2018

Town of Livermore Maine Ordinances

Livermore, Me.

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# TOWN OF LIVERMORE
## BUILDING ORDINANCE

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TOWN OF LIVERMORE

BUILDING ORDINANCE

This Ordinance is adopted pursuant to the enabling provisions of Article VIII-A of the Maine Constitution, the provision of Title 30-A, M.R.S.A. Section 3001 (Home Rule), the State's Growth Management Law, Title 30-A, M.R.S.A. Section 4312 et seq., and the Mandatory Shoreland Zoning Act, Title 38M M.R.S.A. Sections 435, et seq.

The Purposes of this Ordinance Are:

1. To promote the health, safety and general welfare of the community through the regulation of construction and relocation and replacement of buildings.

2. To implement the provisions of the Town’s comprehensive plan;

3. To encourage the appropriate use of land throughout the community;

4. To provide safety from fire and other elements;

5. To provide an allotment of land area in new developments sufficient for adequate enjoyment of community life;

6. To further the maintenance of safe and healthful conditions; to prevent and control water pollution and accelerated erosion; to protect archaeological and historic resources; to protect freshwater; to control building sites, placement of structures and land uses; and to provide effective procedures for the enforcement of this Ordinance against violators.
SECTION 1. APPLICABILITY

1.0 The provisions of this Ordinance shall apply to all development and all structures within the boundaries of the town of Livermore.

SECTION 2. NONCONFORMANCE

2.0 It is the intent of this Ordinance to promote land use conformities except that nonconforming lots, structures and uses that legally existed before the effective date of this Ordinance shall be allowed to continue subject to the requirements set forth in this section.

2.1 General

2.1 A. Accessory structures: Accessory structure shall not contain a kitchen or a full bath, however a sink and a toilet are permitted. Structures originally manufactured, as principal structures must be modified in such a manner that the appearance of the principal structure is maintained in the accessory structure.

2.1 B. Contiguous Built Lots: If two or more principle 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 state Minimum Lot Size Law and State of Maine Subsurface Wastewater Disposal Rules are complied with. When such lots are divided, each lot this created must be as conforming as possible to the dimensional requirements of this Ordinance.

2.1 C. Contiguous Lots - Vacant or Partially Built: If two or more contiguous lots or parcels are in single or common ownership or record at the time of or since adoption of this Ordinance, and if any of these lot do not individually met the dimensional requirements of the 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.

2.1 D. Illegal Reduction in Dimensions: No lot shall be reduced or created in any manner that violates the requirements of this Ordinance. If land is subdivided, conveyed, divided or otherwise transferred in violation of this Ordinance it shall be subject to the penalties found in title 30-A ss4452. No building permit or other municipal permit shall be issued with reference to any of the land or lots so reduced or created until all such land or lots fulfill the dimensional regulations, except as allowed by waiver from the Planning Board in connection with the approval of a subdivision plan.

2.1 E. Repair and Maintenance: This Ordinance allows the normal upkeep and maintenance of nonconforming and structures including repairs or renovations and the expansion of the nonconforming structures as set forth below.

2.1 F. Structures not requiring a permit:

2.1 G (1) Expansions of existing structures of less than 15% but not exceeding 200 square feet must meet the provisions of this Ordinance but do not require a building permit (unless located in a Shoreland Area).

2.1 G (2) Structures under 75 square feet and not located in Shoreland Area must meet the provisions of this Ordinance but do not require a building permit.

2.1 G (3) Temporary structures composed of fabric sheathing over a frame located outside the Shoreland Area do not require a building permit.
2.1 H **Transfer of Ownership:** Nonconforming structures and lots may be transferred, and the new owner may continue to use the non-conforming structure or lot subject to the provisions of the Ordinance.

2.2 **Nonconforming Lots:** A nonconforming lot of record as of the effective date of March 6, 1989 may be build 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 size and frontage can be met.

2.3 **Nonconforming Structures:**

2.3 A (1) The use of a nonconforming structure may not be changed to a commercial use unless the Planning Board, after reviewing written application, determines that the new use is equally or more appropriate to the area than the existing use of the nonconforming structure and will have no greater adverse impacts than the existing use.

2.3 A (2) In the determination of no greater adverse impact, traffic, parking, noise, odors, smoke, dust, air discharges, rate of surface water runoff, and adverse impact on surrounding properties shall be equal to or less than the current use.

2.3 A (3) The hours of operation of the proposed use shall be compatible with the surrounding land uses.

2.3 B **Expansions:** A nonconforming 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 nonconformity of the structure. Should the expansion of the nonconforming structure require Site Plan Review approval shall be required by the Planning Board.

2.3 C **Relocation:** A nonconforming 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.

2.3 D **Reconstruction or Replacement:** Any nonconforming structure which is damaged or destroyed by more than 50% of market value of the structure before such damage, destruction or removal, may be reconstructed or replaced provided that a permit is obtained within one year of such the date of said damage, destruction or removal, and provided that such reconstruction or replacement is in compliance with setbacks to the greatest practical extent as determined by the Planning Board in accordance with the purposes of this and other applicable Ordinances. In no case shall a structure be reconstructed or replaced so as to increase the non-conformity.

2.3 E **Resumption Prohibited:** If a lot, building or structure in or on which a commercial use was operated and has abandoned for a period exceeding two years, the operation may be allowed to resume only after Site Plan Review by the Planning Board.

**SECTION 3 PERMITS**

3.0 A The Code Enforcement Officer is often required to make several trips to inspect construction. Fees charged are used to defray the expense of inspections and to ensure adherence to state laws and local codes.

3.0 B The owner, lessee, architect, contractor or builder employed by such owner or lessee shall obtain from the Code Enforcement Officer a permit covering proposed work.
3.0 C The Selectmen shall have the right to disburse funds from the Code enforcement, and Plumbing Inspection account to the Plumbing Inspector and the Code Enforcement Officer and for materials pertaining thereto.

3.1 Before the construction, relocation, replacement, or placement of any building shall be commenced the following must be met.

3.1 A Driveways: Whenever a driveway or access to a town road is created a driveway permit shall be required from the Road Commissioner and the access shall be built in the manner prescribed on the permit.

3.1 B Expansion: Expansion of the floor space of an existing building of less than 15% but not exceeding 200 square feet, shall be subject to the provisions of this building ordinance but shall not require a building permit, unless located in a Shoreland area.

3.1 C Plumbing Permits: The applicant for a building permit shall have a valid internal and external plumbing permit if plumbing is involved.

3.2 Application: The application for a building permit shall be in writing and shall be made in such form as the Code enforcement Officer shall prescribe and shall contain a description of all proposed new Improvements on the property or relocated building.

3.3 Permit Approval: The Code Enforcement Officer after examination of the application shall either issue the requested permit or transmit notice of refusal with 30 days. Notice of refusal shall be in writing and shall state the reason therefore. Any ruling of the Code Enforcement Officer may be appealed to the Appeals Board.

3.4 Life of Permit: Life of a permit shall be one (1) year: if the building and/or foundation there under is not commenced with six (6) months from the date of issuance, it shall be voided. A permit can be renewed for two (2) years.

SECTION 4 PERMIT FEES

4.1 All applications for Building Permits and variance appeals shall be accompanied by the appropriate application fee. The fee is intended to cover the cost of the municipality’s administrative processing for the application, the time of the Code Enforcement Officer for review and inspections, and similar costs. The fee shall not be refundable.

4.2 Building Permit and variance appeal fees shall be established by the Municipal Officers from time to time an after consultation with the Planning Board. The Municipal Officers shall also have the authority to establish the penalty fee for construction begun without the proper permit.

SECTION 5 CERTIFICATE OF OCCUPANCY

5.0 No building shall be occupied after its construction, relocation, replacement, or placement until a Certificate of Occupancy is issued from the Code Enforcement Officer. The Code Enforcement Officer shall issue said certificate after proper examination shows that all work was performed in compliance with the provisions of this ordinance and state law.

SECTION 6 BULK AND SPACE STANDARDS

6.1 Lots created after March 6, 1989 shall meet or exceed the following minimum standards of the Ordinance. No lot shall be created or reduced below the minimum standards unless allowed by other provisions of this ordinance.
6.1 A Land below the normal high-water line of a water body and land beneath streets serving more than two (2) lots shall not be included toward calculating minimum lot area for single lots.

6.1 B Lots located on opposite sides of 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.

6.2 Back Lots with less than the minimum road frontage shall be allowed so long as they meet the following standards.

6.2 A Each single-family dwelling on a back lot shall be located within the area defined by a circle with a minimum diameter equal to the required road frontage as required in the Zone.

6.2 B The right-of-way leading to the back lot must be conveyed by deed recorded in the Androscoggin County Registry of Deeds and shall be at least 60 feet wide as defined in section 406 of the Subdivision Ordinance.

6.2 C A legal description of the right-of-way by metes and bounds shall be attached to any building permit application for construction on the back lot.

6.2 D The creation of the right-of-way to serve a back lot shall not create a non-conforming front lot by reducing such lot’s required road frontage below the minimum required by the Ordinance, or, if the front lot is already nonconforming, with respect to road frontage, reduce its rod frontage at all. Where the right-of-way is conveyed or granted by easement or irrevocable license, or some grant less than a fee interest, the land over which such right of way is placed may not be counted toward meeting minimum lot area, coverage, setback or frontage requirements for the front lot.

6.2 E The right-of-way may serve no more than two (2) single-family dwellings unless the right-of-way is brought up to the street construction standards found in section 406 of the Subdivision Ordinance.

6.2 F All further lots must meet the standards required for front lots contained in the Ordinance.

6.3 Multiple Structures

6.3 A If more than one principal structure is constructed on a single parcel of land, the “minimum lot area” requirement shall apply to each structure, and each structure shall meet the front, side and rear setback and road frontage requirements.

6.3 B Each structure shall be so situated and constructed to be capable of being sold or transferred separately with a conforming lot and setbacks.

6.4 Duplexes

6.4 A Lots for duplexes created after the effective date of this Ordinance shall require a minimum of 150 percent of the lot size and road frontage requirements for a single-family home in the district. Existing lots or record as of the effective date shall be required to have road frontage equal to that needed for a single-family home.

6.5 Elderly or Handicapped Housing
6.5 A The purpose of these standards is to provide for temporary habitation of a dwelling unit by an older, or disable person(s) on lots where single family dwellings exist, except in Shoreland Areas, without the need to increase lot size so the adult children may care for aging parents or persons that need assistance due to a disability. This provision shall not be used for commercial purposes.

6.5 B General Requirements: The construction or placement of this type of unit on a lot which a single family dwelling is located may be allowed by a permit of the Code enforcement Officer regardless of lot size and road frontage if the following are met.

6.5 B (1) All required setbacks shall be observed.

6.5 B (2) The owner of the principal structure must reside in either the principal structure or the elderly unit.

6.5 B (3) The elderly or handicapped unit shall be limited to no larger than 800 square feet.

6.5 B (4) When the elderly or handicapped person(s) the permit was issued for ceases to live at this property; the unit shall be removed or altered within one (1) year as to make it incapable in independent habitation.

6.6 Setback Measurements All setbacks shall be measured from the property line to the nearest part of the structure except as may be provided for in other provisions of this Ordinance.

6.7 Table of Regulations

Table 1, on the next page, is a part of this Ordinance and sets forth the minimum space, coverage, bulk, setback and frontage requirements that must be observed in all districts.
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Cul-de-sac Frontage

A – Does not apply to antenna towers
B – Per dwelling unit garage areas may be counted
C – Measured from the edge of the right-of-way
D – Per Dwelling Unit see section 6 for Duplex units
E – Cul-de-sac Frontage: New building lots located at the cul-de-sac or along curves in a road where the radius of the curve at the front lot line is less than 90 feet, may be designed so that they have a minimum of 35 feet of road frontage along the front lot line, so long as lot width at the location where the principal building is to be constructed is at least equal to the distance normally required for road frontage.
SECTION 7  MINIMUM FLOOR AREA

7.0 No dwelling shall be constructed or placed that will enclose an area of less than five hundred (500) square feet of living space suitable for year-round occupancy.

SECTION 8  FOUNDATION

8.1 Foundations for new residential type structures shall conform with the most recent edition of the C.A.B.O. One and Two Family Dwelling Code.

8.2 Foundations for new Commercial structures shall conform to the most recent B.O.C.A. International Building Code.

8.3 Installation of Mobile Homes shall conform to the State of Maine Manufactured Housing Installation Standards.

SECTION 9  EXTERIOR FINISH

9.1 The exterior walls shall be finished with a covering of clapboards, wood siding, wood, or asphalt or asbestos shingles, masonry, brick, stone or other standard siding approved materials.

9.2 Such covering shall be completed within 90 days after the outside studding is in place.

9.3 Tarred paper, tarred felt, tyepar, or similar substances may not be used unless completely covered by the finished exterior wall covering.

SECTION 10  ROOF COVERING

10.1 The roof shall be covered with non-combustible or fire-resistant roofing materials as outlined in Chapter 9 of the 1995 edition of the C.A.B.O. Building Code.

SECTION 11  CHIMNEYS, PIPING AND FIREPLACES

11.1 Chimneys, Smoke pipes and Fireplaces shall be installed as outlined in N.F.P.A.-211 as adopted by the State of Maine.

SECTION 12  ELECTRICAL INSTALLATION

12.1 All electrical work shall conform to the National Electrical Code as adopted by the State of Maine.

SECTION 13  PLUMBING

13.1 All plumbing and sewage disposal shall be in strict conformance with the State of Maine law and the State Plumbing Code.

