pond or within two hundred (250) feet of any wetland, great pond or river, the proposed subdivision will not adversely affect the quality of the body of water or unreasonably affect the shoreline of that body of water. In making this determination, the Board shall at least consider the affect of the proposed land use on the quantity and quality of surface runoff generated by the site;

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

M. if the subdivision, or any part of it, is in flood-prone area, as based upon the Federal Emergency Management Agency's Flood Boundary and Floodway Maps and Flood Insurance Rate Maps, the applicant shall determine the 100-year flood elevation and flood hazard boundaries within the subdivision. The proposed subdivision plan must include a condition of plan approval requiring that principal structures in the subdivision will be constructed with their lowest floor, including the basement, at least one foot above the 100-year flood elevation;

N. applicant will identify any freshwater wetlands within the proposed subdivision on any maps submitted as part of the application, regardless of the size of these wetlands; and,

O. will identify any river, stream or brook within or abutting the proposed subdivision on any maps submitted as part of the application;

P. will provide for adequate storm water management;

Q. will insure that if any lots in the proposed subdivision have shore frontage on a river, stream, brook, great pond or coastal wetland as these features are defined in Title 38, section 480-B, none of the lots created within the
subdivision will have a lot depth to shore frontage ratio greater than 5 to 1;

R. that long-term cumulative effects of the proposed subdivision will not unreasonably increase a great pond's phosphorus concentration during the construction phase and life of the proposed subdivision;

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

T. that timber on the parcel being subdivided has not been harvested in violation of rules adopted pursuant to Title 12, section 8869, subsection 14. If a violation of rules adopted by the Maine Forest Service to substantially eliminate liquidation harvesting has occurred, the municipal reviewing authority must determine prior to granting approval for the subdivision that 5 years have elapsed from the date the landowner under whose ownership the harvest occurred acquired the parcel.

SECTION 1.2: AUTHORITY AND ADMINISTRATION

A. AUTHORITY:

1. These standards have been prepared in accordance with the provisions of Title 30-A, M.R.S.A., section 4403, as amended

2. These standards shall be known and may be cited as "SUBDIVISION ORDINANCE OF THE TOWN OF LIBERTY, MAINE."

B. ADMINISTRATION:

The Planning Board of the Town of Liberty hereinafter called the Board, shall administer this Ordinance.

The provisions of this Ordinance shall pertain to all land proposed for subdivision as defined in Title 30-A, M.R.S.A., section 4401, as amended, within the boundaries of the Town of Liberty.
ARTICLE II: ADMINISTRATIVE PROCEDURES

SECTION 2.1: PURPOSE, AGENDA

A. PURPOSE:

The purpose of this Article is to establish an orderly, equitable and expeditious procedure for receiving and reviewing all subdivision applications.

B. AGENDA:

To be placed on the Board’s agenda a preliminary application (available from Town Office) should be submitted along with preliminary sketch plans that include applicable portions of USGS topographic map(s) covering the area of the proposed subdivision, and shall be filed in the Town Office twenty-one (21) days in advance of a regularly scheduled meeting. A short narrative description of the intent of the applicant should be part of the submission. If submissions meet requirements of this Ordinance, the Chairman shall cause the matter to be added to meeting agenda and be publicly posted at least seven (7) days in advance of the scheduled meeting. If the submission is deemed insufficient Chairman will contact applicant as to deficiencies. This determination by the Chairman as to deficiencies is preliminary only and is not binding upon the Planning Board and is not a final determination of completeness with regard to the application or the adequacy or completeness of submissions.

"Upon submitting an application or pre-application for permit, or notice of construction, to the Town, applicant/owner accepts that designated town officers and officials have an implicit right to visit property for purposes of validating information provided and to inspect for compliance both work in progress as well completed projects."

SECTION 2.2: PREAPPLICATION PRELIMINARY PHASE

A. PROCEDURE:

1. Preapplication Phase. Owner or Authorized Agent (applicant) shall request a preapplication meeting with the Planning Board and shall submit at least ten (10) copies of a sketch plan and application to the Town Office at least twenty-one (21) days in advance of the regularly scheduled meeting at which applicant wishes to discuss the proposal with the Planning Board. The purposes of this preapplication meeting between the applicant and the Planning Board are:
a. To classify the subdivision as a major or a minor subdivision.

b. To provide an opportunity for the applicant and the Planning Board to informally review the ideas for use of the land;

c. To discuss procedures for subdivision review and approval;

d. If road construction is involved in the proposal, to classify the road as either minor or collector;

e. To discuss any apparent potential problems associated with the subdivision; and

f. To arrange for on-site inspection of the subdivision site.

2. **Question and answer period.** Board may make specific, preliminary, suggestions to be incorporated by the applicant into subsequent submissions; and shall make a preliminary determination as to whether the application shall be reviewed as a mandatory Major Subdivision (all subdivisions of four (4) lots or more shall be considered Major Subdivisions for purposes of this ordinance).

3. **Town Jurisdiction** If the subdivision is located in more than one (1) municipality, the Board shall have a joint meeting with the Planning Board of the adjacent municipality to discuss.

4. **The Board shall schedule, if appropriate,** an on-site inspection and shall notify the Code Enforcement Officer and the applicant of the time and date selected. Such date shall be publicly posted at least seven (7) days before the date scheduled.

B. **SUBMISSION CONTENT:**

The *Preapplication Sketch* and/or *Preliminary Plan* submissions shall contain: (simple sketch form is acceptable):

1. Location Map showing the proposed layout of streets, lots, and other features in relation to existing conditions. The Plan should be supplemented with general information to describe or outline the existing conditions of the site and the proposed development.
The Sketch Plan shall be superimposed on or accompanied by a copy of the Assessor's Map(s) on which the land is located showing abutting property owners. The Sketch Plan shall be accompanied by a copy of a portion of the USGS topographic map of the area showing the outline of the proposed subdivision. And,

a. Shall delineate any existing subdivisions in the proximity of the proposed subdivision.
b. Shall show boundaries and designations of Zoning Districts.
c. Shall include an outline of the proposed subdivision and any remaining portion of the owner's entire contiguous holding, superimposed on or accompanied by a USGS topographic map.

C. ON-SITE INSPECTION:

The Board shall hold a public on site inspection of the property prior to the determination that a complete Final Plan has been submitted. Whenever possible, the Board shall hold its on-site inspection within thirty (30) days of reviewing a sketch/preliminary plan and shall publicly post date of site visit at least seven (7) days before.

D. RIGHTS NOT VESTED:

The submittal or review of the Preapplication Sketch and/or Preliminary Plan shall not be considered the initiation of the review process for the purposes of bringing the plan under the protection of Title 1, M.R.S.A., section 302.

E. SITE CLEARING:

Site clearing, at this stage, shall be limited to that required for test pits and surveying.

SECTION 2.3: ALL SUBDIVISIONS

A. GENERAL:

The Board may require, where it deems necessary for the protection of public health, safety, and welfare, that a Minor Subdivision (less than four lots) comply with all or any of the submission requirements deemed appropriate for a Major Subdivision (more than 4 lots).

B. PROCEDURE:
1. Within six (6) months after the submission of a Preapplication Sketch and/or Preliminary Plan to the Board, the applicant shall submit an "Application for Approval of a Final Plan" at least twenty-one (21) days prior to a scheduled meeting of the Board. Failure to do so shall require the applicant to proceed through the preliminary phase again, with the resubmission of the Preapplication Sketch and/or Preliminary Plan to the Board. The Final Plan shall approximate the layout shown on the Preliminary Plan, plus any recommendations for modifications that may have been made by the Board.

2. All applications for Final Plan approval for Minor and Major Subdivisions shall be accompanied by a non-refundable general application fee of two hundred dollars ($200), plus three hundred dollars ($300) for each lot requested, payable by check to the Town of Liberty - Planning Board Account. In addition, the Board may require that additional amounts be added to the base fee paid by the applicant sufficient to enable the Board to secure outside technical, legal, and other assistance as the Board (in its sole discretion may determine) in order to review the proposed subdivision. If a public hearing is deemed necessary or required by the Board (including the review of Subdivisions of four (4) lots or more), an additional fee of one hundred and fifty dollars ($150) shall be required.

