2016

Town of Orrington Maine Ordinances

Orrington, Me.

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Animal Control Ordinance

The Town of Orrington hereby ordains an Animal Control Ordinance as follows:

ARTICLE 1. DEFINITIONS

SECTION 101. DEFINITIONS. As used in this Ordinance, unless context otherwise indicates.

1. “Livestock” means, but may not be limited to, horses, mules, donkeys, cattle, goats, sheep or swine.
2. “Owner” shall be intended to mean any person, firm, partnership, association or corporation owning, keeping or harboring livestock.
3. “At Large” shall mean off the premises of the owner and not under the control of any person whose personal presence and attention would reasonably control the conduct of the livestock.
4. “Animal Control Officer” means the person or persons appointed by the Town Selectmen in accordance with Title 7, Chapter 717 of the Maine Revised Statutes Annotated as amended.
5. “Keeper” means a person in possession or control of livestock.

ARTICLE 2. LIVESTOCK

SECTION 201. ADEQUATE FENCES AND BARRIERS. It shall be unlawful for any person, partnership, corporation or other legal entity to keep on his, her, their or its premises any livestock without providing adequate stationary fences or barriers that will prevent such livestock from escaping and/or damaging neighboring flowers, trees, shrubbery, lawn, and/or other property located on adjacent property.

SECTION 202. IMPOUNDMENT. The Town Animal Control Officer or Officers are herewith authorized to capture and impound any animal upon having probable cause to believe said animal to be in violation of any provision of this Ordinance, Maine law or regulation which authorizes the animal’s impoundment, and in so doing, to enter upon any fenced or unfenced lot, tract or parcel of land when deemed necessary for the protection of public health, safety and welfare. As a matter of policy, Town Animal Control Officers shall not enter private property without probable cause to believe that said animal poses a threat, public nuisance or danger to property, human beings or other animals.

SECTION 203. IMPOUNDMENT FEES. Livestock found running at large in the Town may be taken by an agent of the town and impounded. After a reasonable effort to locate the owner of impounded livestock has been made and following the minimum retention period of Seven (7) days, such livestock may be disposed of by such agent in a humane manner prescribed by the State of Maine or sold with all proceeds of said sale remanded.
to the Town of Orrington. Any livestock impounded under the authority of this Ordinance may be reclaimed by its owner or keeper, or his or her agent, upon the payment of the impoundment fees for each day or portion thereof that the livestock has been kept at said facility.

**ARTICLE 3. PROHIBITED ACTS**

**SECTION 301. RUNNING AT LARGE.** It shall be unlawful for the owner or keeper of livestock to permit such livestock to run at large. No person having the care of any goats, sheep, cattle, swine, horses, or other livestock shall allow animals to go at large on any highway, street, land, cemeteries, or other public places in the Town of Orrington. Each Twenty Four (24) Hour period shall constitute a separate violation of this Ordinance.

**ARTICLE 4. PENALTIES**

**SECTION 401. PENALTY.** The owner of livestock upon conviction of violating any provision of the Ordinance shall be punished by a fine of not no more than Two Hundred Dollars ($200) per violation and, as applicable, shall be financially responsible for any property damage as defined in Section 301.

**SECTION 402. MULTIPLE OFFENSES.** The owner of livestock upon subsequent convictions of violating any provision of the Ordinance shall be subject to punishment by a fine of not more than Five Hundred Dollars ($500) per violation.
Town of Orrington

Land Use Ordinance

Adopted June 6, 2005
Revised June 6, 2011,
June 3, 2013, June 2, 2014,
June 1, 2015, June 6, 2016
# TABLE OF CONTENTS

## ARTICLE 1 PREAMBLE

1. Authority and Jurisdiction ........................................................................................................ 1-1  
2. Title ......................................................................................................................................... 1-1  
3. Purpose ...................................................................................................................................... 1-1  
4. Repeal of Conflicting Ordinances ............................................................................................. 1-1  
5. Validity ....................................................................................................................................... 1-2  
6. Amendments ................................................................................................................................. 1-2  
7. Effective Date ............................................................................................................................... 1-2  
8. Availability ................................................................................................................................... 1-2  
9. Conflicts with Other Ordinances ................................................................................................. 1-2

## ARTICLE 2 LAND USE DISTRICTS

1. Classes of Districts ..................................................................................................................... 2-1  
2. Rule Governing District Boundaries .......................................................................................... 2-1  
3. Land Use Requirements ............................................................................................................. 2-1  
4. District Purposes ......................................................................................................................... 2-2  
5. District Requirements and Land Use Table .............................................................................. 2-3  
6. Dimensional Requirements ......................................................................................................... 2-8

## ARTICLE 3 SHORELAND ZONING

1. Applicability ................................................................................................................................. 3-1  
2. Districts and Zoning Map .......................................................................................................... 3-1  
3. Description of District Boundaries ............................................................................................. 3-1  
4. Scale of Map ................................................................................................................................. 3-2  
5. Non-Conformance ....................................................................................................................... 3-2  
6. Establishment of District ............................................................................................................ 3-6  
7. Table of Land Uses .................................................................................................................... 3-9  
8. Land Use Standards .................................................................................................................... 3-12  
   A. Minimum Lot Standards ........................................................................................................ 3-12  
   B. Agriculture .......................................................................................................................... 3-13  
   C. Archaeological Sites ............................................................................................................. 3-14  
   D. Beach Construction ............................................................................................................. 3-14  
   E. Campgrounds ....................................................................................................................... 3-14  
   F. Clearing or Removal of Vegetation for Activities Other Than Harvesting .......................... 3-15  
   G. Commercial and Industrial Uses ......................................................................................... 3-18  
   H. Erosion and Sedimentation Control .................................................................................... 3-18  
   I. Essential Services .................................................................................................................. 3-19  
   J. Individual Private Campsites ............................................................................................... 3-19  
   K. Mineral Exploration and Extraction ................................................................................... 3-20  
   L. Parking Areas ...................................................................................................................... 3-21
M. Piers, Docks, Wharves, etc. ................................................................. 3-22
N. Principal and Accessory Structures ...................................................... 3-22
O. Roads and Driveways ............................................................................. 3-25
P. Septic Waste Disposal ............................................................................ 3-27
Q. Soils ........................................................................................................ 3-27
R. Special Exception .................................................................................... 3-28
S. Storm Water Runoff ................................................................................ 3-29
T. Timber Harvesting .................................................................................. 3-29
U. Water Quality .......................................................................................... 3-31

ARTICLE 4 PERFORMANCE STANDARDS

1. Commercial Development in the MR-C District........................................... 4-1
2. Commercial Removal of Earth Materials .................................................... 4-2
3. Flood Plain and/or Mud Slide Hazard Areas ............................................... 4-3
4. Group Developments .................................................................................. 4-4
5. Home Occupations ..................................................................................... 4-4
6. Junkyards and Automobile Graveyards ...................................................... 4-5
7. Mobile Home Parks ..................................................................................... 4-6
8. Off-Street Loading and Unloading .............................................................. 4-7
9. Off-Street Parking ....................................................................................... 4-7
10. Principal and Accessory Buildings and Uses of a Lot .................................. 4-9
    Changes of use / nonconforming use ........................................................ 4-9
11. Public Facilities (Federal, State, Municipal) ................................................ 4-9
12. Signs ......................................................................................................... 4-9
13. Requirements for Campgrounds and Travel Trailer Parks ....................... 4-12
14. Yard Sale .................................................................................................. 4-13

ARTICLE 5 ADMINISTRATION

1. Administration .............................................................................................. 5-1
   A. Administering bodies and agents ............................................................... 5-1
2. Permits required ........................................................................................... 5-3
   A. Permit required ......................................................................................... 5-3
   B. Permit application .................................................................................... 5-4
3. Procedure for administering permits .......................................................... 5-4
   A. Code enforcement officer action ............................................................... 5-4
   B. Applicant responsibility .......................................................................... 5-5
   C. Expiration of permit .............................................................................. 5-5
   D. Installation of public utility service ......................................................... 5-6
   E. Road culvert ............................................................................................ 5-6
   F. Archaeological excavation ...................................................................... 5-6
   G. Required permits .................................................................................... 5-6
4. Certificate of occupancy required ............................................................... 5-6
5. Enforcement ................................................................................................. 5-7
   A. Violations ................................................................................................. 5-7
   B. Penalty .................................................................................................... 5-7
   C. Other remedies ....................................................................................... 5-7
   D. Unsafe buildings .................................................................................... 5-7
ARTICLE 6 SITE PLAN AND SUBDIVISION REVIEW

1. Purpose ........................................................................................................... 6-1
2. Applicability provisions..................................................................................... 6-1
   A. Activities requiring site plan or subdivision review ........................................ 6-1
   B. Activities not requiring site plan review .......................................................... 6-2
   C. Prohibition ....................................................................................................... 6-2
   D. Waivers ........................................................................................................... 6-2
3. Site plan and subdivision submission requirements .............................................. 6-3
   A. Application submittal........................................................................................ 6-3
   B. Evidence of fee payment .................................................................................. 6-3
   C. Plan submittals and map scale ......................................................................... 6-4
   D. Existing site condition(s) plans ....................................................................... 6-4
   E. Proposed site plan(s) or subdivision ............................................................... 6-5
   F. Written supporting information ....................................................................... 6-6
4. Review procedures............................................................................................... 6-8
   A. Informal pre-application conference............................................................... 6-8
   B. Review procedure ........................................................................................... 6-9
   C. One year approval limitations ........................................................................ 6-11
   D. Final review ................................................................................................. 6-11
   E. Project commencement and completion ....................................................... 6-13
   F. Other required permits .................................................................................. 6-13
5. Public hearing procedures.................................................................................... 6-13
   A. Newspaper notice .......................................................................................... 6-13
   B. Sequence of presentation ............................................................................... 6-13
   C. Denial or approval ......................................................................................... 6-14
6. Fees .................................................................................................................. 6-14
   A. Application fee ............................................................................................... 6-14
   B. Professional review and assistance ................................................................ 6-14
   C. Establishment of fees ................................................................................... 6-15
7. Performance guarantees....................................................................................... 6-15
   A. Types of guarantees ...................................................................................... 6-15
   B. Contents of guarantee ................................................................................... 6-16
   C. Escrow account ............................................................................................. 6-16
   D. Performance bond ......................................................................................... 6-16
   E. Letter of credit .............................................................................................. 6-16
   F. Phasing of development ............................................................................... 6-16
   G. Release of guarantee .................................................................................... 6-17
   H. Default ......................................................................................................... 6-17
8. Statutory criteria ................................................................................................. 6-17
9. Specific standards ............................................................................................... 6-19
   A. Buffering of adjacent uses ............................................................................ 6-20
   B. Buffering of residential uses ......................................................................... 6-20
   C. Conformance to major street plan ............................................................... 6-20
   D. Conformance to future land use plan .......................................................... 6-20
   E. Curbs and gutters ......................................................................................... 6-20
ARTICLE 7 FLOODPLAIN MANAGEMENT

1. Purpose and Establishment .................................................................................. 7-1
2. Permit Required ................................................................................................... 7-1
3. Application for Permit ......................................................................................... 7-1
4. Application Fee and Expert’s Fee ........................................................................ 7-3
5. Review of Flood Hazard Development Permit Applications ............................. 7-4
6. Development Standards ........................................................................................ 7-5
   A. All Development ............................................................................................... 7-5
   B. Water Supply ..................................................................................................... 7-6
   C. Sanitary Sewage Systems .................................................................................. 7-6
   D. On Site Waste Disposal Systems ...................................................................... 7-6
   E. Watercourse Carrying Capacity ........................................................................ 7-6
   F. Residential .......................................................................................................... 7-6
   G. Non-Residential ................................................................................................. 7-6
   H. Manufactured Homes ......................................................................................... 7-7
   I. Recreational Vehicles ......................................................................................... 7-7
   J. Accessory Structures .......................................................................................... 7-8
   K. Floodways .......................................................................................................... 7-8
   L. Enclosed Areas below the Lowest Floor ............................................................. 7-9
   M. Bridges ............................................................................................................... 7-10
   N. Containment Walls ............................................................................................. 7-10
   O. Wharves, Piers and Docks .................................................................................. 7-10
7. Certificate of Compliance ...................................................................................... 7-11
8. Review of Subdivision and Development Proposals ........................................... 7-11
ARTICLE 8  BOARD OF APPEALS

1. Establishment and Organization ................................................................. 8-1
2. Appeals ........................................................................................................ 8-1
3. Powers and Duties of the Board of Appeals .............................................. 8-1
   A. Interpretation .................................................................................... 8-1
   B. Administrative Appeal .................................................................. 8-1
   C. Variance Appeal ........................................................................... 8-2
4. Standards for Variances ........................................................................ 8-2
5. Floodplain Management Variances ......................................................... 8-3
6. Appeal Procedure .................................................................................... 8-4
   A. Making an Appeal .......................................................................... 8-4
   B. Decision by Board of Appeals ...................................................... 8-5
   C. Appeal to Superior Court .............................................................. 8-6
   D. Reconsideration ............................................................................. 8-6

ARTICLE 9  DEFINITIONS

1. General Definitions .................................................................................. 9-1
2. List of Definitions .................................................................................... 9-1
ARTICLE I -- PREAMBLE

1. AUTHORITY AND JURISDICTION

This Ordinance has been prepared in accordance with the home rule authority granted in Titles 30-A Maine Revised Statutes Annotated (MRSA) Section 3001 and Article VIII, Part 2, of the Maine Constitution, Section 4352, Zoning Ordinances, and Title 38 MRSA Sections 435-449, as amended, and shall be effective throughout the Town of Orrington.

2. TITLE

This Ordinance and the accompanying official zoning map shall be known as and may be cited as the "Land Use Ordinance, Town of Orrington, Maine."

3. PURPOSE

This Ordinance has the following purposes:

A. to promote the health, safety, and general welfare of the residents;
B. to encourage the most appropriate use of land throughout the municipality;
C. to promote traffic safety;
D. to provide safety from fire and other elements;
E. to provide adequate light and air;
F. to prevent overcrowding of real estate;
G. to provide wholesome home environment;
H. to prevent housing development in unsanitary areas;
I. to provide an adequate street system;
J. to coordinate development of unbuilt areas
K. to encourage the formation of community units;
L. to provide an allotment of land area in new developments sufficient for all requirements of community;
M. to conserve natural resources;
N. to prevent and control water pollution;
O. to protect fish spawning grounds, aquatic life, bird and other wildlife habitat;
P. to protect buildings and lands from flooding and accelerated erosion;
Q. to protect archaeological and historic resources;
R. to control building sites;
S. to conserve shore cover;
T. to conserve natural beauty and open space;
U. to anticipate and respond to the impacts of development in shoreland areas; and
V. to provide for adequate public services, as an integral part of a comprehensive plan for municipal development.

4. REPEAL OF CONFLICTING ORDINANCES

Any existing ordinances or such parts thereof as may be inconsistent herewith are repealed.
5. **VALIDITY**

Should any section or part of a section or any provision of this Ordinance be declared by the courts to be unconstitutional or invalid, such declaration shall not affect the validity of the Ordinance as a whole or any part thereof other than the part so declared to be unconstitutional or invalid.

6. **AMENDMENTS**

The Town Meeting may, from time to time, amend this Ordinance upon review by the Planning Board and after a public hearing. The State planning Office shall be notified in writing of any amendments to this Ordinance within thirty (30) days of the adoption of such amendments. Copies of amendments to the shoreland zoning provisions of this Ordinance, attested and signed by the Municipal Clerk, shall be submitted by the Municipal Clerk 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 the forty-five (45) days of their receipt of the amendment, the amendment 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 such amendment is approved by the Commissioner.

7. **EFFECTIVE DATE**

This Ordinance shall take effect and be in force after its adoption by the town.

8. **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.

9. **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.
ARTICLE 2 -- LAND USE DISTRICTS

1. CLASSES OF DISTRICTS

For the purpose of this Ordinance, the town is hereby divided into the following classes of districts or zones:

Low Density Residential Districts to be known as "R" districts.
Highway Commercial Districts to be known as "C" districts.
General Industrial Districts to be known as "I" districts.
Rural Residential and Farming Districts to be known as "R-F" districts.
Mixed Residential-Commercial Districts to be known as “MR-C” districts.
Resource Protection Districts to be known as "RP" districts. (see Article 3)
Shoreland Residential Districts to be known as "SR" districts. (see Article 3)
Shoreland Industrial Districts to be known as "SI" districts. (see Article 3)
Stream Protection Districts to be known as "SP" districts. (see Article 3)

2. RULES GOVERNING DISTRICT BOUNDARIES

The boundaries of these districts are hereby established as shown on the official Land Use District Map. Said map is hereby made a part of this Ordinance; it shall be on file in the office of the Town Clerk.

Unless otherwise indicated, the district boundary lines are the nearest lot lines, the center lines of streets or such lines extended, the center lines of water courses or such lines extended, or the Town boundary lines. Boundaries indicated as following or parallel to shorelines shall be construed to follow or be parallel to the normal high-water line or upland edge of a wetland of such shorelines, and in the event of changes in the shore line shall be construed as moving with the actual shoreline. Distances may be determined where necessary by scale of the map. Questions concerning the exact location of district boundaries shall be decided by the Board of Appeals.

3. 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.

Any use or proposed use not explicitly listed in the Table of Uses (Article II) shall require Planning Board evaluation/review to determine the most appropriate classification and any applicable performance or siting requirements.
4. **DISTRICT PURPOSES**

A. **Low-Density Residential District "R"**. The "R" District is established as a zone in which the principal use of the land is for single-family dwellings at low-density, together with the recreational, educational, religious facilities which will encourage the development of well-rounded neighborhood living, and adjacent open areas where similar residential growth appears likely.

B. **Highway Commercial District "C"**. The "C" District is established as a zone in which the principal use of the land is for establishments offering accommodations, services, or supplies to motorists, and in which vehicular access and parking is of primary importance. Also compatible with this district are certain specialized business uses which serve the entire town. The "C" District, ordinarily located along numbered state or federal highways or other roads designated as major streets, is intended to help control commercial sprawl along the highways by grouping together those businesses which are most advantageously located on major streets. Any non-residential construction, including new construction on existing and approved non-residential sites, shall be subject to site plan review according to the requirements of Article 6.

C. **General Industrial District “I”**. The "I" District is established as a zone in which the principal use of the land is for industry and associated uses. Certain open areas favorably situated with respect to transportation and containing other factors conducive to industrial development but not in conflict with residential neighborhoods or business, are also included. This is for the purpose of reserving suitable land for the expansion of existing industry and location of new industry, and to enhance economic development and employment opportunities. Any non-residential construction, including new construction on existing and approved non-residential sites, shall be subject to site plan review according to the requirements of Article 6.

D. **Rural Residence and Farming District “R-F”**. The "R-F" District is established as a zone in which the principal use of the land is for agriculture, forestry, rural-type residence and customary associated uses. Large lots, with ample space between buildings, are required as a means of reducing fire hazards, and also to provide sufficient area for both private water supply and septic disposal system on the same lot. Other purposes of this district include conservation of natural resources and reduction of soil erosion.

E. **Mixed Residential-Commercial District “MR-C”**. The “MR-C” District is established as a zone in which the principal use of the land is residential, but allows a maximum diversity of uses compatible with residential use. Residential uses shall be combined with governmental and retail uses, so as to provide interest and vitality to the neighborhood. New developments shall be sited so that they present a harmonious mix with existing uses. In determining this, the Planning Board shall establish performance standards considering availability of appropriate outdoor space and other factors relevant to ensuring that in the proposed development there will be no dangerous or unhealthy conditions and that the design preserves the standing nature of the area and protects its environment from undue or unreasonable degradation. The Planning Board may require that appropriate buffer zones and landscaping be utilized to accomplish these objectives. Any non-residential construction, including new construction on
existing and approved non-residential sites, shall be subject to site plan review according to the requirements of Article 6.

5. **DISTRICT REQUIREMENTS**

Permitted uses and uses subject to planning board approval shall conform to all dimensional requirements and other applicable requirements of this Ordinance. A plumbing permit and/or building or use permit shall be required for all buildings, uses and sanitary facilities according to the provisions of Article 5 Section 2 of this Ordinance. All uses shall comply with the land use standards of Article 4.

Key

District Symbols

- **R** Low Density Residential District
- **RF** Rural Residence and Farming District
- **C** Highway Commercial District
- **I** General Industrial District
- **MR-C** Mixed Residential-Commercial District

Permit Symbols

- **Y** Yes; allowed without permit but must comply with standards
- **PB** Planning Board approval required; subject to site plan review (see CEO)
- **CEO** Code Enforcement Officer Permit required
- **N** No, not allowed

Note: Numbers adjacent to some permit symbols (1, 2, etc) refer to notes at the end of the table which contain additional requirements.

<table>
<thead>
<tr>
<th>Resource Extraction and Rural Uses</th>
<th>R</th>
<th>RF</th>
<th>C</th>
<th>I</th>
<th>MR-C</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. Agriculture</td>
<td>PB</td>
<td>CEO</td>
<td>PB</td>
<td>N</td>
<td>PB</td>
</tr>
<tr>
<td>2. Boarding and riding stables</td>
<td>N</td>
<td>PB</td>
<td>PB</td>
<td>N</td>
<td>PB</td>
</tr>
<tr>
<td>3. Commercial timber harvesting provided that all State required permitting has been obtained.</td>
<td>Y</td>
<td>Y</td>
<td>Y</td>
<td>Y</td>
<td>Y</td>
</tr>
<tr>
<td>4. Filling, grading, draining, dredging or alteration of a water table or level, and not to mean a pit or hole sunk into the earth to reach a supply of water, with appropriate state permits</td>
<td>Y</td>
<td>Y</td>
<td>CEO</td>
<td>CEO</td>
<td>CEO</td>
</tr>
<tr>
<td>5. Outdoor recreation such as parks, playgrounds and golf courses</td>
<td>PB</td>
<td>PB</td>
<td>PB</td>
<td>PB</td>
<td>PB</td>
</tr>
<tr>
<td>Land Use Districts</td>
<td>R</td>
<td>RF</td>
<td>C</td>
<td>I</td>
<td>MR-C</td>
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<td>------</td>
</tr>
<tr>
<td>6. Private, non-commercial stables</td>
<td>PB&lt;sup&gt;1&lt;/sup&gt;</td>
<td>CEO</td>
<td>N</td>
<td>N</td>
<td>PB</td>
</tr>
<tr>
<td>7. Roadside produce stand</td>
<td>Y&lt;sup&gt;3&lt;/sup&gt;</td>
<td>Y&lt;sup&gt;3&lt;/sup&gt;</td>
<td>Y&lt;sup&gt;3&lt;/sup&gt;</td>
<td>N</td>
<td>Y&lt;sup&gt;3&lt;/sup&gt;</td>
</tr>
<tr>
<td>8. Earth materials extraction or storage for road purposes only, affecting an area of less than two acres in size.</td>
<td>CEO</td>
<td>CEO</td>
<td>CEO</td>
<td>CEO</td>
<td>CEO</td>
</tr>
<tr>
<td>9. Earth materials extraction or storage for road purposes only, affecting an area of two acres or greater in size.</td>
<td>PB</td>
<td>PB</td>
<td>PB</td>
<td>PB</td>
<td>PB</td>
</tr>
<tr>
<td>10. Accessory structure, uses, or services that are essential for the exercise of uses listed above.</td>
<td>CEO</td>
<td>CEO</td>
<td>CEO</td>
<td>CEO</td>
<td>CEO</td>
</tr>
</tbody>
</table>

**Residential Uses**

| 1. Single-family dwelling | CEO | CEO | CEO | CEO | CEO |
| 2. Single family mobile home | N | CEO<sup>4</sup> | N | N | N |
| 3. Duplex (two family) | CEO<sup>5,8</sup> | CEO<sup>5,8</sup> | CEO<sup>5,8</sup> | CEO<sup>5,8</sup> | CEO<sup>5,8</sup> |
| 4. Multi-family dwelling | PB<sup>6,8</sup> | PB<sup>6,8</sup> | PB<sup>6,8</sup> | PB<sup>6,8</sup> | PB<sup>6,8</sup> |
| 5. Mobile home park (see Article 4, Section 7) | N | PB | N | N | N |
| 6. Home Occupation<sup>17</sup> | CEO | Y | Y | Y | Y |
| 7. In-law apartment | CEO | CEO | CEO | CEO | CEO |
| 8. Accessory structures, uses or services that are essential for the exercise of uses listed above. | CEO | CEO | CEO | CEO | CEO |

**Institutional Uses**

| 1. Cemetery | N | PB | N | N | N |
| 2. Church | PB<sup>7,9</sup> | PB<sup>7,9</sup> | PB | N | PB<sup>7,9</sup> |
| 3. Day care center | PB | PB | PB | N | PB |
| 4. Fraternal order and service club | N | PB | PB | N | PB<sup>9</sup> |
| 5. Governmental facilities and grounds | N | PB | PB | PB | PB<sup>9</sup> |
| 6. Group development, congregate housing, boarding home facility<sup>17</sup> | PB<sup>5,7,8,9,10</sup> | PB | PB | N | PB |
| 7. Hospital | PB<sup>7,9</sup> | PB<sup>7,9</sup> | PB | N | PB<sup>7,9</sup> |
| 8. Medical clinic, nursing home, convalescent facility | PB<sup>7,9</sup> | PB<sup>7,9</sup> | PB | N | PB<sup>7</sup> |
| 9. Museum | PB<sup>20</sup> | PB<sup>20</sup> | PB<sup>20</sup> | N | PB<sup>20</sup> |
| 10. Public or private school | PB<sup>7,9</sup> | PB<sup>7,9</sup> | N | N | PB<sup>7,9</sup> |
| 11. Religious services as ancillary use | N | N | PB | PB | PB |
| 12. Accessory structures, uses or services that are essential for the exercise of uses listed above. | CEO | CEO | CEO | CEO | CEO |