SECTION 14  MEANS OF EXIT

14.1 All new construction and new relevant structural changes shall have at least two (2) means of exit and shall conform with N.F.P.A.-101 LIFE SAFETY CODE as adopted by the State of Maine.

SECTION 15  DISPOSAL OF WASTE DURING CONSTRUCTION

15.1 Waste material and rubbish shall not be stored nor allowed to accumulate within the building or in the immediate vicinity, but shall be removed from the premises as soon as possible, but not to exceed thirty (30) day intervals. No material shall be disposed of by burning on the premises or the immediate vicinity without permission from the Fire Chief.
SECTION 16   ELECTRICAL UTILITY COMPANIES

16.1 Electrical Utility companies are hereby forbidden to make any electrical hookup to a dwelling until they have proof furnished by the said Builder or owner that they have a building permit. Inspections are required by the Code Enforcement Officer before electrical service hookup can occur.

SECTION 17   AMENDMENTS TO ORDINANCE

17.1 These regulations may be amended by the Town at any town meeting. Such amendments shall be entered in full in the minutes of said meeting. Copies of all amendments in force and of the present regulations shall be available to the public in the office of the town clerk, on or before the effective date.

SECTION 18   VIOLATIONS

18.1 The Code Enforcement Officer shall take such action, as may be necessary and legal under state law to ensure compliance with the Building Ordinance. Any person found guilty of violating any provisions of this Ordinance shall be subject to a fine as set forth by Sate Law in Title 30-A Subsection 4452 for each offence under this section. Legal suit shall be brought by the selectmen of the town, acting in the name of the Town of Livermore.

SECTION 19   EFFECTIVE DATE

19.1 This Ordinance shall take effect upon passage.

SECTION 20   REPEAL OF EXISTING BUILDING ORDINANCE

20.1 Adoption of the Ordinance shall repeal any and all previous Building Ordinances. This shall not prevent the enforcement of the repealed Ordinance or regulations with respect to the time period, which they were in effect.

SECTION 21   CONFLICTING PROVISIONS

21.1 Whenever the regulations made under the authority hereof differ from those described by any Federal or State Statute or other local Ordinance or other regulations, the provisions, which impose the greater restriction, or the higher standard shall govern.

SECTION 22   VALIDITY

22.1 If any section, clause, provision, portion, or phrase of the Ordinance shall be held to be invalid or unconstitutional by any court of competent authority, such finding shall not affect or impair or invalidate any other section, clause, provision, portion, or phrase of this Ordinance.

SECTION 23   APPEALS

23.1 The Board of Appeals may, upon written application of the affected landowner, grant a variance from the strict application of the Ordinance under the following conditions.

23.1 A A variance may be granted only from dimensional requirements including but not limited to, lot width, and setback requirements.

23.1 B (1) The Board shall not grant a variance unless it finds that:

23.1 B (2) The proposed structure or use would meet the provisions of this Ordinance except for the specific provision which has created the non-conformity and from which relief is sought; and
23.1 B (2) The strict application of the terms of this Ordinance would result in undue hardship to the applicant.

23.1 B (2a) The term “undue hardship” shall mean:

23.1 B (2a-1) That the land in question cannot yield a reasonable return unless a variance is granted;

23.1 B (2a-2) That the need for a variance is due to the unique circumstances of the property and not to the general conditions in the neighborhood.

23.1 B (2a-3) That the granting of a variance will not alter the essential character of the locality; and

23.1 B (2a-4) That the hardship is not the result of action taken by the applicant or a prior owner.

23.1 C The Board of Appeals shall limit any variance granted as strictly as possible in order to ensure conformance with the purposes and provision of the Ordinance to the greatest extent possible, and in doing so may impose such conditions to a variance as it deems necessary. The part receiving the variance shall comply with any condition imposed.

23.2 Variances shall not be granted for the establishment of any uses otherwise prohibited by this Ordinance.

23.3 Appeal procedure:

23.3 A An administrative or variance appeal may be taken to the Board of Appeals by an aggrieved party from any decision of the Code Enforcement Officer or the Planning Board. Such an appeal shall be taken within 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.

23.3 B Such appeal shall be made by filing with the Board of Appeals a written notice of appeal, which includes:

23.3 B (1) A copy of the decision made that the applicant is requesting relief from.

23.3 B (2) A concise written statement indicating what relief is requested and why it should be granted.

23.3 B (3) A sketch drawn to scale showing lot lines, location of existing buildings, structures and other physical features of the lot pertinent to the relief sought.

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

23.3 D The Board of Appeals shall hold a public hearing on the appeal with thirty-five (35) days of its receipt of an appeal request.

23.3 D (1) The person filing the appeal shall have the burden of proof.

23.3 D (2) 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. A Copy of the
written statement shall be sent the applicant, Code Enforcement Officer and Planning Board.

23.3 D (3) All decisions shall become part of the record and shall include a statement of findings and conclusions as well as the reasons or basis therefore, and the appropriate order, relief or denial thereof.

23.2 E 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 lay, and reaching its own decision.

When the Board of Appeals hears a decision of the Planning Board, it shall hold an appellate hearing. 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 is inadequate, the Board of Appeals may remand the matter to the Planning Board for additional fact finding.

23.4 Appeal to Superior Court

23.3 A Any aggrieved party who participated as a party during the proceedings before the Board of Appeals may take an appeal to Superior Court in accordance with State Law within thirty (30) days from the date of any decision of the Board of Appeals.

SECTION 26 DEFINITIONS

Accessory Structure: A structure, which is incidental and subordinate to the principal use of structure. An accessory structure shall not contain a kitchen or a full bath, however a sink and a toilet are permitted. Structures originally manufactured, as principal structures must be modified in order to be an accessory structure in such a manner that it meets this definition and be finished so that the appearance of the principal structure is maintained.

Alteration: Any change or modification in construction, or change in the structural members of a building or structure such as bearing walls, columns, beams or girders, or in the use of a building.

Arterial Street: A major thoroughfare, which serves as a major traffic way for travel between and through the municipality.

Authorized Agent: An individual or a firm having written authorization to act on behalf of a property owner or applicant. The authorization shall be signed by the property owner or applicant.

Back Lot: Any lot or parcel of land that does not have frontage on a public road or privately owned street or lacks the minimum frontage as required under Section 6.7 of the Ordinance.


Building Coverage Ratio: The ratio derived by dividing the area covered by building(s) by the area of the lot.

Building Envelope: That portion of the lot located within the prescribed front-, rear- and side yard setback distances.

Building Inspector: The Code Enforcement Officer or other person hired and sworn in by the Town to inspect for compliance with, and enforce this Ordinance.

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

Code Enforcement Officer: A person appointed by the municipal officers to administer and enforce this code.

Collector Street: A street with average daily traffic of 200 vehicles per day or greater, or streets, which serve as feeders to arterial streets and collectors of traffic from minor streets.

Commercial Use: Commercial shall include the use of lands, buildings, or structures, other than home occupations, the intent and result of which activity is the production of income from the buying and selling of goods or services, exclusive of rental or residential buildings or dwelling units.

Complete Application: An application shall be considered complete upon submission of the required fee, a signed application and all information required by this Ordinance except as validly waived by a vote of the Planning Board to waive the submission of required information.

Comprehensive Plan: Comprehensive plan means a document or interrelated documents containing the elements established under Title 30-A, M.R.S.A. Section 4326, subsection 1 to 4 as outlined in the Livermore Comprehensive Plan.

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

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

Developed Area: Any area on which a site improvement or change is made which could include buildings, landscaping, parking areas, and streets.

Development: Any manmade changes to improved or unimproved real estate, including but not limited to, buildings, other structures and driveways.

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 physical 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 as well as any other health or sensory impairment which requires special education, vocational rehabilitation, access consideration or related services.

Driveway: A vehicular access-way serving one lot.

Duplex: A building containing only two dwelling units for occupation by not more than two families.

Dwelling: Any building or structure or portion thereof designed or used for residential purposes.
  1. Single-family Dwelling: Any structure containing only one dwelling unit for occupation by not more than one family.
  2. Multi-family Dwellings: A building containing three or more dwelling units such buildings being designed exclusively for residential use and occupancy by three or more families living independently of one another with the number of families not exceeding the number of dwelling units.
**Dwelling Unit:** A room or suite of rooms used by a family as a habitation which is separate from other such rooms or suites or rooms, and which contains independent living, cooking, sleeping, bathing and sanitary facilities.

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

**Floor Area:** The sum of the horizontal areas of the floor(s) of a structure enclosed by exterior walls with a ceiling height of at least 5 feet, plus the horizontal area of any unenclosed portions of a structure such as porches and decks.

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

**Frontage, Road:** The linear distance between the sidelines of a lot measured along the lot line that borders upon whatever right-of-way serves as legal access to the lot.

**Garage:** An accessory building, or part of a principal building, including a carport, used primarily for the storage of motor vehicles as an accessory use.

**Home Occupation:** An occupation or business activity, which results in a product or service and is conducted in whole or in part in the dwelling unit or accessory structure as defined in the Town of Livermore Site Plan Review Ordinance.

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

**Lot Area:** The total horizontal area within the lot lines.

**Lot Lines:** The lines bounding a lot as defined below:

1. **Front Lot Line:** Interior lots: the line separating the lot from a street or right-of-way. Corner lot or through lot, the line separating the lot from either street or right-of-way.

2. **Rear Lot Line:** The lot line opposite the front lot line. On a lot pointed at the rear, the rear lot line shall be an imaginary line between the side lot lines parallel to the front lot line, not less than ten feet long, lying farthest from the front lot line. On a corner lot, the rear lot line shall be opposite the front lot line at least dimension.

3. **Side Lot Line:** Any lot line other that the front lot line or rear lot line.

**Lot of Record:** A parcel of land, a legal description of which or the dimensions of which were recorded on a document or map on file with the Androscoggin County Registry of Deeds on or before March 6, 1989 that meets the minimum frontage of 200 feet and a minimum lot size of 40,000 square feet.

**Lot of Record, non conforming:** A parcel of land that does not meet the definition of “Lot of Record”, a legal description of which or the dimensions of which were recorded on a document or map on file with the Androscoggin County Registry of Deeds and created as follows:

1. Created between March 6, 1989, and March 13, 1971 that contains at least 40,000 square feet and at least 150 feet of road frontage.

2. Created between March 13, 1971 and August 1962 that contains at least 10,000 square feet and at least 100 feet of road frontage.

3. Or any lot not meeting the current standards created before August 1962.
Manufactured Housing / Mobile Home Unit: Means structures, transportable in sections, which were constructed in a manufacturing facility and are transported to a building site and designed to be used as dwelling when connected to the required utilities, including the plumbing, heating, air conditioning and electrical systems contained therein and as otherwise defined in 30-A M.R.S.A. section 4358(1).

Minor Street: A street with average daily traffic of less than 200 vehicles per day.

Mobile Home Park: A parcel of land under unified ownership approved by the Town of Livermore Planning Board pursuant to the Ton of Livermore Subdivision Ordinance and Mobile Home Park Ordinance for the placement of three (3) or more mobile homes.

More Non-conforming: When a structure which does not meet any one or more of the codified dimensional requirements, such as setback, height, lot coverage or other requirement are expanded in such a way as to make the setback, height, lot coverage or other requirement less than the original setback before said expansion.

Multi-Unit Residential: A residential structure containing three (3) or more residential dwelling units.

New Construction: Means structures for which the “start of construction” commenced on or after the effective date of floodplain management regulations adopted by a community.

Nonconforming Lot: A single lot of record which at the effective date of adoption or amendment of the ordinance, does not meet the area, frontage, or width requirements of the district in which it is located.

Nonconforming Structure: A structure which does not meet any one or more of the following dimensional requirements, setback, height, or lot coverage, but which is allowed solely because it was in lawful existence at the time this Ordinance or subsequent amendments took effect. A structure that is expanded parallel to a lot line or water body is not considered as becoming more non-conforming.

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.

Principal Structure: A building other than one which is used for purposes incidental or accessory to the use of another building or use on the same premises.

Privately - Owned Street: A residential street meeting the standards contained in the Town of Livermore Subdivision Ordinance not including a street serving a mobile home park, which is not intended to be dedicated as a public way.

Reconstructed: The rebuilding of a road or section of a road to improve its serviceability.

Repair: To take necessary action to fix normal damage or storm damage.

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. The term shall include mobile homes, but not recreational vehicles.

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

Road Newly Constructed: A route or track consisting of a bed of exposed mineral soil, gravel, asphalt, or other surfacing material constructed to the standards found in section 406 of the Livermore Subdivision Ordinance. This definition is intended to meet the needs of road frontage requirements under Section 6 of this Ordinance and not permit substandard roads to be used to meet frontage requirements.
**Road of Record:** A route in existence before the adoption of the Ordinance and consisting of a route, track or bed of exposed mineral soil, gravel, asphalt, or other surfacing material constructed for or crated by the repeated passage of motorized vehicles.

**Seasonal Dwelling:** A dwelling unit lived in for periods aggregating less than seven months of the year and not the principal residence of the owner.

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

**Shoreland Area:** 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 seventy-five (75) feet of a stream; or within two-hundred and fifty (250) feet of the upland edge of a freshwater wetlands. Additional standards for these areas will be found in the Livermore Shoreland Zoning Ordinance.

**Sketch Plan:** Conceptual maps, renderings and supportive data describing the project proposed by the applicant for initial review prior to submitting an application for subdivision approval. May be used by the applicant as the basis for preparing the subdivision plans as part of the application for subdivision approval.