3. At least twenty-one (21) days prior to the Planning Board Meeting at which the proposed Final Plan is to be discussed, the applicant shall notify, in writing, by certified mail, return receipt requested delivery, all owners of abutting property, including abutters to any right-of-way leading to the subdivision, that an application for subdivision approval has been submitted to the Board, and the date of the meeting at which it is to be discussed. The application shall be deemed incomplete until the applicant provides proof (copies of return receipts) of such notification to the Board.

4. At least twenty-one (21) days prior to the Planning Board meeting at which the proposed Final Plan is to be discussed, the applicant shall provide ten (10) copies of the Final Plan and application to the Town Clerk.

C. FINAL PLAN SUBMISSIONS FOR A SUBDIVISION MUST INCLUDE:

1. The proposed name of the subdivision, or its identifying title, its proposed use, the name of the Town in which it is located, plus the Assessor's Map and Lot numbers for all properties contained in the subdivision.
2. The date the plan was prepared, north point, graphic map scale, names and addresses of the record owner(s), applicant(s), and individual(s) or company (ies) who prepared the plan, and the names of adjoining property owners.

3. A map of the boundary lines of the tract and all lots within it, giving complete descriptive data by bearings and distance, made and certified by a licensed surveyor. The corners of the tract and lots shall be located on the ground and marked by monuments. The plan shall include the type of monument set or found at each lot corner. The map shall also show all zoning district boundaries within the tract or shall indicate the applicable zoning districts encompassing the tract. All wetlands must be delineated.

4. A copy of the portion of the County Soil Survey covering the subdivision.

5. Contour lines showing elevations in relation to Mean Sea Level (normally twenty foot [20'] intervals or as Planning Board may request), drawn on a map scaled not more than fifty feet (50') to the inch.

6. Any portion of the subdivision in a flood-prone area, the boundaries of any flood hazard areas and the one hundred (100) year flood elevation shall be delineated on the plan, established by the most recent flood plain study of Waldo County.

7. A copy of the deed(s) on which the survey was based; and a copy of all covenants, deed restrictions, easements, right-of-ways, or other encumbrances currently affecting the property. If the applicant does not hold title to the property, copies of sales purchase agreement(s) or purchase option(s) for the proposed property.

8. Indication of the type of sewage disposal to be used in the subdivision.

9. When sewage disposal is to be accomplished by individual subsurface wastewater disposal systems, test pit analyses, prepared by a Licensed Site Evaluator shall be provided demonstrating adequate soils for subsurface sewage disposal of each lot. A map showing the location of all test pits dug on the site and a profile of each shall be submitted.

10. When sewage disposal is to be accomplished by a cluster septic system, test pit analyses, prepared by a Licensed Site Evaluator shall be provided demonstrating adequate soils for a common leach bed(s). The developer
shall also provide a map showing the location of all pits dug on the site and an analyses of each; plans prepared by a registered engineer for all physical components of the system; and plans for financing and maintaining the system. If a homeowners association will be established for maintenance or financing of the system, the plan shall include documents governing the association and its duties and powers.

11. Indication of the type of water supply system(s) to be used in the subdivision.

12. Completed Liberty Subdivision Ordinance "Finding of Fact" checklist. The "Finding of Fact" checklist will serve as part of the basis of Board’s action in the deliberative process of reviewing applications. Majority vote on each delineated finding of fact is required for approval of all permits.

D. ADDITIONAL FINAL PLAN SUBMISSIONS (IF DEEMED NECESSARY BY THE PLANNING BOARD) FOR A SUBDIVISION:

1. If the Board suspects groundwater problems, than statements of water history shall be supplied by abutting or neighborhood landowners to the Planning Board at the Board's election.

2. When lots of less than two (2) acres in size contain significant areas of slopes in excess of fifteen percent (15%), poorly drained or shallow soils generally unsuitable for building, or other physical limitations reducing the area of the lot on which structures, wells and septic systems may be placed, the Board may require the applicant to indicate specific areas on each lot (drawn at a scale of fifty feet [50'] to the inch or less) where such structures, wells and septic systems may be placed in accordance with minimum setback and distance requirements as set forth in the Maine Plumbing Code or other municipal ordinances.

3. Plans for the maintenance of all stormwater control measures.

4. A traffic impact analysis to include:
   a. An estimate of the number of daily vehicle trips generated by the project at peak seasonal use.
   b. A statement of sight distances at all intersections of all access roads to the subdivision and existing roads, and a safety analysis of these by a traffic safety engineer.
c. A State and/or Town Road Commissioner permit(s) satisfying requirements for any road cuts, contemplated traffic and placement of culverts

5. Any additional information that the Board deems necessary to adequately review the application when given unique site conditions.

E. MEETINGS AND HEARINGS - SCHEDULE AND CONTENT:

1. Within thirty (30) days of receipt of an application for a Final Plan the Board shall place the application on the agenda of the next regularly scheduled Board meeting. The applicant, or his/her duly authorized agent, shall attend the meeting of the Planning Board to discuss the Final Plan. At said meeting the Board shall notify the applicant whether or not the application is complete, and what, if any, additional submissions are required. In making this determination, the Board may decide, based on the information received, that the nature of the site and plan require a more detailed review, and shall indicate which additional submission requirements must be met. Subsequent submissions, for continued applications, must be received in Town Office at least fourteen (14) days before meeting in order to be placed on the agenda. NOTE: The determination by the Board that the application is complete and the initial determination as to what additional submissions are required (notwithstanding the provisions of paragraph 3 hereinafter) are and remain preliminary determinations which may, as necessary, be revised by the Board as the Board may deem appropriate during the entire review process.

2. The Board shall determine whether to hold a public hearing on the Final Plan application (A Public Hearing is mandatory for a Major Subdivision.) When a subdivision is located within five hundred feet (500') of a municipal boundary, and a public hearing is to be held, the Board shall notify the Clerk and the Planning Board of the adjacent municipality involved, at least ten (10) days prior to the hearing.

3. Upon determination that a complete application has been submitted for review, the Board shall issue a dated receipt to the applicant.

4. If the Board decides to hold a public hearing, it shall hold the hearing within thirty (30) days and shall publish notice of the application pending, date, time, and place of the hearing in the local newspaper at least
two (2) times; the date of the first publication to be at least fourteen (14) days prior to the hearing.

5. Within thirty (30) days of a public hearing, or within sixty (60) days of receipt of a complete application, if no hearing is held, or within another time limit as may be otherwise mutually agreed to by the Board and the applicant, the Board shall make written findings of fact on the application, and approve, approve with conditions, or deny the Final Plan. The Board shall specify in writing its finding of facts and reasons for any conditions or denial.

6. If approved, one (1) copy of the signed plan shall be forwarded to the Tax Assessor, and One (1) copy of the signed plan shall be forwarded to the Code Enforcement Officer. Any subdivision not recorded in the Registry of Deeds within ninety (90) days of the date upon which the plan is approved and signed by the Board shall become null and void.

F. FINAL SUBMISSIONS FOR RECEIPT OF APPROVAL AND PERMIT:

1. The subdivision Final Plan shall consist of all approved submissions detailed in this Ordinance in the following form: two (2) reproducible, stable based transparent originals, one (1) to be recorded at the Registry of Deeds, the other to be filed at the Town Office and ten (10) copies of one (1) or more maps or drawings drawn to a scale of not more than one hundred feet (100') to the inch unless otherwise indicated below. Plans for subdivisions containing more than one hundred (100) acres may be drawn at a scale of not more than two hundred feet (200') to the inch provided all necessary detail can easily be read. Plans shall be no larger than twenty-four (24) by thirty-six (36) inches in size, and shall have a margin of two (2) inches outside of the border lines on the left side for binding and a one (1) inch margin outside the border along the remaining sides. Space shall be provided for endorsement by the Board.

G. FINAL APPROVAL AND FILING:

1. No plan shall be approved by the Planning Board as long as the applicant is in default on a previously approved Plan or the applicant has failed to tender to the Town those fees requested by the Board or the financial guarantees as herein provided.

2. At the time the Board grants Final Plan approval, it may permit the Plan to be divided into two (2) or more
sections subject to any conditions the Board deems necessary in order to insure the orderly development of the Plan. If any municipal department head notified of the proposed subdivision informs the Board that their department or district does not have adequate capital facilities to service the subdivision, the Board shall require the Plan to be divided into two (2) or more sections subject to any conditions the Board deems necessary in order to allow the orderly planning, financing and provision of public services to the subdivision.