**Commercial Uses**

<p>| 1. Art gallery/craft shop/gift shop | N | PB&lt;sup&gt;16&lt;/sup&gt; | PB | N | PB&lt;sup&gt;16&lt;/sup&gt; |
| 2. Auction barn | N | PB&lt;sup&gt;16&lt;/sup&gt; | PB | N | PB&lt;sup&gt;16&lt;/sup&gt; |
| 3. Automobile sales lot | N | N | PB | N | PB |
| 4. Automobile service station and repair garage | N | N | PB | PB | PB |</p>
<table>
<thead>
<tr>
<th></th>
<th>R</th>
<th>RF</th>
<th>C</th>
<th>I</th>
<th>MR-C</th>
</tr>
</thead>
<tbody>
<tr>
<td>5.</td>
<td>Aviation</td>
<td>N</td>
<td>N</td>
<td>N</td>
<td>CEO</td>
</tr>
<tr>
<td>6.</td>
<td>Bed and breakfast</td>
<td>CEO</td>
<td>CEO</td>
<td>CEO</td>
<td>N</td>
</tr>
<tr>
<td>7.</td>
<td>Campground, travel trailer park</td>
<td>N</td>
<td>PB</td>
<td>N</td>
<td>N</td>
</tr>
<tr>
<td>8.</td>
<td>Line intentionally blank</td>
<td>CEO</td>
<td>CEO</td>
<td>CEO</td>
<td>N</td>
</tr>
<tr>
<td>9.</td>
<td>Commercial greenhouse, garden</td>
<td>CEO</td>
<td>CEO</td>
<td>PB</td>
<td>N</td>
</tr>
<tr>
<td>10.</td>
<td>Commercial removal of earth materials</td>
<td>PB</td>
<td>PB</td>
<td>PB</td>
<td>PB</td>
</tr>
<tr>
<td>11.</td>
<td>Communication facility</td>
<td>N</td>
<td>PB</td>
<td>PB</td>
<td>PB</td>
</tr>
<tr>
<td>12.</td>
<td>Communication tower</td>
<td>N</td>
<td>PB</td>
<td>PB</td>
<td>PB</td>
</tr>
<tr>
<td>13.</td>
<td>Financial institution</td>
<td>N</td>
<td>N</td>
<td>PB</td>
<td>N</td>
</tr>
<tr>
<td>14.</td>
<td>Funeral home</td>
<td>PB</td>
<td>PB</td>
<td>PB</td>
<td>N</td>
</tr>
<tr>
<td>15.</td>
<td>Grocery and variety store</td>
<td>PB</td>
<td>PB</td>
<td>PB</td>
<td>N</td>
</tr>
<tr>
<td>16.</td>
<td>Health spa, fitness club, gym</td>
<td>N</td>
<td>N</td>
<td>PB</td>
<td>N</td>
</tr>
<tr>
<td>17.</td>
<td>Indoor entertainment and recreation</td>
<td>N</td>
<td>N</td>
<td>PB</td>
<td>N</td>
</tr>
<tr>
<td>18.</td>
<td>Kennel-boarding site</td>
<td>N</td>
<td>PB</td>
<td>PB</td>
<td>N</td>
</tr>
<tr>
<td>19.</td>
<td>Laundry, dry cleaning establishment</td>
<td>N</td>
<td>N</td>
<td>PB</td>
<td>PB</td>
</tr>
<tr>
<td>20.</td>
<td>Liquor store</td>
<td>N</td>
<td>N</td>
<td>PB</td>
<td>PB</td>
</tr>
<tr>
<td>21.</td>
<td>Medical marijuana growing facility</td>
<td>N</td>
<td>N</td>
<td>PB16</td>
<td>N</td>
</tr>
<tr>
<td>22.</td>
<td>Medical marijuana dispensary facility</td>
<td>N</td>
<td>N</td>
<td>PB16</td>
<td>N</td>
</tr>
<tr>
<td>23.</td>
<td>Motel, hotel</td>
<td>N</td>
<td>N</td>
<td>PB</td>
<td>N</td>
</tr>
<tr>
<td>24.</td>
<td>Outdoor storage business</td>
<td>N</td>
<td>N</td>
<td>PB</td>
<td>N</td>
</tr>
<tr>
<td>25.</td>
<td>Line intentionally blank</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>26.</td>
<td>Professional offices, office building</td>
<td>N</td>
<td>N</td>
<td>PB</td>
<td>PB</td>
</tr>
<tr>
<td>27.</td>
<td>Redemption center</td>
<td>N</td>
<td>N</td>
<td>PB</td>
<td>N</td>
</tr>
<tr>
<td>28.</td>
<td>Restaurant</td>
<td>N</td>
<td>N</td>
<td>PB</td>
<td>N</td>
</tr>
<tr>
<td>29.</td>
<td>Repair service (other than auto)</td>
<td>N</td>
<td>N</td>
<td>PB</td>
<td>PB</td>
</tr>
<tr>
<td>30.</td>
<td>Retail outlets</td>
<td>N</td>
<td>N</td>
<td>PB10</td>
<td>N</td>
</tr>
<tr>
<td>31.</td>
<td>Self storage building</td>
<td>N</td>
<td>N</td>
<td>PB</td>
<td>N</td>
</tr>
<tr>
<td>32.</td>
<td>Service business</td>
<td>N</td>
<td>N</td>
<td>CEO10</td>
<td>N</td>
</tr>
<tr>
<td>33.</td>
<td>Signs</td>
<td>CEO14</td>
<td>CEO14</td>
<td>CEO14</td>
<td>CEO14</td>
</tr>
<tr>
<td>34.</td>
<td>Take-out food service and catering facilities</td>
<td>N</td>
<td>N</td>
<td>PB</td>
<td>N</td>
</tr>
<tr>
<td>35.</td>
<td>Veterinary clinic</td>
<td>N</td>
<td>PB</td>
<td>PB</td>
<td>N</td>
</tr>
<tr>
<td>36.</td>
<td>Accessory structures, uses or services that are essential for the exercise of uses listed above.</td>
<td>CEO</td>
<td>CEO</td>
<td>CEO</td>
<td>CEO</td>
</tr>
</tbody>
</table>

**Industrial Uses**

<p>| | | | | | |</p>
<table>
<thead>
<tr>
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</tr>
</thead>
<tbody>
<tr>
<td>1.</td>
<td>Automobile graveyard/junkyard</td>
<td>N</td>
<td>N</td>
<td>PB</td>
<td>PB</td>
</tr>
<tr>
<td>2.</td>
<td>Bulk oil and fuel storage, in excess of 50 gallons except for on site purposes</td>
<td>N</td>
<td>N</td>
<td>N</td>
<td>PB</td>
</tr>
<tr>
<td>3.</td>
<td>Construction equipment storage</td>
<td>N</td>
<td>N</td>
<td>N</td>
<td>PB</td>
</tr>
<tr>
<td>4.</td>
<td>Firewood processing</td>
<td>N</td>
<td>PB</td>
<td>N</td>
<td>PB</td>
</tr>
<tr>
<td>5.</td>
<td>Light manufacturing assembly plant</td>
<td>N</td>
<td>PB</td>
<td>PB</td>
<td>PB</td>
</tr>
<tr>
<td>6.</td>
<td>Lumber yard</td>
<td>N</td>
<td>PB</td>
<td>PB</td>
<td>PB</td>
</tr>
<tr>
<td>7.</td>
<td>Manufacturing</td>
<td>N</td>
<td>N</td>
<td>N</td>
<td>PB</td>
</tr>
<tr>
<td>8.</td>
<td>Newspaper facility</td>
<td>N</td>
<td>N</td>
<td>N</td>
<td>PB</td>
</tr>
<tr>
<td>9.</td>
<td>Print shop</td>
<td>N</td>
<td>N</td>
<td>PB</td>
<td>PB</td>
</tr>
<tr>
<td>10.</td>
<td>Pulp mill</td>
<td>N</td>
<td>N</td>
<td>N</td>
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</table>
### Land Use Districts

<table>
<thead>
<tr>
<th>R</th>
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<th>MR-C</th>
</tr>
</thead>
<tbody>
<tr>
<td>N</td>
<td>PB</td>
<td>N</td>
<td>PB</td>
<td>N</td>
</tr>
<tr>
<td>N</td>
<td>N</td>
<td>N</td>
<td>PB</td>
<td>N</td>
</tr>
<tr>
<td>N</td>
<td>N</td>
<td>N</td>
<td>PB</td>
<td>N</td>
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<tr>
<td>N</td>
<td>PB</td>
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<td>N</td>
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<td>PB</td>
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<td>N</td>
<td>N</td>
<td>N</td>
<td>PB</td>
<td>N</td>
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<tr>
<td>N</td>
<td>N</td>
<td>N</td>
<td>PB</td>
<td>N</td>
</tr>
<tr>
<td>N</td>
<td>CEO</td>
<td>CEO</td>
<td>CEO</td>
<td>CEO</td>
</tr>
</tbody>
</table>

### Transportation and Utilities

1. Major utility facilities such as transmission lines, but not including service drops

| PB | PB | PB | PB | PB |

2. Road construction projects, other than land management roads, and not part of a project requiring Planning Board approval.

| CEO| CEO| CEO| CEO| CEO |

3. Road construction projects, other than land management roads, which are part of a project requiring Planning Board approval.

| PB | PB | PB | PB | PB |

4. Accessory structures, uses or services that are essential for the exercise of uses listed above.

| CEO| CEO| CEO| CEO| CEO |

### Notes to table of land uses

1. Provided they are not closer than 100 feet to any property line.
2. Provided that no building or dairy, poultry, or livestock raising is constructed, moved or enlarged to within 75 feet of the side or rear property lines.
3. Provided that at least five off-street parking spaces are provided, with entrances and exits approved by the Code Enforcement Officer.
4. Provided a concrete pad or foundation shall be installed, and the unit shall be firmly anchored by tie-downs.
5. Average densities shall not exceed those established for single-family housing.
6. The minimum lot size requirement applies for the first unit and one-half the minimum lot size requirement applies for each additional unit.
7. Provided they are not closer than 40 feet to any property line.
8. Adequate highway access shall be available.
9. Provided the use is located on a street with adequate highway capacity.
10. Group developments shall be located on a site having a minimum area of two acres.
11. Any retail or service business may include the incidental manufacture of products sold at retail on the premises, provided that the manufacturing does not occupy more than 50% of the total floor area, and employs no more than 4 persons on a single shift, but excluding automobile graveyards or junkyards.
12. Provided that they shall comply with Federal and State standards regarding water and air pollution. Industries shall be required to prove to the Planning Board that the proposed location, construction and operation will not injure present or prospective industrial development in the district.
13. No outside storage.
14. Planning Board approval is required if the sign is to be lit.
15. Provided that neighboring properties are protected from noise and that adequate provision is made for accommodating the entering, exiting, and loading and unloading of transport vehicles on the premises (off the right-of-way).
16. Provided that gross floor area is not in excess of 5,000 square feet.
17. Subject to land use standards of this Ordinance, Article 4.
18. Minimum structure setback from Road Frontage property line right-of-way of 100 feet.
19. If retail operations include the sale of compressed fuel gases, then the storage/dispensing tank shall be limited to one tank per NFPA or DOT fuel classification and shall not exceed a maximum size of 1000 gallons.
20. Dwellings to be converted, as well as any structural alterations must maintain the appearance of their existing use as determined by the Planning Board. New buildings shall be designed and constructed so as to preserve the primary character of the neighborhood. The Planning Board may make requirements regarding facade materials and their texture (e.g., vinyl or wood clapboards, shingles, patterned shingles, brick). The layout of parking areas, service areas, entrances, exits, yards, signs, or lighting shall be such as to protect the existing character of the district and any adjoining district.
21. Minimum lot size 4 acres; Lot setback within district boundaries of 500 feet; Facility front setback of 40 feet, side and rear setback of 100 feet; Refer all security to the State requirements; Indoor growing only; Facility shall be non-transparent secured building; The security measures that will be employed at the premises shall include, but are not limited to, lighting, alarms, cameras, armed security personnel on the premises 24 hours a day, seven days a week and automatic law enforcement notification; Security surveillance shall, at a minimum, include security surveillance cameras installed and operated 24 hours seven days a week to monitor all entrances, along with interior and exterior of the premises to discourage and facilitate the reporting of criminal acts and nuisance activities occurring at the premises; All security recordings shall be preserved for at least one week by the management of the facility; Describe how the cultivated and/or processed medical cannabis will be transported to the distribution facility and/or qualified patients; On-site display, sale, use or of paraphernalia employed in the consumption of medical cannabis shall not be allowed anywhere on site; Lot shall not be within 500 feet of the property line of any school, church, licensed day care or residence; Limited to only one such facility within the Town Boundaries.
6. **DIMENSIONAL REQUIREMENTS**

All structures and uses shall meet or exceed the following minimum requirements. Letters adjacent to some dimensional requirements refer to notes at the end of the table which contain additional requirements.

**Table 2-2**

<table>
<thead>
<tr>
<th></th>
<th>R</th>
<th>RF</th>
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<th>I</th>
<th>MR-C</th>
</tr>
</thead>
<tbody>
<tr>
<td>Minimum lot size</td>
<td>1 acre</td>
<td>2 acres</td>
<td>1 acre</td>
<td>40,000 sq. ft.</td>
<td>1 acre</td>
</tr>
<tr>
<td></td>
<td>A, G</td>
<td>B, G</td>
<td>G</td>
<td>A, G</td>
<td>G</td>
</tr>
<tr>
<td>Minimum lot width H</td>
<td>150 ft.</td>
<td>250 ft.</td>
<td>150 ft.</td>
<td>200 ft.</td>
<td>150 ft.</td>
</tr>
<tr>
<td>Shore setback</td>
<td>75 ft.</td>
<td>75 ft.</td>
<td>75 ft.</td>
<td>75 ft.</td>
<td>75 ft.</td>
</tr>
<tr>
<td>Front yard</td>
<td>35 ft.</td>
<td>35 ft.</td>
<td>40 ft.</td>
<td>40 ft.</td>
<td>35/40 ft.</td>
</tr>
<tr>
<td>Side, rear setbacks</td>
<td>20/15 ft</td>
<td>20 ft.</td>
<td>20 ft.</td>
<td>25 ft.</td>
<td>20 ft.</td>
</tr>
<tr>
<td>Maximum lot coverage</td>
<td>30%</td>
<td>20%</td>
<td>50%</td>
<td>50%</td>
<td>50%</td>
</tr>
<tr>
<td>Maximum building height</td>
<td>35 ft.</td>
<td>35 ft.</td>
<td>35 ft.</td>
<td>75/50 ft.</td>
<td>35 ft.</td>
</tr>
<tr>
<td>Maximum building floor area</td>
<td>Not applicable</td>
<td>Not applicable</td>
<td>Not applicable</td>
<td>Not applicable</td>
<td>F</td>
</tr>
</tbody>
</table>

**Notes to table of dimensional requirements**

A. Must have at least 20,000 square feet of developable area.
B. Must have at least 40,000 square feet of developable area.
C. 20 feet for the principal building, 15 feet for accessory buildings.
D. 75 feet if sprinkler system installed; all others 50 feet.
E. 35 feet for residential development; 40 feet for commercial development.
F. 7,000 square feet of gross floor area per acre, provided that the total floor area of all commercial structures shall not exceed 20,000 square feet in floor area per level per parcel.
G. With functioning public water and sewer – one half the minimum lot size and width.
H. Minimum lot width is the closest distance between the side lot lines of a lot at the front building line (see definition of lot width).
ARTICLE 3 -- SHORELAND ZONING

1. **APPLICABILITY**

   In addition to the specific requirements of any district the following provisions will apply in all land areas within 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 coastal wetland, including all areas affected by tidal action, 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 as defined in Article 9 Definitions.

   This Article 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.

   *Note: Coastal wetlands, by definition, include all areas affected by tidal action, not just those areas where salt marshes and salt meadows exist. Cobble and sand beaches, mudflats, and rocky ledges, below the highest annual tide are all considered to be coastal wetlands.*

2. **DISTRICTS AND Land Use MAP**

   A. Official Shoreland Land Use Map

      The areas to which this Section of this Ordinance is applicable are hereby divided into the following districts as shown on the Official Land Use Map which are a part of this Ordinance:

      1.) Resource Protection District
      2.) Shoreland Residential District
      3.) Shoreland Industrial District I and Shoreland Industrial District II
      4.) Stream Protection District

3. **DESCRIPTION OF DISTRICT BOUNDARIES**

   This Ordinance applies specifically to the water bodies and wetlands as identified on the Official Town of Orrington Land Use Map and is on file in the Town Hall.

   A. Resource Protection (See the official Orrington Land Use map.)

   B. Shoreland Residential (See the official Orrington Land Use Map.)

   C. Shoreland Industrial I and II

      To include the area along the Penobscot River adjacent to the Industrial District. (See the official Orrington Land Use District Map.)
D. Stream Protection

1.) So-called Baker Brook from the point of confluence of two intermittent streams that form a brook to Brewer Lake.

2.) Sedgeunkedunk Stream.

3.) Swetts Pond Brook and Mill Creek from Swetts Pond to the Penobscot River and the north and south branches of said brook system from their respective wetland headwaters.

4.) Trout Pond and outlet.

5.) Other Stream Protection Districts as shaded on the official Town of Orrington Land Use District Map.

4. SCALE OF MAP

The Official Land Use Map shall be available for viewing or purchase at the Town Hall. Map is at a scale of 1-inch = 1,000 feet (RF 1:12,000).

5. NON-CONFORMANCE

A. 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 more than 30%, during the lifetime of the structure. If a replacement structure conforms with the requirements of Section 5.A.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 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, basing its decision on the criteria specified in Section 5.A.2.) Relocation, below. If the completed foundation does not extend beyond the exterior dimensions of the structure except for expansion in conformity with Section 5.A.1.a.) above, and that 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 the 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, and provided that the applicant demonstrates that the present subsurface sewage disposal system meets the requirements of State law and the State of Maine Subsurface Wastewater Disposal Rules (Rules), or that a new system can be installed in compliance with the law and said Rules. In no case shall a structure be relocated in a manner that causes the structure to be more non-conforming.

In determining whether the building relocation meets the setback to the greatest practical extent, the Planning Board shall consider the 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 in 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 located 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 planted with at least one native tree, three (3) feet in height, for every tree removed. If more than five (5) trees are planted no one species of tree shall make up more than 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 were removed or destroyed in order to relocate a structure must be re-established. An area at least the 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 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 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, excepted as allowed pursuant to Section 5.A.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 located 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 planted in accordance with Section 5.A.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 values, 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, removal.

In determining whether the building reconstruction or replacement meets the setback to the greatest practical extent the Planning Board shall consider in addition to the criteria in Section 5.A.2.) Relocation 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 commercial fishing and maritime activities, and other functionally water-dependent uses.

**B. 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 5.A.1 above.

Shoreland Zoning

3 - 4
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 5.A.4.) above.

C. **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.

In any district in which single family dwellings are permitted, notwithstanding limitations imposed by other provisions of this Ordinance, a single-family dwelling and customary accessory buildings may be erected on any single lot of record which conformed to the Ordinance at the effective date of this Ordinance. Such lot must be in separate ownership and not continuous frontage with other lots in the same ownership. This provision shall apply even though such lot fails to meet the requirements for area and width, or both, that are generally applicable in the district, provided that yard dimensions and other requirements not involving area and width, or both, of the lot shall conform to the regulations for the district in which the lot is located. Any lot in a preliminary or final subdivision plan approved by the Orrington Planning Board as of December 1, 1973, meeting all legal requirements of Orrington's Town Ordinance is exempted from any subsequent changes in lot standards in this Ordinance.

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 two (2) or more contiguous lots, at least one of which is non-conforming, owned by the same person or persons on December 6, 1993 and recorded in the registry of deeds if the lot is served by a public sewer or can accommodate a subsurface 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 5.C.3.a.) above 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.

6. **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 Shoreland Industrial I District 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 in a Geographic Information System (GIS) data layer maintained by either MDIF&W or the Department as of December 31, 2008.** For purposes if this paragraph “wetlands associated with great ponds and rivers” shall mean area 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 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.

Note: The Natural Resources Protection Act, 38 M.R.S.A. sections 480-A through 480-Z requires the Department of Environmental Protection to designate areas of “significant wildlife habitat”. Significant wildlife habitat includes:

Habitat for species appearing on the official state or federal lists of endangered or threatened species; high and moderate value deer wintering areas and travel corridors as defined by the Department of Inland Fisheries and Wildlife (DIF&W); high and moderate value waterfowl and wading bird habitats, including nesting and feeding areas as defined by the DIF&W; critical spawning and nursery areas for Atlantic sea run salmon as defined by the Atlantic Sea Salmon Commission; and shorebird nesting, feeding and staging areas and seabird nesting islands as defined by the DIF&W.

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 on file in the Town Office or Flood Hazard Boundary maps, or the flood of record, or in the absence of these, by soil types identified as recent floodplain soils. This district shall also include 100 year floodplains adjacent to tidal waters as shown on FEMA's Flood Insurance Rate Maps or Flood Hazard Boundary Maps.

3.) Areas of two (2) or more contiguous acres with sustained slopes of 20% or greater.

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

Note: These areas usually consist of forested wetlands abutting water bodies and non-forested wetlands.

5.) Land areas along rivers subject to severe bank erosion, undercutting, or river bed movement and lands adjacent to tidal waters which are subject to severe erosion or mass movement, such as steep coastal bluffs.

B. Shoreland Residential District

The Shoreland Residential District includes those areas suitable for residential and recreational development. It includes areas other than those in the Resource Protection District or the Stream Protection District, and areas which are used less intensively than those in the Shoreland Industrial Districts.
C. Shoreland Industrial District I

The Shoreland Industrial District I includes the following types of exiting, intensively developed areas:

1.) Areas of two (2) 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 discernable as having patterns of intensive commercial, industrial or recreational uses.

D. Shoreland Industrial District II

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

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

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

E. Stream Protection District

The Stream Protection District includes all land areas within seventy-five (75) feet, horizontal distance, of the normal high-water line of a stream, exclusive of those areas within two-hundred 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 or coastal wetland. Where a stream and its associated shoreland area is located within two-hundred and fifty (250) feet, horizontal distance, of the above water bodies or wetlands, that land area shall be regulated under the terms of the shoreland district associated with that water body or wetland.
7. **TABLE OF LAND USES**

All land use activities, as indicated in Table 3 - 1, Land Uses in the Shoreland Zones, shall conform with all of the applicable land use standards in Section 8. The district designation for a particular site shall be determined from the Official Land Use Map.

Key to Table 3-1:

**Permit Symbols**

Yes- Allowed (No permit required but the use must comply with all applicable land use standards.)

No - Prohibited

PB - Allowed with approval by the Planning Board and a permit issued by the Code Enforcement Officer

CEO- Allowed with permit issued by the Code Enforcement Officer

LPI- Allowed with permit issued by the Local Plumbing Inspector

**District Symbols:**

RP - Resource Protection
SR - Shoreland Residential
SI - Shoreland Industrial I and Shoreland Industrial II
SP - Stream Protection

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**Table 3 – 1**

**Land Uses in the Shoreland Zones**

<table>
<thead>
<tr>
<th>LAND USES</th>
<th>DISTRICTS</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>RP</td>
</tr>
<tr>
<td>1. Non-intensive recreational uses not requiring structures such as hunting, fishing and hiking</td>
<td>yes</td>
</tr>
<tr>
<td>2. Motorized vehicular traffic on existing roads and trails</td>
<td>yes</td>
</tr>
<tr>
<td>3. Forest management activities except for timber harvesting &amp; land management roads</td>
<td>yes</td>
</tr>
<tr>
<td>4. Timber harvesting</td>
<td>CEO¹</td>
</tr>
<tr>
<td>5. Clearing or removal of vegetation for activities other than timber harvesting</td>
<td>CEO¹</td>
</tr>
<tr>
<td>LAND USES</td>
<td>DISTRICTS</td>
</tr>
<tr>
<td>-------------------------------------------------------------------------</td>
<td>---------------</td>
</tr>
<tr>
<td></td>
<td>RP</td>
</tr>
<tr>
<td>6. Fire prevention activities</td>
<td>yes</td>
</tr>
<tr>
<td>7. Wildlife management practices</td>
<td>yes(^8)</td>
</tr>
<tr>
<td>8. Soil and Water conservation practices</td>
<td>yes</td>
</tr>
<tr>
<td>9. Mineral exploration</td>
<td>yes(^2)</td>
</tr>
<tr>
<td>10. Mineral extraction including sand and gravel extraction</td>
<td>PB(^3)</td>
</tr>
<tr>
<td>11. Surveying and resource analysis</td>
<td>yes</td>
</tr>
<tr>
<td>12. Emergency Operations</td>
<td>yes</td>
</tr>
<tr>
<td>13. Agriculture</td>
<td>PB</td>
</tr>
<tr>
<td>14. Aquaculture</td>
<td>PB</td>
</tr>
<tr>
<td>15. Principal structures and uses</td>
<td>PB(^9)</td>
</tr>
<tr>
<td>A. One and two family residential including driveways</td>
<td>no</td>
</tr>
<tr>
<td>B. Multi-family residential</td>
<td>no</td>
</tr>
<tr>
<td>C. Commercial</td>
<td>no</td>
</tr>
<tr>
<td>D. Industrial</td>
<td>no</td>
</tr>
<tr>
<td>E. Governmental and Institutional</td>
<td>PB</td>
</tr>
<tr>
<td>F. Small non-residential facilities for educational, scientific, or nature interpretation purposes</td>
<td>CEO</td>
</tr>
<tr>
<td>16. Structures accessory to allowed uses</td>
<td>PB</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>CEO(^11)</td>
</tr>
<tr>
<td>A. Temporary</td>
<td>PB</td>
</tr>
<tr>
<td>B. Permanent</td>
<td>CEO</td>
</tr>
<tr>
<td>18. Conversions of seasonal residences to year-round residences</td>
<td>no</td>
</tr>
<tr>
<td>19. Home occupations</td>
<td>PB</td>
</tr>
<tr>
<td>20. Private sewage disposal systems for allowed uses</td>
<td>no</td>
</tr>
<tr>
<td>21. Essential services</td>
<td>CEO(^5)</td>
</tr>
<tr>
<td>A. Roadside distribution lines (34.5kV and Lower)</td>
<td>CEO</td>
</tr>
<tr>
<td>B. Non-roadside or cross-country distribution lines involving ten poles or less in the shoreland zone</td>
<td>PB(^5)</td>
</tr>
<tr>
<td>C. Non-roadside or cross-country distribution lines involving eleven or more poles in the shoreland zone</td>
<td>PB(^5)</td>
</tr>
<tr>
<td>D. Other essential services</td>
<td>CEO</td>
</tr>
<tr>
<td><strong>LAND USES</strong></td>
<td><strong>DISTRICTS</strong></td>
</tr>
<tr>
<td>----------------</td>
<td>--------------</td>
</tr>
<tr>
<td></td>
<td><strong>RP</strong></td>
</tr>
<tr>
<td>22. Service drops, as defined, to allowed uses</td>
<td>yes</td>
</tr>
<tr>
<td>23. Public and private recreational areas involving minimal structural development</td>
<td>PB</td>
</tr>
<tr>
<td>24. Individual private campsites</td>
<td>CEO</td>
</tr>
<tr>
<td>25. Campgrounds</td>
<td>no$^6$</td>
</tr>
<tr>
<td>26. Road construction</td>
<td>no$^7$</td>
</tr>
<tr>
<td>27. Land Management roads</td>
<td>PB</td>
</tr>
<tr>
<td>28. Parking facilities</td>
<td>no$^6$</td>
</tr>
<tr>
<td>29. Marinas</td>
<td>no</td>
</tr>
<tr>
<td>30. Filling and earthmoving of &lt; 10 cubic yards</td>
<td>CEO</td>
</tr>
<tr>
<td>31. Filling and earthmoving of &gt; 10 cubic yards</td>
<td>PB</td>
</tr>
<tr>
<td>32. Signs$^{14}$</td>
<td>CEO$^{13}$</td>
</tr>
<tr>
<td>33. Uses similar to allowed uses</td>
<td>CEO</td>
</tr>
<tr>
<td>34. Uses similar to uses requiring a CEO permit</td>
<td>CEO</td>
</tr>
<tr>
<td>35. Uses similar to uses requiring a PB permit</td>
<td>PB</td>
</tr>
</tbody>
</table>

1. In RP not allowed within 75 feet horizontal distance, of the normal high-water line of great ponds except to remove safety hazards.
2. Requires permit from the Code Enforcement Officer if more than 100 square feet of surface area, in total, is disturbed.
3. In RP not allowed in areas so designated because of wildlife value.
4. Provided that a variance from the setback requirement is obtained from the Board of Appeals.
5. See further restrictions in **Article 3 Section 8.I**.
6. Except when area is zoned for resource protection due to floodplain criteria in which case a planning board review and permit from the CEO is required.
7. Except as provided in **Article 3 Section 8.O**.
8. Within the "RP" district on the Richardson Tract, the Orrington Conservation Commission will periodically conduct minimal timber harvesting in order to implement specific wildlife management and fire-prevention programs. These programs will be implemented solely at the discretion of the Conservation Commission, and will not require a permit from the CEO.
9. The Planning Board may approve and instruct the CEO to issue a permit for construction of a single-family residence in a Resource Protection District if the applicant demonstrates that all of the conditions in **Article 3 Section 8.R**, Special Exception, are met. Two-family residential structures are prohibited.
Except for commercial uses otherwise listed in this Table, such as marinas and campgrounds, that are allowed in the respective district.