**Street:** See Road

**Structure:** Anything built for the support, shelter or enclosure of persons, animals, goods or property of any kind, together with anything constructed or erected with a fixed location on or in the ground, exclusive of fences. The term includes structures temporarily or permanently located, such as decks and satellite dishes.

**Subdivision:** The division of a tract or parcel of land into three or more lots as defined by State law and in addition shall include new developments and structures where there are three or more units involved such as mobile home pars, multiple family housing, apartment houses, multiple housing units mini malls, shopping plazas, business complexes, condominiums, shopping centers and industrial parks. All lots of less than five-hundred (500) acres shall be considered as lots within the proposed subdivision unless exempted by Title 30-A M.R.S.A. Sections 4401 4 A.1, 4 B, 4 D, and 4 E.

**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 fifty (50) percent of the market value of the structure before the damage occurred.

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

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

**Tract, or Parcel of Land:** All contiguous land in the same ownership, provided that lands 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.

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

**Variance:** A relaxation of the terms of this code where such relaxation will not be contrary to the public interest where, owing to condition peculiar to the property, and not the result of the actions of the applicants, a literal enforcement of the code would result in undue hardship.
Vegetation: All live trees, shrubs, ground cover, and other plants including, without limitation, trees both over and under four (4) inches in diameter, measured at four and on-half (4 1/2) feet above ground level.
Section 1 – Authority

This ordinance is adopted in the exercise of municipal home rule powers under the Maine Constitution and Title 30-A M.R.S.A., Section 3001, and Title 7 M.R.S.A., Section 3950.

Section 2 – Purpose

The purpose of this ordinance is to protect the health and safety of Livermore residents by holding dog owners accountable for the acts of their animals without imposing unreasonable restrictions on residents.

Section 3 – Definitions

As used in this ordinance, unless the text clearly indicates otherwise, the following words and phrases shall have the following meanings:

A. Dangerous Dog. Dangerous dog means a dog that causes a reasonable and prudent person, who is not on the owner’s or keeper’s premises and is acting in a reasonable and non-aggressive manner, to fear imminent bodily injury by said dog attacking or threatening to attack that individual or individual’s domestic animal. Dangerous dog does not include a dog certified by the State and used for law enforcement use. Dangerous dog also means a dog found by a court to be a dangerous dog.

B. Dog. Dog means a member of the genus and species known as canis familiaris or any canine, regardless of generation, resulting from the interbreeding of a member of canis familiaris with a wolf hybrid as defined below. For the purpose of this ordinance, the meaning of Dog shall include those animals meeting the definition of Wolf hybrid.

C. Domesticated Animal. Domesticated animal means a dog, cat or other animal commonly kept as a companion, and also includes livestock as defined in 7 M.R.S.A., Section 3907, Subsection 18-A.

D. Owner. Owner means any person owning, keeping, or harboring a dog or other animal.

E. Person. Person means an individual, corporation, partnership, association or any other legal entity.

F. Owner’s or Keeper’s Premises. Owner’s or keeper’s premises means the residence or residences, including buildings and land and motor vehicles belonging to the owner or keeper of the dog.

G. Secure Enclosure. Secure enclosure means a fence or structure of at least 6 feet in height forming or making an enclosure suitable to prevent the entry of young children and suitable to confine a dangerous dog in conjunction with other measures that may be taken by the owner or keeper, such as tethering the dangerous dog. The secure enclosure must be locked, be designed with a secure top, bottom and sides, and be designed to prevent the animal from escaping from or reaching through the enclosure. Any fencing material used in the construction of the secure enclosure shall have openings of no more than two inches.
H. **Wolf Hybrid.** Wolf hybrid means a mammal that is the offspring of the reproduction between a species of wild canid or wild canid hybrid and a domestic dog or wild canid hybrid. Wolf hybrid includes a mammal that is represented by its owner to be a wolf hybrid, coyote hybrid, coydog or any other kind of wild canid hybrid.

I. **Transfer.** To sell, give or otherwise convey ownership or possession of a dog to another person, or to cause a dog to be moved beyond the municipal boundaries.

### Section 4 – Dangerous Dogs – Transfer Prohibited

An owner who is given written notice including, but not limited to, a Uniform Summons and Complaint by the town’s Animal Control Officer, any law enforcement officer, or any state official, that the owner’s dog has attacked or is reasonably believed to have attacked any person or domesticated animal, shall not without further written authorization, sell, give or otherwise convey the ownership or possession of that dog, or cause it to be moved beyond the boundaries of the town, except to or under the care of a licensed veterinarian, animal control officer or law enforcement officer. An owner receiving such notice shall immediately place the dog under confinement for a period of at least ten days and shall promptly obey all rabies detection and control directions of any of the above officials concerning that dog. An owner receiving such notice shall comply with all applicable regulations of the Maine Department of Agriculture and Maine Department of Health and Human Services concerning rabies detection and control.

### Section 5 – Special Restraint of Dangerous Dogs

Any dog that has been determined by a court to be a dangerous dog shall be confined to a secure enclosure on the owner’s premises. The secure enclosure shall conform to all building setbacks contained within the Town of Livermore Building Ordinance, and shall be subject to inspection by the town’s Code Enforcement Officer. The secure enclosure shall in no event encroach any closer than three feet to any mail receptacle or entrance or exit to a house or other building, or driveway, walkway, stoop or stairs leading to a building, or home fill pipe or utility meter.

### Section 6 – Insurance Provision

The owner of any dog that has been determined by a court to be a dangerous dog shall be required to obtain liability insurance in an amount not less than $300,000.00 covering bodily injury or death of any person or animal, or for property damages, resulting from the keeping of the dangerous dog. Coverage shall be obtained within five business days of a court’s finding that a dog is dangerous. Proof of coverage must be provided to the town’s Animal Control Officer and/or Code Enforcement Officer, and such policy must provide for notification to the town in the event of cancellation or non-renewal for any reason. If the town is notified that coverage has lapsed, the owner shall have 24 hours, after notice by the town, to provide evidence of renewal or replacement coverage.

### Section 7 – Enforcement and Penalties

This ordinance shall be enforced by the town’s Animal Control Officer and/or Code Enforcement Officer, or any other duly authorized law enforcement official. Any person found to be in violation of this ordinance shall be fined in accordance with Title 30-A M.R.S.A. § 4452. Each day of violation shall constitute a separate offense. The municipal officers and/or their
authorized agents are hereby authorized to enter into administrative consent agreements for the purpose of eliminating violations of the ordinance and recovering fines without court action. Notwithstanding the above, the minimum financial penalty for a violation of this ordinance shall be $500.00 for the first offense, $750.00 for the second offense, and $1,000.00 for the third or any subsequent offense. This penalty shall not be waived by any court.

Section 8 – Severability
The invalidity of any section or provision of this ordinance shall not be held to invalidate any other section or provision of this ordinance.

Section 9 – Amendments
Amendments to this ordinance may be initiated by the Municipal Officers, the Planning Board, or as specified in Title 30-A, M.R.S.A. Section 2522.

Section 10 – Effective Date
This ordinance shall be in full force and effect immediately upon adoption.
FLOODPLAIN MANAGEMENT ORDINANCE

FOR THE

TOWN OF LIVERMORE, MAINE

ENACTED: ____________________________
Date

EFFECTIVE: ____________________________
Date

CERTIFIED BY: ____________________________
Signature

CERTIFIED BY: ____________________________
Print Name

Title

Affix Seal

60.3(d)
ARTICLE I - PURPOSE AND ESTABLISHMENT

Certain areas of the Town of Livermore, 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 Livermore, 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 Livermore, 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 Livermore 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 Livermore 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 Livermore, Maine.


ARTICLE II - PERMIT REQUIRED

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

ARTICLE III - APPLICATION FOR PERMIT

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

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

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

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

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

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

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

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

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

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

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

3. lowest floor, including basement; and whether or not such structures contain a basement; and,

4. level, in the case of non-residential structures only, to which the structure will be floodproofed;

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

J. A written certification by a Professional Land Surveyor, registered professional engineer or architect, that the base flood elevation and grade elevations shown on the application are accurate;
K. The following certifications as required in Article VI by a registered professional engineer or architect:

1. a Floodproofing Certificate (FEMA Form 81-65), 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 $50.00 shall be paid to the Town Clerk and a copy of a receipt for the same shall accompany the application.

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

ARTICLE V - REVIEW STANDARDS FOR FLOOD HAZARD DEVELOPMENT PERMIT APPLICATIONS

The Code Enforcement Officer shall:

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

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

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

2. in special flood hazard areas where base flood elevation and floodway data are not provided, the Code Enforcement Officer shall obtain, review and reasonably utilize any base flood elevation and floodway data from federal, state, or other technical sources, including information obtained pursuant to Article III.H.1.b.; Article VI.K.; and Article VIII.D., in order to administer Article VI of this Ordinance; and,
3. when the community establishes a base flood elevation in a Zone A by methods outlined in Article III.H. 1.b., the community shall submit that data to the Maine Floodplain Management Program.

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.a.,b., and c. The application for this permit shall include a Floodproofing Certificate signed by a registered professional engineer or architect; or,

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

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

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

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

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

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

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

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

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

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

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

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

   1. Zone AE shall have the lowest floor (including basement) elevated to at least one foot above the base flood elevation, or together with attendant utility and sanitary facilities shall:
      a. be floodproofed to at least one foot above the base flood elevation so that below that elevation the structure is watertight with walls substantially impermeable to the passage of water;
b. have structural components capable of resisting hydrostatic and hydrodynamic loads and the
effects of buoyancy; and,

c. be certified by a registered professional engineer or architect that the floodproofing design
and methods of construction are in accordance with accepted standards of practice for
meeting the provisions of this section. Such certification shall be provided with the
application for a Flood Hazard Development Permit, as required by Article III.K. and shall
include a record of the elevation above mean sea level to which the structure is
floodproofed.

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

a. together with attendant utility and sanitary facilities meet the floodproofing standards of
Article VI.G.1.

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

1. Zone AE shall:

a. be elevated such that the lowest floor (including basement) of the manufactured home is at
least one foot above the base flood elevation;

b. be on a permanent foundation, which may be poured masonry slab or foundation walls, with
hydraulic openings, or may be reinforced piers or block supports, any of which support the
manufactured home so that no weight is supported by its wheels and axles; and,

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

(1) over-the-top ties anchored to the ground at the four corners of the manufactured home,
plus two additional ties per side at intermediate points (manufactured homes less than
50 feet long require one additional tie per side); or by,

(2) frame ties at each corner of the home, plus five additional ties along each side at
intermediate points (manufactured homes less than 50 feet long require four additional
ties per side).

(3) all components of the anchoring system described in Article VI.H.1.c.(1) & (2) shall be
capable of carrying a force of 4800 pounds.

2. Zone A shall:

a. be elevated on a permanent foundation, as described in Article VI.H.1.b., such that the
lowest floor (including basement) of the manufactured home is at least one foot above the
base flood elevation utilizing information obtained pursuant to Article III.H.1.b.; Article
V.B; or Article VIII.D.; and

b. meet the anchoring requirements of Article VI.H.1.c.

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

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

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

K. Floodways -

1. In Zone AE riverine areas, encroachments, including fill, new construction, substantial improvement, and other development shall not be permitted within a regulatory floodway which is designated on the community's Flood Insurance Rate Map, unless a technical evaluation certified by a registered professional engineer is provided demonstrating that such encroachments will not result in any increase in flood levels within the community during the occurrence of the base flood discharge.

2. In Zones A and AE riverine areas for which no regulatory floodway is designated, encroachments, including fill, new construction, substantial improvement, and other development shall not be permitted in the floodway as determined in Article VI.K.3. unless a technical evaluation certified by a registered professional engineer is provided demonstrating that the cumulative effect of the proposed development, when combined with all other existing development and anticipated development:
   a. will not increase the water surface elevation of the base flood more than one foot at any point within the community; and,
b. is consistent with the technical criteria contained in Chapter 5 entitled "Hydraulic Analyses," *Flood Insurance Study - Guidelines and Specifications for Study Contractors*, (FEMA 37).

3. In Zones A and AE riverine areas for which no regulatory floodway is designated, the regulatory floodway is determined to be the channel of the river or other water course and the adjacent land areas to a distance of one-half the width of the floodplain as measured from the normal high water mark to the upland limit of the floodplain.

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

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

2. Enclosed areas shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of flood water. Designs for meeting this requirement must either:
   
   a. be engineered and certified by a registered professional engineer or architect; or,
   
   b. meet or exceed the following minimum criteria:
      
      (1) a minimum of two openings having a total net area of not less than one square inch for every square foot of the enclosed area;

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

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

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

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

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

1. when possible, the lowest horizontal member (excluding the pilings, or columns) is elevated to at least one foot above the base flood elevation; and

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

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

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

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

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

**ARTICLE VII - CERTIFICATE OF COMPLIANCE**

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

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

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

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

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

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

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

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

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

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

ARTICLE IX - APPEALS AND VARIANCES

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

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

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

B. Variances shall be granted only upon:

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

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

3. a showing that the issuance of the variance will not conflict with other state, federal or local laws or ordinances; and,
4. a determination that failure to grant the variance would result in "undue hardship," which in this sub-section means:

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

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

c. that the granting of a variance will not alter the essential character of the locality; and,

d. that the hardship is not the result of action taken by the applicant or a prior owner.

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

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

1. other criteria of Article IX and Article VI.K. are met; and,

2. the structure or other development is protected by methods that minimize flood damages during the base flood and create no additional threats to public safety.

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

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

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

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

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

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

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

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

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

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

4. The person filing the appeal shall have the burden of proof.

5. The Board of Appeals shall decide all appeals within thirty-five days after the close of the hearing, and shall issue a written decision on all appeals.