3. No changes, erasures, modifications, or decisions shall be made to any Final Plan after approval has been given by the Planning Board and endorsed in writing on the Plan, unless the revised Final Plan is first submitted to the Planning Board and the Board approves those revisions and modifications. The Board shall make findings that the revised plan meets the standards of this ordinance and of Title 30-A, M.R.S.A., section 4404. In the event that a Plan is recorded without complying with this requirement, it shall be considered null and void, and the Board shall institute proceedings to have the Plan stricken from the records of the Registry of Deeds.

4. The approval by the Board of a subdivision Final Plan shall not be deemed to constitute or be evidence of any acceptance by the Town of any street, easement or other open space shown on such plan. The Board shall require the Final Plan to contain appropriate notes to this effect.

5. Failure to commence substantial construction relating to road or other improvements that are part of the subdivision application and approval of the subdivision within the period of time to which financial guarantees apply shall render the Plan null and void. The issuing bank providing such financial guarantees shall, as a requirement for approval of the subdivision application, be required to notify the Town in writing if letter(s) of credit guarantees relating to the approved subdivision are canceled. It is the responsibility of the applicant to notify the issuing bank of this requirement. Upon determining that a subdivision's approval has expired under this paragraph, the Board shall have a notice placed in the Registry of Deeds to that effect.
SECTION 2.4: SPECIAL REQUIREMENTS AND ADDITIONAL PROCEDURES FOR MAJOR SUBDIVISIONS

A. SPECIAL REQUIREMENTS FOR MAJOR SUBDIVISIONS:

1. All applications for a Major Subdivision [more than four (4) lots] shall follow those requirements delineated in Article II, Section 2.3 along with the following requirements.

2. The location, names, and present widths of existing and proposed streets, highways, easements, building lines, parks and other open spaces on or adjacent to the subdivision.

3. All parcels of land proposed as common use acreage for the lot owners, if any.

4. The location of any open space to be preserved and an indication of its improvement and management.

5. When the subdivision is located within a lake watershed, and the Board deems necessary high intensity soil survey conducted according to the standards in Article III, Section 3.1.M; and a report by a Registered Soils Scientist indicating how any limitations will be overcome. Otherwise, a copy of the Waldo County Soils Survey map covering the subdivision shall be presented. Where that soil survey shows soils which are generally unsuitable for the proposed uses, the Board shall require the submittal of a high intensity soils survey and a report by a Registered Soil Scientist indicating how the limitations will be overcome. High intensity soils surveys shall be mapped at a scale of one inch (1") to equal fifty feet (50').

6. A soil erosion and sedimentation control plan meeting the standards in Article III, Section 3.1.G, drawn at a scale of one inch (1") to equal fifty feet (50'), to include:

a. Drawings showing present and proposed grading contours and elevations, with a contour interval of not more than five (5) feet.

b. Drawings showing proposed clearing and construction sites, and the location of proposed erosion/sedimentation control measures, both temporary and permanent.

c. Drawings showing detailed designs of all structural measures which are engineered permanent.
diversion ditches, flumes, sediment basins, related elements, and copies of all calculations performed in the design of structures.

d. Construction specifications for all procedures, both structural and non-structural.

e. Calculations showing runoff quantities and peak discharge rates before and after development for a twenty-five (25) year, twenty-four (24) hour storm. Include a narrative discussion of all assumptions and generalizations made.

f. An estimate of the number of daily vehicle trips generated by the project at peak seasonal use.

g. Statement of sight distances at all intersections of all access roads to the subdivision and existing roads, and a safety analysis of these by a traffic safety engineer.

7. Evidence of financial and technical capability to carry on the project, to include:

a. An estimate of the cost of all construction items to be completed by the applicant prior to the sale of lots.

b. A statement of the types of professional assistance to be obtained for the design and construction of the above.

c. A plan for the financing of these costs. If personal funds are to be used, evidence of the availability of funds; if funds are to be obtained from a financial institution, a letter from that institution expressing its intent to finance and the extent of its financial commitment.

d. If any portion of the subdivision area is within the boundaries of any flood hazard areas and the one hundred (100) year flood elevation, this shall be delineated on the plan.

B. ADDITIONAL PROCEDURES FOR MAJOR SUBDIVISIONS:

1. Prior to submittal of the Final Plan application, the following approvals shall be obtained in writing, where appropriate:

a. Maine Department of Environmental Protection, under the Site Location of Development Act,
Alteration of Coastal Wetlands Act, Great Ponds Act, Fresh Water Wetland Act, Alteration of Streams and Rivers Act, or if a Wastewater Discharge License is needed.

b. Maine Department of Human Services, if the applicant proposes to provide a central water supply system.

c. Maine Department of Human Services, if a centralized or shared subsurface sewage disposal system(s) is to be utilized.

2. BEFORE THE BOARD GRANTS APPROVAL OF THE FINAL PLAN, THE APPLICANT SHALL MEET THE PERFORMANCE GUARANTEE REQUIREMENTS PRESCRIBED BY THE BOARD.

SECTION 2.5 ENFORCEMENT:

A. INSPECTION OF REQUIRED IMPROVEMENTS:

1. At least five (5) days prior to commencing each major phase of construction or required improvements (i.e. roads, runoff controls, septic systems, major land clearing or earth moving, etc.), the applicant or builder shall notify the Code Enforcement Officer in writing of the time when he proposes to commence construction of such improvements.

2. If at any time before or during the construction of the required improvements, it appears to be necessary or desirable to modify the required improvements, the Code Enforcement Officer is authorized to approve minor modifications due to unforeseen circumstances such as encountering hidden outcrops of bedrock, natural springs, etc. The Code Enforcement Officer shall issue any approval under this section in writing and shall transmit a copy of the approval to the Board. Revised plans shall be filed with the Town. For major modifications, such as relocation of rights-of-ways, property boundaries, changes of grade by more than one percent (1%), etc., the applicant shall obtain permission to modify the plans from the Board.

3. Prior to the sale of any lot, the applicant shall provide the Board with a letter from a Registered Land Surveyor, stating that all monumentation shown on the plan has been installed.

B. VIOLATIONS AND ENFORCEMENT:

1. Failure to obtain a permit.
a. No plan of a division of land within the Town which would constitute a subdivision shall be recorded in the Registry of Deeds until a Final Plan has been approved by the Board in accordance with these regulations.

b. No person, firm, corporation or other legal entity may convey, offer or agree to convey any land in a subdivision which has not been approved by the Board and recorded in the Registry of Deeds.

c. No person, firm, corporation or other legal entity may convey, offer or agree to convey any land in an approved subdivision which is not shown on the Final Plan as a separate lot.

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

e. Development of a subdivision without Board approval shall be a violation of law. Development includes grading or construction of roads, grading of land or lots, or construction of buildings which require a Final Plan approved by the Board as provided in these regulations and recorded in the Registry of Deeds.

f. No lot in a subdivision may be sold, leased, or otherwise conveyed before the street upon which the lot fronts is completed in accordance with these regulations up to and including the entire frontage of the lot. No unit in a multi-family development shall be occupied before the street upon which the unit is accessed is completed in accordance with these regulations.

2. Violations of terms of a permit.

a. If the Code Enforcement Officer finds that any provision of this Ordinance or the terms of the subdivision permit are being violated, he/she shall notify in writing the person responsible for said violations (applicant, builder, or contractor) indicating the nature of the violation, ordering the action necessary to correct it and requiring that all construction activity be discontinued until such corrective measures have been initiated.
b. If the applicant/builder/or contractor fails to respond to such notice within five (5) days of receiving the notice, the Code Enforcement Officer shall so notify the Board of Selectmen who shall institute any and all proceedings necessary to enforce this Ordinance.

3. Fines.

a. Any person, firm, corporation or other legal entity who violates the provisions of this Ordinance shall be guilty of a civil violation and shall be fined not less than one hundred dollars ($100) nor more than two thousand five hundred dollars ($2,500) for each day of violation. Each conveyance, offering or agreement to transfer land on a subdivision which has not been approved as required by this Ordinance is a separate violation. Each day that a violation of the terms of the subdivision permit continues shall constitute a separate violation. All fines shall be paid to the Town of Liberty. Such persons shall also be liable for court costs and reasonable attorneys' fees incurred by the Town if the Town prevails in a dispute over violations.