Excluding bridges and other crossings not involving earthwork, in which case no permit is required.

Permit not required but must file a written “notice of intent to construct” with CEO prior to commencement of any construction.

Planning Board approval is required if the sign is to be lit.

Subject to land use standards of this Ordinance, Article 4.

Note: A person performing any of the following activities shall require a permit from the Department of Environmental Protection, pursuant to 38 MRSA, Section 480-C, if the activity occurs in, on, over or adjacent to any freshwater or coastal wetland, great pond, river, stream or brook and operates in such a manner that material or soil may be washed into them:

A. Dredging, bulldozing, removing or displacing soil, sand, vegetation or other materials;
B. Draining or otherwise dewatering;
C. Filling, including adding sand or other material to a sand dune; or
D. Any construction or alteration of any permanent structure.

8. **LAND USE STANDARDS** (Adopted June 26, 1995)

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

A. **Minimum Lot Standards**

1.) See Table 3-2

<table>
<thead>
<tr>
<th>Lot Standard</th>
<th>SR</th>
<th>SI</th>
<th>SP</th>
<th>RP</th>
</tr>
</thead>
<tbody>
<tr>
<td>Minimum Lot Area per dwelling unit</td>
<td>Tidal</td>
<td>40,000 sf$^4$</td>
<td>40,000 sf$^4$</td>
<td>40,000 sf$^4$</td>
</tr>
<tr>
<td>and per recreational facility</td>
<td>Non-Tidal</td>
<td>40,000 sf$^4$</td>
<td>40,000 sf$^4$</td>
<td>40,000 sf$^4$</td>
</tr>
<tr>
<td>Minimum Shore Frontage per dwelling unit</td>
<td>Tidal</td>
<td>150 ft$^2$</td>
<td>150 ft$^2$</td>
<td>150 ft$^2$</td>
</tr>
<tr>
<td></td>
<td>Non-Tidal</td>
<td>200 ft$^3$</td>
<td>200 ft$^3$</td>
<td>200 ft$^3$</td>
</tr>
<tr>
<td>Minimum Lot Width</td>
<td>Tidal</td>
<td>150 ft²</td>
<td>200 ft</td>
<td>150 ft²</td>
</tr>
<tr>
<td>-------------------</td>
<td>--------</td>
<td>---------</td>
<td>--------</td>
<td>---------</td>
</tr>
<tr>
<td></td>
<td>Non-Tidal</td>
<td>200 ft³</td>
<td>200 ft³</td>
<td>200 ft³</td>
</tr>
<tr>
<td>Minimum Front Yard Depth</td>
<td>Tidal</td>
<td>35 ft</td>
<td>40 ft</td>
<td>35 ft</td>
</tr>
<tr>
<td></td>
<td>Non-Tidal</td>
<td>35 ft</td>
<td>40 ft</td>
<td>35 ft</td>
</tr>
<tr>
<td>Minimum Side/Rear Yard Depth</td>
<td>Tidal</td>
<td>20 ft⁴</td>
<td>25 ft</td>
<td>20 ft</td>
</tr>
<tr>
<td></td>
<td>Non-Tidal</td>
<td>20 ft⁴</td>
<td>25 ft</td>
<td>20 ft</td>
</tr>
</tbody>
</table>

1. 60,000 square feet required per principal structure for Governmental, Institutional, Industrial, or Commercial uses.
2. 200 feet required per recreational facility, Governmental, Institutional, Industrial, or Commercial uses.
3. 300 feet required per principal structure for Governmental, Institutional, Industrial, or Commercial uses, 200 feet required per recreational facility.
4. 15 feet required for residential accessory structures.

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

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

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

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

B. Agriculture

1. All spreading or 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 (7M.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 or a river flowing to a great pond, 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 Penobscot County 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; within seventy-five (75) feet, horizontal distance, from other water bodies and coastal wetlands; nor within twenty-five (25) feet, horizontal distance, of tributary streams, and freshwater wetlands. Operations in existence on the effective date of this Ordinance and not in conformance with this provision may be maintained.

5.) Newly established livestock grazing areas shall not be permitted within one hundred (100) feet, horizontal distance, of the normal high-water line of a great pond; within seventy-five (75) feet, horizontal distance of other water bodies and coastal wetlands; nor within twenty-five (25) feet, horizontal distance, of tributary streams and freshwater wetlands. Livestock grazing 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.

C. Archaeological Sites

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

D. Beach Construction

Beach construction on any great pond, brook, river, stream or coastal wetland shall require a permit from the Department of Environmental Protection.

E. 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 or a river flowing to a great pond, 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.

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

1.) In a for 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 Subsection 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 or a river flowing to a great pond, 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 8.F.2.b.) a "well-distributed stand of trees" adjacent to a great pond, or a river or stream flowing to a great pond, 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:
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 proposed clearing within the required buffer:

(ii) Each successive plot must be adjacent to, but not overlap the previous plot;

(iii) Any plot not containing the required points may no have vegetation removed except as otherwise allowed by this Ordinance;

(iv) Any plot containing the required points may have vegetation removed down to the minimum points required or as otherwise allowed by this ordinance;

(v) Where conditions permit, no more than 50% of the points on any 25-foot by 50-foot rectangular area may consist of trees greater than 12 inches in diameter.

For the purposes of Section 8.F.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 rectangular area. If five saplings do not exist, no woody stems less than two (2) inches in diameter can be removed until 5 samplings have been recruited into the plot.

Shoreland Zoning
3 - 16
Notwithstanding the above provisions, no more than 40% of the total volume of trees four (4) inches or more in diameter, measured at 4'/12 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 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.

f. Section 8.F.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 or a river flowing to a great pond, 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 4.5 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 purposes, 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 Shoreland Industrial 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 Section 8 (F).
G. **Commercial and Industrial Uses**

The following new commercial and industrial uses are prohibited within the shoreland zone adjacent to great ponds, and rivers and streams which flow to great ponds:

a. Auto washing facilities  
b. Auto or other vehicle service and/or repair operations, including body shops  
c. Chemical and bacteriological laboratories  
d. Storage of chemicals, including herbicides, pesticides or fertilizers other than amounts normally associated with individual households or farms  
e. Commercial painting, wood preserving, and furniture stripping  
f. Dry cleaning establishments  
g. Electronic circuit assembly  
h. Laundromats, unless connected to a sanitary sewer  
i. Metal plating, finishing, or polishing  
j. 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  
k. Photographic processing  
l. Printing

H. **Erosion and Sedimentation Control**

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

a. Mulching and revegetation of disturbed soil.  
b. Temporary runoff control features such as hay bales, silt fencing or diversion ditches.  
c. Permanent stabilization structures such as retaining walls or riprap.

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

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

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

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

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

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

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

I. 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 transmission and distribution lines, towers and related equipment may be replaced or reconstructed without a permit.

J. 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 or river flowing to a great pond, and seventy-five (75) feet, horizontal distance, from the normal high-water line of a great pond or river flowing to a great pond.
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 the Resource Protection District shall be limited to one thousand (1,000) 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.

K. 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 paragraph 3.) below.

2.) No part of any extraction operation, including drainage and runoff control features, shall be permitted within one hundred (100) feet, horizontal distance, of the normal high-water line of a great pond or a river flowing to a great pond, 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 of any property line, without written permission of the owner of such adjacent property.

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

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

NOTE: The State of Maine Solid Waste Laws, Title 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 grade shall be no greater than a slope of two and one-half (21/2) horizontal to one (1) vertical.

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

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

L. 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 Shoreland Industrial District I shall be reduced to no less than fifty (50) feet, horizontal distance, from the shoreline or tributary stream if the Planning Board finds that no other reasonable alternative exists further from the shoreline or tributary stream.

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

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

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

b. Internal travel aisles: Approximately twenty (20) feet wide.
M. Piers, Docks, Wharfs, Bridges and Other Structures and Uses Extending Over or Below the Normal High-Water Line of a Water Body or Within a Wetland

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 in non-tidal waters shall not be wider than six (6) feet for non-commercial uses.

5.) No new structure shall be built on, over or abutting a pier, wharf, dock or other structure extending below 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 on non-tidal waters 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 Resource Protection Act.

7.) No existing structures built on, over or abutting a pier, dock, wharf or other structure extending below 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 Shoreland Industrial Districts, structures built on, over or abutting a pier, wharf, dock or other structure extending below 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.

9.) 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 Resource Protection Act, 38 MRSA Title, Section 480-C. Permits may also be required from the Army Corps of Engineers if located in navigable waters.

N. 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 and rivers that flow to great ponds, 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 Shoreland Industrial District I the setback from the normal high-water line shall be at least twenty-five (25) feet, horizontal distance. In the Resource Protection District the

Shoreland Zoning
3 - 22
setback requirement shall be 250 feet, horizontal distance, except for structures, roads, parking spaces or other objects specifically allowed in that district in which case the setback requirements specified above shall apply.

In addition:

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

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

Note: All tidal land which is subject to tidal action during the highest annual tide is coastal wetland.

Note: A tributary stream may be perennial or intermittent. Where a tributary stream is present within the shoreland zone, setback standards from the tributary stream are applicable.

2.) Principal or accessory structures and expansions of existing structures which are permitted in the Resource Protection, Shoreland Residential, 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 (1) foot above the elevation of the 100 years flood, the flood or record, or in the absence of these, the flood as defined by soil types identified as recent floodplain soils. Accessory structures may be placed in accordance with the standards outlined in Article 7 of this 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 Shoreland Industrial District adjacent to Shoreland Zoning

Shoreland Zoning

3 - 23
tidal waters and rivers that do not flow to great ponds, 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, coastal wetlands, and tributary streams, as designated on the Federal Emergency Management Agency’s (FEMA) Flood Insurance Maps or Flood Hazard Boundary Maps, or the flood of record, in the absence of these, by soil types identified as recent floodplain soils.

f. The area behind the wall is revegetated with grass, shrubs, trees, or 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 does not exist. The buffer area must meet the following characteristics:

i. The buffer must include shrubs and other woody and herbaceous vegetation. Where the 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 perpendicular to the normal high-water line or upland edge of a wetland;
v. A footpath not to exceed the standards in Section 8.F.2.a., may traverse the buffer.

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

6.) Notwithstanding the requirements stated above, stairways or similar structures, shall be allowed 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.

O. 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 or a river that flows to a great pond, and seventy-five (75) feet, horizontal distance, from the normal high-water line of other water bodies, tributary steams, or the upland edge of a wetland unless no reasonable alternative exists as determined by the Planning Board. If no other reasonable alternative exists, 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 8.O.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 8.O.1 except for that portion of the road or driveway necessary for direct access to the structure.
2.) Existing public roads may be expanded within the legal road right-of-way regardless of their setback from a water body, tributary stream or wetland.

3.) New roads and driveways are prohibited in a Resource Protection District except that the Planning Board may grant a permit to construct a road or driveway to provide access to permitted uses within the district. A road or driveway may also be approved by the Planning Board in a Resource Protection District, upon 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 highwater line of a water body, tributary stream, or upland edge of a wetland.

4.) Road and driveway banks shall be no steeper than a slope of two (2) horizontal to one (1) vertical, and shall be graded and stabilized in accordance with the provisions for erosion and sedimentation control contained in Article 3 Section 8.H.

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

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

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

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

<table>
<thead>
<tr>
<th>Grade (Percent)</th>
<th>Spacing (Feet)</th>
</tr>
</thead>
<tbody>
<tr>
<td>0-2</td>
<td>250</td>
</tr>
<tr>
<td>3-5</td>
<td>200-135</td>
</tr>
<tr>
<td>6-10</td>
<td>100-80</td>
</tr>
<tr>
<td>11-15</td>
<td>80-60</td>
</tr>
<tr>
<td>16-20</td>
<td>60-45</td>
</tr>
<tr>
<td>21+</td>
<td>40</td>
</tr>
</tbody>
</table>
b. Drainage dips may be used in place of ditch relief culverts only where the grade is ten (10) percent or less.

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

P. 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 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 a shoreland zone.

   NOTE: The Maine Subsurface Water Disposal Rules, require new systems, excluding fill extensions, to be constructed no less than 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.

Q. Soils

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

R. Special Exception

In addition to the criteria specified in Article 5 Section 1.A.3.)c., excepting structure setback requirements, the Planning Board may approve and instruct the CEO to issue a permit for construction of a single-family residence in a Resource Protection District if 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 may 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 system and other improvements are:

   a. Located on natural ground slopes less than 20%; and

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

   If the floodway is not shown on the FEMA maps, it is deemed to be the width of the 100-year floodplain. For purposes of this subparagraph, "floodway" means 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 more than one foot in height and "velocity zone" means an area of special flood hazard extending from offshore to the inland limit of the primary frontal dune along an open coast and any other area subject to high-velocity wave action from storms or seismic sources.

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 any variance (MDEP 06-096 Chapter 1000 section 16E4).

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 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 floodplain and its proximity to moderate-value and high-value wetlands.

S. 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 of 5 acres or more of a developed area in an urban impaired stream watershed or most-at-risk lake watershed, or a project with one (1) acre or more of development area in any other stream, coastal or wetland watershed. A permit-by-rule is necessary for a project with one (1) acre or more of disturbed area but less than one (1) acre of impervious area (20,000 square feet for most-at-risk lakes and urban impaired streams) and less than five (5) acres of developed area. Furthermore, a Maine Construction General Permit is required if the construction will result in one (1) acre or more of disturbed area.

T. Timber Harvesting

The municipal regulation of timber harvesting activities is repealed on the statutory date established under 38 M.R.S.A. section 438-B(5), at which time the State of Maine Department of Conservation’s Bureau of Forestry shall administer timber harvesting standards in the shoreland zone. On the date established under 38 M.R.S.A section 438-B(5), the following provisions of this Ordinance are repealed:

- Section 7. Table of Land Uses, Item 3 (Forest management activities except for timber harvesting), Item 4 (Timber harvesting), and Item 27 (Land management roads);
- Section 8.T, Timber Harvesting, in its entirety; and
- Article 9. Definitions, the definitions of “forest management activities”, “land management roads”, “skid trail”, “slash” and “residual basal area”.

NOTE: The statutory date established under 38 M.R.S.A. section 438-B(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 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-B(5) further provides that “the Commissioner of Conservation...
1.) In a shoreland area zoned for resource protection abutting a great pond, timber harvesting shall be limited to the following:

a. Within a strip of land extending 75 feet inland from the normal high-water line timber harvesting is prohibited, except to remove safety hazards.

b. Beyond the 75 foot strip referred to in paragraph 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 1 inch 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 Paragraph 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 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 or a river flowing to a great pond, 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 or a river flowing to a great pond, 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 apart. Such clearcut openings shall be included in the calculation of total volume removal. For the purposes of these standards volume may be considered to be equivalent to basal area.

b. Timber harvesting operations exceeding the 40% limitation in paragraph 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 of the normal
high-water line of a water body. In all other areas slash shall either be
removed or disposed of in such a manner that it lies on the ground and
no part thereof extends more than four (4) feet above the ground. Any
debris that falls below the normal high-water line of a water body shall
be removed.

d. Timber harvesting equipment shall not use stream channels as travel
routes except when:
i. Surface waters are frozen; and

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

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

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

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

U. 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.
ARTICLE 4 -- PERFORMANCE STANDARDS

1. COMMERCIAL DEVELOPMENT IN THE MR-C DISTRICT

A. Not less than 20 percent of the lot area shall be dedicated to green space.

B. Commercial development shall not exceed 60 percent of the total Land use in any MR-C District.

C. Commercial development shall be served by public water and sewer if available public water and sewer is within 200 (two hundred) feet of closest lot boundary line.

D. The developer shall file with the town a performance guarantee in an amount sufficient to defray the cost of improving the means of vehicular access and landscaping, as specified in the site plan and approved by the Planning Board. The conditions and amount of such performance bond shall be determined by the town manager with the advice of the various municipal departments and agencies concerned. The amount shall be at least equal to the total cost of buffer zones, curbing, landscaping, and providing vehicular access, where required.

E. The construction will be designed so as to protect the public health and safety, environmental quality, and economic well-being of the municipality, and will be subject to a minimal control of those uses which by virtue of their external effects (waste stockpile or discharge, noise, glare, fumes, smoke, dust, and/or auto, truck traffic) which could otherwise create a nuisance or unsafe or unhealthy conditions. Lighting shall comply with Article 6, Section 9.G., and lighting fixtures must be installed to project light downward and not outward. The proposed development will not cause unreasonable erosion, sedimentation, or reduction in the capacity of the land safely to hold, absorb, or transpire water so that a dangerous or unhealthy condition results. Consulting a soil scientist/engineer or similar professional may be required. The construction will comply with all federal, state, and local laws, including air and water pollution control laws and regulations.

F. When necessary to protect the privacy of neighboring residents and the integrity of the area, the Planning Board may require a planting strip of up to 50 feet in width at the property lines at the periphery of the development. The planting strip shall be so designed as to screen the project and subsequent project activities from view of the public, where appropriate, and from adjoining property owners. Non-residential yard space abutting a residential area shall be maintained as a buffer strip by the developer.

G. All approved outside storage areas, exposed machinery installation, service areas, truck loading areas, utility, and similar structures shall have sufficient setbacks and screening to provide an audio-visual buffer sufficient to eliminate their adverse impact on the other land uses within the development area and surrounding properties.
H. Dwellings to be converted, as well as any structural alterations must maintain the appearance of their existing use as determined by the Planning Board. New buildings shall be designed and constructed so as to preserve the primary character of the neighborhood. The Planning Board may make suggestions regarding facade materials and their texture (e.g., vinyl or wood clapboards, shingles, patterned shingles, brick). The layout of parking areas, service areas, entrances, exits, yards, signs, or lighting shall be such as to protect the existing character of the district and any adjoining district.

I. The proposed use will not create or aggravate hazards to traffic on the roads and sidewalks serving the proposed use. To limit the proliferation of access points to public highways now controlled by the state Department of Transportation, and the resultant traffic hazards and congestion, a developer may be required to dedicate a 50 foot strip adjacent to and running the length of the project along the public highway to the use of controlled public access and landscaping. If required, such strip could be considered as part of the required setback, and shall be constructed in accordance with town standards. The developer shall file with the town a performance guarantee in an amount sufficient to defray the cost of improving the strip. The conditions and amount of such performance bond shall be determined by the town manager with the advice of the various municipal departments and agencies concerned.

J. The proposed development will not place an undue burden on the ability of municipal or other governmental agencies to provide services or facilities, including, but not limited to sewer, water, elementary and secondary schools, fire protection, road maintenance, solid waste disposal, police protection, telephone and electrical facilities, municipal road systems, or fire department.

K. Where possible, the site design will preserve specimen or long-lived tree species and existing watercourses, hills, and other natural features. The services of a professional forester, arborist, soil scientist/engineer may be required.

L. Exterior signs or outdoor advertising structures shall not detract from the surrounding properties. Signs or structures shall conform to requirements specified under section 12 of this article, but in addition shall be reviewed for the following: size, location, design, lighting, materials, illumination, colors, and scale. Minor changes that do not alter the dimensions or lettering style of an existing sign need not be reviewed. One sandwich, portable, or other temporary sign of advertisement, not illuminated, shall be permitted. Such sign shall be no larger that six square feet, and shall be displayed for no more than 30 days.

M. Provisions shall provide convenient and safe emergency vehicle access to all structures at all times.

2. **COMMERCIAL REMOVAL OF EARTH MATERIALS**

Sand, gravel, rock, and similar earth materials may be removed commercially from districts where permitted under the terms of the Ordinance only after site plan review and approval.
Following such approval, a permit may be issued by the Code Enforcement Officer. The applicant shall be required to:

A. Restore the site by regrading and seeding with adequate preparation to assure growth of vegetation cover.

B. No earth removal, quarrying, or mining activity will be conducted within 20 feet of a property line, unless a greater distance is specified elsewhere in this Ordinance, or by State guideline, rule, or statute. A slope not to exceed 1 to 1 ratio and above-ground accumulation of earth materials will be maintained on all excavation.

C. If such earth removal activity is not of continuous nature (excluding shutdown through the winter season) the operator must renew the land use permit every two years from the date of issue and show why he should not restore all or part of the site at that time.

D. The Planning Board may require the applicant to post a bond with the Treasurer of the municipality in an amount approved by the Planning Board as sufficient to guarantee conformance.

3. **FLOOD PLAIN AND/OR MUD SLIDE HAZARD AREAS**

In addition to the specific requirements of any zone the following provisions will apply in any areas designated as flood plain hazard areas. The Code Enforcement Officer shall review all building permit applications to determine whether proposed building sites will be reasonably safe from flooding. Any construction, relocation, replacement or substantial enlargement or modification of any building, including prefabricated and mobile homes upon building sites in the special flood hazard areas must:

A. Be designed or modified and anchored to prevent flotation, collapse, or lateral movement of the structure.

B. Use construction material and utility equipment that are resistant to flood damage, and

C. Use construction methods and practices that will minimize flood damages.

The following provisions will apply in areas designated mud slide hazard areas:

D. A review of the site must be made by persons qualified in geology and soils engineering.

E. The proposed construction, substantial improvement, grading or earth removal must:
   
   1.) be adequately protected against mudslide damage, and
   
   2.) not aggravate the existing hazard.
4. **GROUP DEVELOPMENTS**

A group development is permitted provided that:

A. Uses shall be limited to those permitted within the district in which it is located.

B. Density and height requirements of the district are met.

C. The distance of every building from the nearest property line shall meet all requirements of the district in which the project is located. The development shall abut a public street for a minimum of 150 feet, and all structures shall be set back at least 150 feet from said street.

D. The Planning Board shall approve the location of the group development.

5. **HOME OCCUPATION**

The following provisions shall govern home occupations in the R, C, MR-C and Shoreland residential districts:

A. Permitted home occupations shall be carried out without altering the residential character of the structure or neighborhood, or changing the character of the lot from its principal use as a residence. A home occupation shall be permitted only if it totally complies with all of the requirements of this subsection.

B. A home occupation shall be carried on by the full time occupants of the dwelling unit and no more than two additional employees.

C. The home occupation shall be carried on wholly within the principal home or accessory structure and shall not use more than 25% of the ground floor area of the structure or accessory structure being used.

D. Intentionally left blank

E. There shall be no external evidence of such operation except one non-illuminated, nonrelative sign, no larger than four (4) square feet in area, and no home occupation shall involve the use of advertising media on the premises, which calls attention to the fact that the home is being used for business purposes, telephone number listing excepted (see Article 4, Section 12, Subsection C).

F. The sale of products shall be limited to those which are mailed (e.g. Federal Express, UPS etc.), catalog items ordered off the premises by customers, to items which are accessory or incidental to a service which is provided on the premises and manufactured items made on the premises.

G. Adequate off-street parking shall be provided. See Article 4 Section 9- Subsection L, Off-Street Parking
The following provisions (H-M) shall govern home occupations in the RF district:

H. Rural home occupations shall be carried out without altering the basic character of the structure or neighborhood, or changing the character of the lot from its principal use as stated in the intent and purposes of the district. A rural home occupation will be permitted only if it totally complies with all the requirements of this subsection.

I. A home occupation shall be carried on by the full time occupants of the dwelling unit and no more than three additional employees.

J. The home occupation shall be carried on within the principal structure and shall not exceed 25% of the ground floor area of that principal structure, or for accessory structure see below:

1.) 2-4 acre lot: Accessory Structure no larger than home structure in area or volume.

2.) 5 acre lot or larger: Accessory Structure shall not exceed a total of 25% lot area.

K. There shall be no visible external evidence of such operation from a public way except one non-illuminated, non-reflective sign, no larger than four (4) square feet in area, and no home occupation shall involve the use of advertising media on the premises which calls attention to the fact that the home is being used for business purposes, telephone number listing excepted. See Article 4, Section 12, Subsection C, Signs, for setback criteria for all signs.

L. The sale of products shall be limited to those which are mailed (e.g. Federal Express, UPS, etc.), catalog items ordered off the premises by customers, to items which are accessory or incidental to a service which is provided on the premises and manufactured items made on the premises.

M. Adequate off-street parking shall be provided. See Article 4, Section 9, Subsection L, Off Street Parking.

6. **JUNK YARDS AND AUTOMOBILE GRAVEYARDS**

Junk yards and automobile graveyards, where permitted under the terms of this Ordinance, must be approved by the Planning Board in addition to fulfilling the requirements of MRSA Title 30A, Sections 3751-3760.
7. **MOBILE HOME PARKS**

A. The application for a permit, to be submitted to the Planning Board for site plan review, shall show:

1.) The area and dimensions of the tract of land.

2.) The number, size, and location of mobile home lots.

3.) The location and width of roadways.

4.) The location of water and sewer lines.

5.) Such further information as may be requested by the Building Inspector, Code Enforcement Officer, Planning Board, or Health Officer to determine that the mobile home park complies with legal requirements.

B. Minimum locational standards: A mobile home park shall be:

1.) Free from adverse influence by wetlands or waste disposal areas.

2.) Not subject to flooding or other hazard or nuisance as determined by the Planning Board.

C. Minimum general standards:

1.) A mobile home park shall contain no less than 5 acres.

2.) A mobile home site shall contain no less than 15,000 square feet with a street/road frontage of at least 100 feet; a concrete pad or foundation shall be installed on each site; and each unit must be firmly anchored by tie-downs.

3.) Mobile homes shall be separated from each other by at least 25 feet.

4.) The ground surface in all parts of the mobile home park shall be graded and equipped to drain all surface water in a safe, efficient manner.

5.) Exposed ground surfaces in all parts of every mobile home park shall be paved or covered with stone screenings or other solid material, or protected with a vegetative growth that is capable of preventing soil erosion and the emanation of dust during dry weather.
6.) Every mobile home park shall have a continuous, safe, and potable water supply capable of delivering no less than 150 gallons of water per day for each mobile home site at suitable pressure with a connection at each mobile home site.

7.) Every mobile home park shall be provided with an adequate and safe sewage disposal system, with a sewer connection at each mobile home site.

8.) Every mobile home park shall contain an electrical system, consisting of wiring, fixtures, equipment and appurtenances which shall be installed and maintained in accordance with applicable codes and regulations governing such systems. Each mobile home site shall be provided with an approved electrical service.

9.) The storage, collection, and disposal of refuse in every mobile home park shall be managed so as to create no health hazards, rodent harborage, insect breeding areas, accident or fire hazard, or air pollution.

10.) Not less than 8% of the gross area of the park site shall be devoted to recreational facilities which may include playgrounds, ball field, ornamental areas, and community buildings.

D. Minimum street standards

1.) All streets in a mobile home park shall be provided with a well-drained and durable surface of minimum width of 24 feet. Street surfaces shall be maintained and snow-plowed by the mobile home park operator.

2.) Safe, continuous, and convenient vehicular access shall be provided from abutting public streets or roads into the mobile home park and within the park to each mobile home space.

3.) Grades of all streets shall be sufficient to insure adequate surface drainage but shall not be more than 8 percent.

4.) Intersections of streets shall be at approximately right angles.

5.) Street lighting shall be provided as approved by the Planning Board.