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

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

ARTICLE X - ENFORCEMENT AND PENALTIES

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

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

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

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

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

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

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

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

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

ARTICLE XII - CONFLICT WITH OTHER ORDINANCES

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

ARTICLE XIII - DEFINITIONS

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

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

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

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

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

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

Building - see Structure.

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

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

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

Elevated Building - means a non-basement building

a. built, in the case of a building in Zones A or AE, to have the top of the elevated floor elevated above the ground level by means of pilings, columns, post, piers, or "stilts;" and
b. adequately anchored so as not to impair the structural integrity of the building during a flood of up to one foot above the magnitude of the base flood.

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

Elevation Certificate - An official form (FEMA Form 81-31) that:

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

b. is required for purchasing flood insurance.

Flood or Flooding - means:

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

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

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

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

Flood Insurance Study - see Flood Elevation Study.

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

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

Floodplain Management Regulations - means zoning ordinances, subdivision regulations, building codes, health regulations, special purpose ordinances (such as a floodplain ordinance, grading ordinance, and erosion control ordinance) and other applications of police power. The term describes such state or local regulations, in any combination thereof, which provide standards for the purpose of flood damage prevention and reduction.
**Floodproofing** - means any combination of structural and non-structural additions, changes, or adjustments to structures which reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities, structures and contents.

**Floodway** - see Regulatory Floodway.

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

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

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

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

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

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

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

d. Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either:
   1. By an approved state program as determined by the Secretary of the Interior, or
   2. Directly by the Secretary of the Interior in states without approved programs.

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

**Lowest Floor** - means the lowest floor of the lowest enclosed area (including basement). An unfinished or flood resistant enclosure, usable solely for parking of vehicles, building access or storage in an area other than a basement area is not considered a building's lowest floor, provided that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements described in Article VI.l. of this ordinance.
Manufactured Home - means a structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when connected to the required utilities. For floodplain management purposes the term manufactured home also includes park trailers, travel trailers, and other similar vehicles placed on a site for greater than 180 consecutive days.

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

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

Minor Development - means all development that is not new construction or a substantial improvement, such as repairs, maintenance, renovations, or additions, whose value is less than 50% of the market value of the structure. It also includes, but is not limited to: accessory structures as provided for in Article VI.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. when not designated on the community's Flood Insurance Rate Map, it is considered to be the channel of a river or other water course and the adjacent land areas to a distance of one-half the width of the floodplain, as measured from the normal high water mark to the upland limit of the floodplain.

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

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

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

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

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

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

a. Any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been identified by the local code 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).
Local Food and Community Self-Governance Ordinance of 2012

An Ordinance to Protect the Health and Integrity of the Local Food System In the Town of Livermore, Androscoggin County, Maine.

Section 1. Name. This ordinance shall be known and may be cited as the “Local Food and Community Self-Governance Ordinance.”

Section 2. Definitions.
As used in this ordinance:
(a) “Patron” means an individual who is the last person to purchase any product or preparation directly from a processor or producer and who does not resell the product or preparation.
(b) “Home consumption” means consumed within a private home.
(c) “Local Foods” means any food or food product that is grown, produced, or processed by individuals who sell directly to their patrons through farm-based sales or buying clubs, at farmers markets, roadside stands, fundraisers or at community social events.
(d) “Processor” means any individual who processes or prepares products of the soil or animals for food or drink.
(e) “Producer” means any farmer or gardener who grows any plant or animal for food or drink.
(f) “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, farmers market and other public events.

Section 3. Preamble and Purpose. We the people of the Town of Livermore, Androscoggin County, Maine have the right to produce, process, sell, purchase and consume local foods thus promoting self-reliance, the preservation of family farms, and local food traditions. We recognize that family farms, sustainable agricultural practices, and food processing by individuals, families and non-corporate entities offers 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 Livermore.

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 food that fundamentally respects human dignity and health, nourishes individuals and the community, and sustains producers, processors and the environment. We are therefore duty bound under the Constitution of the State of Maine to protect and promote unimpeded access to the local foods.
Local Food and Community Self-Governance Ordinance of 2012

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

(i) Provide citizens with unimpeded access to local food;
(ii) Enhance the local economy by promoting the production and purchase of local agricultural products;
(iii) Protect access to farmers' markets, roadside stands, farm based sales and direct producer to patron sales;
(iv) Support the economic viability of local food producers and processors;
(v) Preserve community social events where local foods are served or sold;
(vi) Preserve local knowledge and traditional food ways.

Section 4. Authority. This Ordinance is adopted and enacted pursuant to the inherent inalienable, and fundamental right of the citizens of the Town of Livermore to self-government, and under the authority recognized as belonging to the people of the Town by all relevant state ad 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.

Article I § 2 of the Maine Constitution, which declares: "all power is inherent in the people; all free governments are founded in their authority and instituted for their benefit, [and that] they have therefore an unalienable and indefensible right to institute government and to alter, reform, or totally change the same when their safety and happiness require it"

§3001 of Title 30-A of the Maine Revised Statutes, which grants municipalities all powers necessary to protect the health, safety, and welfare of the residents of the Town of Livermore.

§211 of Title 7 of the Maine Revised Statutes which states: "it is the policy of the State to encourage food self-sufficiency for the State"

Section 5. Statements of Law.

Section 5.1 Licensure/Inspection Exemption. Producers or processors of local foods in the Town of Livermore are exempt from licensure and inspection provided that the transaction is only between the producer or processor and a patron when the food is sold for home consumption. This includes and producer or processor who sells his or her products at farmers’ markets or roadside stands; sells his or her products through farm-based sales directly to a patron; or delivers his or her products directly to patrons.
Local Food and Community Self-Governance Ordinance of 2012

Section 5.1a Licensure/Inspection Exemption. Producers or processors of local foods in the Town of Livermore are exempt from licensure and inspection provided that their products are prepared for, consumed, or sold at a community social event.

Section 5.2 Right to Access and Produce Food. Livermore citizens possess the right to produce, process, sell purchase, and consume local foods of their choosing.

Section 5.3 Right to Self-Governance. All citizens of Livermore possess the right to a form of governance which recognizes that all power is inherent in the people, that all free governments are founded on the people’s authority and consent.

Section 5.4 Right to Enforce. Livermore citizens possess the right to adopt measures which prevent the violation of the rights enumerated in the Ordinance.

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

Section 6.1 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.

Section 6.2 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. Producers or processors of local foods shall be exempt from the licensure and inspection requirements for that food as long as those agreements are in effect.

Section 7. Civil Enforcement. The Town of Livermore may enforce the provisions of this Ordinance through seeking equitable relief from a court of competent jurisdiction. Any individual citizen of the Town of Livermore shall have standing to vindicate any rights secured by this ordinance which have been violated or which are threatened with violations, and may seek relief both in the form of injunctive and compensatory relief from a court of competent jurisdiction.
Local Food and Community Self-Governance Ordinance of 2012

Section 8. Town Action against Pre-emption. The foundation for making and adoption of this law is the peoples’ 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. It is declared that those other measures may legitimately include the partial or complete separation of the Town from the other units and levels of government that attempt to preempt, amend, alter, or overturn this Ordinance.

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 Ordinance adopted by the Town of Livermore are hereby repealed, but only to the extent necessary to remedy the inconsistency.
Shoreland Zoning Ordinance for the Town of Livermore, Maine

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

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

3. **Applicability.** This Ordinance applies to all land areas within 250 feet, horizontal distance, of the

   • normal high-water line of any great pond or river, or
   • upland edge of a freshwater wetland,

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

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

4. **Effective Date**

   **A. Effective Date of Ordinance and Ordinance Amendments.** This Ordinance, which was adopted by the municipal legislative body on June 12, 2008, shall not be effective unless approved by the Commissioner of the Department of Environmental Protection. A certified copy of the Ordinance, or Ordinance Amendment, attested and signed by the Municipal Clerk, shall be forwarded to the Commissioner for approval. If the Commissioner fails to act on this Ordinance or Ordinance Amendment, within forty-five (45) days of his/her receipt of the Ordinance, or Ordinance Amendment, it shall be automatically approved.

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

   **B. Sections 15(O) and 15(O-1).** Section 15(O) is repealed on the statutory date established under 38 M.R.S.A. section 438-A(5), at which time Section 15(O-1) shall become effective. Until such time as Section 15(O) is repealed, Section 15(O-1) is not in effect.

NOTE: The statutory date established under 38 M.R.S.A. section 438-A(5) is the effective date of state-wide timber harvesting standards. That date is “the first day of January of the 2nd year following the year in which the Commissioner of Conservation determines that at least 252 of the
Town of Livermore – Shoreland Zoning Ordinance

336 municipalities identified by the Commissioner of Conservation as the municipalities with the highest acreage of timber harvesting activity on an annual basis for the period 1992-2003 have either accepted the state-wide standards or have adopted an ordinance identical to the state-wide standards.” 38 M.R.S.A. section 438-A(5) further provides that “the Commissioner of Conservation shall notify the Secretary of State in writing and advise the Secretary of the effective date of the state-wide standards.”

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

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

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

8. **Amendments.** This Ordinance may be amended by majority vote of the legislative body. Copies of amendments, attested and signed by the Municipal Clerk, shall be submitted to the Commissioner of the Department of Environmental Protection following adoption by the municipal legislative body and shall not be effective unless approved by the Commissioner. If the Commissioner fails to act on any amendment within forty-five (45) days of his/her receipt of the amendment, the amendment is automatically approved. Any application for a permit submitted to the municipality within the forty-five (45) day period shall be governed by the terms of the amendment, if such amendment is approved by the Commissioner.

9. **Districts and Zoning Map**

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

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

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

   **C. Certification of Official Shoreland Zoning Map.** The Official Shoreland Zoning Map shall be certified by the attested signature of the Municipal Clerk and shall be located in the municipal office. In the event the municipality does not have a municipal office, the Municipal Clerk shall be the custodian of the map.
D. Changes to the Official Shoreland Zoning Map. If amendments, in accordance with Section 8, are made in the district boundaries or other matter portrayed on the Official Shoreland Zoning Map, such changes shall be made on the Official Shoreland Zoning Map within thirty (30) days after the amendment has been approved by the Commissioner of the Department of Environmental Protection.

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

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


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. A non-conforming structure may be added to or expanded after obtaining a permit from the same permitting authority as that for a new structure, if such addition or expansion does not increase the non-conformity of the structure and is in accordance with subparagraphs (a) and (b) below.
(a) After January 1, 1989 if any portion of a structure is less than the required setback from the normal high-water line of a water body or tributary stream or the upland edge of a wetland, that portion of the structure shall not be expanded, as measured in floor area or volume, by 30% or more, during the lifetime of the structure. If a replacement structure conforms with the requirements of Section 12(C)(3), and is less than the required setback from a water body, tributary stream or wetland, the replacement structure may not be expanded if the original structure existing on January 1, 1989 had been expanded by 30% in floor area and volume since that date.

(b) Whenever a new, enlarged, or replacement foundation is constructed under a non-conforming structure, the structure and new foundation must be placed such that the setback requirement is met to the greatest practical extent as determined by the Planning Board or its designee, basing its decision on the criteria specified in Section 12(C)(2) Relocation, below. If the completed foundation does not extend beyond the exterior dimensions of the structure, except for expansion in conformity with Section 12(C)(1)(a) above, and the foundation does not cause the structure to be elevated by more than three (3) additional feet, as measured from the uphill side of the structure (from original ground level to the bottom of the first floor sill), it shall not be considered to be an expansion of the structure.

(2) Relocation. A non-conforming structure may be relocated within the boundaries of the parcel on which the structure is located provided that the site of relocation conforms to all setback requirements to the greatest practical extent as determined by the Planning Board or its designee, and provided that the applicant demonstrates that the present subsurface sewage disposal system meets the requirements of State law and the State of Maine Subsurface Wastewater Disposal Rules (Rules), or that a new system can be installed in compliance with the law and said Rules. In no case shall a structure be relocated in a manner that causes the structure to be more non-conforming.

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

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

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

(b) Where feasible, when a structure is relocated on a parcel the original location of the structure shall be replanted with vegetation which may consist of grasses, shrubs, trees, or a combination thereof.

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

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

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

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

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

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

(2) Resumption Prohibited. A lot, building or structure in or on which a non-conforming use is discontinued for a period exceeding one year, or which is superseded by a conforming use, may not again be devoted to a non-conforming use except that the Planning Board may, for good cause shown by the applicant, grant up to a one year extension to that time period. This provision shall not apply to the resumption of a use of a residential structure provided that the structure has been used or maintained for residential purposes during the preceding five (5) year period.

(3) Change of Use. An existing non-conforming use may be changed to another non-conforming use provided that the proposed use has no greater adverse impact on the subject and adjacent properties and resources than the former use, as determined by the Planning Board. The determination of no greater adverse impact shall be made according to criteria listed in Section 12(C)(4) above.