ARTICLE III: PERFORMANCE STANDARDS

SECTION 3.1: GENERAL STANDARDS

In reviewing applications for a subdivision, the Board shall consider the following general standards and make findings in writing that each has been met prior to the approval of a Final Plan. In all instances the burden of proof shall be upon the applicant.

A. CONFORMANCE WITH STATE AND LOCAL CODES:

All proposed subdivisions shall be in conformity with the provisions of all pertinent State and local codes and ordinances.

B. RETENTION OF OPEN SPACES, NATURAL OR HISTORIC FEATURES:

1. In any subdivision larger than twenty (20) lots or dwelling units or more, the applicant shall provide at least ten percent (10%) of the total area as common open space for the lot owners.

2. Land reserved for common open space (not to be counted when computing lots in subdivision) purposes shall be of a character, configuration and location suitable for the particular use intended. A site intended to be used
for active recreation purposes, such as a playground or a play field, should be relatively level and dry, have a total frontage on one (1) or more streets of at least two hundred feet (200'), and have no major dimensions of less than two hundred feet (200'). Sites selected primarily for scenic or passive recreation purposes shall have such access as the Board may deem suitable and no less than twenty-five feet (25') of road frontage. The configuration of such sites shall be deemed adequate by the Board with regard to scenic attributes to be preserved, together with sufficient areas for trails, lookouts, etc., where necessary and appropriate.

3. The Board may require that the Final Plan include a landscape plan that will show the preservation of any existing trees larger than twenty-four inches (24") diameter breast height, the replacement of trees and vegetation, graded contours, streams and the preservation of scenic historic or environmentally significant areas. Cutting of trees on the northerly borders of lots should be avoided as far as possible, to retain a natural wind buffer.

C. LOTS:

1. Lots shall meet the requirements of the Town's Minimum Lot Size Ordinance, and shall not include the following areas in determining minimum acreage:

a. Common roads and parking lots.

b. Right-of-ways and easements.

c. Easements or areas reserved for installation of common facilities such as sewage collection and treatment systems, and areas reserved for storm water runoff or sedimentation/erosion controls.

d. Portions of the lot which, because of existing land uses or lack of access, are isolated and unavailable for building purposes or for use in common with the remainder of the lot, as determined by the Planning Board.

e. Portions of the lot which are unsuitable for development in their natural state due to topographical, drainage or subsoil conditions, such as, but not limited to: slopes greater than thirty percent (30%);

f. Areas comprised of fifty percent (50%) or more of poorly drained soils, unless the applicant can
demonstrate specific engineering techniques to overcome the limitations to the satisfaction of the Planning Board.

g. Portions of the lot covered by surface waters, including intermittent streams.

2. The subdivision of tracts into parcels or lots with more than twice the required minimum lot size be laid out in such a manner as either to provide for or preclude future re-subdivision.

3. If a lot on one (1) side of a stream, road or other similar barrier fails to meet the minimum requirements for lot size, it may not be combined with a lot on the other side of the stream or road to meet the minimum lot size, unless it contains at least 20,000 square feet exclusive of items a through g in paragraph C.1 above.

D. UTILITIES:

1. The size, type and location of street lights, electric and gas lines, telephone and other utilities shall be shown on the plan and approved by the Board.

E. MONUMENTS:

1. Iron monuments shall be set at all street intersections and points of curvature, but no further than seven hundred fifty feet (750') apart along street lines without curves or intersections.

2. Iron monuments shall be set at all corners and angle points of the subdivision boundaries where the interior angle of the subdivision boundaries is one hundred thirty-five (135) degrees or less.

3. Iron monuments shall be a minimum of five-eights inch (5/8") diameter and four feet (4') in length or anchored to bedrock and set in the ground at final grade level.

4. All other subdivision boundary corners and angle points, as well as all lot boundary corners and angle points shall be marked by suitable monumentation.

F. WATER SUPPLY:

1. Dug wells shall be permitted only if it is demonstrated that it is not economically feasible to develop other ground water sources, and shall be constructed so as to prevent infiltration of surface water into the well.
Unless otherwise permitted by the Board, the applicant shall prohibit dug wells by deed restrictions and a note on the plan.

2. If a central water supply system is provided by the applicant, the location and protection of the source, and the design, construction and operation of the system shall conform to the standards of the Maine Rules Relating to Drinking Water.

3. The Board may require the applicant to construct ponds and dry hydrants to provide for adequate water storage for fire-fighting purposes. In such cases an easement shall be granted to the Town granting access to the dry hydrants where necessary.

G. EROSION AND SEDIMENTATION CONTROL:

1. Construction of roads and site preparation for construction of buildings will result in the immediate and continuing erosion of soil and sedimentation of drainage ways and water bodies unless properly controlled. This causes cost, inconvenience, and potentially hazardous conditions when road ditches are filled with sediment. Sediment also degrades the rivers, streams, and lakes which ultimately receive runoff from eroding sites. Not only does it fill in shore areas with unsightly deltas of silt, it also carries with it nutrients which stimulate the growth of weeds and algae. It is the very fine soil-particles that carry these nutrients, and these are the most difficult to settle out of runoff. The following standards recognize that extra measures are therefore needed to limit the erosion of these particles and to filter or settle them out from the runoff when construction occurs in the drainage area of a lake or pond.

2. All earth changes will be designed, constructed, and completed in such a manner so that the exposed area of any disturbed land will be limited to the shortest time possible.

3. The Board may limit the area exposed at any one time, and may limit the times of the year when construction may occur when soil type or slope conditions pose serious potential for erosion and sedimentation.

4. On slopes greater than thirty percent (30%), there shall be no grading or filling within one hundred fifty feet (150') of the normal high water mark of any water body, except to protect the shoreland and prevent erosion.
5. Temporary vegetation; mulching and/or siltation fabrics shall be used to protect critical areas during development.

6. Sediment caused by accelerated soil erosion will be removed from runoff water to the maximum extent feasible through the use of debris basins, silt traps, sediment basins, or other suitable methods.

7. Any temporary or permanent facility designed and constructed for the conveyance of water around, through or from the site will be designed to limit water flow to non-erosive velocities.

8. The top or bottom of a cut or fill shall not be closer than ten feet (10') to a property line unless otherwise mutually agreed to by the affected parties. In no instance shall any cut or fill exceed a slope of three (3) to one (1).

9. Permanent soil erosion control measures for all slopes, channels, ditches or any other disturbed land will be completed within fifteen (15) calendar days after final grading has been completed. Seeding for a permanent vegetative cover shall take place no later than August 15, unless procedures described below are followed.

10. When it is not possible or practical to permanently stabilize disturbed land as required in subsection (8) above, or when final grading will not be accomplished on a disturbed site for a period of more than thirty (30) calendar days, temporary erosion control measures will be implemented within thirty (30) calendar days of the exposure of the soil. Seeding for a temporary vegetative cover shall take place no later than September 30.

11. Erosion control and sedimentation control plans shall be engineered according to the procedures and criteria described in USDA Soil Conservation Service technical manuals, and for projects in lake watersheds, the *Phosphorus Control in Lake Watersheds: A Technical Guide for Evaluating New Development*, published by the Maine Department of Environmental Protection, September, 1992 revision, as amended.

**H. STORMWATER RUNOFF CONTROLS:**

1. When land use is changed from a forested natural state to residential development, there is a significant change in the rate, amount and quality of runoff from
the site which can be quite damaging to downstream areas unless properly controlled. Runoff travels faster over paved and cleared areas, and less is infiltrated on the site. This faster, increased volume of runoff picks up more nutrient laden sediment, humus and organic materials and carries these into the receiving water bodies to stimulate weed and algae growth. A study conducted by the Maine Department of Environmental Protection in the Augusta Area in 1986 showed phosphorus export from a one (1) acre lot size residential area to be 7.2 times greater than natural back ground levels. Phosphorus is the nutrient responsible for weed and algae problems in lakes. The following standards recognize that it is therefore critical to control runoff from development in lake watersheds to avoid long term and irreversible degradation of water quality.