8. OFF-STREET LOADING AND UNLOADING

On every lot on which a business, trade, or industry is hereafter established, sufficient off-street space with access to a public right-of-way shall be provided for the loading and unloading of vehicles, and shall not obstruct traffic flow.
9. **OFF-STREET PARKING**

No building hereinafter shall be erected or any of the following uses established unless the minimum number of off-street parking spaces as specified below are provided. Adequate off-street parking must be provided to insure no vehicles need be parked along the roadway. Each parking space shall be at least 200 square feet and shall have access for vehicles to a public right-of-way. Parking lots for more than 5 vehicles shall provide sufficient turning space to prevent cars from backing into the street.

If the required automobile parking spaces cannot be provided on the same lot as the principle use, such spaces may be provided on other off-street property located within 400 feet of the main entrance of the principle use. Such parking space shall be associated with principle use, and not thereafter reduced or encroached upon in any manner.

Required parking space may extend up to 100 feet in a residential district provided that the parking space adjoins a commercial or industrial district, has its only access on the same street as the property for which it serves, and is separated from abutting residences by a planted buffer strip at least 10 feet wide.

A. Gasoline Filling Stations and Repair Garages - 5 spaces for each grease rack or other similar facility.

B. Hospitals and Nursing Homes - 1 space for each 4 beds.

C. Hotels - 1 space for each 2 guest bedrooms.

D. Industrial Establishments - 1 space for each 2 employees at maximum employment on the 2 shifts of highest employment.

E. Lodges and Clubs - 1 space for each 5 members.

F. Motels - 1 space for each accommodation.

G. Offices - 1 space for each 300 square feet of office floor space.

H. Places of Amusement or Assembly - 1 space for each 150 square feet of floor area devoted to patron use.

I. Residential - 1 space for each dwelling unit.

J. Restaurants - 1 space for each 3 seats.

K. Schools - 1 space for each 30 pupils in primary schools; 1 space for each 4 students in secondary schools; and 1 space for each student in higher education.
L. **Museum – Parking**

1 space for each 500 square feet of floor area devoted to patron use (a minimum of 2 parking spaces).

M. **Other uses** – sufficient space to meet the projected needs of the development.

### 10. **PRINCIPAL AND ACCESSORY BUILDINGS AND USES OF A LOT**

Except group developments, only one principle building and its accessory buildings and uses may hereafter be erected or constructed on any one lot.

A. **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 the criteria listed in Article 3. Section 5.A.4.

### 11. **PUBLIC FACILITIES (FEDERAL, STATE AND MUNICIPAL)**

Federal, State, Municipal, Public, grounds and public schools are permitted per Article 2 subject to the site plan review and the approval of the Planning Board, except as prohibited in Article 3. Section 7.

### 12. **SIGNS**

A. No sign shall be permitted except as specified in this Ordinance. All illuminated signs erected or maintained shall be illuminated by non-intermittent light or lights. No illuminated signs shall be of the intensity or brilliance to cause a glare or impair the vision of the operator of any motor vehicle or otherwise constitute a hazard to pedestrian or vehicular traffic.

B. No outdoor advertising shall hereafter be erected off premises, except that a business operating in conformance with the Land Use Ordinance of the Town of Orrington is permitted to place Official Business Directional Signs (OBDS) as defined by and in compliance with Title 23, MRSA 1901-1925, Maine Traveler Information Service Act, under the conditions set forth in Table 4-1 and excepting temporary signs, maximum of two per road not to exceed six and complying with table 4-1.

C. Setbacks for signs in all Districts (OBDS signs are exempt per MDOT placement): Setbacks for signs in all districts shall be eight (8) feet from right of way and twenty (20) feet from side property lines.
D. Height: no portion of any sign, either free standing, attached, detached, or affixed, whether permanent or temporary, to any wall of a building or roof shall exceed twenty-five (25) feet in height above the natural grade upon which it is erected.

E. The following standards listed in, and appended to, Table 4-1 shall apply to signs in the respective districts. The dimension of a Skeletonized sign shall be determined using the maximum vertical and horizontal plane or surface dimensions created by the displayed letters and not just the cumulative face area of the letters.

Table 4-1. Permitted signs by type and zone

<table>
<thead>
<tr>
<th>Type of Sign</th>
<th>R (15)</th>
<th>RF (15)</th>
<th>MR-C</th>
<th>C (16)</th>
<th>I</th>
<th>SR, SI, SP, RP</th>
</tr>
</thead>
<tbody>
<tr>
<td>Traffic Regulatory Signs</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Official Business Direction Signs - OBDS</td>
<td>12” x 48” (2)</td>
<td>12” x 48” (2)</td>
<td>12” x 48” (2)</td>
<td>12” x 48” (2)</td>
<td>12” x 48” (2)</td>
<td>12” x 48” (2)</td>
</tr>
<tr>
<td>No Trespassing/No Hunting (3)</td>
<td>1 sf</td>
<td>1 sf</td>
<td>1 sf</td>
<td>1 sf</td>
<td>1 sf</td>
<td>1 sf</td>
</tr>
<tr>
<td>Illuminated</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Temporary Construction, Renovation, or Repair (5)</td>
<td>16 sf</td>
<td>16 sf</td>
<td>16 sf</td>
<td>16 sf</td>
<td>16 sf</td>
<td>16 sf</td>
</tr>
<tr>
<td>Temporary (public or semi-public occasional events, athletic events, political campaigns, candidate, sales/marketing) (6)</td>
<td>(14)</td>
<td>(14)</td>
<td>(14)</td>
<td>(14)</td>
<td>(14)</td>
<td>(14)</td>
</tr>
<tr>
<td>Real Estate (7)</td>
<td>6 sf</td>
<td>6 sf</td>
<td>6 sf</td>
<td>32sf</td>
<td>32sf</td>
<td>3sf</td>
</tr>
<tr>
<td>Conforming nonresidential principal building or use on the premises (e.g. Town Hall, school, church)</td>
<td>32sf</td>
<td>32sf</td>
<td>32sf</td>
<td>32sf</td>
<td>32sf</td>
<td>6 sf (4)</td>
</tr>
<tr>
<td>Home Occupations (20)</td>
<td>4 sf</td>
<td>4 sf</td>
<td>4 sf</td>
<td>4 sf</td>
<td>4 sf</td>
<td>4 sf</td>
</tr>
<tr>
<td>Describing farm products raised or produced on the premises</td>
<td>16 sf</td>
<td>32 sf</td>
<td>16 sf</td>
<td>32 sf</td>
<td>na</td>
<td>8 sf</td>
</tr>
<tr>
<td>Multi-Family Housing</td>
<td>12sf</td>
<td>12sf</td>
<td>12sf</td>
<td>na</td>
<td>na</td>
<td>na</td>
</tr>
<tr>
<td>Subdivision</td>
<td>32 sf</td>
<td>32 sf</td>
<td>32 sf</td>
<td>32 sf</td>
<td>32 sf</td>
<td>na</td>
</tr>
<tr>
<td>Entrance (free standing) (19)</td>
<td>na</td>
<td>na</td>
<td>24 sf (8)</td>
<td>24 sf (8)</td>
<td>50 sf (8,9)</td>
<td>(10)</td>
</tr>
</tbody>
</table>

Performance Standards
4 - 10
### Type of Sign

<table>
<thead>
<tr>
<th>Type of Sign</th>
<th>R (15)</th>
<th>RF (15)</th>
<th>MR-C (16)</th>
<th>C (16)</th>
<th>I</th>
<th>SR, SI, SP, RP</th>
</tr>
</thead>
<tbody>
<tr>
<td>Projecting or extending (not flush, parallel or co-planar with walls) and below roof line (12).</td>
<td>na</td>
<td>na</td>
<td>6 sf</td>
<td>6 sf</td>
<td>32 sf</td>
<td>na</td>
</tr>
<tr>
<td>Wall (co-planar, on, flush, or parallel to the wall and below the roof line (12)) (11)</td>
<td>6 sf</td>
<td>6 sf</td>
<td>6 sf</td>
<td>1 sf/lf of building frontage</td>
<td>1-1/2sf/lf of building frontage (11)</td>
<td>na</td>
</tr>
<tr>
<td>Shopping Centers (17)</td>
<td>na</td>
<td>na</td>
<td>24sf (8) (18)</td>
<td>24sf (8)(18)</td>
<td>na</td>
<td>na</td>
</tr>
</tbody>
</table>

sf = square foot.  
lf = linear foot.  
na = not allowed.

1. These shall consist of but shall not be limited to: stop, yield, curve, speed limit. Permitted location and design shall be as seen fit by the Road Commissioner and/or MDOT without restriction.

2. A maximum of 3 off premises signs shall be permitted if approved with Maine Department of Transportation (MDOT) application. Signs shall be Non-reflectorized white lettering on a blue background. The location of all such signs shall be approved on an individual basis by the Planning Board using the OBDS application, after submission and approval by the MDOT.

3. These signs shall be permitted without restriction as to the number of signs provided that there shall be not more than one sign per 50 linear feet of lot perimeter and an additional sign shall be permitted at each point of access from a public road.

4. The number of signs shall be limited to 2 for the premises, each not to exceed 6 sf in size.

5. A single sign which denotes the architect, engineer, contractor, and/or funding source for the work in progress. Such sign shall be removed, at the earlier of, when work is complete or when a certificate/authorization of use/occupancy is granted (either written or verbally by the CEO). Federal and State government mandated signs are exempt.

6. Such sign shall be displayed no more than three weeks before the event and shall be removed within one week after the event. In no event shall a temporary sign be displayed for greater than 30 days and no more than three events per calendar year. The temporary signs may include, but not be limited to: banner, flag, inflatable, and sandwich board. Signs classified as sales and/or marketing shall include, but not be limited to, those for Grand Openings, Promotionals, Seasonal Sales, Liquidations, Change in Ownership/Management, Going out of Business.

7. Real Estate signs are those relating to the advertisement of sale, rental, or lease of the premises on which the sign is located. Real estate signs within the stream, shoreland and resource protection zones are restricted to a maximum size of 3 sf per State Shoreland Zoning Ordinance. Temporary signs of a directional nature are not covered by this item.

8. In addition each business on the premises may display a single sign attached to the entrance sign, identifying the name of the business and services it provides. Such signs shall not exceed 6 sq. ft.

Performance Standards  
4 - 11
9. Businesses in Industrial Parks, as defined, may erect one detached or free standing sign not exceed 40 sq. ft.
10. Unless otherwise prohibited sign guidelines for the Industrial District shall be used for the SI district. Districts SP, RP, and SR are not included in this item.
11. The aggregate area of all wall signs on the premises shall not exceed 200 sq. ft.
12. The phrase “roof line” shall refer to the nominal elevation of the roof ridge or parapet and the highest point of elevation of the sign.
13. Any illuminated sign, as permitted, but not limited to sections 4-5E, 4-5K, and 4-12A, shall only be illuminated during hours of public operation. Illuminated signs shall have a static display (no animation, changing colors, varying illumination intensity or aiming), except for time, temperature, or DOT traffic control/advisory signs. Such signs shall not be positioned, or of a color or intensity, as to compete with traffic control devices.
14. 6 square foot maximum display size, unless further limited elsewhere in this ordinance, or by express written permission by the CEO or PB. Campaign or candidate signs shall be limited to one sign per sponsor or candidate per location (per 250 ft in any direction).
15. Signs shall be considered accessory to the principal use of the premises on which they are located.
16. In the commercial district signs may be located on any part of the premises not otherwise restricted in these articles, and may be attached, detached, or projecting signs, single or double faced, identifying uses or goods sold or services rendered on the premises.
17. Each shopping center, as defined, may display a shopping center sign not to exceed 24 sq. ft. naming the shopping center.
18. In shopping centers, as defined, each store or shop may have a flush mounted, projecting or roof sign not to exceed 36 sq. ft. displaying the name of the store or shop. Maximum width or height not to exceed eight feet.
19. One sign per entrance.
20. See Article 4, Section 5, subsection E. or Article 4, Section 5, sub-section K for requirements in their respective district.

13. REQUIREMENTS FOR CAMPGROUNDS AND TRAVEL TRAILER PARKS

Campgrounds and travel trailer parks may be established in districts permitted under the terms of this Ordinance provided that:

A. No campground or travel trailer park may be established or operated without a permit issued annually by the Code Enforcement Officer for which the applicant shall pay a fee of $1.00 per travel trailer site, camp site, or tent site. Such permit shall only be issued if the campground or travel trailer park is found to conform to the requirements of this Ordinance and all other pertinent municipal and state ordinances and after approval of the proposed plan of such campground or trailer park by the Planning Board.

B. Camping areas shall contain a minimum of 5,000 square feet of suitable land, excluding common areas, roads and driveways, for each trailer or tent site.
C. Fires shall be permitted only in specifically designated fireplaces constructed to suitable standards, and only under conditions and at times approved by the Fire Chief.

D. Service facilities which meet the following specifications shall be provided and continuously maintained in clean and sanitary condition and in good operating order at all times when the campground or trailer park is open for business.

1.) One water connection able to deliver a continuous, adequate, safe and potable supply of water located not more than 200 feet from every trailer, camping, or tenting site.

2.) One flush-type or chemical toilet for each 5 sites.

3.) Adequate and safe sewage disposal facilities.

4.) The storage, collection and disposal of refuse shall be so managed as to create no health hazards, rodent harborage, insect-breeding areas, accident or fire hazard, or air pollution.

14. **YARD SALE**

Yard sales will be allowed in all areas. They shall not occur on more than two weekends in a calendar year and not exceed three consecutive days. Yard sales occurring on heavily traveled roads are required to post warning signs.
ARTICLE 5 -- ADMINISTRATION, ENFORCEMENT AND PENALTIES

1. ADMINISTRATION

A. Administering Bodies and Agents

1.) Code Enforcement Officer

Unless otherwise provided in this Ordinance, the Code Enforcement Officer (CEO), as duly appointed by the Town Manager and confirmed by the Board of Selectmen, shall administer and enforce this Ordinance. No building permit or certificate of occupancy shall be issued by the Code Enforcement Officer except in compliance with the provisions of this Ordinance. The Code Enforcement Officer shall have the following duties, among others, in enforcing this Ordinance:


b. Applications and fees. Act upon all applications and collect any fees due; refer and or process all applications as required.

c. CEO applications. Act upon building, construction and use applications which are under the jurisdiction of the CEO as set forth in Article 2, Section 5., District Requirements and Article 3, Section 7., Table of Land Uses.

d. Planning Board applications. Review site plan review applications, subdivision applications and hazardous materials applications for completeness of submissions and refer such applications to the Planning Board; and

e. Board of Appeals applications. Refer requests for variances and administrative appeals to the Board of Appeals.

f. Inspections. Inspect sites where building permits have been issued to ensure compliance with all local, state and federal laws, codes and/or ordinances.

g. Complaints and violations. Investigate complaints and reported violations.

h. Reports and records. 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, for permits and activities in Shoreland, Stream, and Resource Protection Districts, a summary of these records shall be submitted to the Director of the Bureau of Land and Water Quality Control within the Maine Department of Environmental Protection.
i. Violation notices. Issue violation notices.


k. Consent agreements. Process or act on consent agreements involving violations of this Ordinance or appear in court when necessary.

l. Agendas. Prepare agenda for mailing at least seven days before each meeting of the Planning Board and Board of Appeals, and attend meetings of the Planning Board and Board of Appeals.

m. Permit revocation. Revoke a permit after notice if it was issued in error or if it was based on erroneous information.

When there is a question concerning the interpretation of this Ordinance, the Code Enforcement Officer may refer the matter to the Board of Appeals for interpretation.

2.) Board of Appeals

A Board of Appeals has been created. See Article 8 Section 8.04 of the town charter.

3.) Planning Board

a. Creation. A Planning Board has been created. See Article 8 Section 8.03 of the town charter.

b. Powers and duties. The Planning Board shall be responsible for reviewing and acting upon applications for site plan review as set forth in Article 2. Section 5, Article 3. Section 7, and in accordance with the provisions of Article 6, and subdivisions in accordance with the provisions of Article 6 of this Ordinance, as well as certain shoreland zoning applications in accordance with the provisions of Article 3. Following approval by the Planning Board, the applicant shall return to the Code Enforcement Officer for building and other permits.

c. Activities covered by Shoreland Zoning requirements. After submission of a complete application to the Planning Board, the Board may approve said 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 and coastal waters;
6) Will protect archaeological and historic resources as designated in the comprehensive plan;
7) Will not adversely affect existing commercial fishing or maritime activities in a Commercial Fisheries/Maritime Activities district;
8) Will avoid problems associated with flood plain development and use; and
9) Is in conformance with applicable provisions of Maine DEP Section 15, Land Use Standards and the Orrington Land Use Ordinance.

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 or any State law by the municipality.

2. PERMITS REQUIRED

A. Permit required.

It shall be unlawful, without first obtaining a permit, to 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. 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. A permit shall be required for:

1.) Activities listed in the Table of Land Uses. Any activity listed in Article 2 Section 5, District Requirements, as requiring a permit from the Code Enforcement Officer. No permit may be issued under this provision for any activity which is part of a project requiring site plan review until such approval has been granted by the Planning Board.

2.) Site plan review activities. Any activity approved by the Planning Board under the site plan review provisions of Article 6.

3.) Shoreland Zoning. Any activity listed in Article 3. Section 7 as requiring a permit from the Code Enforcement Officer. No permit may be issued under Article 3 for an activity requiring Planning Board approval until approval for such a permit has been granted by the Planning Board.

4.) Floodplain management activities. Any activity listed in Article 7 as requiring a permit from the Code Enforcement Officer.
B. Permit Application

1.) Written application. 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 administering body or agent. The following items, when appropriate, shall be included on the site plan.

   a. The shape, size and location of the lot to be built upon and structure(s) to be erected, altered or removed.

   b. Any structure(s) already on the lot.

   c. Depth of front yards of structure(s) and adjoining lots.

   d. Statement of intended use.

   e. Any other information needed by the Code Enforcement Officer, Planning Board, or the Board of Appeals to determine whether the provisions of this Ordinance are being observed.

2.) All applications shall be signed by the owner of the property or individual who can show evidence of right, title or interest in the property or by the owner’s legal agent, representative, 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.) Application to be dated. 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 and at such time and date as is acted upon.

4.) Plumbing permit. 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 wastewater disposal system.

5.) Intentionally left blank

6.) Modifications. Any modification to the description, scale drawing, or site plan of the proposed structure(s) shall require a revised application, payment of an additional one-half of the application fee, and a permit prior to beginning, or continuing, the work.

3. PROCEDURE FOR ADMINISTERING PERMITS.

A. Code Enforcement Officer Action
Within seven (7) working days of the date of receipt of a complete application for a permit, the Code Enforcement Officer shall examine such application and physically examine the premises to determine whether or not the proposed building, structure or use would be in compliance with this Ordinance, except that in the event the value of the work does not exceed five thousand dollars a permit shall be issued upon payment of the required fee to the municipality without an inspection of the premises. (The aforementioned exclusion based on monetary limits does not apply to permits or activities within Shoreland, Stream, and Resource Protection Districts).

1.) **Referrals.** All applications which require approval of the Planning Board or action by the Board of Appeals shall within a period of thirty (30) days be referred to the applicable board for action and public notice shall be given. After approval, with or without conditions, by such Board, the Code Enforcement Officer shall issue a building or use permit within seven (7) working days after being notified of such approval.

2.) **Code Enforcement Officer Permits.** In all other cases, the Code Enforcement Officer shall within a period of seven (7) working days approve or deny such applications for a permit in accordance with whether or not such proposed building, structure or use complies with this Ordinance.

3.) **Written notification.** If a permit is either denied or approved with conditions, the reasons as well as conditions shall be stated in writing and provided to the applicant within seven (7) working days. No approval shall be granted for an application involving a structure if the structure would be located in an unapproved subdivision or would violate any other local ordinance or regulation or any State law which the municipality is responsible for enforcing. If a permit is either denied or approved with conditions, the reasons as well as conditions shall be stated in writing.

**B. Applicant Responsibility**

1.) **Burden of proof.** 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.

2.) **Posting.** Within seven (7) working days of receiving the permit, the applicant shall conspicuously post any permit issued (or copy thereof), on the lot where the activity will occur, at a location clearly visible from the public street or road, in such a manner as to protect the permit or copy from degradation by the elements.

**C. Expiration of Permit**

If no substantial start of construction has been made in 1 year from the date the permit is issued, the permit becomes invalid. The Code Enforcement Officer shall renew the permit within 30 days after the expiration of permit upon payment of a fee as specified in Article 5, Section 2.B.5. Otherwise the permit becomes invalid and application must begin anew. In all shoreland zones, if a substantial start is made within one year of the
issuance of a permit, the applicant shall have one additional year to complete the building exterior and soil stabilized, at which time the permit shall expire.

D. Installation of Public Utility Service

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

E. Road culvert. A permit is not required for the replacement of an existing road culvert as long as the replacement culvert is:

1.) Not more than 25% longer than the culvert being replaced; and

2.) Not longer than 75 feet.

AND;

Provided that adequate erosion control measures are taken to prevent sedimentation of the water, and that the crossing does not block fish passage in the water course.

F. Archaeological Excavation. A permit is not required for an archaeological excavation as long as the excavation is conducted by and archaeologist listed in 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.

G. Required Permit(s). Any permit required by this ordinance shall be in addition to any other permit required by law or ordinance.

4. CERTIFICATE OF OCCUPANCY REQUIRED

A Certificate of Occupancy issued by the Code Enforcement Officer is required in advance of the use of:

A. Any lot or change of the use thereof;

B. A building hereafter erected or a change in the use of an existing building.

No certificate of Occupancy shall be issued unless the lot or building complies with all the provisions of this Ordinance. A record of all Certificates of Occupancy shall be kept on file in the Town Office and available for Public Inspection.
5. **ENFORCEMENT**

A. **Violations.** Any violation of this Ordinance shall be deemed to be a nuisance. 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.

B. **Penalty.** Any person, including but not limited to a landowner, a landowner's agent or a contractor, who orders or conducts any activity in violation of this Ordinance shall be penalized in accordance with Title 30-A, Maine Revised Statutes Annotated, Subsection 4452. The violator may be fined not exceeding $2,500 for each offense. Each day that the violation occurs shall constitute a separate offense, beginning with the day following notification by the Code Enforcement Officer of such Violation.

C. **Other remedies.** If any building is constructed, altered, removed, or any building or land is used in violation of this Ordinance the Building Inspector or any other appropriate authority or any person who would be damaged by such violation, in addition to other remedies may institute appropriate legal procedures to prevent and or abate such violation.

D. **Unsafe buildings** Any building or structure that may be or shall at any time hereafter become dangerous or unsafe, shall, unless made safe and secure, be taken down and removed, in accordance with provisions of Title 17 M.R.S.A. Section 2851.

E. **Legal obligations**, as per MDEP, for permits and activities in Shoreland, Stream, and Resource Protection Districts. When notification of violations 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.
ARTICLE 6 -- SITE PLAN AND SUBDIVISION REVIEW

1. PURPOSE

The purpose of this Article is to assure the comfort, convenience, safety, health and welfare of the people of the Town of Orrington, to protect the environment and to promote the development of an economically sound and stable community. In reviewing site plans and approving subdivisions, the Planning Board shall consider the requirements of this Article before granting approval, approval with conditions, or denial, shall make findings of fact that the provisions of this Article have been met and that proposed subdivisions meet the guidelines of the state law, Title 30-A, M.R.S.A. Sections 4401-4407 as amended.

2. APPLICABILITY PROVISIONS

A. Activities requiring site plan or subdivision review.

The following land use activities in the Town of Orrington must receive site plan approval and/or subdivision approval pursuant to the provisions of this article:

1.) Table of land uses. All land use activities set forth in Article 2, Section 5, as requiring site plan approval from the Planning Board.

2.) Subdivisions. All subdivisions as defined by Title 30-A M.R.S.A. Section 4401 including the division of any existing building or the construction of any new structures or buildings containing three (3) or more units.

3.) Expansion of existing nonresidential buildings or structures. The expansion of an existing nonresidential building or structure, including accessory buildings, if the enlargement increases the total area for all floors within a five (5) year period by more than twenty (20) percent of the existing floor area or five-hundred (500) square feet, whichever is greater.

4.) Construction of new multifamily housing or the enlargement of existing multifamily housing:

   a. The construction of a residential building containing three (3) or more dwelling units.

   b. The modification or expansion of an existing residential structure that increases the number of dwelling units in the structure by three (3) or more in any five (5) year period.

5.) Changes in use of existing buildings or structures

   a. The conversion of an existing building from residential to nonresidential use.
b. The conversion of an existing nonresidential use to another nonresidential use. The conversion of an existing nonresidential use to another nonresidential use when the new use changes the basic nature of the existing use such that it increases the intensity of on- or off-site impacts shall subject the change in use to the standards and criteria of site plan review.

c. The conversion of an existing nonresidential building or structure in whole or in part, into three (3) or more dwelling units within a specified period (i.e. five (5) years).

6.) **Expansion of the amount of impervious or paved surfaces.** The construction or expansion of paved areas or other impervious surfaces, including walkways, access drives, and parking lots involving an area of more than 1,500 square feet within a five (5) year period.

7.) **Commercial uses of land that do not involve buildings or structures.** The establishment of a new nonresidential use even if no buildings or structures are proposed, including uses such as cemeteries, golf courses, groundwater extraction, and other nonstructural nonresidential uses.

B. **Activities not requiring site plan review.**

The following activities do not require approval from the Planning Board under the provisions of this article. Certain of these activities will, however, require the owner to obtain a building permit, plumbing permit or other state or local approvals:

1.) All land use activities set forth in Article 2, Section 5 as not requiring site plan approval from the Planning Board.

C. **Prohibition.**

No permit, plumbing permit or certificate of occupancy shall be issued by the Code Enforcement Officer for any use or development within the scope of Article 6 until a site plan development application, or subdivision application has been reviewed and approved by the Planning Board, unless otherwise exempted or allowed.

D. **Waivers.**

**Waiver.** In cases where development or expansion will not significantly change the nature or intensity of the use or the exterior dimensions of any existing structure, or where a proposed use is deemed by the Planning Board to have no discernable impact on adjoining property or the environment or public infrastructure, the Planning Board may waive the review procedure and all or portions of the submission requirements in order that the project may be expedited if the information is not required to determine compliance with the standards of this Ordinance.
3. **SITE PLAN AND SUBDIVISION SUBMISSION REQUIREMENTS**

Applications for subdivision or site plan review shall be submitted on application forms provided by the Town. The complete application form, evidence of payment of the required fees, and the required plans and related information shall be submitted to the Code Enforcement Officer no later than fourteen (14) days prior to the meeting at which the item is to be heard. The Code Enforcement Officer shall forward the application package to the Planning Board ten (10) days prior to the meeting. The submission shall contain the following information and exhibits unless specifically waived by the Planning Board.

A. **Application submittal.** The applicant shall submit eight (8) copies of a fully completed and signed copy of the application form to the Code Enforcement Officer.

B. **Evidence of fee payment.** The applicant shall present evidence of payment of the application and applicable technical review fees authorized by Section 5.