E. Non-conforming Lots

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

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

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

(3) Contiguous Lots - Vacant or Partially Built: If two or more contiguous lots or parcels are in single or joint ownership of record at the time of or since adoption or amendment of this Ordinance, if any of these lots do not individually meet the dimensional requirements of this Ordinance or subsequent amendments, and if one or more of the lots are vacant or contain no principal structure the lots shall be combined to the extent necessary to meet the dimensional requirements.
This provision shall not apply to 2 or more contiguous lots, at least one of which is non-conforming, owned by the same person or persons on the effective date of this Ordinance and recorded in the registry of deeds if the lot is served by a public sewer or can accommodate a subsurface sewage disposal system in conformance with the State of Maine Subsurface Wastewater Disposal Rules; and

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

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

13. Establishment of Districts

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

(1) Areas within 250 feet, horizontal distance, of the upland edge of freshwater wetlands, and wetlands associated with great ponds and rivers, which are rated "moderate" or "high" value waterfowl and wading bird habitat, including nesting and feeding areas, by the Maine Department of Inland Fisheries and Wildlife (MDIF&W) that are depicted on a Geographic Information System (GIS) data layer maintained by either MDIF&W or the Department as of May 1, 2006. For the purposes of this paragraph “wetlands associated with great ponds and rivers” shall mean areas characterized by non-forested wetland vegetation and hydric soils that are contiguous with a great pond or river, and have a surface elevation at or below the water level of the great pond or river during the period of normal high water. “Wetlands associated with great ponds or rivers” are considered to be part of that great pond or river.

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

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

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

(5) Land areas along rivers subject to severe bank erosion, undercutting, or river bed movement.
B. **Limited Residential District.** The Limited Residential District includes those areas suitable for residential and recreational development. It includes areas other than those in the Resource Protection District, or Stream Protection District, and areas which are used less intensively than those in the Limited Commercial District or the General Development Districts.

C. **Limited Commercial District.** The Limited Commercial District includes areas of mixed, light commercial and residential uses, exclusive of the Stream Protection District, which should not be developed as intensively as the General Development Districts. This district includes areas of two or more contiguous acres in size devoted to a mix of residential and low intensity business and commercial uses. Industrial uses are prohibited.

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

1. Areas of two or more contiguous acres devoted to commercial, industrial or intensive recreational activities, or a mix of such activities, including but not limited to the following:
   
   a. Areas devoted to manufacturing, fabricating or other industrial activities;
   
   b. Areas devoted to wholesaling, warehousing, retail trade and service activities, or other commercial activities; and
   
   c. Areas devoted to intensive recreational development and activities, such as, but not limited to amusement parks, race tracks and fairgrounds.

2. Areas otherwise discernible as having patterns of intensive commercial, industrial or recreational uses.

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

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

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

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

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

Key to Table 1:

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

Abbreviations:

RP - Resource Protection  GD - General Development I and General Development II
LR - Limited Residential  LC - Limited Commercial
SP - Stream Protection
### TABLE 1. LAND USES IN THE SHORELAND ZONE

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

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1 In RP not allowed within 75 feet horizontal distance, of the normal high-water line of great ponds, except to remove safety hazards.
2 Requires permit from the Code Enforcement Officer if more than 100 square feet of surface area, in total, is disturbed.
3 In RP not allowed in areas so designated because of wildlife value.
4 Provided that a variance from the setback requirement is obtained from the Board of Appeals.
5 See further restrictions in Section 15I (L)(2).
6 Except when area is zoned for resource protection due to floodplain criteria in which case a permit is required from the PB.
7 Except as provided in Section 15(H)(4).
8 Single family residential structures may be allowed by special exception only according to the provisions of Section 16(E), Special Exceptions.
9 Except for commercial uses otherwise listed in this Table, such as marinas and campgrounds, that are allowed in the respective district.
10 Excluding bridges and other crossings not involving earthwork, in which case no permit is required.
11 Excluding bridges and other crossings not involving earthwork, in which case no permit is required.
12 Permit not required but must file a written “notice of intent to construct” with CEO.
NOTE: Item 17, in its entirety, should be deleted from Table 1 if a municipality elects not to regulate “piers, docks, wharfs, bridges and other structures and uses extending over or below the normal high-water line or within a wetland”.

NOTE: A person performing any of the following activities shall require a permit from the Department of Environmental Protection, pursuant to 38 M.R.S.A. section 480-C, if the activity occurs in, on, over or adjacent to any freshwater wetland, great pond, river, stream or brook and operates in such a manner that material or soil may be washed into them:
A. Dredging, bulldozing, removing or displacing soil, sand, vegetation or other materials;
B. Draining or otherwise dewatering;
C. Filling, including adding sand or other material to a sand dune; or
D. Any construction or alteration of any permanent structure.

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

A. Minimum Lot Standards

<table>
<thead>
<tr>
<th>Minimum Lot</th>
<th>Minimum Shore</th>
</tr>
</thead>
<tbody>
<tr>
<td>Area (sq. ft.)</td>
<td>Frontage (ft.)</td>
</tr>
<tr>
<td>(1)</td>
<td></td>
</tr>
<tr>
<td>(a) Residential per dwelling unit</td>
<td>40,000</td>
</tr>
<tr>
<td>(b) Governmental, Institutional, Commercial or Industrial per principal structure</td>
<td>60,000</td>
</tr>
<tr>
<td>(c) Public and Private Recreational Facilities</td>
<td>40,000</td>
</tr>
<tr>
<td>(2)</td>
<td>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.</td>
</tr>
<tr>
<td>(3)</td>
<td>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.</td>
</tr>
<tr>
<td>(4)</td>
<td>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.</td>
</tr>
<tr>
<td>(5)</td>
<td>If more than one residential dwelling unit, principal governmental, institutional, commercial or industrial structure or use, or combination thereof, is constructed or established on a single parcel, all dimensional requirements shall be met for each additional dwelling unit, principal structure, or use.</td>
</tr>
</tbody>
</table>

B. Principal and Accessory Structures

(1) All new principal and accessory structures shall be set back at least one hundred (100) feet, horizontal distance, from the normal high-water line of great ponds classified GPA and rivers that flow to great ponds classified GPA, and seventy-five (75) feet, horizontal distance, from the normal high-water line of other water bodies, tributary streams, or the upland edge of a wetland, except that in the General Development I District the setback from the normal high-
Town of Livermore – Shoreland Zoning Ordinance

water line shall be at least twenty five (25) feet, horizontal distance. In the Resource Protection District the setback requirement shall be 250 feet, horizontal distance, except for structures, roads, parking spaces or other regulated objects specifically allowed in that district in which case the setback requirements specified above shall apply.

In addition:

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

(b) All principal structures along Significant River Segments as listed in 38 M.R.S.A. section 437 (see Appendix B), shall be set back a minimum of one hundred and twenty-five (125) feet, horizontal distance, from the normal high-water line and shall be screened from the river by existing vegetation. This provision does not apply to structures related to hydropower facilities.

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

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

(4) The total footprint area of all structures, parking lots and other non-vegetated surfaces, within the shoreland zone shall not exceed twenty (20) percent of the lot or a portion thereof, located within the shoreland zone, including land area previously developed, except in the
General Development District adjacent to rivers that do not flow to great ponds classified GPA, where lot coverage shall not exceed seventy (70) percent.

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

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

(b) The wall(s) is(are) at least 25 feet, horizontal distance, from the normal high-water line of a water body, tributary stream, or upland edge of a wetland;

(c) The site where the retaining wall will be constructed is legally existing lawn or is a site eroding from lack of naturally occurring vegetation, and which cannot be stabilized with vegetative plantings;

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

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

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

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

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

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

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

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

(v) A footpath not to exceed the standards in Section 15(P)(2)(a), may traverse the buffer;
NOTE: If the wall and associated soil disturbance occurs within 75 feet, horizontal distance, of a water body or tributary stream, a permit pursuant to the Natural Resource Protection Act is required from the Department of Environmental Protection.

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

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

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

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

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

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

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

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

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

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

NOTE: New permanent structures, and expansions thereof, projecting into or over water bodies shall require a permit from the Department of Environmental Protection pursuant to the Natural Resources Protection Act, 38 M.R.S.A. section 480-C. Permits may also be required from the Army Corps of Engineers if located in navigable waters.
D. Campgrounds. Campgrounds shall conform to the minimum requirements imposed under State licensing procedures and the following:

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

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

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

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

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

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

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

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

(6) When a recreational vehicle, tent or similar shelter is placed on-site for more than one hundred and twenty (120) days per year, all requirements for residential structures shall be met, including the installation of a subsurface sewage disposal system in compliance with the State of Maine Subsurface Wastewater Disposal Rules unless served by public sewage facilities.

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

(2) Auto or other vehicle service and/or repair operations, including body shops

(3) Chemical and bacteriological laboratories

(4) Storage of chemicals, including herbicides, pesticides or fertilizers, other than amounts normally associated with individual households or farms

(5) Commercial painting, wood preserving, and furniture stripping

(6) Dry cleaning establishments

(7) Electronic circuit assembly

(8) Laundromats, unless connected to a sanitary sewer

(9) Metal plating, finishing, or polishing

(10) Petroleum or petroleum product storage and/or sale except storage on same property as use occurs and except for storage and sales associated with marinas

(11) Photographic processing

(12) Printing

G. Parking Areas

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

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

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

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

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

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

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

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

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

(3) New permanent roads are not allowed within the shoreland zone along Significant River Segments except:

(a) To provide access to structures or facilities within the zone; or

(b) When the applicant demonstrates that no reasonable alternative route exists outside the shoreland zone. When roads must be located within the shoreland zone they shall be set back as far as practicable from the normal high-water line and screened from the river by existing vegetation.

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

(5) Road and driveway banks shall be no steeper than a slope of two (2) horizontal to one (1) vertical, and shall be graded and stabilized in accordance with the provisions for erosion and sedimentation control contained in Section 15(Q).
(6) Road and driveway grades shall be no greater than ten (10) percent except for segments of less than two hundred (200) feet.

(7) 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.

(8) 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 or driveway.

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

(9) Ditches, culverts, bridges, dips, water turnouts and other storm water runoff control installations associated with roads and driveways shall be maintained on a regular basis to assure effective functioning.
I. Signs. The following provisions shall govern the use of signs in the Resource Protection, Stream Protection, Limited Residential and Limited Commercial Districts:

(1) Signs relating to goods and services sold on the premises shall be allowed, provided that such signs shall not exceed six (6) square feet in area and shall not exceed two (2) signs per premises. In the Limited Commercial District, however, such signs shall not exceed sixteen (16) square feet in area. Signs relating to goods or services not sold or rendered on the premises shall be prohibited.

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

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

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

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

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

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

J. Storm Water Runoff

(1) All new construction and development shall be designed to minimize storm water runoff from the site in excess of the natural predevelopment conditions. Where possible, existing natural runoff control features, such as berms, swales, terraces and wooded areas, shall be retained in order to reduce runoff and encourage infiltration of 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, and the following: a) clearing or removal of woody vegetation necessary to site a new system and any associated fill extensions, shall
not extend closer than seventy-five (75) feet, horizontal distance, from the normal high-water line of a water body or the upland edge of a wetland and b) a holding tank is not allowed for a first-time residential use in the shoreland zone.

NOTE: The Maine Subsurface Wastewater Disposal Rules require new systems, excluding fill extensions, to be constructed no less than one hundred (100) horizontal feet from the normal high-water line of a perennial water body. The minimum setback distance for a new subsurface disposal system may not be reduced by variance.

L. Essential Services

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

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

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

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

Mineral extraction may be permitted under the following conditions:

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

(2) No part of any extraction operation, including drainage and runoff control features, shall be permitted within one hundred (100) feet, horizontal distance, of the normal high-water line of a great pond classified GPA or a river flowing to a great pond classified GPA, and within seventy-five (75) feet, horizontal distance, of the normal high-water line of any other water body, tributary stream, or the upland edge of a wetland. Extraction operations shall not be permitted within fifty (50) feet, horizontal distance, of any property line without written permission of the owner of such adjacent property.
(3) Developers of new gravel pits along Significant River Segments shall demonstrate that no reasonable mining site outside the shoreland zone exists. When gravel pits must be located within the zone, they shall be set back as far as practicable from the normal high-water line and no less than seventy-five (75) feet and screened from the river by existing vegetation.

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

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

NOTE: The State of Maine Solid Waste Laws, 38 M.R.S.A., section 1301 and the solid waste management rules, Chapters 400-419 of the Department of Environmental Protection's regulations may contain other applicable provisions regarding disposal of such materials.

(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.

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

N. Agriculture

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

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

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

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 freshwater wetlands. Operations in existence on the effective date of this ordinance and not in conformance with this provision may be maintained.

(5) Newly established livestock grazing areas shall not be permitted within one hundred (100) feet, horizontal distance, of the normal high-water line of a great pond classified GPA; within seventy-five (75) feet, horizontal distance, from 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.

O. Timber Harvesting

(1) In a Resource Protection District abutting a great pond, timber harvesting shall be limited to the following:

(a) Within the strip of land extending 75 feet, horizontal distance, inland from the normal high-water line, timber harvesting may be conducted when the following conditions are met:

(1) The ground is frozen;
(2) There is no resultant soil disturbance;
(3) The removal of trees is accomplished using a cable or boom and there is no entry of tracked or wheeled vehicles into the 75-foot strip of land;
(4) There is no cutting of trees less than 6 inches in diameter; no more than 30% of the trees 6 inches or more in diameter, measured at 4 ½ feet above ground level, are cut in any 10-year period; and a well-distributed stand of trees and other natural vegetation remains; and
(5) A licensed professional forester has marked the trees to be harvested prior to a permit being issued by the municipality.

(b) Beyond the 75 foot strip referred to in Section 15(O)(1)(a) above, timber harvesting is permitted in accordance with paragraph 2 below except that in no case shall the average residual basal area of trees over 4 ½ inches in diameter at 4 1/2 feet above ground level be reduced to less than 30 square feet per acre.