2. Storm water runoff from a proposed development shall be managed to limit the rate of outflow from the site to predevelopment levels up to the level of intensity of a twenty-five (25) year twenty-four (24) hour storm. Peak flow shall be determined using the Stormwater Management for Maine: Best Management Practices, published by the Maine Department of Environmental Protection (1995), as amended.

3. For developments within the direct drainage of a lake or pond, runoff shall also be managed to infiltrate on-site any excess runoff created by the development for a one (1) year twenty-four (24) hour storm, through the use of French drains, infiltration basins, or other suitable measures.

4. Where soils and slope conditions preclude the engineering of onsite infiltration measures, the area of the site which may be occupied by roads, driveways, lawns and cleared areas, structures and impervious surfaces shall be limited to five percent (5%), and shall be so stated on deed restrictions.

5. Calculations of peak runoff and excess runoff required in subsections (a) and (b) above shall include all runoff that drains through the site from offsite areas unless provisions are made to divert such runoff from the site.

6. Storm water management plans shall be based, as nearly as possible, on the natural drainage patterns of the site.

7. The design of piped or open channel systems will be based on a ten (10) year flow frequency without
overloading or flooding beyond channel limits. In addition, areas expected to be flooded by a runoff of a twenty-five (25) year frequency will be designated, and no structures will be allowed within such area.

8. Where the site is traversed by a water course, drainage way, channel or stream (whether natural or constructed), a drainage right-of-way will be provided that substantially conforms to such watercourse, and shall be at least thirty feet (30') in width.

9. Any grading or other construction activity on the site shall be so conducted to avoid alteration of natural drainage ways such that drainage patterns onto or from adjacent parcels will be adversely affected.

10. The proposed storm water management system must be designed by a registered professional engineer. Where permanent embankment type storage or retention basins are planned, the basins will be designed according to the standards outlined in the Soil Conservation Service Engineering Field Manual or other appropriate references.

I. LAND FEATURES:

1. Topsoil shall be considered part of the subdivision and shall not be removed from the site except for surplus topsoil from roads, parking areas, and building excavations.

2. The landscape shall be preserved in its natural state insofar as practical by minimizing grading and excavating, and when located in a lake watershed, by minimizing tree removal or disturbance to the natural ground cover.

J. CLUSTER DEVELOPMENT:

1. Purpose: The purpose of these provisions is to allow for innovative concepts of housing development where maximum variations of design may be allowed, provided that the net residential density shall be no greater than is permitted. To this end, the layout, and dimensional requirements of this Ordinance and the Town’s Minimum Lot Size Ordinance may be altered without restriction except that in no case shall lots abutting a water body be less than one (1) acre in size or less than one hundred feet (100') in shore frontage.

2. Basic requirements.
a. All the requirements and standards of these Ordinances, except those dealing with lot layout and dimensions shall be met.

b. The minimum area of land in a cluster development shall be ten (10) acres.

c. The plan shall indicate the location of all proposed roads, structures, parking areas, footpaths and common open space.

d. No building shall be constructed on soil types classified by the Soil Conservation Service (S.C.S.) as being poorly or very poorly drained.

e. Where a cluster development abuts a water body, a portion of the shoreline, as well as reasonable access to it, shall be part of the common land.

f. In cluster developments with individual lot sizes of twenty thousand square feet (20,000') or less, all dwelling units shall be connected to a common water supply and distribution system.

g. In cluster developments with individual lot sizes of twenty thousand square feet (20,000') or less, all dwelling units shall be connected to a central collection and treatment system.

K. DEDICATION AND MAINTENANCE OF COMMON OPEN SPACE AND SERVICES:

1. All common land and common services or utilities shall be owned jointly or in common and undivided by the owners of the dwelling units by means of a home-owners association, or, in the case of common land, by an association which has as its principal purpose the conservation or preservation of land in essentially its natural condition.

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

3. The common open space shall be shown on the Final Plan with appropriate notation on the plan to indicate that it shall not be used for future building lots.

4. Where a homeowners association shall have the responsibility of maintaining the common property or services:
a. The by-laws of the proposed homeowners association shall specify maintenance responsibilities and shall be submitted to the Board prior to Final Plan approval.

b. The applicant shall maintain control of the common property, and be responsible for its maintenance until development sufficient to support the association has taken place.

c. Covenants for mandatory membership in the homeowners association setting forth the owner's rights, interests, and privileges in the association and providing a map showing the location of all pits dug on the site and an analyses of each; plans prepared by a registered engineer for all physical components of the system; and to defray the expenses connected with the maintenance of common property and tax assessments.

L. CONSTRUCTION IN FLOOD HAZARD AREAS

1. When any part of a subdivision is located in a special flood hazard area as identified by the Federal Emergency Management Agency, the plan shall indicate that all principal structures on lots in the subdivision shall be constructed in accordance with standards in the most recently adopted flood hazard ordinance. Such a restriction shall be included in the deed to any lot which is included or partially included in the flood hazard area.

M. SOILS SURVEYS - STANDARDS FOR CONDUCTING:

1. High intensity soil surveys shall be conducted in accordance with the "Standards for High Intensity Soil Surveys" adopted by the Maine Association of Professional Soil Scientists (2/87 and any subsequent amendments). Such standards include but are not limited to the following: Soil types shall be identified down to the one tenth 1/10 acre or less at a scale of not more than one (1) inch equals fifty (50) feet. The mapping units shall be the soils series. Single test pits and their evaluation shall not constitute a high intensity soil survey.
SECTION 3.2: STREET AND STREET-RELATED STORM DRAINAGE DESIGN AND CONSTRUCTION STANDARDS:

A. PURPOSE:

The construction of roads can have a major effect upon safety, municipal services, and the environment of the Town. The design and construction of such roads may also adversely affect soil erosion and water quality; the severity of periodic flooding; police and fire protection; safety conditions and traffic congestion; the visual character of the neighborhood and the Town; the future use of surrounding land; and maintenance costs and requirements. These standards are intended to avoid those adverse impacts.

B. GENERAL STREET DESIGN STANDARDS:

1. Streets shall be designed to discourage through traffic within a residential subdivision.

2. Where a subdivision borders an existing narrow street (not meeting the width requirements of the standards for streets in this Ordinance), the Final Plan shall indicate reserved areas for widening or realigning the road marked "Reserved for Road Realignment and Paving (Widening) Purposes." Land reserved for such purposes may not be included in computing lot area or setback requirements as described in this Ordinance or the Shoreland Zoning Ordinance. The reserve area shall not be included in any lot, but shall be reserved to be deeded to the Town or State.

3. Where a subdivision abuts or contains an existing or proposed arterial street, no residential lot may have vehicular access directly on to the arterial street, unless there is no reasonable alternative access. This requirement shall be noted on the Final Plan and in the deeds of any lot with frontage on the arterial street.

4. No street names shall be used which will duplicate or be confused with the names of existing Town roads.

5. All streets shall be designed so that they will provide safe vehicular travel and traffic patterns. Insofar as possible, streets shall conform to existing topography, and excessive cuts and fills shall be avoided.

6. Roads may only be located in areas known to flood if they are so designed so as to keep the road surface above water levels known or anticipated for a twenty-five (25) year storm.
7. When the Planning Board determines it is necessary in order to protect the environment, streets shall be designed by a registered, professional engineer.

C. STREET DESIGN SPECIFICATIONS:

1. The minimum width for a right-of-way for any street whether public or private shall be fifty (50) feet. The centerline of the roadway shall be the centerline of the right-of-way.

2. The minimum travel width of collector and minor streets shall be twenty (20) feet, and for private rights-of-way, fifteen (15) feet.

3. The minimum width of shoulders shall be two (2) feet, and they shall be graded to drain water away from the road surface.

4. The surface of all streets shall have a four inch (4") crown from the centerline to the edge of the travel way.

5. Grades of all streets shall be reasonably minimal but shall not be less than six inches (6") per one hundred feet (100') or more than eight feet (8') per one hundred feet (100') unless specifically approved by the Planning Board.

6. A dead end street or cul-de-sac shall be provided with a suitable turnaround at the closed end. When a turning circle is used, it shall meet the following requirements for radii: Property line sixty-five feet (65'); outer edge of pavement forty feet (40'). The Board may require the reservation of a fifty foot (50') easement in line with the street to provide continuation of the road where future subdivision is possible.