C. **Plan submittals and map scale.** The applicant shall submit three sets of all plans no larger than 24 inches by 36 inches drawn to a scale not smaller than one inch per forty (40) feet (1:480) for sites less than or equal to ten (10) acres, or not smaller than one inch per one hundred (100) feet (1:1200) for sites greater than ten (10) acres but less than or equal to one hundred (100) acres, but no map or drawing shall be drawn at a scale larger than one inch per ten (10) feet (1:120), and eight (8) copies of all site plans, maps and drawings no larger than 11 inches x 17 inches. No font size shall be smaller than 8 point. If the complete plat cannot be shown on one sheet, it may be shown on more than one sheet with an index map on a separate sheet of the same size. The Planning Board may, if project uniqueness warrants, permit plans for sites containing more than one hundred (100) acres to be drawn at a smaller scale, provided all necessary detail can easily be read or identified, unaided. Plans shall have a margin of two inches outside of the border lines on the left side for binding and a one inch margin outside the border along the remaining sides. All plans shall include the site plan or subdivision name, the date, magnetic north arrow, graphic scale, Planning Board approval block, and the name, registration number and seal of the person who prepared the plan(s), if applicable.

All final plans that require a boundary survey shall be submitted in both printed and digital forms. The digital form shall contain all of the lot lines and be geographically referenced with at least sub-meter GPS control. The printed plan shall have no fewer than four non-linear (dispersed across the area) projected control points of at least sub-meter accuracy and shall be submitted as follows:

1. Projection: Universal Transverse Mercator (UTM), Zone 19; or U. S. State Plane coordinate System Maine East 1983 Feet,
2. Datum: North American Datum (NAD83)
3. File Format: ESRI shape file or MapInfo Tab file

1.) **General map.** A general map shall be included on the site plan which shows the general location of the site within the municipality.

2.) **Location map.** The applicant shall include a location map on the site plan or separate sheet, drawn at a scale that shows all features within 300 feet of the project.
boundary. The location map shall include the tax map and lot number of the parcel or parcels on which the project is located. No font shall be smaller than 8 point. All necessary detail shall be easily read or identified, unaided.

3.) **Boundary survey.** Identify the bearings and length of all property lines of the property to be developed and the source of the information including surveyor identification and the location of all required building setbacks, yards, and buffers and the boundaries of all contiguous property under the total or partial control of the owner or applicant regardless of whether all or part is being developed at this time. The Planning Board may waive this requirement of a boundary survey when sufficient information is available to establish, on the ground, all property boundaries within three-hundred (300) feet of the proposed development.

D. **Existing site conditions plan(s).** The existing site conditions plan(s) shall show the following information and existing conditions and any limitations for its use and development.

1.) **Title block.** The record owner’s name, address, project title and location of the subdivision or site plan and the applicant’s name and address if different.

2.) **Land use district classification(s).** Identify on the site plan the land use district(s) classification for the project.

3.) **Existing contour lines.** Contour lines at intervals of not more than five (5) feet unless otherwise prescribed by the Planning Board.

4.) **Buildings.** The location, dimensions, size, ground floor elevation and setbacks of existing buildings. Dimensions shall be shown in units of feet and inches, or foot measurement to a maximum of 3 decimal places, or meters to a maximum of 4 decimal places, and chosen measurement style/units shall be consistent throughout the plan.

5.) **Streets and driveways.** The location, names and widths of existing streets, driveways, parking and loading areas, walkways and rights-of-way within or adjacent to the proposed development.

6.) **Utilities.** The location, dimensions and size of all existing utility locations for sewer and water mains, wells, on-site subsurface wastewater disposal systems, underground tanks or installations, gas, power and telephone lines and poles, outside lighting or other utilities including size and elevation of buried or underground utilities on the property to be developed, and on abutting streets, or land that may serve the development and an assessment of their adequacy and condition to meet the needs of the proposed use. Appropriate elevations must be provided as necessary to determine the direction of flow.

7.) **Significant features.** The location of drainage courses, culverts, catch basins, wetlands, stone walls, graveyards, fences, stands of trees, and other significant
natural areas, wildlife habitats, scenic areas, habitat for rare and endangered plants and animals, unique natural communities and natural areas, sand and gravel aquifers, and historic and/or archaeological resources, together with a description of such features.

8.) **Wetland delineation.** A full delineation of all wetland boundaries by a professional wetlands delineator.

9.) **Drainage.** The direction of existing surface water drainage across the site.

10.) **Signs.** The location, front view, dimensions, and lighting of existing signs.

11.) **Easements.** The location and dimension of any existing easements and copies of existing covenants or deed restrictions.

12.) **Fire protection.** The location of the nearest fire hydrant, dry hydrant or other water supply for fire protection.

13.) **Name of consultant.** The name, registration number, and seal of the person who prepared the plan, if applicable.

E. **Proposed site plan(s) or subdivision.** The proposed site plan or subdivision and supporting materials must provide a picture of what changes will be made on the site and how they will be carried out. In addition to the existing site plan(s), the applicant shall provide typical site development plan(s) including the following information. The information about the development proposal should be of a preliminary nature, not detailed construction drawings.

1.) **Title block.** Proposed subdivision or site plan name or identifying title.

2.) **Lots, lot lines and temporary markers.** Number of lots, proposed lot lines and location of temporary markers adequately located to enable the Planning Board to locate lots readily and appraise basic lot layouts in the field.

3.) **Contour lines.** All proposed contours and proposed finished grade elevations of the entire site and the system of drainage proposed to be constructed. Contour lines shall be at two (2) foot intervals unless otherwise prescribed by the Planning Board.

4.) **Road, driveways & parking plan.** The location, names, sight distances, dimensions and design details of all existing and proposed driveways, roads, easements, parking and loading areas, and walkways. All proposed improvements shall fully comply with applicable design standards and requirements.

5.) **Rights-of ways and easements.** All proposed rights-of-way, easements and other legal restrictions which may affect the premises in question.
6.) **Proposed building location.** The location, dimensions, including heights and ground floor elevations, setback dimensions, and buffers of all proposed buildings or building expansions on the site and proposed use thereof shall be provided. Dimensions shall be shown in units of feet and inches or foot measurement to a maximum of 3 decimal places, or meters to a maximum of 4 decimal places, and chosen unit of measurement shall be consistent throughout the plan.

7.) **Signs.** The proposed location, front view, dimensions, materials and size of all proposed signs, together with the material for securing the signs, and all permanent outdoor fixtures.

8.) **Soil erosion and sedimentation control plan.** An erosion and sedimentation control plan.

9.) **Storm water management plan.** A stormwater management plan shall be prepared by a registered professional engineer which plan shall include flood flows and elevations from 25, 50 and 100 year flood flows.

10.) **Public use.** Location of all parcels to be dedicated to public use such as parks or green space, the condition of such dedication, and the location of all natural features or site elements to be preserved.

11.) **Utility plan.** A utility plan showing the design details and provision for water supply, wastewater disposal, the location and nature of electrical, telephone, cable TV, and any other utility services to be installed on the site.

12.) **Landscaping plan.** A proposed plan for landscaping, buffering and screening should be provided. The applicant shall provide a planting schedule keyed to the site plan indicating the general varieties and sizes of trees, shrubs, and other vegetation to be planted on the site, as well as information pertaining to provisions that will be made to retain and protect existing trees, shrubs, and other vegetation.

13.) **Professional certification.** The name, registration number and seal of the architect, engineer, landscape architect, and/or similar professional who prepared the plan, if applicable.

14.) **Approval block.** Space shall be provided on the plan drawings for the signatures of the Orrington Planning Board and date together with the words, “Approved: Town of Orrington, Maine Planning Board.”

**F. Written supporting information.** The applicant shall submit eight (8) copies of all written supporting information. Evidence submitted shall document that all performance standards contained in this Ordinance and State law can be met and that all of the subdivision or site plan review criteria will be satisfied. The written material must be contained in a bound report and contain the following information in the following order:
1.) **Evidence of legal interest.** A copy of the deed to the property, an option to purchase the property or other documentation to demonstrate right, title, or interest in the property.

2.) **General description of proposed use.** A general description of the proposed use or activity.

3.) **Hydrological groundwater assessment.** When a hydrogeologic groundwater assessment is required, it shall be prepared and submitted in accordance with the requirements of the performance standards.

4.) **Net residential acreage calculation.** Evidence that the project will meet the net residential acreage calculation standard.

5.) **Refuse disposal.** Document provisions for handling all solid waste, including hazardous and special wastes and the location and proposed screening of any on-site collection or storage facilities.

6.) **Soils.** Evidence that the soils will support the project.

7.) **Subsurface disposal system report.** Subsurface Disposal System Report. An on-site soils investigation report by a soil scientist certified by the State of Maine Department of Human Services. This report shall contain the types of soil, location of test sites and proposed location and design of the most appropriate and suitable subsurface wastewater disposal systems of each lot in the project and be signed by the soil scientist.

8.) **Water and sewer demand.** The estimated demand for water and sewage disposal together with the location and dimension of all provisions for water supply and wastewater disposal, and evidence of their adequacy for the proposed use, including soils test pit data if on-site wastewater disposal is proposed.

9.) **Utility statement.** A written statement from any utility providing services to the project as to the adequacy of the water supply in terms of quantity and pressure for both domestic and fire flows, and the capacity of the sewer system to accommodate additional wastewater if public water or sewerage will be utilized.

10.) **Storage of material & equipment.** The type, size and location of all machinery or equipment likely to generate appreciable noise at the lot lines. The amount and type of any raw, finished or waste materials to be stored outside of roofed buildings, including their physical and chemical properties, if appropriate.

11.) **Traffic impact analysis.** When required, a traffic impact analysis shall be prepared.
12.) **Evidence of technical capability.** Documentation that the applicant has retained qualified contractors and consultants to supervise, construct, and inspect the proposed development.

13.) **Evidence of financial capability.** Documentation that the applicant has adequate financial resources to construct the proposed improvements. Evidence could include a letter from a financing institution regarding a loan, letter of credit, or bank account or a certified accountant or annual report indicating adequate cash flow to cover anticipated expenses. The applicant should document a semi-detailed budget estimate for all costs associated with the capital investment including: engineering, legal, financial and capital expenses and documentation on financing package available to cover the project expenses.

14.) **Construction schedule.** A schedule of construction, including anticipated beginning and completion dates.

4. **REVIEW PROCEDURES**

A. **Informal pre-application conference.**

Prior to submitting a formal subdivision or site plan review application, the applicant or his/her representative may request a pre-application conference with the Planning Board. A pre-application conference is strongly advised. The pre-application conference shall be informal and informational in nature. There shall be no fee for a pre-application review, and such review shall not cause the plan to be a pending application or proceeding under 1 M.R.S.A. Section 302. No decision on the substance of the plan shall be made at the pre-application conference.

1.) **Purpose.** The purpose of the pre-application conference is:

a. To give the applicant the opportunity to explain the nature of the project before submission of an application.

b. Allow the Planning Board to understand the nature of the proposed use and the issues involved in the proposal.

c. Allow the applicant to understand required submissions and the development review process.

d. Identify issues that need to be addressed in future submissions.

e. Make the applicant aware of any opportunities for coordinating the development with community policies, programs or facilities.

2.) **Site inspection.** In addition, the Board shall schedule a site inspection for subdivision proposals if there is no snow on the ground. The Planning Board may
schedule a site visit for site plan review applications if the Planning Board deems it necessary. At this time, the Planning Board may also resolve any requests for waivers and variations from the submission requirements.

3.) **Information required.** There are no formal submission requirements for a pre-application conference. However, the applicant should be prepared to discuss the following with the Board:

a. The proposed site, including its location, size and general characteristics.

b. The nature of the proposed use and potential development.

c. Any issues or questions about existing municipal regulations and their applicability to the project.

d. Any requests for waivers from the submission requirements.

**B. Review procedure.**

The procedures for site plan review and subdivision review are as follows:

1.) **Step One. Submission of completed application to the Code Enforcement Officer.** The applicant shall submit a minimum of eight (8) copies of his/her application and the required supporting information fourteen (14) days prior to the meeting at which the item is to be heard.

2.) **Step Two. Code Enforcement Officer review.**

a. **Dated receipt.** The Code Enforcement Officer shall issue the applicant a dated receipt.

b. **Fees submitted.** The applicant shall provide the Code Enforcement Officer with the applicable fees.

c. **Review for completeness.** The Code Enforcement Officer shall initially review the application and determine whether or not it is complete.

d. **Notice of incomplete application.** If the application is found to be incomplete, the Code Enforcement Officer shall, within ten (10) work days, notify the applicant in writing, of the information needed to complete the application. Upon the applicant’s submission of such additional information, steps one and two shall be repeated.

e. **Application forwarded.** The Code Enforcement Officer shall forward copies of the application and supporting documents to the members of the Planning Board ten (10) days prior to the meeting of the Planning Board and
copies may also be distributed to the road commissioner, fire chief, police chief and ambulance director.

f. Notice to abutters. Abutting property owners shall be notified by mail, seven (7) days prior to the meeting, by the Town, of all pending project applications. This notice shall indicate the time, date and place of Planning Board consideration of the application.

g. Review Comment(s) Submittal. Review written comments from all the municipal officials who received notice.

3.) Step Three. Preliminary plan review. At the meeting of the Planning Board at which the proposed development is scheduled to be reviewed, the Planning Board shall:

a. Code Enforcement Officer report. Present to Board members written copies of comments from municipal officials, and hear any report from the Code Enforcement Officer.

b. Applicant’s response. Hear any comments of the applicant regarding the Code Enforcement Officer’s report.

c. Request for waivers. Hear any requests from the applicant for waivers pursuant to Article 6, Section 2.D.

d. Determination of completeness. Determine whether or not the application is complete.

e. Notice of incompleteness. If the application is determined to be incomplete, the Board shall inform the Code Enforcement Officer of the information required to make the application complete. The Code Enforcement Officer shall, within ten (10) work days, inform the applicant, in writing, of the additional information required by the Planning Board. Upon the applicant’s submission of such additional material, steps one, two and three shall be repeated.

f. Decide on public hearing. If the application is determined to be complete, the Planning Board shall deem the application pending and shall determine whether or not to set the matter to public hearing.

The Planning Board shall have the discretion to hold a public hearing to maximize public input and provide the applicant with more of an opportunity to prepare a response to any criticism of the proposal before it.

i Hearing date. If a public hearing is set, such hearing shall take place within thirty (30) days of the Planning Board’s determination that the application is complete. This deadline may be extended by
mutual agreement of the Planning Board and the applicant, either in writing or orally, on the record at a public meeting.

ii Public hearing rules. Public hearing held for the purpose of hearing testimony regarding proposals requiring approval under this Ordinance, and notice thereof, shall be governed by Article 6, Section 5.

4.) Step Four. Planning Board deliberation and decision.

a. Within sixty (60) days of the completed application being placed on the Planning Board agenda if no public hearing is held, the Planning Board shall reach a decision on a development application and shall inform the Code Enforcement Office of its decision and the reasons therefore. This time period may be extended by written, mutual agreement of the Planning Board and the applicant. If a public hearing is held, a decision shall be made within thirty (30) days of the public hearing.

b. If no public hearing is held, the Planning Board may at its discretion act upon the application at the same meeting at which completeness is determined.

5.) Step Five. Code Enforcement Officer permit.

Upon notification of the decision of the Planning Board, the Code Enforcement Officer, as instructed, shall within ten (10) working days, issue with conditions prescribed by the Planning Board or deny a permit.

C. One (1) year approval limitation.

Unless a specific extension of time is granted by the Planning Board, the approval of the applicant's preliminary plan shall expire one (1) year from the date of approval.

D. Final review

1.). Within one (1) year. The final plat shall be submitted within one (1) year after the date of approval of the preliminary plan.

If the proposed subdivision or site plan falls within the jurisdiction of and is subject to review by the State of Maine Board of Environmental Protection, then the approval of the Board of Environmental Protection shall be secured in writing before official submission of the final plat.

2.) Plat to be attested. The approval of a final plat shall be attested on two (2) original drafting films and three (3) copies by the signatures of a legal majority of the Planning Board.
3.) **Filing.** Two (2) signed copies of the final plat, as approved, along with one drafting film set shall be filed with the municipality. The applicant shall be required to record and file the signed original drafting film of the final plat with the Penobscot County Registry of Deeds within thirty (30) days of its approval by the Planning Board.

4.) **The final plat shall show the following:**

   a. **Preliminary plan requirements.** All the information required for the preliminary plan and amendments thereto excepting that information not deemed necessary by the Planning Board.

   b. **Surveyor.** Date and seal of the registered land surveyor who prepared the final plat.

   c. **Streets.** Existing and proposed names and lines of all streets, lengths of all straight lines, the deflection of angles, radii, length of curves, and central angles of all curves, and tangent distances and bearings.

   d. **Easements.** Location, dimensions and purposes of all easements, areas reserved for or dedicated to public use and areas reserved by the applicant.

   e. **Lot numbers.** Lot numbers and letters in accordance with the prevailing policy on existing tax maps.

   f. **Permanent markers.** Location and description of permanent markers to be set prior to lot conveyance. No lots shall be sold until permanent markers are in place.

   g. **Performance guarantee.** A performance guarantee to secure completion of all public improvements required by the Planning Board.

   h. **Land dedication.** Written copies of any documents of land dedication, and written evidence that the Board of Selectmen is satisfied with the legal sufficiency of any documents conveying such land dedication.

   i. **Signature lines.** Five (5) lines for signatures of the Town of Orrington Planning Board and a line for date of approval.

   j. **Certification.** A professional seal stating that all construction standards of Article 6, Sections 9 and 10 have been met.

   k. **Lot frontage.** The plan shall show that all lots have frontage on public roads.

5.) **Changes need approval.** No changes, erasures, modifications or revisions shall be made in any subdivision or site plan review after approval has been given by the
Planning Board, unless the revised plan is first submitted and the Planning Board approves any modifications.

6.) Fees. All applications for final subdivision plan approval shall be accompanied by an application fee payable by check to the Town of Orrington, Maine.

E. Project commencement and completion.

After final approval all projects must be commenced within one (1) year and completed within two (2) years unless a special schedule has been approved or an extension has been granted by the Planning Board.

F. Other required permits.

The granting of project approval does not relieve the applicant from the need to obtain any other permits or approvals required prior to the commencement of any activity or use. Such other required permits or approvals may include, but are not limited to, subdivision approval, building, plumbing and electrical permits, licenses granted pursuant to Title 38, M.R.S.A. Subsection 1022, as amended, Maine Department of Environment Protection and United States Army Corps of Engineers approvals, subsurface wastewater disposal permits, sewer connection permits, Maine Department of Transportation approvals, and the like. The fact that the applicant may have obtained or may have been granted such permits or approvals prior to site plan review may be considered by the Planning Board as evidence as to the plan’s compliance with applicable review standards but shall not be deemed conclusive evidence as to compliance.

5. PUBLIC HEARING PROCEDURES

Subdivision and site plan review applications shall comply with the following notice and public hearing procedures when required:

A. Newspaper notice.

The Planning Board may, at its discretion, hold a public hearing regarding any subdivision or site plan proposal. In the event that the Planning Board determines to hold a public hearing on an application for subdivision or site plan approval, it shall hold such hearing within thirty (30) days of receipt of a completed application, and shall cause notice of the date, time and place of such hearing to be given to the person making the application and to be published in a newspaper of general circulation in the Town of Orrington, at least twice, the date of the first publication to be at least seven (7) days prior to the hearing. Such notice shall also be posted in three public places in the community at least seven (7) days prior to the hearing.

B. Sequence of presentation.

1.) Presentation by applicant and his or her attorney and witnesses, without interruption;
2.) Questions through the chairperson to the applicant by Planning Board members and people who will be directly affected by the project (e.g. abutters) and requests for more detailed information on the evidence by the applicant;

3.) Presentation by abutters or others who will be directly affected by the project and their attorneys and witnesses;

4.) Questions by the applicant and Planning Board members through the chairperson to the people directly affected and the witnesses who made the presentations;

5.) Rebuttal statements by any of the people who testified previously;

6.) Comments or questions by other interested people in the audience.

7.) Once everyone has had the opportunity to be heard to the extent allowed by the Planning Board’s procedures, the chairperson should close the hearing. If more time is needed, the Planning Board may vote to extend the hearing to a later date.

C. Denial or approval.

The Planning Board shall, within thirty (30) days of a public hearing, or within such other time limit as may be otherwise mutually agreed to, issue an order denying or granting approval of the proposed subdivision or site plan or granting approval upon such terms and conditions as it may deem advisable to satisfy the performance standards and criteria of this Ordinance and or Title 30-A, M.R.S.A. , Section 4404.

In all instances the burden of proof shall be upon the persons proposing the plans or subdivisions. In issuing its decision, the Planning Board shall make findings of fact as required by Title 1, M.R.S.A. Section 407.

6. FEES

A. Application fee.

An application for site plan review must be accompanied by an application fee made by check payable to the Town of Orrington, Maine in accordance with the Schedule of Fees adopted by the Board of Selectmen. This fee is intended to cover the cost of the town’s administrative processing of the application, including notification, advertising, mailings, and similar costs. The fee shall not be refundable. The application fee shall be paid to the town, and evidence of payment of the fee shall be included with the application.

B. Professional review and assistance.

The Orrington Planning Board reserves the right to require an independent review by a professional of its choice, of any proposed plans/details, specifications, surveys, improvements, or reports submitted by any developer as part of the application. If the
Board agrees that such an analysis is necessary, or if they agree that additional professional analysis is required to gauge the impact in the community or local environment due to the proposed development, then the Board shall choose a professional, obtain an estimate for the work, and notify the developer that the amount of the estimate must be deposited with the Town of Orrington before any further consideration is given to the application. No review will be initiated until the developer pays the estimated amount to the Town. Following the completion of the review, the developer will be billed for any reasonable cost incurred over the estimate or will be refunded any remaining balance from the deposit. Refusal to pay for the professional assistance will result in automatic denial of the application and no further action will be taken by the Board until payment is made.

If the Road Commissioner or the Town’s representative consider it necessary or advisable that covered work be inspected or tested by others, then the developer, at the Road Commissioner’s request, will uncover, expose or otherwise make available for observation, inspection or testing as the Road Commissioner or Town’s representative may require, that portion of the work, in question, furnishing all necessary labor, material, tools, and equipment. If it is found that such work is defective, the developer will bear the expenses including the expense of uncovering, exposure, observation, inspection and testing and of satisfactory reconstruction. If however, such work is not found to be defective, then the developer shall be fully reimbursed for all expenses directly attributable to such uncovering, exposure, observation, inspection, testing and of reconstruction. Furthermore, if the developer refuses to comply with the Road Commissioner’s or representative’s request, then the Town reserves the right to draw upon the funds deposited by the developer for use by the Town to perform any needed reviews and inspection, and use this money to complete such uncovering, exposure, observation, inspection and testing and of satisfactory reconstruction.

C. Establishment of fees.

The Municipal Officers may, from time to time and after consultation with the Code Enforcement Officer, establish the appropriate application and technical review fees.

7. PERFORMANCE GUARANTEES

A. Types of guarantees.

If any proposed development is of a size or nature requiring significant investment in road/street, drainage or other improvements, the Board may require a performance guarantee as a condition of approval. With the submittal of the application for Final Plan, the developer shall provide one of the following performance guarantees, as approved by the Planning Board, for an amount adequate (as determined by the Town’s professional representative) to cover construction cost of all required improvements:

1.) Either a certified check payable to the Town or a savings account or certificate of deposit naming the Town of Orrington as owner, for the establishment of an escrow account.
2.) A performance bond payable to the Town issued by a surety company.

3.) An irrevocable letter of credit from a financial institution establishing funding for the construction of the development, from which the Town may draw if construction is deemed inadequate or incomplete.

B. Contents of guarantee.

The performance guarantee shall contain a construction schedule, cost estimates for each major phase of infrastructure construction reviewed and approved by the Town’s engineer taking into account inflation, provisions for inspections of each phase of construction, provisions for the release of part or all of the performance guarantee to the developer, and a date after which the developer will be in default and the Town shall have access to the funds to finish construction.

C. Escrow account.

A cash contribution to the establishment of an escrow account shall be made by either a certified check made out to the municipality, the direct deposit into a savings account, or the purchase of a certificate of deposit. For any account opened by the subdivider or site plan developer, the municipality shall be named as owner or co-owner, and the consent of the municipality shall be required for a withdrawal. Any interest earned on the escrow account shall be returned to the subdivider or site plan developer.

D. Performance bond.

A performance bond shall detail the conditions of the bond, the method for release of the bond or portions of the bond to the subdivider or site plan developer, and the procedures for collection by the municipality. The bond documents shall specifically reference the subdivision or site plan for which approval is sought.

E. Letter of credit.

An irrevocable letter of credit from a bank or other lending institution shall indicate that funds have been set aside for the construction of the subdivision or site plan and may not be used for any other project or loan.

F. Phasing of development.

The Board may approve plans to develop a project or a major subdivision in separate and distinct phases. This may be accomplished by limiting final approval to those lots abutting that section of the proposed subdivision street which is covered by a performance guarantee. When development is phased, road construction shall commence from an existing public way. Final approval of lots in subsequent phases shall be given only upon satisfactory completion of all requirements pertaining to previous phases.
G. **Release of guarantee.**

Prior to the release of any part of the performance guarantee, the Planning Board shall determine to its satisfaction, in part upon the report of the Code Enforcement Officer and whatever other agencies and departments may be involved, that the proposed improvements meet or exceed the design and construction requirements for that portion of the improvements for which the release is requested.

H. **Default.**

If, upon inspection, the Code Enforcement Officer finds that any of the required improvements have not been constructed in accordance with the plans and specifications filed as part of the application, he or she shall so report in writing to the Board of Selectmen, the Planning Board, and the developer. The Board of Selectmen shall take any steps necessary to preserve the Town's rights.

8. **STATUTORY CRITERIA**

The Planning Board shall consider the following criteria before granting approval and shall determine that for all site review or subdivision applications that, in addition to complying with the performance standards of this Ordinance including Article 4 (Performance Standards), Article 3 (Shoreland Zoning) and Article 7 (Floodplain Management) the proposed development:

A. **Pollution.** Will not result in undue water or air pollution. In making this determination it shall at least consider:

1.) The elevation of land above sea level and its relation to the flood plains;
2.) The nature of soils and subsoils and their ability to adequately support waste disposal;
3.) The slope of the land and its effect on effluents;
4.) The availability of streams for disposal of effluents; and
5.) The applicable state and local health and water resources rules and regulations.

B. **Sufficient Water.** Has sufficient water available for the reasonably foreseeable needs of the development;

C. **Municipal water supply (not applicable)**

D. **Erosion.** Will not cause unreasonable soil erosion or a reduction in the land’s capacity to hold water so that a dangerous or unhealthy condition results;

E. **Traffic.** Will not cause unreasonable highway or public road congestion or unsafe conditions with respect to use of the highways or public roads existing or proposed and, if the proposed subdivision requires driveways or entrances onto a state or state aid highway located outside the urban compact area of an urban compact municipality as defined by Title 23, Section 754, the Department of Transportation has provided documentation.
indicating that the driveways or entrances conform to Title 23, Section 704 and any rules adopted under that section;

F. **Sewage Disposal.** Will provide for adequate sewage waste disposal;

G. **Municipal Solid Waste Disposal.** Will not cause an unreasonable burden on the municipality’s ability to dispose of solid waste, if municipal services are to be utilized;

H. **Aesthetic, Cultural, and Natural Values.** Will not have an undue adverse effect on the scenic or natural beauty of the area, aesthetics, historic sites, significant wildlife habitat identified by the Department of Inland Fisheries and Wildlife or the municipality or rare and irreplaceable natural areas or any public rights for physical or visual access to the shoreline.

I. **Conformity with Local Ordinances and Plans.** Conforms with a duly adopted subdivision regulation or ordinance, comprehensive plan, development plan, or land use plan, if any. In making this determination, the Planning Board may interpret these ordinances and plans.

J. **Financial and Technical Capability.** The developer has adequate financial and technical capacity to meet the standards of this section.