(2) Except in areas as described in Section 15(O)(1) above, timber harvesting shall conform with the following provisions:

(a) Selective cutting of no more than forty (40) percent of the total volume of trees four (4) inches or more in diameter measured at 4 1/2 feet above ground level on any lot in any ten (10) year period is permitted. In addition:
(i) Within one-hundred (100) feet, horizontal distance, of the normal high-water line of a great pond classified GPA or a river flowing to a great pond classified GPA, and within seventy-five (75) feet, horizontal distance, of the normal high-water line of other water bodies, tributary streams, or the upland edge of a wetland, there shall be no clearcut openings and a well-distributed stand of trees and other vegetation, including existing ground cover, shall be maintained.

(ii) At distances greater than one-hundred (100) feet, horizontal distance, of a great pond classified GPA or a river flowing to a great pond classified GPA, and greater than seventy-five (75) feet, horizontal distance, of the normal high-water line of other water bodies or the upland edge of a wetland, harvesting operations shall not create single clearcut openings greater than ten-thousand (10,000) square feet in the forest canopy. Where such openings exceed five-thousand (5000) square feet they shall be at least one hundred (100) feet, horizontal distance, apart. Such clearcut openings shall be included in the calculation of total volume removal. Volume may be considered to be equivalent to basal area.

(b) Timber harvesting operations exceeding the 40% limitation in Section 15(O)(2)(a) above, may be allowed by the planning board upon a clear showing, including a forest management plan signed by a Maine licensed professional forester, that such an exception is necessary for good forest management and will be carried out in accordance with the purposes of this Ordinance. The planning board shall notify the Commissioner of the Department of Environmental Protection of each exception allowed, within fourteen (14) days of the planning board's decision.

(c) No accumulation of slash shall be left within fifty (50) feet, horizontal distance, of the normal high-water line of a water body. In all other areas slash shall either be removed or disposed of in such a manner that it lies on the ground and no part thereof extends more than four (4) feet above the ground. Any debris that falls below the normal high-water line of a water body or tributary stream shall be removed.

(d) Timber harvesting equipment shall not use stream channels as travel routes except when:

(i) Surface waters are frozen; and

(ii) The activity will not result in any ground disturbance.

(e) All crossings of flowing water shall require a bridge or culvert, except in areas with low banks and channel beds which are composed of gravel, rock or similar hard surface which would not be eroded or otherwise damaged.

(f) Skid trail approaches to water crossings shall be located and designed so as to prevent water runoff from directly entering the water body or tributary stream. Upon completion of timber harvesting, temporary bridges and culverts shall be removed and areas of exposed soil revegetated.

(g) Except for water crossings, skid trails and other sites where the operation of machinery used in timber harvesting results in the exposure of mineral soil shall be located such that an unscarified strip of vegetation of at least seventy-five (75) feet, horizontal distance, in
width for slopes up to ten (10) percent shall be retained between the exposed mineral soil and the normal high-water line of a water body or upland edge of a wetland. For each ten (10) percent increase in slope, the unscarified strip shall be increased by twenty (20) feet, horizontal distance. The provisions of this paragraph apply only to a face sloping toward the water body or wetland, provided, however, that no portion of such exposed mineral soil on a back face shall be closer than twenty five (25) feet, horizontal distance, from the normal high-water line of a water body or upland edge of a wetland.

O-1. 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(O-1)(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 or coastal 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(O-1)(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 or coastal 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(O-1)(5)(a)(i) above may be reduced to no less than 50 feet, horizontal distance, and the 50 foot setback specified in Section 15(O-1)(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(O-1)(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(O-1)(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(O-1). 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(O-1)(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.


(b) Upgrading existing water crossings. Extension or enlargement of presently existing water crossings must conform to the provisions of Section 15(O-1). 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(O-1).

(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(O-1)(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(O-1)(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 10 year frequency water flows or with a cross-sectional area at least equal to 2 1/2 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(O-1)(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(O-1), 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(O-1)(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 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(O-1), 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>

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

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

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

(2) Except in areas as described in Section P(1), above, and except to allow for the development of permitted uses, within a strip of land extending one-hundred (100) feet, horizontal distance, inland from the normal high-water line of a great pond classified GPA or a river flowing to a great pond classified GPA, and seventy-five (75) feet, horizontal distance, from any other water body, tributary stream, or the upland edge of a wetland, a buffer strip of vegetation shall be preserved as follows:
(a) There shall be no cleared opening greater than 250 square feet in the forest canopy (or other existing woody vegetation if a forested canopy is not present) as measured from the outer limits of the tree or shrub crown. However, a footpath not to exceed six (6) feet in width as measured between tree trunks and/or shrub stems is allowed provided that a cleared line of sight to the water through the buffer strip is not created.

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

<table>
<thead>
<tr>
<th>Diameter of Tree at 4-1/2 feet Above Ground Level (inches)</th>
<th>Points</th>
</tr>
</thead>
<tbody>
<tr>
<td>2 - &lt; 4 in.</td>
<td>1</td>
</tr>
<tr>
<td>4 – &lt;8 in.</td>
<td>2</td>
</tr>
<tr>
<td>8-&lt; 12 in.</td>
<td>4</td>
</tr>
<tr>
<td>12 in. or greater</td>
<td>8</td>
</tr>
</tbody>
</table>

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

NOTE: As an example, adjacent to a great pond, if a 25-foot x 50-foot plot contains four (4) trees between 2 and 4 inches in diameter, two trees between 4 and 8 inches in diameter, three trees between 8 and 12 inches in diameter, and two trees over 12 inches in diameter, the rating score is:

\[(4 \times 1) + (2 \times 2) + (3 \times 4) + (2 \times 8) = 36 \text{ points}\]

Thus, the 25-foot by 50-foot plot contains trees worth 36 points. Trees totaling 12 points (36 - 24 =12) may be removed from the plot provided that no cleared openings are created.

The following shall govern in applying this point system:

(i) The 25-foot by 50-foot rectangular plots must be established where the landowner or lessee proposes clearing within the required buffer;
(ii) Each successive plot must be adjacent to, but not overlap a previous plot;
(iii) Any plot not containing the required points must have no vegetation removed except as otherwise allowed by this Ordinance;
(iv) Any plot containing the required points may have vegetation removed down to the minimum points required or as otherwise allowed by is Ordinance;
(v) Where conditions permit, no more than 50% of the points on any 25-foot by 50-foot rectangular area may consist of trees greater than 12 inches in diameter.
For the purposes of Section 15(P)(2)(b) “other natural vegetation” is defined as retaining existing vegetation under three (3) feet in height and other ground cover and retaining at least five (5) saplings less than two (2) inches in diameter at four and one half (4 ½) feet above ground level for each 25-foot by 50-foot rectangle area. If five saplings do not exist, no woody stems less than two (2) inches in diameter can be removed until 5 saplings have been recruited into the plot.

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

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

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

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

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

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

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

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

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

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

(a) Mulching and revegetation of disturbed soil.

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

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

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

(3) Erosion and sedimentation control measures shall apply to all aspects of the proposed project involving land disturbance, and shall be in operation during all stages of the activity. The amount of exposed soil at every phase of construction shall be minimized to reduce the potential for erosion.

(4) Any exposed ground area shall be temporarily or permanently stabilized within one (1) week from the time it was last actively worked, by use of riprap, sod, seed, and mulch, or other effective measures. In all cases permanent stabilization shall occur within nine (9) months of the initial date of exposure. In addition:

(a) Where mulch is used, it shall be applied at a rate of at least one (1) bale per five hundred (500) square feet and shall be maintained until a catch of vegetation is established.

(b) Anchoring the mulch with netting, peg and twine or other suitable method may be required to maintain the mulch cover.

(c) Additional measures shall be taken where necessary in order to avoid siltation into the water. Such measures may include the use of staked hay bales and/or silt fences.

(5) Natural and man-made drainage ways and drainage outlets shall be protected from erosion from water flowing through them. Drainageways shall be designed and constructed in order to carry water from a twenty five (25) year storm or greater, and shall be stabilized with vegetation or lined with riprap.

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

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

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

NOTE: Municipal officials should contact the Maine Historic Preservation Commission for the listing and location of Historic Places in their community.

16. Administration

A. Administering Bodies and Agents

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

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

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

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

(1) A permit is not required for the replacement of an existing road culvert as long as:

(a) The replacement culvert is not more than 25% longer than the culvert being replaced;

(b) The replacement culvert is not longer than 75 feet; and

(c) Adequate erosion control measures are taken to prevent sedimentation of the water, and the crossing does not block fish passage in the watercourse.
(2) A permit is not required for an archaeological excavation as long as the excavation is conducted by an archaeologist listed on the State Historic Preservation Officer’s level 1 or level 2 approved list, and unreasonable erosion and sedimentation is prevented by means of adequate and timely temporary and permanent stabilization measures.

(3) Any permit required by this Ordinance shall be in addition to any other permit required by other law or ordinance.

C. Permit Application

(1) Every applicant for a permit shall submit a written application, including a scaled site plan, on a form provided by the municipality, to the appropriate official as indicated in Section 14.

(2) All applications shall be signed by an owner or individual who can show evidence of right, title or interest in the property or by an agent, representative, tenant, or contractor of the owner with authorization from the owner to apply for a permit hereunder, certifying that the information in the application is complete and correct.

(3) All applications shall be dated, and the Code Enforcement Officer or Planning Board, as appropriate, shall note upon each application the date and time of its receipt.

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

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

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

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

(1) Will maintain safe and healthful conditions;

(2) Will not result in water pollution, erosion, or sedimentation to surface waters;
(3) Will adequately provide for the disposal of all wastewater;

(4) Will not have an adverse impact on spawning grounds, fish, aquatic life, bird or other wildlife habitat;

(5) Will conserve shore cover and visual, as well as actual, points of access to inland waters;

(6) Will protect archaeological and historic resources as designated in the comprehensive plan;

(7) Will avoid problems associated with floodplain development and use; and

(8) Is in conformance with the provisions of Section 15, Land Use Standards.

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

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

(1) There is no location on the property, other than a location within the Resource Protection District, where the structure can be built.

(2) The lot on which the structure is proposed is undeveloped and was established and recorded in the registry of deeds of the county in which the lot is located before the adoption of the Resource Protection District.

(3) All proposed buildings, sewage disposal systems and other improvements are:

   (a) Located on natural ground slopes of less than 20%; and

   (b) Located outside the floodway of the 100-year flood-plain along rivers and artificially formed great ponds along rivers, based on detailed flood insurance studies and as delineated on the Federal Emergency Management Agency's Flood Boundary and Floodway Maps and Flood Insurance Rate Maps; all buildings, including basements, are elevated at least one foot above the 100-year flood-plain elevation; and the development is otherwise in compliance with any applicable municipal flood-plain ordinance.

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

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

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

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

H. Appeals

(1) Powers and Duties of the Board of Appeals. The Board of Appeals shall have the following powers:

(a) Administrative Appeals: To hear and decide administrative appeals, on an appellate basis, where it is alleged by an aggrieved party that there is an error in any order, requirement, decision, or determination made by, or failure to act by, the Planning Board in the administration of this Ordinance; and to hear and decide administrative appeals on a de novo basis where it is alleged by an aggrieved party that there is an error in any order, requirement, decision or determination made by, or failure to act by, the Code Enforcement Officer in his or her review of and action on a permit application under this Ordinance. Any order, requirement, decision or determination made, or failure to act, in the enforcement of this ordinance is not appealable to the Board of Appeals.

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

(2) Variance Appeals. Variances may be granted only under the following conditions:

(a) Variances may be granted only from dimensional requirements including, but not limited to, lot width, structure height, percent of lot coverage, and setback requirements.

(b) Variances shall not be granted for establishment of any uses otherwise prohibited by this Ordinance.

(c) The Board shall not grant a variance unless it finds that:
(i) The proposed structure or use would meet the provisions of Section 15 except for the specific provision which has created the non-conformity and from which relief is sought; and

(ii) The strict application of the terms of this Ordinance would result in undue hardship. The term "undue hardship" shall mean:

a. That the land in question cannot yield a reasonable return unless a variance is granted;

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

c. That the granting of a variance will not alter the essential character of the locality; and

d. That the hardship is not the result of action taken by the applicant or a prior owner.

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

(e) The Board of Appeals shall limit any variances granted as strictly as possible in order to ensure conformance with the purposes and provisions of this Ordinance to the greatest extent possible, and in doing so may impose such conditions to a variance as it deems necessary. The party receiving the variance shall comply with any conditions imposed.

(f) A copy of each variance request, including the application and all supporting information supplied by the applicant, shall be forwarded by the municipal officials to the Commissioner of the Department of Environmental Protection at least twenty (20) days prior to action by the Board of Appeals. Any comments received from the Commissioner prior to the action by the Board of Appeals shall be made part of the record and shall be taken into consideration by the Board of Appeals.

(3) Administrative Appeals

When the Board of Appeals reviews a decision of the Code Enforcement Officer the Board of Appeals shall hold a “de novo” hearing. At this time the Board may receive and consider new evidence and testimony, be it oral or written. When acting in a “de novo” capacity the Board of Appeals shall hear and decide the matter afresh, undertaking its own independent analysis of evidence and the law, and reaching its own decision.
When the Board of Appeals hears a decision of the Planning Board, it shall hold an appellate hearing, and may reverse the decision of the Planning Board only upon finding that the decision was contrary to specific provisions of the Ordinance or contrary to the facts presented to the Planning Board. The Board of Appeals may only review the record of the proceedings before the Planning Board. The Board Appeals shall not receive or consider any evidence which was not presented to the Planning Board, but the Board of Appeals may receive and consider written or oral arguments. If the Board of Appeals determines that the record of the Planning Board proceedings are inadequate, the Board of Appeals may remand the matter to the Planning Board for additional fact finding.