7. Side slopes in either cut or fill situations shall not be graded steeper than 2:1. All embankments shall be loamed to a depth of not less than four inches (4"), fine graded, fertilized, limed, and seeded to establish a good cover of grass.

8. All streets shall be designed to provide adequate, safe, visibility for both pedestrians and vehicular traffic. Sight distances shall be provided according to the following table, or Maine Department of Transportation requirements, whichever sight distances are greater:
<table>
<thead>
<tr>
<th>POSTED SPEED LIMIT (MPH)</th>
<th>25</th>
<th>30</th>
<th>35</th>
<th>40</th>
<th>45</th>
<th>50</th>
<th>55</th>
</tr>
</thead>
<tbody>
<tr>
<td>SIGHT DISTANCE (FEET)</td>
<td>250</td>
<td>350</td>
<td>300</td>
<td>400</td>
<td>450</td>
<td>500</td>
<td>550</td>
</tr>
</tbody>
</table>

9. All changes in grade shall be connected by vertical curves to provide for the minimum sight distance in the above table.

10. Where new street intersections or driveway curb-cuts are proposed, sight distances, as measured along the road onto which traffic will be turning, shall be based upon the posted speed limit and conform to the table above.

11. Where necessary, corner lots shall be cleared of all growth and sight obstructions, including ground excavation, to achieve the required visibility.

12. Streets shall be laid out to intersect at right angles wherever possible; under no circumstances shall a street intersect with a collector or arterial street at less than a sixty (60) degree angle.

13. Cross (four-cornered) street intersections shall be avoided insofar as possible. T-intersections formed on opposite sides of the same road shall have a minimum distance of two hundred feet (200') between center lines.

14. Note: For driveway or entrance access to state or state aid roads, a permit issued by Maine Department of Transportation is generally required (Title 23, M.R.S.A., sections 704 et seq., as amended). The applicant should obtain that permit before the subdivision application is reviewed and/or approved by the Town.

D. STREET CONSTRUCTION SPECIFICATIONS: (All subject to state recommendations existing at time of application approval)

1. Preparation:
   a. Before any clearing has started on the right-of-way, the center line and side lines of the new road shall be staked or flagged at fifty (50) foot intervals except as needed for surveying.
   b. Before grading is started, the entire right-of-way, other than trees and vegetation intended for
preservation, shall be cleared of all stumps, roots, brush, and other objectionable material. Large boulders and tree stumps shall be removed from the roadway.

c. All organic materials shall be removed to a depth of one foot (1') below the sub grade of the roadway. On soils which have been identified as not suitable for roadways, the subsoil shall be removed from the street site to a depth of two feet (2') below the sub grade and replaced with material meeting the specifications for gravel aggregate sub-grade below.

2. Sub grade:

a. The sub grade shall be carefully graded and compacted. Sub grade fills shall be composed of sand or gravel or hard, durable particles, free of vegetative matter, lumps, or balls of clay.

b. Gravel Base:

(i). The gravel base course shall be at least twelve (12) inches deep, and shall be composed of sand or gravel of hard, durable particles, free of vegetative matter, lumps, or balls of clay, and shall have a maximum stone size of six (6) inches in diameter.

(ii). Two feet (24 inches) of gravel or more may be required in cut sections if earth or ledge is encountered or in wet or swampy areas. Gravel shall be spread in layers not over six (6) inches deep and each layer shall be thoroughly compacted before the next is laid.

3. Street or Travel Surface:

a. If the street is to have a gravel surface it shall be constructed with a depth of six (6) inches with a maximum rock size of two (2) inch diameter.

b. If the street is to have a paved surface, it shall meet the following specifications:

(i). Minimum standards for the base layer of pavement shall be the Maine Department of Transportation specifications for plan mix grade B.
(ii). Minimum standards for the surface layer of pavement shall meet the Maine Department of Transportation specifications for plan mix grade C with an aggregate size no more than 3/4 inch maximum.

(iii). The compacted thickness of the binder course shall be two (2) inches; the compacted thickness of the surface course shall be one (1) inch, for a total pavement thickness, after compaction, of three (3) inches.

4. Where pavement joins an existing pavement, the existing pavement shall be cut along a smooth line and form a neat, even, vertical joint.

E. STORM DRAINAGE STREET CONSTRUCTION STANDARDS:

1. The collection and management of storm water runoff on the site shall be designed to meet the general standards set forth in Article III, Section 3.1H of this Ordinance.

2. Drainage from streets shall be designed to prevent standing water on the surface or the shoulder. No surface drainage shall be conveyed or diverted across a shoulder.

3. Where ditches are required to remove storm and surface water from streets they shall have side slopes no greater than 2:1 on back slopes and 3:1 on in-slopes, and longitudinal slopes no less than one-half percent (1/2%).

4. Culvert sizes shall be determined on the basis of estimated runoff from the total area served. Minimum culvert size shall be fifteen (15) inches diameter. Minimum trench width at the pipe crown shall be the outside diameter of the pipe plus two (2) feet. Pipe shall be bedded in a fine granular compacted material containing no stones larger than three (3) inches, lumps of clay, or organic matter, reaching a minimum of six (6) inches, after compaction, below the bottom of the pipe extending to six (6) inches, after compaction, above the top of the pipe.

5. Pipes:
a. Corrugated Metal Pipe shall meet the requirements of AASHTO Designation M 190 Type C for iron or steel pipe or AASHTO Designation M 196 for aluminum alloy pipe for sectional dimensions and type. Pipe gauge shall be as required to meet the soil and traffic loads with a deflection of not more than five percent (5%).

b. Reinforced Concrete Pipe shall meet the requirements of ASTM Designation C-76 (AASHTO M 170). Pipe classes shall be required to meet the soil and traffic loads with a safety factor of 1.2 on the 0.01 inch crack strength with a Class B bedding. Joints shall be of the rubber gasket type meeting ASTM Designation C 443-70, or of an approved preformed plastic jointing material such as “Ramnek.” Perforated Concrete Pipe shall conform to the requirements of AASHTO M 175 for the appropriate diameters.

c. Polyvinylchloride (PVC) pipe shall meet the requirements of AASHTO designation M278: and any gaskets shall meet the requirements of ASTM designation D3212.

F. ADDITIONAL IMPROVEMENTS AND REQUIREMENTS:

1. Erosion Control. The procedures outlined in the erosion and sedimentation control plan shall be implemented during the site preparation, construction and clean-up stages.

2. Cleanup. Following street construction, the developer or contractor shall conduct a thorough clean-up of stumps and other debris from the entire street right-of-way. If onsite disposal of the stumps and other debris is proposed, the site shall be indicated on the Final Plan, and be suitably covered with fill and topsoil, limed, fertilized, and seeded.

G. CERTIFICATION OF CONSTRUCTION:

1. Upon completion of street construction a written certification signed by the Code Enforcement Officer shall be submitted to the Planning Board at the expense of the applicant, certifying that the proposed way meets or exceeds the design and construction requirements of these regulations. "As built" plans shall be submitted to the Planning Board.
ARTICLE IV: PERFORMANCE GUARANTEES

SECTION 4.1: PERFORMANCE GUARANTEES:

A. IMPROVEMENTS GUARANTEED: With submittal of the application for Final Plan approval, the applicant shall provide performance guarantees for an amount adequate to cover the total construction costs of the following improvements:

1. All required monumentation (Article III, Section 3.1.E); all required or proposed central water supply systems (Article III);

2. All required or proposed cluster septic systems (Article II and Article III); all required storm water runoff and erosion control measures (Article II, and Article III);

3. All engineered streets (Article II and Article III, Section 3.2); and any other improvements required by the Board. In calculating the costs of all such improvements, the applicant shall take into account the time-span of the construction schedule and the inflation rate for construction costs;

4. The conditions of the performance guarantee shall be determined by the Board.

B. TYPES OF GUARANTEES: With submittal of the application for Final Plan approval, the applicant shall provide one of the following performance guarantees for the amount determined above:

1. A performance bond payable to the Town issued by a surety company, and approved by the Board of Selectmen;

2. An irrevocable letter of credit from a financial institution establishing funding for the construction of the subdivision, from which the Town may draw if construction is inadequate, approved by the Board of Selectmen; or

3. Either a certified check payable to the Town or a savings account, a certificate of deposit naming the Town as owner, or the establishment of an escrow account.