K. **Surface waters; outstanding river segments.** Whenever situated entirely or partially within the watershed of any great pond or lake or within 250 feet of any wetland, great pond or river as defined in Title 38, chapter 3, subchapter 1, article 2-B, the proposed subdivision will not adversely affect the quality of that body of water or unreasonably affect the shoreline of that body of water.

L. **Groundwater.** Will not, alone or in conjunction with existing activities, adversely affect the quality or quantity of groundwater.

M. **Flood areas.** Based on the Federal Emergency Management Agency's Flood Boundary and Floodway Maps and Flood Insurance Rate Maps, and information presented by the applicant whether the subdivision is in a flood-prone area. If the subdivision, or any part of it is in such an area, the subdivider shall determine the 100-year flood elevation and flood hazard boundaries within the subdivision. The proposed subdivision plan must include a condition of plan approval requiring that principal structures in the subdivision will be constructed with their lowest floor, including the basement, at least one foot above the 100-year flood elevation;

N. **Freshwater Wetlands.** All freshwater wetlands within the proposed subdivision have been identified on any maps submitted as part of the application, regardless of the size of these wetlands. Any mapping of freshwater wetlands may be done with the help of the local soil and water conservation district;

O. **River, Stream or Brook.** Any river, stream or brook within or abutting the proposed subdivision has been identified on any maps submitted as part of the application. For
purposes of this section, "river, stream or brook" has the same meaning as in Title 38, section 480-B, subsection 9.

P. **Storm Water.** The proposed development will provide for adequate storm water management.

Q. **Spaghetti-Lots Prohibited.** If any lots in the proposed subdivision have shore frontage on a river, stream, brook or great pond as these features are defined in Title 38, Section 480-B, none of the lots created within the subdivision have a lot depth to shore frontage ratio greater than 5 to 1.

R. **Lake Phosphorus Concentration.** The long-term cumulative effects of the proposed development will not unreasonably increase a great pond’s phosphorus concentration during the construction phase and life of the proposed development.

S. **Impact on Adjoining Municipality.** For any proposed development that crosses municipal boundaries, the proposed development will not cause unreasonable traffic congestion or unsafe conditions with respect to the use of existing public ways in an adjoining municipality in which part of the development is located.

T. **Lands subject to liquidation harvesting.** Timber on the parcel being developed has not been harvested in violation of rules adopted pursuant to Title 12, section 8869, subsection 14. If a violation of rules adopted by the Maine Forest Service to substantially eliminate liquidation harvesting has occurred, the municipal reviewing authority must determine prior to granting approval for the development that 5 years have elapsed from the date the landowner under whose ownership the harvest occurred acquired the parcel. A municipal reviewing authority may request technical assistance from the Department of Conservation, Bureau of Forestry to determine whether a rule violation has occurred, or the municipal reviewing authority may accept a determination certified by a forester licensed pursuant to Title 32, chapter 76. If a municipal reviewing authority requests technical assistance from the bureau, the bureau shall respond within 5 working days regarding its ability to provide assistance. If the bureau agrees to provide assistance, it shall make a finding and determination as to whether a rule violation has occurred. The bureau shall provide a written copy of its finding and determination to the municipal reviewing authority within 30 days of receipt of the municipal reviewing authority's request. If the bureau notifies a municipal reviewing authority that the bureau will not provide assistance, the municipal reviewing authority may require an applicant to provide a determination certified by a licensed forester.

For the purposes of this subsection, "liquidation harvesting" has the same meaning as in Title 12, section 8868, subsection 6 and "parcel" means a contiguous area within one municipality, township or plantation owned by one person or a group of persons in common or joint ownership. This subsection takes effect on the effective date of rules adopted pursuant to Title 12, section 8869, subsection 14.

9. **SPECIFIC STANDARDS**

The Planning Board shall determine that for all site review or subdivision applications the following standards will be met.
A. **Buffering of adjacent uses.** The development will provide for the buffering of adjacent uses where there is a transition from one type of use to another use and for the screening of service and storage areas. The buffer may be provided by distance, landscaping, fencing, changes in grade, and/or a combination of these or other techniques.

B. **Buffering of residential uses.** Any lot within the Urban Compact line of the community that is used for nonresidential or multifamily residential purposes shall have a landscaped buffer on any property line that abuts a residential use or residentially zoned lot. The width of the buffer may vary depending on the treatment of the area. A buffer with dense planting, fencing, or changes in grade may be as little as five (5) feet in width. A buffer with moderate levels of planting should be ten (10) feet to fifteen (15) feet in width.

In all residential settings, the width of the vegetated buffer should be increased to a minimum of twenty-five (25) feet. Areas adjacent to service, loading or storage areas should be screened by dense planting, berms or a combination thereof.

C. **Conformance to major street plan.** Where applicable, streets and other proposals and specifications of the Major Street Plan shall be incorporated into the subdivision plat or site plan, in the location and to the dimensions indicated in the Major Street Plan adopted by the Planning Board. Such streets shall be deeded to the Town of Orrington.

D. **Conformance to future land use plan.** When a proposed school site, or other public building site, park, playground, or other land for public use is located in whole or in part of the subdivision, the Planning Board may require that, as a prerequisite to plat approval, such sites be reserved by the developer for acquisition by the appropriate municipal agency.

Whenever a plat or plan proposes the dedication of land for public use that the Planning Board finds not required or suitable for public use, the Board shall refuse to approve the plat or plan.

E. **Curbs and gutters.** The developer shall install curbs and gutters where and as required by the Planning Board.

F. **Easements.** Easements across lots shall be provided where necessary for utilities or drainage. Such easements shall be centered on rear or side lot lines wherever possible, and be wide enough for the purpose for which they are intended.

G. **Exterior lighting.**

1.) The proposed development must have adequate exterior lighting to provide for its safe use during nighttime hours, if such use is contemplated.

2.) Lighting may be used which serves security, safety and operational needs, but which does not directly or indirectly produce deleterious effects on abutting properties or which would impair the vision of a vehicle operator on adjacent roadways. Lighting fixtures must be shielded or hooded so that the lighting...
elements are not exposed to normal view by motorists, pedestrians, or from adjacent dwellings and so that they do not light the night sky.

3.) All exterior lighting, except where security lighting is necessary, must be turned off between 11:00 PM and 6:00 AM unless located on the site of a commercial or industrial use which is conducting business during that period.

4.) Building entrances may be illuminated using recessed lighting in overhangs and soffits, or by use of spotlighting focused on the building entrances with the light source concealed (e.g. in landscaped areas). Direct lighting of exterior building areas is permitted only when necessary for security purposes, in limited areas.

H. **Hazardous waste.** The applicant shall demonstrate compliance with Federal and State laws and regulations when hazardous waste is generated or stored on site.

I. **Landscaping.** The development plan will provide for landscaping that breaks up parking areas, softens the appearance of the development and protects abutting properties from any significant adverse impacts of the development. Only native plants shall be used for landscaping. The use of invasive plants shall be discouraged.

J. **Large parcels.** In case a tract is subdivided into larger parcels than ordinary building lots, such parcels shall be arranged so as to allow the opening of future streets and logical future re-subdivision.

K. **Lots.** Lots shall front upon a public street. Lot lines shall be perpendicular or radial to street lines. Lot dimensions shall meet the requirements of the ordinance for the district or districts in which the subdivision is located. Corner lots shall be increased in size wherever necessary so that any structure to be placed thereon shall conform to the minimum setback line of each street as required by this Ordinance.

L. **Monuments.** The developer shall install:

1.) A concrete or stone monuments, not less than four (4) inches square, five (5) feet long and four and one half (4 1/2) feet into the ground, at every street intersection, angle point, beginning of curve and end of curve on either side of the road Right-of-Way line. (Three quarter (3/4) inch drill hole in ledge with an Iron Pin grouted in is acceptable as a monument).

2.) If, in the opinion of the Planning Board, monuments are inappropriate Iron Pins may be substituted. Iron Pins shall not be less than three-quarter (3/4) inches in diameter, five (5) feet long, and four and one half (4 1/2) feet into the ground.

Locations of monuments other than above stated may be approved by the Planning Board upon review.

M. **Noise.** The development will control noise levels such that it will not create unreasonable interference with use and enjoyment of neighboring properties.
N. Storage of materials. Exposed nonresidential storage areas, exposed machinery and areas used for the storage or collection of discarded automobiles, auto parts, metals or other articles of salvage or refuse shall have sufficient setbacks and screening (such as a stockade fence or a dense evergreen hedge) to provide a visual buffer sufficient to screen the proposed use from abutting residential uses and users of public streets.

All dumpsters or similar large collection receptacles for trash or other waste shall be located on level surfaces which are paved or graveled. Where the dumpster or receptacle is located in a yard which abuts a residential or institutional use or a public street, it shall be screened by fencing or landscaping.

Where a potential safety hazard to children is likely to arise, physical screening sufficient to deter small children from entering the premises shall be provided and maintained in good condition.

O. Street name signs. The municipality shall be responsible for the erection of street name signs at all street intersections. The developer will reimburse the municipality for materials and labor.

P. Subdivision or site plan names. The name of the subdivision or site plan shall not duplicate or too closely approximate the name of any other subdivision within the municipality.

10. STREET CONSTRUCTION STANDARDS

A. Continuation. The arrangement of streets in the subdivision shall provide for the continuation of the principal streets in adjoining subdivisions or for their proper projection when adjoining property has not yet been subdivided, and in general conform to the Comprehensive Plan. Existing streets should be continued at the same or greater width, but in no case should they be extended at less than the original width. Collector streets which extend continuously from one major street to another, crossing other continuous streets, tend to develop accident patterns and should be avoided.

B. Names. Street names shall require the approval of the Planning Board. Streets that are obviously in alignment with streets already existing and named shall be given the name of the existing street. Names of new streets shall not duplicate or closely approximate those of existing streets.

C. Jogs. Streets with center line offsets of less than 125 feet shall not be permitted.

D. Street intersections. Street intersections shall be as nearly at right angles as possible. No street intersection shall be at an angle of less than 60 degrees unless required by unusual circumstances. The center lines of no more than two streets shall intersect at any point except where approved by the Planning Board.
Table of Geometric and Other Standards for Streets:

<table>
<thead>
<tr>
<th></th>
<th>Arterial Streets</th>
<th>Collector Streets</th>
<th>Local Streets</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. Minimum right-of-way width</td>
<td>80'</td>
<td>66'</td>
<td>50'</td>
</tr>
<tr>
<td>2. Minimum width of pavement</td>
<td>24'</td>
<td>24'</td>
<td>20'</td>
</tr>
<tr>
<td>3. Minimum grade</td>
<td>1%</td>
<td>1%</td>
<td>1%</td>
</tr>
<tr>
<td>4. Maximum grade</td>
<td>7%</td>
<td>8%</td>
<td>8%</td>
</tr>
<tr>
<td>5. Maximum grade at intersection</td>
<td>3% within 50 feet of intersection</td>
<td></td>
<td></td>
</tr>
<tr>
<td>6. Minimum angle of intersections</td>
<td>60deg</td>
<td>60deg</td>
<td>60deg</td>
</tr>
<tr>
<td>7. Width of shoulders</td>
<td>8'</td>
<td>8'</td>
<td>8'</td>
</tr>
<tr>
<td>8. Minimum center-line curve radius</td>
<td>800'</td>
<td>200'</td>
<td>150'</td>
</tr>
<tr>
<td>9. Minimum tangent length</td>
<td>300'</td>
<td>200'</td>
<td>100'</td>
</tr>
<tr>
<td>10. Road base:</td>
<td></td>
<td></td>
<td></td>
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<tr>
<td>Road base layers shall be installed over properly shaped and compacted sub-grade. Sub-grade must be inspected by Road Commissioner or designees before any aggregate is placed. Any soft spots or otherwise unsuitable soils encountered shall either be over-excavated or otherwise reinforced (i.e., with geotextiles) to Road Commissioner’s (or designee) satisfaction before placing aggregate layers.</td>
<td></td>
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<tr>
<td>The Developer shall provide test results of aggregate gradation to the Road Commissioner or designee for review and approval BEFORE construction commences. The following thicknesses of aggregate shall be applied in 6&quot; to 8&quot; layers and compacted to a density equal to at least 95% of Modified Proctor density. The Town reserves the right to hire an independent testing facility to verify that the in-place densities are satisfactory.</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>A. Base aggregate layer (MDOT Type-A aggregate installed beneath pavement layer and over subbase);</td>
<td>6&quot;</td>
<td>4&quot;</td>
<td>3&quot;</td>
</tr>
<tr>
<td>B. Subbase aggregate layer (MDOT Type-D aggregate or better, Installed beneath base layer and over subgrade);</td>
<td>18&quot;</td>
<td>16&quot;</td>
<td>15&quot;</td>
</tr>
<tr>
<td>Total Aggregate Thickness</td>
<td>24&quot;</td>
<td>20&quot;</td>
<td>18&quot;</td>
</tr>
</tbody>
</table>

11. Pavement construction: Pavement shall be applied over approved (by Road Commissioner or designee) aggregate surface only: Pavement shall be applied with bituminous pavers of suitable width to pave roadway width in one pass; each layer shall be applied in one pass and compacted to the depths shown below. Compaction shall be carried out with suitable sized steel drum or pneumatic tire rollers so that the density of in-place pavement is at least 93% of the TMD (theoretical maximum density) as
defined by the Maine Department of Transportation. In general, each finished surface (binder and surface) shall be relatively smooth with no dips, tears, or other preventable imperfections caused by careless paving techniques.

### Arterial Streets

<table>
<thead>
<tr>
<th>Description</th>
<th>Arterial Streets</th>
<th>Collector Streets</th>
<th>Local Streets</th>
</tr>
</thead>
<tbody>
<tr>
<td>A. Binder layer (MDOT grade-B hot bituminous pavement layer)</td>
<td>2.5&quot;</td>
<td>2&quot;</td>
<td>1.5&quot;</td>
</tr>
<tr>
<td>B. Surface course layer (MDOT grade-C hot bituminous pavement layer)</td>
<td>1.5&quot;</td>
<td>1&quot;</td>
<td>1&quot;</td>
</tr>
<tr>
<td>Total pavement thickness</td>
<td>4.0&quot;</td>
<td>3.0&quot;</td>
<td>2.5&quot;</td>
</tr>
</tbody>
</table>

### 12. Road crown (minimum)

- ¼"/1 ft

### 13. Sidewalks (where required)

<table>
<thead>
<tr>
<th>Description</th>
<th>Arterial Streets</th>
<th>Collector Streets</th>
<th>Local Streets</th>
</tr>
</thead>
<tbody>
<tr>
<td>Minimum width</td>
<td>6'</td>
<td>5'</td>
<td>5'</td>
</tr>
<tr>
<td>Base Course (aggregate)</td>
<td>12&quot;</td>
<td>12&quot;</td>
<td>12&quot;</td>
</tr>
<tr>
<td>Surface Course (pavement)</td>
<td>2&quot;</td>
<td>2&quot;</td>
<td>2&quot;</td>
</tr>
</tbody>
</table>

### 14. Cul-de-sac streets- min. radius:

<table>
<thead>
<tr>
<th>Description</th>
<th>Arterial Streets</th>
<th>Collector Streets</th>
<th>Local Streets</th>
</tr>
</thead>
<tbody>
<tr>
<td>A. Property line</td>
<td>75'</td>
<td>65'</td>
<td>55'</td>
</tr>
<tr>
<td>B. Outside Edge Pavement</td>
<td>60'</td>
<td>55'</td>
<td>50'</td>
</tr>
<tr>
<td>C. Inside Edge Pavement</td>
<td>45'</td>
<td>40'</td>
<td>35'</td>
</tr>
</tbody>
</table>

### 15. Curb radii at intersections:

- 90 degree intersections: 30', 25', 20'
- less than 90 degree intersections: 30'-40', 25'-35', 20'-30'

### 16. Street cut and fill- Side slopes adjacent to travel shoulder shall not be steeper than 4:1 (25%); Slopes on opposite side of ditch can be steeper but no steeper than 2:1.

### 17. Adequate drainage of streets-

A storm water management plan shall be prepared by a registered professional engineer hired by the developer that will insure that all streets shall be provided with adequate drainage facilities, and will also take into account any offsite impacts/watersheds affecting the roadway or subdivision as well. Said plan shall provide for the removal of storm water to prevent flooding of the pavement and erosion of adjacent surface/properties. Open drainage structures shall be sized to safely pass a 10 year, 24 hour storm event (4.65" of rainfall). The Planning Board reserves the right to require stormwater detention if necessary to reduce or eliminate the potential for
flooding of any developed areas, or areas deemed sensitive to the impact of flooding, as a result of the subdivision development.

All structures with openings 15" or more in diameter shall be provided with a 4" square intake screens or bars (on inlets only) to prevent children from being lodged in pipes during storm events. Said screens or racks shall be attached in a manner to facilitate removal by maintenance personal with appropriate hand tools and without damage to the culvert.
ARTICLE 7 -- FLOODPLAIN MANAGEMENT

1. PURPOSE AND ESTABLISHMENT

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

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

The areas of special flood hazard, Zones A and AE, are identified by the Federal Emergency Management Agency in a report entitled "Flood Insurance Study - Town of Orrington, Maine, Penobscot County," dated July 17, 2002 with accompanying "Flood Insurance Rate Map" dated July 17, 2002, which are hereby adopted by reference and declared to be a part of this Ordinance.

2. PERMIT REQUIRED

Before any construction or other development (as defined in Article 9), including the placement of manufactured homes, begins within any areas of special flood hazard established in Section 1, 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 Orrington, Maine.

3. APPLICATION FOR PERMIT

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

A. The name, address and phone number of the applicant, owner, and contractor;
B. An address and a map indicating the location of the construction site;

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

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

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

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

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

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

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

1.) base flood at the proposed site of all new or substantially improved structures, which is determined:

   a. in Zone AE, from data contained in the "Flood Insurance Study - Town of Orrington, Maine," as described in Section 1; or,

   b. in Zone A:

      i from any base flood elevation data from federal, state, or other technical sources (such as FEMA’s Quick-2 model, FEMA 265/July 1995), including information obtained pursuant to Section 6.K. and Section 8.D.;

      ii 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,

      iii 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 Section 6;

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 Section 6 by a registered professional engineer or architect:

1.) a Floodproofing Certificate (FEMA Form 81-65, 08/99, as amended), to verify that the floodproofing methods for any non-residential structures will meet the floodproofing criteria of Section 3.H.4.; Section 6.G.; and other applicable standards in Section 6;

2.) a Hydraulic Openings Certificate to verify that engineered hydraulic openings in foundation walls will meet the standards of Section 6.L.2.a.;

3.) a certified statement that bridges will meet the standards of Section 6.M.;

4.) a certified statement that containment walls will meet the standards of Section 6.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 Section 6 will be met.

4. 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.
5. **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 Section 6 (Development Standards) have been, or will be met;

B. Utilize, in the review of all Flood Hazard Development Permit applications:
   
   1.) the base flood data contained in the "Flood Insurance Study - Town of Orrington, Maine," as described in Section 1;
   
   2.) in special flood hazard areas where base flood elevation data are not provided, the Code Enforcement Officer shall obtain, review and reasonably utilize any base flood elevation and floodway data from federal, state, or other technical sources, including information obtained pursuant to Section 3.H.1.b.; Section 6.K.; and Section 8.D., in order to administer Section 6 of this Article; and,

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

C. Make interpretations of the location of boundaries of special flood hazard areas shown on the maps described in Section 1 of this Article;

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

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

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

   1.) A two part Flood Hazard Development Permit for elevated structures. Part I shall authorize the applicant to build a structure to and including the first horizontal floor only above the base flood level. At that time the applicant shall provide the Code Enforcement Officer with a second Elevation Certificate completed by a Professional Land Surveyor, registered professional engineer or architect based on the Part I permit construction, “as built,” for verifying
compliance with the elevation requirements of Section 6, 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 Section 6.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 Section 6.J., mining, dredging, filling, grading, paving, excavation, drilling operations, storage of equipment or 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 8 of this Ordinance, and copies of Elevation Certificates, Floodproofing Certificates, Certificates of Compliance and certifications of design standards required under the provisions of Sections 3, 6, and 7 of this Article.

6. 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

Floodplain Management
7 - 5
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 Section 3.H.1.b.; Section 5.B; or Section 8.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 Section 3.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 Section 3.H.1.b.; Section 5.B; or Section 8.D., or

a. together with attendant utility and sanitary facilities meet the Floodproofing standards of Section 6.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:

i. 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,

ii. 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).

iii. all components of the anchoring system described in Section 6.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 Section 6.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 Section 3.H.1.b.; Section 5.B; or Section 8.D.; and

b. meet the anchoring requirements of Section 6.H.1.c.

I. **Recreational Vehicles** - Recreational Vehicles located within:

Floodplain Management

7 - 7
1.) Zone AE shall either:

a. be on the site for fewer than 180 consecutive days,

b. be fully licensed and ready for highway use. A recreational vehicle is ready for highway use if it is on its wheels or jacking system, is attached to the site only by quick disconnect type utilities and security devices, and has no permanently attached additions; or,

c. be permitted in accordance with the elevation and anchoring requirements for "manufactured homes" in Section 6.H.1.

J. Accessory Structures - Accessory Structures, as defined in Article VIII-9, located within Zones AE and A, shall be exempt from the elevation criteria required in Section 6.F. and Section 6.G. above, if all other requirements of Section 6 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 Section 6.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 Zones AE riverine areas, encroachments, including fill, new construction, substantial improvement, and other development shall not be permitted within a regulatory floodway which is designated on the community's Flood Insurance Rate Map, unless a technical evaluation certified by a registered professional engineer is provided demonstrating that such encroachments will not result in any increase in flood levels within the community during the occurrence of the base flood discharge.

2.) In Zones AE and A riverine areas for which no regulatory floodway is designated, encroachments, including fill, new construction, substantial improvement, and other development shall not be permitted in the floodway as determined in Section 6.K.3. Unless a technical evaluation certified by a
registered professional engineer is provided demonstrating that the cumulative effect of the proposed development, when combined with all other existing development and anticipated development:

a. will not increase the water surface elevation of the base flood more than one foot at any point within the community; and,

b. is consistent with the technical criteria contained in Chapter 5 entitled "Hydraulic Analyses," *Flood Insurance Study - Guidelines and Specifications for Study Contractors*, (FEMA 37/ January 1995, as amended).

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

L. **Enclosed Areas Below the Lowest Floor** - New construction or substantial improvement of any structure in Zones AE and A that meets the development standards of Section 6, including the elevation requirements of Section 6, 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 9;

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:

i. 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;

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

iii. openings may be equipped with screens, louvers, valves, or other coverings or devices provided that they permit the entry and exit of flood waters automatically without any external influence or control such as human intervention, including the use of electrical and other non-automatic mechanical means;
3.) The enclosed area shall not be used for human habitation; and,  

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

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

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

2.) a registered professional engineer shall certify that:  

a. the structural design and methods of construction shall meet the elevation requirements of this section and the floodway standards of Section 6.K.; and  

b. the foundation and superstructure attached thereto are designed to resist flotation, collapse and lateral movement due to the effects of wind and water loads acting simultaneously on all structural components. Water loading values used shall be those associated with the base flood.  

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

1. Zones AE and A shall:  

a. have the containment wall elevated to at least one foot above the base flood elevation;  

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

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

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

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

2.) for commercial wharves, piers, and docks, a registered professional engineer shall develop or review the structural design, specifications, and plans for the construction.
7. **CERTIFICATE OF COMPLIANCE**

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

A. 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 Section 6, 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.

8. **REVIEW OF SUBDIVISION AND DEVELOPMENT PROPOSALS**

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

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

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

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

D. All proposals include base flood 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 Section 6 of this Article. 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 8 -- BOARD OF APPEALS

1. ESTABLISHMENT AND ORGANIZATION

A Board of Appeals, hereafter referred to as the Board, is hereby established pursuant to Title 30-A M.R.S.A., Sections 2691 and 4353, Paragraph 1, and the Orrington Town Charter.

The Board shall adopt rules necessary to the conduct of its affairs. The Chairman, or in his absence the Acting Chairman, may administer oaths and compel the attendance of witnesses. All meetings shall be open to the public. The Board shall keep minutes of its proceedings and other official actions, all of which shall be a public record and immediately filed in the Town Office.

2. APPEALS

An appeal may be taken from any decision of the Code Enforcement Officer or Planning Board to the Board of Appeals and from the Board of Appeals to the Superior Court, pursuant to Title 30-A M.R.S.A., Section 4353, Paragraph 1.

3. POWERS AND DUTIES OF THE BOARD OF APPEALS

The Board of Appeals shall have the following powers:

A. Interpretation. To interpret provisions of the Ordinance which are called into question, in accordance with the provisions of Title 30-A M.R.S.A., Section 4353. An applicant may appeal the denial of a permit that was based on an interpretation of a provision of this Ordinance.

B. Administrative Appeal - To hear and decide administrative appeals, on an appellate basis, upon written application of an aggrieved party, 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 Planning Board in the administration of this Ordinance; and to hear and decided administrative appeals on a de novo basis where it is alleged by an aggrieved party that there is an error, 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.

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 on the Ordinance or contrary to the facts presented to the Planning Board. The Board of Appeals may only review the record of the proceedings before the Planning Board. The Board of Appeals shall not receive or consider any evidence which was not presented to the Planning Board, but the Board of Appeals may receive 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.

C. **Variance Appeal** - To authorize variances upon appeal, within the limitations set forth in this Ordinance. A variance is a setting aside of one or more requirements of this Ordinance, and is equivalent to permission to not comply with one or more of its provisions. A variance is not a permit. An applicant who receives a variance shall comply with all other requirements of this Ordinance including the requirement to obtain a permit from the Code Enforcement Officer or Planning Board, as applicable.

4. **STANDARDS FOR VARIANCES**

Variances may be permitted only under the following conditions:

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

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

C. The 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.

D. The Board shall not grant a variance unless it finds that the petitioner for such a variance can demonstrate, upon appeal, that the strict application of the terms of this Ordinance would result in undue hardship. The term "undue hardship" shall mean:

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

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; and

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

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

A variance is not justified unless all four elements of an undue hardship are present in the case.

E. Variances shall only be issued upon a determination that the variance is the minimum necessary, considering all possible effects including shoreland zoning and flood hazard, to afford relief. Notwithstanding Section 4.D 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 the time that the person with the disability live in the dwelling. The term “structures necessary for access to or egress from the dwelling” shall include railings, wall or roof systems necessary for the safety or effectiveness of the structure.

F. A financial hardship shall not constitute grounds for granting a variance.

G. 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.

H. The Board of Appeals shall submit to the Town Manager a report of all variance actions, including justification for the granting of the variance and an authorization for the CEO to issue a Flood Hazard Development Permit, which includes any conditions to be attached to said permit. In addition a copy of each variance request, including the application and all supporting information supplied by the applicant, shall be forwarded by the municipal official to the Commissioner of the Department of Environmental Protection at least twenty (20) days prior to the 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.

I. A copy of all variances granted by the Board of Appeals, pertaining to shoreland zoned properties shall be submitted to the Department of Environmental Protection within seven (7) days of the decision.

5. FLOODPLAIN MANAGEMENT VARIANCES

In addition to the provisions of Article 8, Section 4, immediately above, the following shall also apply in cases involving requests for variances from the requirements of Article 7, Floodplain Management, of this Ordinance.

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.