(4) Appeal Procedure

(a) Making an Appeal

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

(ii) Applications for appeals shall be made by filing with the Board of Appeals a written notice of appeal which includes:

a. A concise written statement indicating what relief is requested and why the appeal or variance should be granted.

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

(iii) Upon receiving an application for an administrative appeal or a variance, the Code Enforcement Officer or Planning Board, as appropriate, shall transmit to the Board of Appeals all of the papers constituting the record of the decision appealed from.

(iv) The Board of Appeals shall hold a public hearing on an administrative appeal or a request for a variance within thirty-five (35) days of its receipt of a complete written application, unless this time period is extended by the parties.

(b) Decision by Board of Appeals

(i) A majority of the full voting membership of the Board shall constitute a quorum for the purpose of deciding an appeal.

(ii) The person filing the appeal shall have the burden of proof.

(iii) The Board shall decide all administrative appeals and variance appeals within thirty five (35) days after the close of the hearing, and shall issue a written decision on all appeals.
(iv) The Board of Appeals shall state the reasons and basis for its decision, including a statement of the facts found and conclusions reached by the Board. The Board shall cause written notice of its decision to be mailed or hand-delivered to the applicant and to the Department of Environmental Protection within seven (7) days of the Board’s decision. Copies of written decisions of the Board of Appeals shall be given to the Planning Board, Code Enforcement Officer, and the municipal officers.

(5) Appeal to Superior Court. Except as provided by 30-A M.R.S.A. section 2691(3)(F), any aggrieved party who participated as a party during the proceedings before the Board of Appeals may take an appeal to Superior Court in accordance with State laws within forty-five (45) days from the date of any decision of the Board of Appeals.

(6) Reconsideration. In accordance with 30-A M.R.S.A. section 2691(3)(F), the Board of Appeals may reconsider any decision within forty-five (45) days of its prior decision. A request to the Board to reconsider a decision must be filed within ten (10) days of the decision that is being reconsidered. A vote to reconsider and the action taken on that reconsideration must occur and be completed within forty-five (45) days of the date of the vote on the original decision. Reconsideration of a decision shall require a positive vote of the majority of the Board members originally voting on the decision, and proper notification to the landowner, petitioner, planning board, code enforcement officer, and other parties of interest, including abutters and those who testified at the original hearing(s). The Board may conduct additional hearings and receive additional evidence and testimony.

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

I. Enforcement

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

(2) Code Enforcement Officer

(a) It shall be the duty of the Code Enforcement Officer to enforce the provisions of this Ordinance. If the Code Enforcement Officer shall find that any provision of this Ordinance is being violated, he or she shall notify in writing the person responsible for such violation, indicating the nature of the violation and ordering the action necessary to correct it, including discontinuance of illegal use of land, buildings or structures, or work being done, removal of illegal buildings or structures, and abatement of nuisance conditions. A copy of such notices shall be submitted to the municipal officers and be maintained as a permanent record.

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

(c) The Code Enforcement Officer shall keep a complete record of all essential transactions of the office, including applications submitted, permits granted or denied, variances granted or denied, revocation actions, revocation of permits, appeals, court actions, violations
investigated, violations found, and fees collected. On a biennial basis, a summary of this record shall be submitted to the Director of the Bureau of Land and Water Quality within the Department of Environmental Protection.

(3) Legal Actions. When the above action does not result in the correction or abatement of the violation or nuisance condition, the Municipal Officers, upon notice from the Code Enforcement Officer, are hereby directed to institute any and all actions and proceedings, either legal or equitable, including seeking injunctions of violations and the imposition of fines, that may be appropriate or necessary to enforce the provisions of this Ordinance in the name of the municipality. The municipal officers, or their authorized agent, are hereby authorized to enter into administrative consent agreements for the purpose of eliminating violations of this Ordinance and recovering fines without Court action. Such agreements shall not allow an illegal structure or use to continue unless there is clear and convincing evidence that the illegal structure or use was constructed or conducted as a direct result of erroneous advice given by an authorized municipal official and there is no evidence that the owner acted in bad faith, or unless the removal of the structure or use will result in a threat or hazard to public health and safety or will result in substantial environmental damage.

(4) Fines. Any person, including but not limited to a landowner, a landowner's agent or a contractor, who violates any provision or requirement of this Ordinance shall be penalized in accordance with 30-A, M.R.S.A. section 4452.

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).

17. Definitions.

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

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

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

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

Basal Area - the area of cross-section of a tree stem at 4 1/2 feet above ground level and inclusive of bark.
Basement - any portion of a structure with a floor-to-ceiling height of 6 feet or more and having more than 50% of its volume below the existing ground level.

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

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

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

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

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

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

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

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

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

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

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

Expansion of a structure - an increase in the floor area or volume of a structure, including all extensions such as, but not limited to: attached decks, garages, porches and greenhouses.
Expansion of use - the addition of one or more months to a use's operating season; or the use of more floor area or ground area devoted to a particular use.

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

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

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

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

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

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 cannot be located away from these waters. The uses include, but are not limited to commercial and recreational fishing and boating facilities, excluding recreational boat storage buildings, finfish and shellfish processing, fish storage and retail and wholesale fish marketing facilities, waterfront dock and port facilities, shipyards and boat building facilities, marinas, navigation aids, basins and channels, retaining walls, industrial uses dependent upon water-borne transportation or requiring large volumes of cooling or processing water that can not reasonably be located or operated at an inland site, and uses that primarily provide general public access to coastal or inland waters.
Great pond - any inland body of water which in a natural state has a surface area in excess of ten acres, and any inland body of water artificially formed or increased which has a surface area in excess of thirty (30) acres except for the purposes of this Ordinance, where the artificially formed or increased inland body of water is completely surrounded by land held by a single owner.

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

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

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

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

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

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

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

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

Lot area - The area of land enclosed within the boundary lines of a lot, minus land below the normal high-water line of a water body or upland edge of a wetland and areas beneath roads serving more than two lots.
Marina - a business establishment having frontage on navigable water and, as its principal use, providing for hire offshore moorings or docking facilities for boats, and which may also provide accessory services such as boat and related sales, boat repair and construction, indoor and outdoor storage of boats and marine equipment, bait and tackle shops and marine fuel service facilities.

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

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

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

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

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

Native – indigenous to the local forests.

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

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

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

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

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

Person - an individual, corporation, governmental agency, municipality, trust, estate, partnership, association, two or more individuals having a joint or common interest, or other legal entity.
Town of Livermore – Shoreland Zoning Ordinance

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

Temporary: Structures which remain in or over the water for less than seven (7) months in any period of twelve (12) consecutive months, but in no case later than December 1 of each year.

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

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

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

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

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

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

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

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

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

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

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

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

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

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 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.

Significant River Segments - See Appendix B or 38 M.R.S.A. section 437.
Skid trail – a route repeatedly used by forwarding machinery or animal to haul or drag forest products from the stump to the yard or landing, the construction of which requires minimal excavation.

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

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

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

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

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

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. 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.

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 wetland, the upland edge is formed where the soils are not saturated for a duration sufficient to support wetland vegetation; or where the soils support the growth of wetland vegetation, but such vegetation is dominated by woody stems that are six (6) meters (approximately twenty (20) foot) tall or taller.

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

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

Water body - any great pond, river or stream.

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

Wetland - a freshwater wetland.

Woody Vegetation - live trees or woody, non-herbaceous shrubs.
MUNICIPAL OFFICERS’ CERTIFICATION OF OFFICIAL TEXT OF A PROPOSED ORDINANCE
[30-A M.R.S.A. § 3002(2)]

To the Town Clerk of the Town of Livermore:

We, the undersigned members of the Town of Livermore Board of Selectpersons, 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 Livermore – Shoreland Zoning Ordinance,” which is to be presented to the voters for their consideration on June 12, 2008.

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

Dated: May 27, 2008.

Grace Jacques, Chair

Thomas Berry

Brenda Merrill

Wayne Timberlake

John Wakefield
Town of Livermore  
Solid Waste Disposal Control Ordinance

Section 1.

This Ordinance shall be known and be cited as the “Solid Waste Disposal Control Ordinance of the Town of Livermore, Maine”.

Section 2.

1. **Declaration of Policy.** This Ordinance is designed to control the disposal and reuse and recycling of solid waste material in the Town of Livermore by providing for the establishment and enforcement of rules and establishing limitations and prohibitions to protect the health, safety and welfare of the citizens of Livermore, and to protect the environment and natural resources of the Town.

2. This Ordinance is adopted pursuant to the Home Rule powers granted in the Maine Constitution, 30-A M.R.S.A. §3001 et seq, and 38 M.R.S.A. §1301 et seq.

Section 3. Definitions

The definitions set forth in 38 M.R.S.A. §1303 apply to this ordinance and are incorporated herein. Any word not otherwise defined therein or below shall have its ordinary meaning.

1. **Attendant.** The person(s) employed by the Town to operate the solid waste facility and necessary equipment.
2. **Person.** Shall include, but is not limited to, individuals, partnerships, corporations and their agents.
3. **General Refuse or Waste.** Ordinary solid wastes generated by normal household operations, or as otherwise defined in the Rules. Also referred to as Municipal Solid Waste, or MSW.
4. **Town or Municipality.** The Town of Livermore, Maine.
5. **Solid Waste Board.** The Town of Livermore Solid Waste Board
6. **Municipal Officers.** The Town of Livermore Board of Selectpersons.
7. **Commercial Hauler.** Any person who receives compensation for the hauling of waste.

Section 4. Facility

The Town shall provide a facility for the collection and storage of general refuse and recyclable materials, located at a place or places to be designated by the Municipal Officers.

Section 5. Rules for Governing Solid Waste Management
1. The Municipal Officers, upon consultation with the Solid Waste Board, are hereby granted authority to establish, after public hearing, and amend operating Rules for all municipal waste collection, transfer, reuse, recycling and disposal systems and facilities. The Rules shall be reviewed and revised as required to satisfy the needs of the Municipality, State and Federal laws and regulations. The Rules shall include the operating hours of the facility, reasonable fees, inspection of materials, and other matters pertaining to the day-to-day operation of the facility. Rules shall be displayed at the Municipality’s Solid Waste Facility and Town Office.

2. The Operations Manual for the Solid Waste Facility shall be a part of the Rules.

Section 6. Administration and Enforcement

The Municipal Officers or their duly-appointed agents shall administer and enforce this ordinance. The Municipal Officers have the further authority to contract with any person, corporation, agency, partnership, or other entity for the disposal of solid waste and recyclable materials. The Municipal Officers may appoint one or more persons to assist them in determining how to best dispose of recyclable materials.

Section 7. Use of the Facility

The use of the facility by any person shall be at the strict direction of the Attendant. No person shall violate any directives of the Attendant or Rules set forth by the Municipal Officers in the use of the facility. If any person refuses to obey any of the directives or Rules, the Attendant shall have the authority to refuse access to the facility to that person until the person complies with the directives and Rules, or until the Solid Waste Board has had the opportunity to hear the complaints.

Deposition of any general refuse, wastes or recyclables at locations, sites or areas within the Municipality which have not been designated as an acceptable facility or site by the Municipal Officers is a violation of this Ordinance.

No person shall use the facility outside of the set hours of operation.

Vehicles entering the facility shall display a current sticker or permit.

All general refuse must be source separated from recyclables, and delivered to the facility in transparent plastic bags.

Section 8. Hazardous and Special Wastes Prohibited

1. Hazardous and Special Wastes are as defined by 38 M.R.S.A. §1303 and the Operations Manual, which shall be a part of the Rules.

2. Hazardous and Special Wastes shall not be delivered, dumped or disposed at the Facility.
3. If any such waste is deposited at the Facility, the cleanup and all costs associated with proper disposal shall be borne by the person responsible for the deposition.

Section 9. Other Prohibited Wastes

The following types of waste or refuse shall not be accepted.

1. Sewage treatment plant and septic tank sludge or residues.
2. Animal and agricultural waste such as manure and crop residues.
3. Gasoline tanks including vehicle fuel tanks, pesticide containers, hazardous material containers, auto body parts and truck parts, excluding exhaust systems.
4. Dead animals or animal parts.
5. Liquid or viscous wastes.

Section 10. Waste Standards

The Municipal Officers have the right to:

1. Set standards on the acceptance of wastes generated by businesses which waste is not similar to General Refuse as defined herein.
2. Refuse to accept industrial wastes which waste is not similar to General Refuse.
3. Prohibit or establish rules for the use of the facility by Commercial Haulers.

Section 11. Recycling Required

Each person using the facility shall be required to separate from General Refuse all items determined to be recyclable, as determined by the Board. All categories of waste and recyclables shall be disposed of in accordance with the Rules.

Section 12. Violations and Penalties

 Violations of this ordinance shall be enforced in accordance with the provisions of 30-A M.R.S.A. §4452 as land use violations. The penalties set forth in 30-A M.R.S.A. §4452 shall apply to violations of this ordinance.

Section 13. Validity and Conflict of Ordinances
1. If any section, subsection, paragraph, sentence, phrase or word of this Ordinance is found to be invalid, unconstitutional or inapplicable, it shall not affect or impair the remaining provisions of this Ordinance.

2. If this Ordinance conflicts with other town ordinances, then the strictest provisions shall apply.

3. Provisions of federal and state laws and rules adopted pursuant thereto shall govern if such provisions are more stringent than the provisions of this Ordinance.

**Section 14. Amendments**

This Ordinance may be amended as provided in 30-A M.R.S.A. §3004(4).