4. An offer of conditional approval limiting the number of units built or lots sold and/or deeding such lots to the Town until all required improvements are constructed.
C. CONTENTS OF GUARANTEE: The performance guarantee shall contain a construction schedule, cost estimates for each major phase of construction;

D. PERFORMANCE BOND: A performance bond shall detail the conditions of the bond, the method for release of the bond or portions of the bond to the applicant, and the procedures for collection by the Town. The bond documents shall specifically reference the subdivision for which approval is sought.

E. LETTER OF CREDIT: An irrevocable letter of credit from a bank or other lending institution shall indicate that funds have established for the construction of the subdivision and may not be used for any other project or loan.

F. ESCROW ACCOUNT: A cash contribution to the establishment of an escrow account shall be made by either a certified check made out to the Town, the direct deposit into a savings account, or the purchase of a certificate of deposit. For any account opened by the applicant, the Town shall be named as owner or co-owner, and the consent of the Town shall be required for a withdrawal. Any interest earned on the escrow account shall be returned to the applicant unless the Town has found it necessary to draw on the account, in which case the interest earned shall be proportionately divided between the amount returned to the applicant and the amount withdrawn to complete the required improvements.

G. RELEASE OF GUARANTEE: Prior to the release of any part of the performance guarantee, the Board shall determine to its satisfaction, in part upon the report of whatever agencies and departments may be involved, that the proposed improvements meet or exceed the design and construction requirements for that portion of the improvements for which the release is requested.

H. DEFAULT: If, upon inspection, the Code Enforcement Officer finds that any of the required improvements have not been constructed in accordance with the plans and specifications filed as part of the application, he shall so report in writing to the Municipal Officers, the Board and the applicant. The Municipal Officers shall take any steps necessary to preserve the Town’s rights.
ARTICLE V: APPEALS

SECTION 5.1: APPEALS:

An aggrieved party may appeal any decision of the Board under this Ordinance to Waldo County Superior Court.

ARTICLE VI: VALIDITY, SEPARABILITY, AND CONFLICT WITH OTHER ORDINANCES

SECTION 6.1: VALIDITY AND SEPARABILITY, AND CONFLICT WITH OTHER ORDINANCES:

A. VALIDITY AND SEPARABILITY:

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

B. CONFLICTS WITH OTHER ORDINANCES:

Whenever the requirements of this Ordinance are inconsistent with the requirements of any other ordinance, code or statute, the more restrictive requirements shall apply.
ARTICLE VII: DEFINITIONS

SECTION 7.1: DEFINITIONS

In general, words and terms used in this Ordinance shall have their customary dictionary meanings. More specifically, certain words and terms used herein are defined as follows:

ABUTTER: One whose property abuts, is contiguous, or joins at a border or boundary, including the property across the street, road, public way or private way.

APPLICANT: Owner or Authorized Agent and where applicable shall mean and be used interchangeably with "Subdivider", "builder", "contractor" etc.

AUTHORIZED AGENT: Anyone having written authorization to act on behalf of a property owner, signed by the property owner.

CHANNEL: A natural or artificial watercourse with definite beds and banks to confine and conduct continuously or periodically flowing water. Channel flow is water flowing within the limits of the defined channel.

CLUSTER SUBDIVISION: A subdivision in which the lot sizes are reduced below the Town's minimum lot size in return for the provision of permanent open space owned in common by lot/unit owners, or a land conservation organization. Clustering shall not be used to increase the overall net residential density of the development.

CODE ENFORCEMENT OFFICER: A person appointed by the Municipal Officers to administer and enforce these ordinances.

COMPLETE APPLICATION: An application shall be considered complete upon submission of the required fee and all information required by these Ordinances for a Final Plan. The Board shall issue a receipt to the applicant upon it's determination that an application is complete.

COMPREHENSIVE PLAN or POLICY STATEMENT: Any part or element of overall plan or policy for development of the Town as defined in Title 30-A, M.R.S.A., Section 4961.

CONTIGUOUS LOTS: Lots which adjoin at any line or point, or are separated at any point by a body of water.

DEVELOPED AREA: Any area on which a site improvement or change is made, including buildings, landscaping, parking areas, and streets.
DIRECT DRAINAGE OF A LAKE OR POND: Any land which drains directly to a lake or pond, or to a tributary of a lake or pond if that tributary and all its branches drains less than 25 square miles.

DRIVEWAY: A vehicular access-way serving two (2) dwelling units or less.

DWELLING UNIT: A room or suite of rooms used as a habitation which is separate from other such rooms or suites of rooms, and which contains independent living, cooking, sleeping, bathing and sanitary facilities; includes single family houses, and the units in a duplex, apartment house, multi-family dwellings, and residential condominiums.

FINAL PLAN: The final drawings on which the applicant's plan of subdivision is presented to the Board for approval and which, if approved, may be recorded at the Registry of Deeds.

FRONTAGE: The linear distance, measured along the front lot line which separates the lot from a public or private road, but not including a private driveway providing access to more than one (1) lot.

FRONTAGE, SHORE: The horizontal distance, measured in a straight line, between the intersections of the lot lines with the shoreline at normal high water elevation.

HIGH INTENSITY SOIL SURVEY: A soil survey conducted by a Certified Soil Scientist, meeting the standards of the Maine Association of Soil Scientists, which identifies soil types down to one tenth (1/10) acre or less at a scale equivalent to subdivision plan submitted. The mapping units shall be the soil series. Single test pits and their evaluation shall not be considered to constitute high intensity soil surveys.

LOT: A parcel of land occupied or capable of being occupied by one (1) building and the accessory buildings or uses customarily incidental to it, including such open spaces as are required by ordinances, and having frontage upon a public street, right-of-way or private way.

100 YEAR FLOOD: The highest level of flood that, on the average, is likely to occur once every one hundred 100 years (that has a one percent [1%] chance of occurring in any year).

NORMAL HIGH WATER ELEVATION OF INLAND WATERS: That line on the shores or banks of non-tidal waters which is apparent because of the contiguous different character of the soil or the vegetation due to the prolonged action of the water. Relative to vegetation, it is that line where the vegetation changes from predominantly aquatic to predominantly terrestrial (by way of illustration, aquatic vegetation includes but is not limited to the following plants and plant groups:
Water lily, pond lily, pickerelweed, cattail, wild rice, sedges, rushes, and marsh grasses; and terrestrial vegetation includes but is not limited to the following plants and plant groups: upland grasses, aster, lady slipper, wintergreen, partridge berry, sarsaparilla, pines, cedars, oaks, ashes, alders, elms, and maples). In places where the shore or bank is of such character that the high water mark cannot be easily determined, (rockslides, ledges, rapidly eroding or slumping banks) the normal high water elevation shall be estimated from places where it can be determined by the above method.

NET RESIDENTIAL ACREAGE: The total acreage available for the subdivision, and shown on the proposed subdivision plan, minus the area for streets, right-of-ways, or access areas, areas which are unsuitable for development and areas devoted to common facilities or utilities.

NET RESIDENTIAL DENSITY: The average number of dwelling units per net residential acre.

OFFICIAL SUBMITTAL DATE: The date upon which the Board issues a receipt indicating a complete application has been submitted.

OWNER: Person or persons who have title to property being considered for subdivision.

PERSON: Includes a firm, association, organization, partnership, trust, company, or corporation, as well as an individual.

PLANNED UNIT DEVELOPMENT: A development planned and constructed by single developer for a mix of residential, commercial, and industrial uses. A PUD is undertaken in a manner that treats the developed area in it's entirety to promote the best use of land, including the creation of open space, a reduction in the length of road and utility systems, and the retention of the natural characteristics of the land.

PLANNING BOARD: The Planning Board of the Town of Liberty, pursuant to Title 30, M.R.S.A., 4956.

PRELIMINARY PLAN: The preliminary information and drawings indicating the proposed layout of the subdivision to be submitted to the Board for its consideration.

RECORDING PLAN: A copy of the Final Plan which is recorded at the Registry of Deeds and which need not show information that is not relevant to the transfer of an interest in the property.