C. 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 8, Section 4 and Article 7, Section 6, are met; and,

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

D. Variances may be issued for the reconstruction, rehabilitation, or restoration of structures listed on the National Register of Historic Places or a State Inventory of Historic Places, upon a determination that:

1.) The development meets the criteria of Article 8 Sections 1 through 5D. 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.

E. Any applicant who meets the criteria of Article 8, Section 1 through 5.D, above, shall be notified by the Board of Appeals in writing 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;

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 that the applicant may have against the municipality that are related to the use of land located in a floodplain.

6. **APPEAL PROCEDURE**

A. **Making an Appeal**

1.) An administrative or variance appeal, upon written application of an aggrieved party, 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 Article 8 Section 3.B 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.

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

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

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

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

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

B. Decision by Board of Appeals

1.) A majority of the full voting membership of the board shall constitute a quorum
for the purpose of deciding an appeal.

   a. If the Board of Appeals finds that the action or failure to act of the Code
      Enforcement Officer or Planning Board is clearly contrary to the
      specific provisions of this Ordinance, it shall order the error to be
      corrected. The Board of Appeals shall have no authority to take the
      action of the Code Enforcement Officer or Planning Board, or force
      compliance or issue a permit. If the Code Enforcement Officer or
      Planning Board ignores an order of the Board of Appeals, the applicant
      may take court action to force compliance.

   b. An appeal shall not be heard “de novo” by the Board of Appeals, but
      rather shall be reviewed to determine whether the action of the Code
      Enforcement Officer or Planning Board was within the scope of its
      authority and supported by substantial evidence on the record.

   c. In the event that the Board of Appeals finds that the action or failure to
      act of the Code Enforcement Officer or Planning Board is contrary to
      the provisions of this Ordinance, or that the decision or record of
      proceedings is incomplete, the Board of Appeals shall refer the matter
      back to the Code Enforcement Officer or Planning Board for further
      proceedings or completion of the decision or record, as appropriate.
      Upon referral by the Board of Appeals, the Code Enforcement Officer
or Planning Board shall complete the necessary further proceedings within sixty (60) days. No matter appealed to the Board of Appeals shall be referred back to the Code Enforcement Officer or Planning Board more than twice, over the objection of any party.

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

3.) 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.

4.) All decisions shall become a part of the record. 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 (DEP notification required if matter regards Shoreland Zoned property) 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. All decisions shall become a part of the record and shall include a statement of findings and conclusions as well as the reasons or basis therefore, and the appropriate order, relief or denial thereof.

C. Appeal to Superior Court

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.

D. 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 with 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.
ARTICLE 9 -- DEFINITION OF TERMS IN THIS ORDINANCE

1. GENERAL DEFINITIONS

For the purpose of this Ordinance certain words or terms used shall be interpreted as follows:

"Town" or "Municipality" means the Town of Orrington.

"State" means the State of Maine

"Official Zoning Map" means the most recent Land Use District map certified and dated by the Town Clerk.

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

The word "shall" is mandatory; the word "may" is permissive.

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

The word "lot" includes the word "plot" or "parcel", and the word "building" includes the word "structure."

The word "used" or "occupied" shall be construed to included the words "intended, arranged, or designed to be used or occupied."

Drafting film shall refer to polyester drafting media now or formally known as Mylar, polyester film, or transparency.

2. LIST OF DEFINITIONS

Accessory building, 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. An 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. An open deck is not considered part of the principal structure except in all of the shoreland districts.

Accessory structure (for floodplain management purposes) - A small detached structure that is incidental and subordinate to the principal structure.

Adjacent grade - The natural elevation of the ground surface prior to construction next to the proposed walls of a structure or excavation.

Aggrieved party – An owner whose property is directly or indirectly affected by the granting or denial of a permit or variance under the 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.

**Alteration of building** - Any change in the supporting members of a building (such as bearing wall, beams, columns, girders) except such change as may be required for its safety; any additions to a building or moving a building from one location to another.

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

**Area of special flood hazard** - 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 7, Section 1. of this Ordinance.

**Automobile graveyard** - A yard or field used as a place of storage in which there is displayed to the public view three or more unregistered or uninspected, unserviceable, discarded, worn-out or junked vehicles or bodies or engines thereof.

**Automobile repair facility** - An individual, corporation or other legal entity which repairs motor vehicles for the general public for compensation.

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

**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.

**Bed & breakfast** - A dwelling structure which offers sleeping quarters and breakfast to temporary guests for payment.

**Boarding and riding stable** – A structure that is used commercially for the shelter of horses.

**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.

**Breakaway wall** - A wall that is not part of the structural support of the building and is intended through its design and construction to collapse under specific lateral loading forces, without causing damage to the elevated portion of the building or supporting foundation system.

**Building** - Any structure affording shelter. Also see structure.
Building frontage – Measured in a single straight line from corner to corner of the building, which line would be most parallel to the street address entrance.

Bureau – State of Maine Department of Conservation’s Bureau of Forestry.

Business sign - A sign on which is announced the business use of the premises or the name of the operator of the business.

Business Park - A track of land that has been planned and developed as a high density mixed industrial and commercial zone that shall permit uses as specified under Industrial District and Commercial District in Article 2, except that no expanded uses beyond those permitted uses for Mixed Residential-Commercial District (MR-C) shall be permitted in any MR-C district as mapped on the Land Use District Map, and further restricting that no single or multi-family residential uses shall be permitted anywhere in the Industrial or Commercial use portion of the Business Park.

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.

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.

Coastal wetland - All tidal and subtidal lands; all lands with vegetation present that is tolerant of salt water and occurs primarily in a salt water or estuarine habitat; and any swamp, marsh, bog, beach, flat or other contiguous low land that is subject to tidal action during the highest tide level for the year in which an activity is proposed as identified in tide tables published by the National Ocean Service. Coastal wetlands may include portions of coastal sand dunes.

Note: All areas below the highest annual tide level are coastal wetlands. These areas may consist of rocky ledges, sand and cobble beaches, mud flats, etc., in addition to salt marshes and salt meadows.

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

Commercial recreation - Outdoor recreation activities supplied for a price (including incidental sale of goods) such as: camping area, boat rental, miniature golf, golf and similar outdoor games but excluding places of amusement such as movie theaters, cocktail lounges, dance halls, pool halls, nightclubs, etc.

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.

Developable area- Land above the normal high-water line of a water body or upland edge of a wetland.

Development - Changes in land use involving alteration of the land, water or vegetation, or the addition or alteration of structures or other construction not naturally occurring.
**Definitions**

**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 a bodily injury, accident, disease, birth defect, environmental conditions or illness; and also included 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.

**Dwelling** - See Residential dwelling unit.

**Dwelling unit** - See Residential dwelling unit.

**Elevated building** - A non-basement building:

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

2.) adequately anchored so as not to impair the structural integrity of the building during a flood of up to one foot above the magnitude of the base flood.

In the case of Zones AE or A, Elevated Building also includes a building elevated by means of fill or solid foundation perimeter walls with hydraulic openings sufficient to facilitate the unimpeded movement of flood waters, as required in Article 7 Section 6.L.

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

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

2.) is required for purchasing flood insurance.

**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 dwelling unit and living in a single residential dwelling unit.

**Flood or Flooding**

1.) A general and temporary condition of partial or complete inundation of normally dry land areas from:

   a. The overflow of inland or tidal waters.
   
   b. The unusual and rapid accumulation or runoff of surface waters from any source.

2.) 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 and 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 1.)a. of this definition.

**Flood elevation study** - An examination, evaluation and determination of flood hazards and, if appropriate, corresponding water surface elevations.

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

**Flood insurance study** - See Flood elevation study.

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

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

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

**Floodway** - 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.

**Floodway encroachment lines** - The lines marking the limits of floodways on federal, state, and local floodplain maps.

**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.

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

**Freshwater wetland** - Freshwater swamps, marshes, bogs and similar areas which are including forested wetlands:

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.

**Frontage** - The horizontal distance between the intersections of the side lot lines and the front building line.
Front yard - Space on the same lot with a principal building extending the full width of the lot and located between the street line and the front line of the building projected to the side lines of the lot. The depth of the front yard is the distance between the street line and the front of the building.

Functionally 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 cannot reasonably be located or operated at an inland site, and uses that primarily provide general public access to coastal or inland waters.

Functionally dependent use (for floodplain management purposes) - 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.

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.

Green space - An area of land that features scenic, recreational, or similar amenities encompassed by a development plan or site plan. This space must generally be available for entry and use by the occupants of the site. The site may include a limited area that provides landscaping features or landscape screening for the benefit of the occupants.

Green space shall include, but is not limited to, features such as lawns, decorative plantings, active and passive recreational areas including wooded areas, watercourses and wetlands and any other space maintained in a natural, undisturbed or revegetated condition.

Green space does not include the area of any sidewalks, walkways, parking lots or vehicular surfaces used by any motor vehicle, primary and/or accessory building footprints, or areas of open space so located, or circumscribed by buildings, parking, or drainage areas as to have no substantial value for the purposes stated in this definition.

Group development - A project (residential, commercial, industrial, educational, medical, civic, etc.) with two or more principal buildings constructed on a parcel of at least 2 acres not subdivided into customary lots and streets.

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.

**Historic structure** - Any structure that is:

1.) 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;

2.) 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;

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

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

**Home occupation:** Craft production and other manufacturing of goods, and both professional and personal services, within the limits on number of employees established in other sections of this Ordinance. A home occupation shall offer for sale only those items which are associated with the above activities.

1.) Low Density Residential District Home Occupation: An occupation or profession which is carried on in no more than 25% of the ground floor area of a single family dwelling unit or accessory structure by the full-time occupant(s) of the dwelling unit. The use must be clearly incidental and secondary to the use of the dwelling for residential purposes, and shall not change the character thereof.

2.) Rural Residential and Farming District Home Occupation: An occupation or profession which is carried on in no more than 25% of the ground floor area of a single family dwelling unit or 100% ground floor area of an accessory structure by the full time occupant(s) of the dwelling unit and shall not employ more than three (3) persons who are not permanent residents of the dwelling unit. The use must be clearly incidental and secondary to the use of the dwelling for residential or agricultural purposes, and shall not change the character thereof.

3.) Shoreland Zone Districts Home Occupation: an occupation or profession which is clearly incidental to and compatible with the residential use of the property and surrounding residential use, and 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.

Industrial Park – A tract of land that has been planned, developed and operated as an integrated facility for a number of industrial uses, with special attention to circulation, parking, utility needs, aesthetics, and compatibility.

In-law apartment - A separate dwelling unit which is located within and subordinate to a single family detached dwelling and which is occupied by a person or persons related to the owner and principal occupant of the dwelling unit by blood, marriage or adoption, whether or not said person(s) pay rent or share expenses with the owner thereof.

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.

Invasive plants – Vegetation which is not native or indigenous to the area and which tends to spread in the natural environment to the detriment of native vegetation.

Junk yard - A yard or field used as a place of storage for old, discarded, worn-out, or junked plumbing, heating supplies, household appliances, furniture, lumber, rope, rags, batteries, paper, trash, rubber, ferrous or non-ferrous metal.

Kennel - Any commercial establishment where dogs are kept, offered for sale or boarded for a fee.

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

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

Light manufacturing - The fabrication or processing of material into a finished product. Fabrication relates to the stamping, cutting or otherwise shaping the processed materials into useful objects/products. Light manufacturing does not include the refining or other initial processing of basic raw materials such as ore or lumber.

Locally established datum - For purposes of this Ordinance, an elevation established for a specific site to which all other elevations at the site are referenced. This elevation is generally not referenced to the National Geodetic Vertical Datum (NGVD) 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.

Lot - A parcel of land occupied by one building and the accessory buildings used customarily incidental to it, including such yards as are required by this Ordinance, and having frontage upon a roadway, public or private. However, a lot, the closest boundary of which is at least 200 feet from a road, public or private, shall be acceptable if area and yard requirements as required by this Ordinance are met and said lot is not landlocked. (See also Minimum Lot Width, for shoreland zone.)

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.

Lot of record - A parcel of land, the dimensions of which are shown on a document or map on file with the County Register of Deeds or in common use by town or county officials.

Lot width - The distance between the side boundaries of the lot measured at the front building line drawn parallel to the chord drawn between the intersections of the side lot lines at the street line. The building line is to be construed at the setback line unless building locations are included in the proposed plan. See applicable tables 2-2 or 3-2 for dimension requirements.

Lowest floor - The lowest floor of the lowest enclosed area (including basement). An unfinished or flood resistant enclosure, usable solely for parking of vehicles, building access or storage in an area other than a basement area is not considered a building's lowest floor, provided that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements described in Article 7 Section 6.L. of this Ordinance.

Major street - A street designated as such in the Major Street Plan.

Manufactured homes - As defined by and as amended and in compliance with MRSA Title 30-A, Section 4358. For floodplain management purposes the term manufactured housing 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. It also includes park trailers, travel trailers, and other similar vehicles placed on a site for greater than 180 consecutive days.

Manufactured home park or subdivision - A parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.

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.

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

**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 transports the product removed, away from the extraction site.

**Minimum lot width** - The closest distance between the side lot lines of a lot at the front building line (See Lot Width). When only two lot lines extend into the shoreland zone, both lot lines shall be considered to be side lot lines. See applicable tables 2-2 or 3-2 for dimension requirements.

**Minor development** - 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 7 Section 6.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.

**Mobile home** - As defined by and in compliance with MRSA Title 30-A, Section 4358.

**Mobile home park** - Land upon which two or mobile homes are located for living purposes.

**Modular housing** - As defined by and in compliance with MRSA Title 30-A, Section 4358.

**Multi-family/Multi-unit residential** - Two or more dwelling units.

**Native:** Indigenous to the local forests.

**National Geodetic Vertical Datum (NGVD)** - 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)”.

Natural Beauty - of, existing in, or produced by nature, not affected by man or civilization, possessing the quality that gives pleasure to the mind or senses and is associated with such properties as harmony of form or color or uniqueness.
New construction - Structures for which the "start of construction" commenced on or after the effective date of floodplain management regulations adopted by a community and includes any subsequent improvements to such structures.

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 if 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 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. See: Increase in nonconformity of a structure.

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

NOTE: Adjacent to tidal waters, setbacks are measured from the upland edge of the “coastal wetland.”

Nuisances - A use of property or course of conduct that interferes with the legal rights of others by causing damage, annoyance, or inconvenience. Any violation of this Ordinance shall be deemed to be a nuisance.

Nursing home - Any dwelling in which 3 or more aged, chronically ill or incurable persons are housed and furnished with meals and nursing care for compensation.

One-hundred-year flood (100-year flood) - See Base Flood

Open Space - Undeveloped land that is protected by legislation and approved by State guidelines.

Outdoor advertising sign - A sign which directs attention to a business, product, activity, or service which is not conducted, sold or offered on the premises where such sign is located.
Outdoor storage business – A commercial operation for the keeping, in an unenclosed area, of goods, junk, material, merchandise or vehicles in the same place for more than twenty-four hours.

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

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

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

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

Premises - A tract of land with buildings thereon.

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 premise.

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

Private road – A road serving more than two (2) dwelling units, which has not been accepted by the Town of Orrington as a public road.

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

Public road – A road which has been duly accepted by the Town of Orrington or is a road that has been regularly maintained by the Town or the State of Maine.

Real estate sign - A sign pertaining to the lease, rental, or sale of the building or lot upon which it is located.

Rear yard - Space on the same lot with a principal building, unoccupied except by accessory buildings or uses, extending the full width of the lot and located between the rear line of the lot and the rear line of the building projected to the side lines of the lot.

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

<table>
<thead>
<tr>
<th>Soil Series</th>
<th>Name</th>
<th>Name</th>
<th>Name</th>
</tr>
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<tbody>
<tr>
<td>Alluvial</td>
<td>Cornish</td>
<td>Charles</td>
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<tr>
<td>Fryeburg</td>
<td>Hadley</td>
<td>Limerick</td>
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<tr>
<td>Lovewell</td>
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<td>Podunk</td>
<td>Rumney</td>
<td>Saco</td>
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<tr>
<td>Suncook</td>
<td>Sunday</td>
<td>Winooski</td>
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</tbody>
</table>
Recreational facility - A place designed and equipped for the conduct of sports, leisure time activities, and other customary and usual recreational activities, excluding boat launching facilities.

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

Recreational vehicle (for floodplain management purposes) - A vehicle which is:

1.) built on a single chassis;
2.) 400 square feet or less when measured at the largest horizontal projection, not including slideouts;
3.) designed to be self-propelled or permanently towable by a motor vehicle; and
4.) designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.

Regulatory floodway -

1.) 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
2.) 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.

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.
**Retail Outlet** - One or more retail businesses, so regulated, incorporated, permitted, or licensed by the State or Municipality, operating out of one building.

**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.

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

> NOTE: The portion of a river that is subject to tidal action is a coastal wetland.

**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.

**Roadside produce stand** – A booth or stall from which produce and farm products are sold to the general public.

**Roadway** - A commonly traveled way.

**Seasonal residence** - A residential structure used primarily as a recreational home and inhabited continuously for less than 6 months of the year (also "camp" or "cottage").

**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, property boundary line, road, street line, to the nearest part of a structure, parking space or other regulated object or area.
Shopping Center – A group of commercial establishments planned, constructed and managed as a total entity, each business with its own separate entrance, with customer and employee parking provided on-site, provisions for goods delivery separated from customer access, aesthetic considerations and protection from the elements.

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 coastal wetland, including all areas affected by tidal action; within 250 feet of the upland edge of a freshwater wetland; or within seventy-five (75) feet, horizontal distance, of the normal high-water line of a stream.

Shoreline – The normal high-water line, or upland edge of a freshwater or coastal wetland.

Side yard - Space on the same lot with a principle building, unoccupied except by accessory buildings or uses, between the side of the building and the side line of the lot and extended form the front of the building to the rear line of the building. The depth of the side yard is the distance between the side line of the building and the side line of the lot.

Sign - An attached or free-standing structure used for bringing the subject matter thereon to the attention of the public.

Single-family dwelling - A free standing building on a permanent foundation serving as a dwelling unit not including mobile homes.

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

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

Special flood hazard area - See Area of Special Flood Hazard.

Start of construction - The date the building permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition, placement, substantial improvement or other improvement was within 180 days of the permit date. The actual start means either the first placement of permanent construction of a structure on a site, such as the pouring of a 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 is 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, whether or not that alteration affects the external dimensions of the building.
Stream - A free-flowing body of water from the outlet of a great pond or to the point where the body of water becomes a river or flows to another water body or wetland within the shoreland area. Additionally the following are identified as streams or brooks worthy of protection:

1.) So-called Baker Brook from the point of confluence of two intermittent streams that form a brook to Brewer Lake.

2.) Swetts Pond Brook and Mill Creek from Swetts Pond to the Penobscot River and the north and south branches of said brook system from their respectful wetland headwaters.

3.) Trout Pond outlet.

4.) Other unnamed streams or brooks that are shaded as Stream Protection District on the official Town of Orrington Land Use District Map.

Street line - The line along the edge of the surveyed right-of-way line closest to the property in question. In those cases where the roadway does not fall within the surveyed right-of-way width, the street line shall be determined as one-half the right-of-way width as measured from the center of the traveled roadway. In no instance shall the street line fall inside the surveyed right-of-way.

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, stairs, ramps, wiring and other aerial equipment normally associated with service drops as well as guying and guy anchors, except that within the shoreland zone, stairs and ramps are considered structures. The term includes permanently located appurtenances, such as decks, patios, towers, and windmills, and in the shoreland zone includes structures that are temporary located. A non-residential gas or liquid storage tank that is principally above ground is also a structure.

Subdivision - The division of a tract or parcel of land into 3 or more lots within a five-year period, whether accomplished by sale, lease, development, building or otherwise, as provided in MRSA Title 30-A, Sections 4401-4407.

Substantial damage - 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 - 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:

1.) 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
2.) 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.

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

**Subsurface wastewater 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.

**Swimming pool** - Any water holding structure above ground or in the ground with a capacity in excess of 2,000 gallons designed in such a way as to be used for swimming, wading, etc.

**Temporary** - A time period not to exceed ninety (90) calendar days (unless otherwise explicitly specified herein).

**Tidal waters** - all waters affected by tidal action during the highest annual tide.

**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 Article 3 Section F, *Clearing or Removal of Vegetation for Activities Other Than Timber Harvesting*.

**Transport vehicle** - Any truck, tractor-trailer or truck-trailer combination, bus, van, coach, or other wheeled or tracked vehicle normally used for carrying, transporting, or moving people, cargo or other materials not within the same lot or parcel.

**Travel trailer** - A portable structure which can be moved on its own wheels, designed as a temporary living place for travel, vacation and recreational use. In no case shall a travel trailer or camper be used as a mobile home.

**Travel trailer park** - Land on which two or more travel trailers are parked or tents erected for temporary family recreational use on sites arranged specifically for that purpose. The words "travel trailer park" shall include "camping grounds" and "tenting grounds."

**Tributary stream** - A channel between defined banks created by the action of surface water, whether intermittent or perennial, and which is characterized by the lack of upland vegetation or presence of aquatic vegetation and 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 coastal wetland, this boundary is the line formed by the landward limits of the salt tolerant vegetation and/or the highest annual tide level, including all areas affected by tidal action. For purposes of a freshwater wetland, the upland edge is formed where the soils are not saturated for a duration sufficient to support wetland vegetation.

**Utilities** - A commodity or service, such as electricity, water, or public transportation, that is provided by a municipal or private utility entity.

**Variance** - A relaxation of the provisions of this Ordinance in cases where literal enforcement would result in practical difficulties or unnecessary hardships inconsistent with the general purpose and intent of the Ordinance. Variances may be permitted only under all of the conditions set forth in Article 8, Section 4.D.

**Vegetation** - All live trees, shrubs, and other plants including without limitation, trees both over and under 4 inches in diameter, measured at 4 ½ feet above ground level.

**Veterinary hospital or clinic** - A place used for the care, diagnosis, and treatment of sick, ailing, infirm, or injured animals and may include overnight accommodations on the premises for treatment, observation, and or recuperation. It may also include boarding that is incidental to the principal activity or use.

**Violation** - The failure of a structure, use or development to comply with a community's ordinances.

**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.

**Warehouse** - A structure or room for the storage, deposit, or stocking of merchandise or commodities.

**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 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** - See Coastal wetland and Freshwater wetland.

**Woody Vegetation** - Live trees or woody, non-herbaceous shrubs.
**Yard sale** - Includes so-called garage sales, porch sales, tag sales, and the like.
Purpose & Policy

This Ordinance sets forth uniform requirements for users of the Orrington (Town) sewer system. The objectives of this Ordinance are to define the rules and policies regarding use of the Town’s sewer system and to comply with requirements of the City of Brewer for acceptable discharges to their publicly owned treatment works (POTW) which receives Orrington’s wastewater.

This Ordinance is further intended to ensure that Orrington’s wastewater, when accepted and treated by the City of Brewer, will not hinder Brewer’s ability to properly operate its POTW in compliance with all applicable State and Federal laws and future amendments, including the Clean Water Act (33 United States Code § Sect. 1251 et seq.) (ACT) and the General Pretreatment Regulations (40 CFR Part 403). Orrington’s wastewaters, when discharged into the City of Brewer’s POTW, shall be consistent with Brewer’s requirements to:

A. To prevent the introduction of pollutants into the POTW that will interfere with operations;

B. To prevent the introduction of pollutants into the POTW which will pass through the POTW, inadequately treated, into receiving waters or otherwise be incompatible with the POTW;

C. To protect both POTW personnel who may be affected by wastewater and sludge in the course of their employment and to protect the general public;

D. To promote reuse and recycling of industrial wastewater and sludge from the POTW;

E. To provide fees for equitable distribution of cost of operation, maintenance and improvement to POTW; and
F. To enable Brewer to comply with its NPDES permit conditions, sludge use and disposal requirements, and any other federal or state law to which the POTW is subject.

This Ordinance shall apply to all domestic sewage discharges and other users of the Orrington sewer system.

SECTION 100.1 ADMINISTRATION

The City of Brewer shall administer the Industrial Pretreatment Program all other provisions otherwise provided, herein, the Code Enforcement Officer (CEO) of the Town shall administer, implement and enforce the provisions of this Ordinance. Any powers granted to or duties imposed upon the Code Enforcement Officer may be delegated by the Code Enforcement Officer to other qualified Town personnel.

SECTION 100.2 APPLICABLE LAW

Any reference in this Ordinance to a state or federal statute or regulation or local Ordinance shall mean the statute, regulation or ordinance in force on the effective date of this Ordinance and as any statute, regulation or ordinance may be amended from time to time thereafter.

SECTION 100.3 DEFINITIONS

Unless the context specifically indicates otherwise, the meaning of terms used in this Ordinance shall be as follows:

1. "ACT OR THE ACT" shall mean the Federal Water Pollution Control Act, also known as the Clean Water Act. 33 United States Code § Sect. 1251 et seq.

2. "ADMINISTRATIVE ORDER" shall mean that the City of Brewer’s Superintendent or his designee is empowered upon finding an industrial user who continues to violate the Ordinance, permit or orders issued thereunder. Such orders will include specific action to be taken by the industrial user to correct the noncompliance within a time period also specified by the order.

3. "APPLICANT" shall mean any person requesting approval to discharge industrial or domestic wastewaters into facilities of the Town.
4. "APPROVAL AUTHORITY" shall mean the Regional Administrator of Region 1, EPA Boston.

5. "AUTHORIZED REPRESENTATIVE OF THE USER" shall mean:

1. If the user is a corporation:
   
a. The president, secretary, treasurer or a vice president of the corporation in charge of a principal business function or any other person who performs similar policy or decision-making functions for the corporation; or

   b. The manager of one or more manufacturing, production or operation facilities employing more than 250 persons or having gross annual sales or expenditures exceeding $25 million (in second quarter, 1980 dollars), if authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures.

2. If the user is a partnership or sole proprietorship, a general partner or proprietor, respectively; or

3. If the user is a federal, state or local government facility, a director or highest official appointed or designated to oversee the operation and performance of the activities of the government facility, or the designer.

4. The individuals described in Paragraph 1 through 3 above, may designate another authorized representative if the authorization is in writing, the authorization specifies the individual or position responsible for the overall operation of the facility from which the discharge originates or having overall responsibility for environmental matters for the company, and the written authorization is submitted to and approved by the Town.

6. "BOD" (denoting Biochemical Oxygen Demand) shall mean the quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedure for five (5) days at 20°C, expressed in milligrams per liter.

7. "BMR" (Base Line Monitoring Report) shall mean a report submitted by a categorical industrial users within 180 days
after the effective date of applicable categorical standard which indicates the compliance status of the user with the categorical standard under 40 CFR 403.12 (b).

8. "BUILDING DRAIN" shall mean the part of the lowest horizontal piping of a drainage system which receives the discharge from soil, waste and other drainage pipes inside the walls of the building and conveys it to the building sewer, beginning eight feet outside the inner face of the building wall.

9. "BUILDING SEWER" shall mean the extension from the building drain to the public sewer or other place of disposal.

10. "BWPCF" (Brewer Water Pollution Control Facility) shall mean the facility owned by the City of Brewer and used for receiving and treating wastewater generated by the Town and discharged into Brewer’s POTW.

11. "CATEGORICAL PRETREATMENT STANDARD OR CATEGORICAL STANDARD" shall mean any regulation containing pollutant discharge limits promulgated by the EPA in accordance with Section 307 (b) and (c) or The Act (33 USC Sect. 1317) which apply to a specific category of users and which appear in 40 CFR Chapter 1, Subchapter N, Parts 405-471.