**Section 15. Effective Date**

This ordinance shall become effective when adopted by a majority of the voters at any regular or special town meeting.

*Adopted – Livermore Town Meeting – June 16, 2005*
SPECIAL AMUSEMENT ORDINANCE

ARTICLE I

TITLE, PURPOSE & DEFINITIONS

SECTION 101 TITLE

This Ordinance shall be known and may be cited as the Special Amusement Ordinance of the Town of Livermore, Maine.

SECTION 102 INTENT AND PURPOSE

The Town of Livermore recognizes that certain kinds of entertainment may be recognized as having objectionable operational characteristics, particularly when conducted on premises located near residences, schools, houses of worship or public parks or recreational areas. Special regulation and oversight is thereby necessary to ensure that these adverse effects will not contribute to the blighting or downgrading of the surrounding neighborhood, or diminish the strong sense of community that is highly valued by the town’s residents, consistent with Livermore’s Comprehensive Plan.

The purpose of this Ordinance is to control the issuance of special permits for music, dancing or entertainment in facilities located within the boundaries of the Town of Livermore and licensed by the State of Maine to sell liquor as required by 28-A M.R.S.A., § 1054, and 30-A M.R.S.A, § 3001, as they may be amended from time to time.

SECTION 103 DEFINITIONS

103.1 Entertainment. For the purposes of this Ordinance, “entertainment” shall include any amusement, performance, exhibition or diversion for patrons or customers of the licensed premises whether provided by professional entertainers or by full-time or part-time employees of the licensed premises whose incidental duties include activities with an entertainment value, by patrons induced by prizes or otherwise to act as entertainers, or by any other.

103.2 Licensee. For purposes of this Section, “licensee” shall include the holder of a license issued under the Alcoholic Beverages Statutes of the State of Maine, or any person, individual, partnership, firm, association, corporation, or other legal entity, or any agent, or employee of any such licensee.

103.3 Licensed Premises. Licensed Premises includes all parts of the contiguous real estate occupied or controlled by a licensee and used by the licensee in the operation of a business which includes activities covered by this Ordinance.
ARTICLE II  GENERAL

SECTION 201  PERMIT REQUIRED

No licensee for the sale of liquor to be consumed on his/her licensed premises shall permit, on his/her licensed premises, any music, except radio or other mechanical device, any dancing or entertainment of any sort unless the licensee shall have first obtained from the municipality in which the licensed premises are situated a Special Amusement Permit signed by at least a majority of the municipal officers.

Applications for all Special Amusement Permits shall be made in writing to the municipal officers and shall state the name of the applicant; his/her residence address; the name of the business to be conducted; his/her business address; the nature of his/her business; the location to be used; whether the applicant has ever had a license to conduct the business therein described either denied or revoked and, if so, the applicant shall describe those circumstances specifically; whether the applicant, including all managers, partners or corporate officers, has ever been convicted of a felony and, if so, the applicant shall describe specifically those circumstances; and any additional information as may be needed by the municipal officers in the issuing of the Permit, including but not limited to a copy of the applicant’s current liquor license and Bureau of Public Safety Occupancy Permit showing the facility's seating capacity.

No Permit shall be issued for any thing, or act, or premises, if the premises and building to be used for the purposes do not fully comply with all ordinances, articles, bylaws, rules and regulations of the municipality, or state law.

All applications for Special Amusement Permits shall be accompanied by the appropriate application fee. The fee is intended to cover the cost of the municipality’s administrative processing of the application, including advertising costs and the time of the Code Enforcement Officer for review and inspections. The fee shall not be refundable.

Special Amusement Permit fees shall be established by the Municipal Officers from time to time following consultation with the Planning Board. The Municipal Officers shall also have the authority to establish the penalty fee for violations of this ordinance, consistent with Article 3, Section 301 of this ordinance.

The Municipal Officers shall, prior to granting a Permit and after reasonable notice to the municipality and the applicant, hold a public hearing within 21 days of the date of the request was received, at which the testimony of the applicant and that of any interested members of the public shall be taken. The Municipal
Officers shall grant a Permit unless they find that issuance of the Permit will be detrimental to the public health, safety or welfare, or would violate any ordinances, articles, bylaws, rules and regulations of the municipality, or state law.

A Permit shall be valid only for the license year of the applicant’s existing liquor license.

**SECTION 202 CONDUCT CONSTITUTING OFFENSES BY LICENSEES**

202.1 Tumultuous conduct. The licensee shall not knowingly allow on any licensed premises any person or persons to disturb, tend to disturb, or aid in disturbing the peace of others of ordinary sensibilities or to be disorderly, riotous or reveling by violent, tumultuous, offensive or obstreperous conduct; or to permit or gather a crowd, or audience, or patrons to witness any entertainment, amusement, or show as to create a dangerous condition because of fire or other risks in derogation of the public health, comfort, convenience, safety, or welfare.

202.2 Riots. The licensee shall not allow on any licensed premise any public entertainments or amusement or show of any kind which tends to or is calculated to cause or promote any riot or disturbance.

202.3 Unnecessary noise. The licensee shall not allow on any licensed premises the making, creation, or maintenance of excessive, or unnecessary, or unnatural, or unusually loud noises which disturbs, annoys, injures or prejudices, or endangers the comfort, repose, health, peace, or safety of individuals of ordinary sensibilities or the public in general, or the property rights of others.

202.4 Nuisances. The licensee shall not allow any licensed premises to be so conducted or operated as to amount to a nuisance in fact under any ordinances, or any sections of any with all ordinances, articles, bylaws, rules and regulations of the municipality, or state law.

202.5 Prostitution and Public Indecency. The licensee shall not allow on any licensed premises or aid in or offer or agree to or allow in or near such licensed premises any prostitution, or prostitutes, or any public indecency under any or in derogation of any statutes of the State of Maine; or, to persons of ordinary sensibilities, any meretricious display, or lewd act, or act of moral perversion, or knowingly receive, or offer or agree to receive any person on such licensed premises for the purpose of performing a lewd act, or an act of prostitution or moral perversion, or public indecency, or to knowingly permit any person to remain on such licensed premises for any such purpose, or to aid, abet, allow, permit, or participate in the commission of any such acts.
202.6 Solicitation of Drinks. The licensee shall not allow on any licensed premises any person to frequent or loiter with the purpose of soliciting any other person, customer, or patron to purchase any drink of any kind.

202.7 Gambling. The licensee shall not allow on any licensed premises the use or occupancy thereof for gambling or games of chance as prohibited by any ordinances, articles, bylaws, rules and regulations of the municipality, or state law; nor shall any licensee have or keep for gambling purposes on or about such licensed premises any dice, cards, bowls, quoits or other implements used in gambling, or allow any person resorting thereto to use or exercise for gambling purposes any of said games or any other unlawful game or sport therein.

202.8 Violations. The licensee, on any licensed premises, shall not:

1. Shall not permit entertainment on the licensed premises whether provided by professional entertainer(s), employees of the licensed premises or any other person or patron, when the entertainment involves:
   a. Acts, or simulated acts, or sexual intercourse, masturbation, sodomy, bestiality, oral copulation, flagellation or any sexual acts which are prohibited by law;
   b. The actual or simulated touching, caressing or fondling of the breasts, buttocks, anus or genitals;
   c. The actual or simulated displaying or exposing to view of the genitals, pubic hair, buttocks, anus or any portion of the female breasts at or below the areola area thereof; or
   d. The permitting by any licensee of any person to remain in or upon the licensed premises who exposes to any public view any portion of his or her genitals or anus or any portion of the female breasts at or below the areola area thereof.

   For purposes of this section, the terms "display" or "displaying" and "expose" or "exposing" shall mean unclothed or uncostumed or not covered by a fully opaque cloth or textile material or to employ any device or covering which is intended to give the appearance of or to simulate the genitals, pubic hair, buttocks, anus, or the portions of the female breasts at or below the areola.

2. Knowingly promotes the commission of any of the above-listed acts of this Ordinance section.
SECTION 203

LOCATION

203.1 Any premises used for or in connection with the operation of a Special Amusement Permit may not be sited within 500 feet of the closest part of the structure of a business which caters to the general public or 1,000 feet of the closest part of the structure of any of the following:

1. A church, synagogue or other house of religious worship;

2. A public or private elementary or secondary school;

3. A day care facility;

4. A public park or public recreational facility; or

5. Any residence on adjacent property, excepting the owner or proprietor of the licensed premises.

The distance cited in this section shall be measured between the closest edge of the structure of the licensed premises and the closest edge of the structure of the use listed (1) through (5) above.

203.2 It shall be unlawful for any person to cause or permit the operation, establishment, substantial enlargement, or transfer of ownership or control of a permitted premises within one thousand (1,000) feet of another permitted premises.

SECTION 204

SIGNAGE AND EXTERIOR LIGHTING

204.1 Signage and exterior lighting for permitted premises must meet the approval of the Planning Board.

204.2 Each permitted premises shall be allowed one sign that conforms to the following standards:

1. The exterior dimension of the sign shall not exceed 30 square feet.

2. The sign may be two sided.

3. The sign may be unlit, internally lit, or lit with spotlights.
4. The lights may not blink.

5. The bottom of the sign may not be more than 10 feet above grade.

6. The top of the sign may not be more than 15 feet above grade.

7. Exterior lights shall be used for necessary illumination; they shall not blink nor be so bright as to unduly disturb neighbors or passersby, as determined by the Planning Board.

8. Signs may not be placed within the right-of-way of any road.

SECTION 205

INSPECTIONS

Whenever inspections of the premises used for or in connection with the operation of a licensed business which has obtained a Special Amusement Permit are provided for or required by any ordinances, articles, bylaws, rules and regulations of the municipality, or state law, or are reasonably necessary to secure compliance with any ordinances, articles, bylaws, rules and regulations of the municipality, or state law, it shall be the duty of the licensee, or the person in charge of the premises to be inspected, to admit any officer, official, or employee of the municipality authorized to make the inspection at any reasonable time that admission is requested.

Whenever an analysis of any commodity or material is reasonably necessary to secure conformance with any ordinances, articles, bylaws, rules and regulations of the municipality, or state law, it shall be the duty of the licensee, or the person in charge of the premises, to give to any authorized officer, official, or employee of the municipality requesting the same sufficient samples of the material or commodity for analysis.

In addition to any other penalty which may be provided, the municipal officers may revoke the Special Amusement Permit of any licensee in the municipality who refuses to permit any such officer, official, or employee to make an inspection or take sufficient samples for analysis, or who interferes with such officer, official, or employee while in the performance of his/her duty, provided that no license or Special Amusement Permit shall be revoked unless written demand for the inspection or sample is made upon the licensee or person in charge of the premises at the time it is sought to make the inspection.
SECTION 206
SUSPENSION OR REVOCATION OF A PERMIT

The municipal officers may, after a public hearing preceded by notice to interested parties, suspend, or revoke any Special Amusement Permits which have been issued under this ordinance on the grounds that the music, dancing, or entertainment so permitted constitutes a detriment to the public health, safety, or welfare, or violates this or any ordinances, articles, bylaws, rules and regulations of the municipality, or state law.

SECTION 207
APPLICATION, INVESTIGATION AND ISSUANCE OF PERMIT

An applicant for a Special Amusement Permit shall:

1. Complete and file an application as prescribed by the municipal officers.

2. Deposit the appropriate application and license fee in advance with the Town Clerk, the amount of which shall be established in accordance with Section 201 of this ordinance.

3. Submit the completed application to the municipal officers through the Town Clerk, together with attested copies of the applicant’s most recent liquor license and renewal application, whether or not it is subject to municipal review and/or approval.

4. Submit evidence of right, title or interest in the licensed premises, along with the written consent of the owner of the premises for such use if the applicant is not the owner.

5. Submit evidence that the signage and lighting proposed for the permitted premises meets with the approval of the Planning Board.

SECTION 208
PERMIT AND APPEAL PROCEDURES

208.1 Any licensee requesting a Special Amusement Permit from the municipal officers shall be notified in writing of their decision no later than fifteen (15) days from the date his/her request was received. In the event that a licensee is denied a Permit, the licensee shall be provided with the reasons for the denial in writing. The licensee may not reapply for a Permit within 30 days after an application for a Permit which has been denied.
208.2 Any licensee who has requested a Permit and has been denied, or whose Permit has been revoked or suspended, may, within 30 days of the denial, suspension or revocation, appeal the decision to the municipal board of appeals as defined in 30-A M.R.S.A. § 2691. The municipal board of appeals may grant or reinstate the Permit if it finds that the permitted activities would not constitute a detriment to the public health, safety, or welfare, or that the denial, revocation or suspension was arbitrary or capricious, or that the denial, revocation, or suspension was not based by a preponderance of the evidence of a violation of any ordinances, articles, bylaws, rules and regulations of the municipality, or state law.

SECTION 209

ADMISSION

Any premises licensed by the State of Maine to serve alcohol, in accordance with M.R.S.A. Title 28-A, and who has been issued a Special Amusement Permit may charge admission in designated areas approved by the municipal Special Amusement Permit.

ARTICLE III

VIOLATIONS AND PENALTIES, SEPARABILITY & EFFECTIVE DATE

SECTION 301

VIOLATIONS AND PENALTIES

Violations of this ordinance shall be enforced in accordance with the provisions of 30-A M.R.S.A. §4452 as land use violations. The penalties set forth in 30-A M.R.S.A. §4452 shall apply to violations of this ordinance.

SECTION 302 SEPARABILITY

The invalidity of any provision of this Ordinance shall not invalidate any other part.

SECTION 303 EFFECTIVE DATE

This ordinance shall become effective when enacted.