RESUBDIVISION: The division of an existing subdivision or any change in the plan for an approved subdivision which affects the lot lines, including land transactions by the applicant not indicated on the approved plan.
STREET: Public and private ways such as alleys, avenues, boulevards, highways, roads, and other right-of-ways, as well as areas on subdivision plans designated as right-of-ways.

STREET CLASSIFICATIONS:

ARTERIAL STREET: A major thoroughfare which serves as a major traffic way for travel between and through the Town.

CONNECTOR STREET: A street servicing at least fifteen (15) lots or dwelling units, or streets which serve as feeders to arterial streets, and collectors of traffic from minor streets.

MINOR STREET: A street servicing fewer than fifteen (15) lots or dwelling units.

PRIVATE RIGHT OF WAY: A vehicular access way serving more than two (2) dwelling units.

SUBDIVIDER: An individual, firm, association, syndicate, partnership, corporation, trust, or any other legal entity, or agent thereof, that proposes to build a subdivision. The term "subdivider" includes "applicant" "developer", "builder".

SUBDIVISION: As defined by Title 30-A M.R.S.A, §4401, as amended. IMPORTANT: SEE APPENDIX A FOR STATE DEFINITION OF A SUBDIVISION. The Town has elected to count lots of 40 acres or more as lots for the purposes of Title 30-A M.R.S.A, §4401, 4. Subdivisions, when the parcel of land being divided is located entirely outside any shoreland area as defined in Title 38, section 435 or a municipality's shoreland zoning ordinance. (VOTED AND ACCEPTED MARCH 25, 2006)

SUBDIVISION, MAJOR: Any subdivision containing more than four (4) lots or dwelling units.

SUBDIVISION, MINOR: Any subdivision containing not more than four (4) lots or not more than four (4) building/dwelling units.

SUBMISSIONS: Plans, sketches, overlays, drawings, surveys, etc. that are submitted to support an application. Unless otherwise specified by Board 10 copies of each submission are required.

TRACT OR PARCEL OF LAND: All contiguous land in the same ownership, whether or not the tract is separated at any point by: an intermittent or non-navigable stream, or a private road established by the abutting land owners.
APPENDIX A: STATE DEFINITION OF A SUBDIVISION

Title 30-A M.R.S.A, §4401, as amended

(Note: This definition is valid as of February 8, 2006 and is provided as a reference only. It is the responsibility of the Town and the applicant to ensure that they follow the current definition, as found in state statutes referenced above, or stricter standards, if elected by the Town in ordinance.)

Subdivision. "Subdivision" means the division of a tract or parcel of land into 3 or more lots within any 5-year period that begins on or after September 23, 1971. This definition applies whether the division is accomplished by sale, lease, development, buildings or otherwise. The term "subdivision" also includes the division of a new structure or structures on a tract or parcel of land into 3 or more dwelling units within a 5-year period, the construction or placement of 3 or more dwelling units on a single tract or parcel of land and the division of an existing structure or structures previously used for commercial or industrial use into 3 or more dwelling units within a 5-year period.

A. In determining whether a tract or parcel of land is divided into 3 or more lots, the first dividing of the tract or parcel is considered to create the first 2 lots and the next dividing of either of these first 2 lots, by whomever accomplished, is considered to create a 3rd lot, unless:

(1) Both dividings are accomplished by a subdivider who has retained one of the lots for the subdivider's own use as a single-family residence that has been the subdivider's principal residence for a period of at least 5 years immediately preceding the 2nd division; or

(2) The division of the tract or parcel is otherwise exempt under this subchapter. [2001, c. 359, §1 (amd).]

B. The dividing of a tract or parcel of land and the lot or lots so made, which dividing or lots when made are not subject to this subchapter, do not become subject to this subchapter by the subsequent dividing of that tract or parcel of land or any portion of that tract or parcel. The municipal reviewing authority shall consider the existence of the previously created lot or lots in reviewing a proposed subdivision created by a subsequent dividing. [1989, c. 104, Pt. A, §45 and Pt. C, §10 (new).]

C. A lot of 40 or more acres must be counted as a lot, except:
(2) When a municipality has, by ordinance, or the municipal reviewing authority has, by regulation, elected not to count lots of 40 or more acres as lots for the purposes of this subchapter when the parcel of land being divided is located entirely outside any shoreland area as defined in Title 38, section 435 or a municipality's shoreland zoning ordinance. [2001, c. 651, §1 (amd.).]

D. [2001, c. 359, §2 (rp).]

D-1. A division accomplished by devise does not create a lot or lots for the purposes of this definition, unless the intent of the transferor is to avoid the objectives of this subchapter. [2001, c. 359, §3 (new).]

D-2. A division accomplished by condemnation does not create a lot or lots for the purposes of this definition, unless the intent of the transferor is to avoid the objectives of this subchapter. [2001, c. 359, §3 (new).]

D-3. A division accomplished by order of court does not create a lot or lots for the purposes of this definition, unless the intent of the transferor is to avoid the objectives of this subchapter. [2001, c. 359, §3 (new).]

D-4. A division accomplished by gift to a person related to the donor of an interest in property held by the donor for a continuous period of 5 years prior to the division by gift does not create a lot or lots for the purposes of this definition, unless the intent of the transferor is to avoid the objectives of this subchapter. If the real estate exempt under this paragraph is transferred within 5 years to another person not related to the donor of the exempt real estate as provided in this paragraph, then the previously exempt division creates a lot or lots for the purposes of this subsection. "Person related to the donor" means a spouse, parent, grandparent, brother, sister, child or grandchild related by blood, marriage or adoption. A gift under this paragraph can not be given for consideration that is more than 1/2 the assessed value of the real estate. [2001, c. 359, §3 (new).]

D-5. A division accomplished by a gift to a municipality if that municipality accepts the gift does not create a lot or
lots for the purposes of this definition, unless the intent of the transferor is to avoid the objectives of this subchapter. [2001, c. 359, §3 (new).]

D-6. A division accomplished by the transfer of any interest in land to the owners of land abutting that land that does not create a separate lot does not create a lot or lots for the purposes of this definition, unless the intent of the transferor is to avoid the objectives of this subchapter. If the real estate exempt under this paragraph is transferred within 5 years to another person without all of the merged land, then the previously exempt division creates a lot or lots for the purposes of this subsection. [2001, c. 359, §3 (new).]

E. The division of a tract or parcel of land into 3 or more lots and upon each of which lots permanent dwelling structures legally existed before September 23, 1971 is not a subdivision. [1989, c. 104, Pt. A, §45 and Pt. C, §10 (new).]

F. In determining the number of dwelling units in a structure, the provisions of this subsection regarding the determination of the number of lots apply, including exemptions from the definition of a subdivision of land. [1989, c. 104, Pt. A, §45 and Pt. C, §10 (new).]

G. Notwithstanding the provisions of this subsection, leased dwelling units are not subject to subdivision review if the municipal reviewing authority has determined that the units are otherwise subject to municipal review at least as stringent as that required under this subchapter. [1989, c. 104, Pt. A, §45 and Pt. C, §10 (new); c. 497, §2 (amd).]

H. [2001, c. 651, §2 (rp).]

H-l. This subchapter may not be construed to prevent a municipality from enacting an ordinance under its home rule authority that:

(1) Expands the definition of "subdivision" to include the division of a structure for commercial or industrial use; or

(2) Otherwise regulates land use activities.
A municipality may not enact an ordinance that expands the definition of "subdivision" except as provided in this subchapter. A municipality that has a definition of "subdivision" that conflicts with the requirements of this subsection at the time this paragraph takes effect shall comply with this subsection no later than January 1, 2006. Such a municipality must file its conflicting definition at the county registry of deeds by June 30, 2003 for the definition to remain valid for the grace period ending January 1, 2006. A filing required under this paragraph must be collected and indexed in a separate book in the registry of deeds for the county in which the municipality is located. [2001, c. 651, §3 (new).]

I. The grant of a bona fide security interest in an entire lot that has been exempted from the definition of subdivision under paragraphs D-1 to D-6, or subsequent transfer of that entire lot by the original holder of the security interest or that person's successor in interest, does not create a lot for the purposes of this definition, unless the intent of the transferor is to avoid the objectives of this subchapter. [2001, c. 359, §5 (amd).]

[2001, c. 651, §§1-3 (amd).]