12. "CATEGORICAL USER" shall mean any user of the Town's sewer system whose dischargers are regulated under 40 CFR 403 and 40 CFR 405-469, or who is otherwise subject to the U.S. EPA pretreatment requirements as a categorical user.

13. "CITY" shall mean City of Brewer to which the Town’s wastewater is discharged.

14. "CIVIL LITIGATION" shall mean civil litigation against the industrial user seeking equitable relief, monetary penalties and actual damages.

15. "CODE ENFORCEMENT OFFICER" (CEO) except as otherwise provided in this Ordinance, the Code Enforcement Officer or a duly appointed Assistant Code Enforcement Officer shall administer and enforce this Ordinance, including the receiving of applications and the issuing of building permits.

16. "COMBINED SEWER" shall mean a sewer receiving both surface runoff and sewage.
17. "COMPOSITE SAMPLER" shall mean the sample resulting from the combination of individual wastewater samples taken at selected intervals based on an increment of either flow or time.

18. "CRIMINAL PROSECUTION" shall mean punitive measures against an individual and/or organization through a court of law.

19. "DISCHARGE" shall mean any substance released into any part of the Town’s sewer system.

20. "DISCHARGER" shall mean all industrial users, including "Categorical Users" and "Significant Industrial Users" as defined in this section. "Discharger" also refers to any non-industrial user of the Town’s sewer system who may be subject to regulation under this Ordinance.

21. "DOMESTIC SEWAGE" shall mean water and water-carried wastes normally discharged into the sanitary sewers from dwellings, including single-family homes, multi-family homes and motels, from office buildings, factories and institutions, but not including storm water drainage or surface water drainage and not including industrial wastes as defined in this section.

22. "ENGINEER" shall mean the Town official appointed and designated by the Town Manager as the Town Engineer for the Town of Orrington.

23. "ENVIRONMENTAL PROTECTION AGENCY E.P.A." shall mean the U.S. Environmental Agency, or where appropriate, the Regional Water Management Division Director or other authorized official of said agency.

24. "EXCESSIVE LOADING" shall mean any discharge resulting in a Biochemical Oxygen Demand (BOD) or Total Suspended Solids (TSS) loading in excess of 350 mg/l. Where a correlation is established between BOD, COD and TOC, a discharge is excess of the equivalent COD or TOC loading shall constitute excessive loading.

25. "FINE" As used in this Ordinance is a Monetary Penalty assessed by Town Officials or the Superintendent of the BWPCF for violations of Ordinance provisions.
26. "GARBAGE" shall mean solid waste from the domestic and commercial preparation, cooking and dispensing of food and from the handling, storage and sale of food products and produce.

27. "GRAB SAMPLE" shall mean a sample which is taken from a wastestream on a one-time basis without regard to the flow in the wastestream and without consideration of time.

28. "HAZARDOUS WASTE" shall mean a hazardous waste as that term is defined in 40 CFR Part 261 or Maine Department of Environmental Protection Regulations Chapter 850.

29. "HIGH STRENGTH CONVENTIONAL WASTE" shall mean any non-industrial waste of a substantially greater density, toxicity, or acidity than normal domestic sewage, including all wastes likely to cause "Excessive Loading" as defined in this section.

30. "HOLDING TANK WASTES" shall mean a waste from solely domestic sources which have not been concentrated or had chemicals added to them.

31. "INDIRECT DISCHARGE OR DISCHARGE" shall mean the introduction of pollutants into the POTW from any non-domestic source regulated under Section 307 (a), (c), or (d) of The Clean Water Act.

32. "INDUSTRIAL USER" shall mean a source of non-domestic waste, including agriculture, forestry, fishing, mining, manufacturing, transportation, communication, electrical, gas and sanitary services and any other industrial services discharging into the Town’s sanitary sewer system and industrial waste or any waste other than "domestic sewage" as defined in this section.

33. "INDUSTRIAL WASTE" shall mean all water, water-carried solids, liquid and gas wastes resulting from any industrial, manufacturing, or food processing operation or process or from the development of any natural resource or a mixture of any of these fluids and domestic sewage, or any mixture of these fluids with any other water or with any other liquid.

34. "INSTANTANEOUS MAXIMUM ALLOWABLE DISCHARGE LIMIT" shall mean the maximum concentration of a pollutant allowed to be
discharged at any time, determined from analysis of and grab or composite sample collected, independent of the industrial flow rate and duration of the sampling event.

35. "INTERFERENCE" shall mean a discharge that, alone or in conjunction with a discharge or discharges from other sources, both (1) inhibits or disrupts the Town’s sewer system or City of Brewer’s sewer system, treatment processes or operations, or its sludge processes, use of disposal; and (2) which thus contributes to a cause of a violation of any requirement of the BWWTP NPDES permit (including an increase in the magnitude or duration of a violation) or of the prevention of sewage sludge use or disposal in compliance with statutory provisions and regulations or permits issued under Section 405 of the Clean Water Act, the Toxic Substances Control Act, the Marine Protection, Research and Sanctuaries Act and any State regulations contained in any state sludge management plan prepared pursuant to Subtitle D of the Resource Conservation and Recovery Act.

36. "MEDICAL WASTES" shall mean isolation wastes, infectious agents, human blood and blood products, pathological wastes, sharps, body parts, contaminated laboratory wastes and dialysis wastes.

37. "MEETING" as used in Article 8 of this Ordinance (the Industrial Wastewater Pretreatment Enforcement Response Guide) shall mean an informal compliance meeting with an Industrial User to resolve recurring noncompliance.

38. "MILLIGRAMS PER LITER" shall be abbreviated as "mg/L" and shall mean a weight to volume ratio. The figure appearing before the symbol "mg/L" shall be the number of milligrams to be found in one liter of the substance being tested. This figure can be transposed to pounds per million gallons of water by multiplying the figure appearing before the symbol "mg/L" by 8.34.

39. "NATURAL OUTLET" shall mean any outlet into a watercourse, pond, ditch, lake or other body of surface or groundwater.

40. "NEW SOURCE" shall mean:

1. Any building, structure, facility or installation from which there is or may be a discharge of pollutants, the construction of which commenced after the publication of proposed Pretreatment
Standards under Section 307 (c) of The Act which will be applicable to such source if such standards are thereafter promulgated in accordance with that section of The Act, provided that:

(a) The building, structure, facility or installation constructed at a site at which no other source is located; or

(b) The building, structure, facility or installation totally replaces the process or production equipment that causes the discharge of pollutants at an existing source; or

(c) The production or wastewater generating processes of the building, structure, facility or installation are substantially independent of an existing source at the same site. In determining whether the sources are substantially independent, factors such as the extent to which the new facility is integrated with the existing plant, and the extent to which the new facility is engaged in the same general type of activity as the existing source, should be considered.

2. Construction on site at which an existing source is located results in a modification rather than a new source if the construction does not create a new building, structure, facility, or installation meeting the criteria of Section 1 (b) or (c) above, but otherwise alters, replaces or adds to existing process or production equipment.

3. Construction of a new source as defined under this paragraph has commenced if the owner or operator has:

(a) Begun, or caused to begin as part of a continuous on site construction program:

(I) Any placement, assembly or installation of facilities or equipment; or
(II) Significant site preparation work including clearing, excavation or removal of existing buildings, structures, or facilities which is necessary for the placement, assembly or installation of a new source facilities or equipment; or

(b) Entered into a binding contractual obligation for the purchase of facilities of equipment which are intended to be used in its operation within a reasonable time. Options to purchase or contracts which can be terminated or modified without substantial loss, and contracts for feasibility, engineering, and design studies do not constitute a contractual obligation under this subparagraph.

41. "NONCONTACT COOLING WATER" shall mean water used for cooling which does not come into direct contact with any raw materials, intermediate product, waste product or finished product.

42. "NORMAL DOMESTIC SEWAGE" shall mean the sewage in which average concentration of Total Suspended Solids does not exceed 250 mg/L and in which the average concentration of BOD does not exceed 250 mg/L.

43. "NOV" (Notice of Violation) shall mean a written letter of Notice of Violation when an industrial user has violated this Ordinance, permit or order issued. Within 10 (ten) days of the receipt date of this notice, an explanation of the violation and a plan for the satisfactory correction and prevention, with specific required actions taken. Submission of this plan in no way relieves the user of liability for any violations occurring before or after receipt of the Notice of Violation.

44. "NPDES" shall mean the National Pollutant Discharge Elimination System permit program of the U.S. EPA.

45. "OWNER" shall mean the owner, tenant, occupant or person in charge of any building or premises, or any person acting in the owner's behalf.
46. "PASS-THROUGH" shall mean any discharge from the BWWTP treatment works into waters of the United States in quantities or concentrations which, alone or in conjunction with a discharge or discharges from other sources, causes a violation of any requirement of the BWWTP NPDES permit, including an increase in the magnitude or duration of a violation.

47. "PERSON" shall mean any individual, partnership, firm, company, association, society, corporation, group, joint stock company, trust, estate, governmental entity, or any other legal entity of whatever relationship; or their legal representatives, agents or assigns. This definition includes all federal, state or local governmental entities.

48. "pH" shall mean the logarithm (base 10) of the reciprocal of the Hydrogen ion concentration expressed in moles per liter. pH shall be determined by Standard Methods as defined in this section.

49. "PLUMBING INSPECTOR" shall mean the Plumbing Inspector(s) that the Board of Selectmen appoints to inspect all plumbing, for which permits are granted, within the Town, which is in the process of construction, alteration or repair.

50. "POLLUTANT" shall mean the dredged spoil, solid waste, incinerator residue, sewage, garbage, sludge, pretreatment by-products, munitions, wastewater, medical wastes, chemical wastes, biological materials, metals, oil and grease, radioactive materials, heat, wrecked or discharged equipment, rock, sand, cellar dirt, agricultural and industrial wastes, and other waste or material that alters or adversely affects the characteristics of the wastewater (ie., pH, temperature, TSS, turbidity, color, BOD, COD, toxicity, TTO, TOC, or odor).

51. "POTW" shall mean Publicly Owned Treatment Works of the City of Brewer to which the Town’s wastewater is discharged.

52. "PREMISES" shall mean any building or lot under individual ownership or individual use where water and/or sewer service is metered independently.

53. "PRETREATMENT" shall mean the reduction of the amount of pollutants, the elimination of pollutants, or the alteration of the nature of pollutant properties in wastewater prior
to, or in lieu of, introducing such pollutants into the Town’s sewer system. This reduction or alteration can be obtained by physical, chemical, or biological processes; by process changes; or by other means except by diluting the concentration of the pollutants unless allowed by an applicable pretreatment standard.

54. "PRETREATMENT COORDINATOR or PC" shall be the City of Brewer’s Superintendent or his designee to ensure that wastewater discharged into Town’s sewer system complies with all industrial pretreatment requirements imposed by City of Brewer upon Town of Orrington through interjurisdictional agreements.

55. "PRETREATMENT REQUIREMENTS" shall mean any substantive or procedural requirement related to pretreatment imposed on a user, other than a pretreatment standard.

56. "PRETREATMENT STANDARDS OR STANDARDS" shall mean prohibited discharge standards, categorical pretreatment standards and local limits.

57. "PROHIBITED DISCHARGE STANDARD OR PROHIBITED DISCHARGES" shall mean the absolute prohibitions against the discharge of certain substances.

58. "PROPERLY SHREDDED GARBAGE" shall mean preparation, cooking, and dispensing of food that has been shredded to such a degree that all particles will be carried freely under the flow conditions normally prevailing in public sewers, with no particle greater than 1/2 (one-half) inch in any dimension.

59. "PUBLICLY OWNED TREATMENT WORKS" shall mean a treatment works as defined by Section 212 of The Clean Water Act (33 USC Section 1292) which is owned by the City of Brewer or Town of Orrington. This definition includes any devices or systems used in the collection, storage, treatment, recycling and reclamation of wastewater of a liquid nature and any conveyances which convey wastewater to a treatment plant.

60. "PUBLIC SEWER" shall mean a sewer in which all owners of abutting properties have equal rights and is controlled by public authority.
61. "SANITARY SEWER" shall mean a sewer which carries sewage and to which storm, surface and groundwater are not intentionally admitted.

62. "Sect." shall mean the section of any statute, rule, regulation or Ordinance to which it refers.

63. "SEPTAGE" shall mean any waste, refuse, effluent, sludge or other material removed from a septic tank, cesspool, vault privy or similar source which concentrates waste or to which chemicals have been added. Thus, wastes from portable or chemical toilets, septic tanks and multiple user systems having and filters or other treatment units shall be septage, not holding tank wastes.

64. "SEWAGE" shall mean human excrement and gray matter (household showers, dish washing operations, etc.).

65. "SEWAGE TREATMENT PLANT" shall mean any arrangement of devices and structures used for treating sewage.

66. "SEWAGE WORKS' shall mean all facilities for collecting, pumping, treating and disposing of sewage.

67. "SEWER" shall mean a pipe or conduit for carrying sewage.

68. "SEWER EXTENSION" shall mean the connection of any public or private sewer to the existing sewer system.

69. "SHALL" is mandatory; "MAY" is permissive.

70. "SHOW CAUSE MEETING" as used in this Ordinance is a formal meeting requiring the Industrial User to appear and demonstrate why the BWPCF should not take a proposed enforcement action against it. The meeting may also serve as a forum to discuss corrective actions and compliance schedules.

71. "SIGNIFICANT INDUSTRIAL USER or SIU" shall mean:

1. All discharges subject to categorical pretreatment standards;
2. All noncategorical discharges that, in the opinion of the Town of Orrington, or as defined by the City of Brewer, have a reasonable potential to adversely affect the BWWTP's operation;

3. All noncategorical discharges that contribute a process wastestream which makes up five percent (5%) or more of the average dry weather hydraulic or organic capacity of the POTW, or that discharge an average of 25,000 gallons per day or more of process wastewater to the sewer system;

4. All discharges that have the potential to violate any of the pretreatment standards or prohibitions.

72. "SIGNIFICANT NONCOMPLIANCE or SNC" shall mean when one or more of the following criteria is met:

Chronic violations of wastewater discharge limits in which sixty six percent (66%) or more of all the measurements taken during a six month period exceed (by any magnitude) the daily maximum limit or the average limit for the same pollutant parameter.

Technical Review Criteria (TRC) violations are those in which thirty three percent (33%) or more of all the measurements for each pollutant parameter taken during a six month period equal or exceed the product of the daily maximum limit or the average limit multiplied by the appropriate TRC (TRC = 1.4 for BOD, TSS, fats, oils, grease and 1.2 for all other parameters except pH).

Any other violation of the pretreatment effluent limit (daily maximum, or longer term average) that the determines has caused, alone or in combination with other discharges, interference or pass-through (including endangering the health of the Brewer Wastewater Treatment Facility personnel or the general public).

Any discharge of a pollutant that is harmful to health and welfare or the environment or has resulted in the Brewer Wastewater Treatment Facility exercising its emergency authority (under 40 CFR 403.8 (F) (2) (VI) (B)) to halt or prevent such a discharge.
Failure to meet, within 90 days after a schedule date, a compliance schedule milestone contained in the pretreatment permit or enforcement order for starting or completing construction or attaining full and final compliance.

Failure to provide, within 30 days of the due date, required reports such as Baseline Monitoring Reports (BMR), 90 day compliance progress reports, periodic self-monitoring reports, monthly reports, and compliance schedule reports.

Failure to report noncompliance accurately.

Any other violation or group of violations which the CEO determines will adversely affect the operations or implementation of the pretreatment program of either the Town or City of Brewer.

73. "SLUG" shall mean any discharge at a rate and/or concentration which causes interference with the sewage works.

74. "STANDARD INDUSTRIAL CLASSIFICATION CODE" shall mean a classification pursuant to the "Standard Industrial Classification Manual" issued from time to time by the United States Office of Management and Budget.

75. "STANDARD METHODS" shall mean the testing methods and techniques prescribed in 40 CFR Part 136, or if not found therein, other appropriate procedures approved by the EPA.

76. "STORM SEWER" shall mean a sewer which carries storm and surface waters and drainage, but excludes sewage and industrial wastes, other than unpolluted cooling water.

77. "SUPERINTENDENT" shall mean the Wastewater Treatment Plant Superintendent of the City of Brewer, or his authorized deputy, agent or representative.

78. "SUSPENDED SOLIDS" shall mean solids that either float on the surface of, or are in suspension in water, sewage or other liquids and which are removable by laboratory filtering.
79. "TOTAL TOXIC ORGANICS" TTO shall mean the summation of all quantitative values greater than 0.01 mg/l for the toxic organics listed in 40 CFR Sect. 413.02 (i).

80. "TOWN" shall mean the Town of Orrington.

81. "TOXIC POLLUTANT" shall mean one of 126 pollutants, or combination of those pollutants listed as toxic in regulations promulgated by the EPA pursuant to Section 307 (33 USC Sect. 1317 of The Act). This term also includes any pollutants that may be added to this promulgated list by amendment.

82. "UPSET" shall mean an exceptional incident in which a discharger is in a state of non-compliance with the Categorical Pretreatment Standards due to factors beyond the reasonable control of the discharger, and excluding non-compliance due to the extent cause by operations error, improperly designed treatment facilities, inadequate treatment facilities, lack of preventive maintenance, or careless or improper operation thereof.

83. "WASTEWATER" shall mean liquid and water-carried industrial wastes and domestic sewage from residential dwellings, commercial buildings, industrial and manufacturing facilities and institutions, weather-treated or untreated, which are contributed to the Town’s sewer system.

84. "WASTEWATER TREATMENT PLANT" shall mean any facilities owned by the Town of Orrington and used for receiving and treating wastewater or any downstream facilities in the City of Brewer used to accept and treat Orrington’s wastewater.

85. "WATERCOURSE" shall mean a channel in which a flow of water occurs, either continuously or intermittently.

If any word is not defined in this section, the common accepted definition of the word written within the context is used.
ARTICLE 2 - USE OF PUBLIC SEWERS REQUIRED

SECTION 201. UNLAWFUL DISCHARGE PROHIBITED

It shall be unlawful to discharge to any natural outlet within the Town of Orrington any sanitary wastewater, industrial wastes, or other polluted waters, except where suitable treatment has been provided in accordance with State and Federal Law and subsequent provisions of this Ordinance. It is not intended by this Section to prohibit the discharge of any sanitary wastewater into an existing sewer which discharges its sanitary wastewater into any natural outlet within the Town of Orrington if such discharge is allowed by the State of Maine regulatory agencies.

SECTION 202. SEWER USE REQUIRED

The owner of all houses, buildings or properties used for human occupancy, employment, recreation or other purpose for which toilet facilities may be required, situated within the Town and abutting on any street, alley or right-of-way in which a public sanitary sewer is located is hereby required at his expense to install suitable toilet facilities and to connect such facilities directly with the proper public sewer in accordance with Article 3, the provisions of this Ordinance within ninety days after date of official notice to do so, provided that said public sewer is within two hundred (200) feet of the buildings to be connected to the public sewer line, unless otherwise exempted by the Board of Selectmen. Exemptions will be made for properties at which an existing subsurface wastewater disposal system is already in service. Such exemptions must be renewed every five years and are revoked immediately upon malfunction of the subsurface wastewater disposal system.

The fact an exemption is granted shall not preclude the Town from assessing a benefit to the land and the Owner as a ready-to-serve fee for infrastructure availability.
ARTICLE 3 - PRIVATE SEWAGE DISPOSAL

SECTION 301. WASTEWATER DISPOSAL REQUIRED

Where a public sanitary or combined sewer is not available under the provisions of Article 2, Section 202, of this Ordinance, the building sewer shall be connected to a private wastewater disposal system complying with the provisions of this Article and State of Maine Plumbing Code, Part 2, Subsurface Wastewater Disposal Regulations.

SECTION 302. PERMIT REQUIRED

Before commencement of construction of a private wastewater disposal system, the owner shall first obtain a written permit signed by the CEO.

SECTION 302.1 PERMIT FEE REQUIRED

Any person, firm, corporation or other legal entity who shall commence any work for which a permit is required by this Ordinance without first having applied for a permit therefore shall pay double the permit fee fixed by this Ordinance for such work, provided, however, that this provision shall not apply to emergency work when it shall be proved to the satisfaction of the CEO, or his agent, that such work was urgently necessary and that it was not practical to apply for a permit therefore before the commencement of the work. Following the effective date of this subsection, any person, firm, corporation or other legal entity who commences work before applying for a permit shall not be subject to paying double the permit fee for the first time that such failure to apply occurs but instead shall be issued a verbal or written warning by the CEO, or his agent, that subsequent failures to apply for permits will result in the person, firm, corporation or other legal entity being subject to the payment of double the permit fee.

SECTION 302.2 COMPLIANCE WITH STATE REGULATIONS REQUIRED

The type, capacities, location, and layout of private sewage disposal systems shall comply with all requirements of the Maine Department of Human Services, and shall be in compliance with the State of Maine Plumbing Code, Part 2, Subsurface Wastewater Disposal Regulations, the Minimum Lot Size Law (12 M.R.S.A. Section, 4807 et seq.). No permit shall be issued for any private sewage disposal system employing subsurface soil absorption
facilities, unless it is a Lot of Record established before zoning and meets the requirements set forth in the State of Maine Plumbing Code. No septic tank or cesspool shall be permitted to discharge into any natural outlet.

SECTION 303. INSPECTION REQUIRED

A permit for a private wastewater disposal system shall not become effective until the installation is completed to the satisfaction of the CEO who shall be allowed to inspect the work at any stage of construction and, in any event, the applicant for the permit shall notify the CEO when the work is ready for final inspection, and before any underground portions are covered. The inspection shall be made during normal business hours within two (2) working days of the receipt of notice by the CEO.

SECTION 303.1 MINIMUM REQUIREMENTS

No building permit shall be issued for any building where a septic system is required unless the existing on-site native soil meets the requirements for a private sewerage disposal system as set forth in the State of Maine Plumbing Code.

SECTION 304. CONNECTION TO PUBLIC SEWER REQUIRED

At such time as a public sewer becomes available to a property served by a private wastewater disposal system, as provided in Section 202, of this Ordinance, a direct connection shall be made within ninety (90) days to the public sewer in compliance with this Ordinance, and any septic tanks, cesspools and similar private wastewater disposal facilities shall be abandoned and filled with clean bank-run gravel or dirt, unless otherwise exempted by the Board of Selectmen.

SECTION 305. OPERATION - MAINTENANCE REQUIRED

The owner shall operate and maintain the private wastewater disposal facilities in a sanitary manner at all times, at no expense to the Town.

SECTION 306. NUISANCE

The Town may require discontinuance of a septic tank or cesspool at such time that health officials, in accordance with applicable sections of the State of Maine Revised Statutes and Town Ordinances shall deem it a nuisance.
ARTICLE 4 - BUILDING SEWERS, CONNECTIONS AND EXTENSIONS

SECTION 401. PERMIT REQUIRED

No person shall uncover, make any connections or open into, use, alter or disturb any public sewer or appurtenance thereof, without first obtaining a written permit from the CEO or his agent.

SECTION 402. OWNER RESPONSIBILITY STATED

New installations, repairs and maintenance of the connection from the point outside the cellar wall where building installation according to the State Plumbing regulations ends, to the point of entrance to the Town sewer, shall be at the expense of the owner of the premises, subject to the rules and regulations of the Town in accordance with this Ordinance. The owner shall indemnify the Town for any loss or damage that may directly or indirectly be occasioned by the installation of the building sewer. All persons agree to abide by all rules and regulations set forth in this Ordinance. The Town retains the right to levy a sewer use charge to provide the revenue for operation and administration of the facilities.

SECTION 403. SEPARATE BUILDING SEWERS REQUIRED

A separate and independent building sewer shall be provided for every building, except where one building stands at the rear of another on an interior lot and no private sewer is available or can be constructed to the rear building through an adjoining alley, court, yard or driveway; the building sewer from the front building may be extended to the rear building and the whole considered as one building sewer.

SECTION 404. CONNECTION TEST REQUIRED

Old building sewers may be used in connection with new buildings only when they are found, on examination and test by the CEO, to meet all requirements of this Ordinance.

SECTION 405. PIPE SIZE - SLOPE SPECIFIED

The size and slope of the building sewer shall be subject to the approval of the CEO, but in no event shall the diameter be less than four inches. The slope of a four-inch pipe shall not be
less than one-quarter inch (1/4) per foot. The slope of a six-inch pipe shall not be less than one-eighth (1/8) inch per foot.

SECTION 406. BUILDING SEWER PLACEMENT SPECIFIED

Whenever possible, the sanitary sewer shall be brought to the building at an elevation below the basement floor. No building sanitary sewer shall be laid parallel to or within three (3) feet of any bearing wall except for the purposes of crossing a bearing wall. The depth shall be sufficient to afford protection from frost. The sanitary sewer shall be laid at uniform grade and in straight alignment in so far as possible. Change in direction shall be made only with properly curved pipe and fittings or manholes.

SECTION 407. DRAIN ELEVATION REQUIREMENTS SPECIFIED

In all buildings in which any building drain is too low to permit gravity flow to the public sewer, sanitary sewage carried by such drain shall be lifted by approved artificial means and discharged to the same building sewer.

SECTION 408. CONSTRUCTION TECHNIQUE SPECIFIED

All excavations required for the installation of a building sewer shall be open trench work unless otherwise approved by the CEO. Pipe laying and backfill shall be performed in accordance with American Standard Testing Materials specification (C12-72) except that no backfill shall be placed until the work has been inspected.

SECTION 409. CONSTRUCTION MATERIALS SPECIFIED

The building sewer shall be gasketed PVC, cast iron soil pipe, or other suitable material approved by the CEO. The quality and weight should conform to the specifications of the State Plumbing Code. All joints shall be tight and waterproof. Any part of the building sewer that is located within 10 feet of a water service pipe shall be constructed of gasketed PVC or other approved materials which may be required by the CEO. If installed in fill or unstable ground, the building sewer shall be of cast iron soil pipe, PVC, or other material approved by the State Plumbing Code.

SECTION 410. CONSTRUCTION METHODS SPECIFIED

All joints and connections shall be made with watertight gasketed pipe and fittings to minimize leakage of groundwater into the system.
SECTION 411. CONNECTION METHOD SPECIFIED

The connection of the building sewer into the public sewer shall be made at an existing wye or tee inlet branch, if such branch is available at a suitable location. When connecting a four (4) inch diameter building sewer to any public sewer eight (8) inches in diameter or less, a wye or tee branch must be installed. When connecting a six (6) inch diameter building sewer into any public sewer twelve (12) inches in diameter or less, a wye or tee must be installed. Such fittings shall be installed at the owner's expense and at the location specified by the CEO. Where the public sewer is greater than the maximum diameter for installation of a wye or tee as specified above and no properly located wye branch is available, a neat hole may be cut into the upper quadrant of the public sewer to receive the building sewer, with entry in the downstream direction at any angle of about forty-five (45) degrees. A proper sized wye or tee saddle is to be inserted in the hole so as not to extend past the inner surface of the public sewer. The invert of the building sewer at the point of connection shall be at the same or at a higher elevation than the invert of the public sewer. A smooth, neat joint shall be made, and the connection made secure and watertight by encasement in concrete. Special fittings may be used for the connection only when approved by the CEO.

SECTION 412. INSPECTION REQUIRED

(1) The applicant for the building sewer permit shall notify the CEO or their agent when the building sewer is ready for inspection and connection to the public sewer. (2) No portion of any building sewer extending from the building drain to the public sewer shall be covered without the approval of the CEO or their agent. (3) No public sewer shall be disturbed or broken into or connection made except under the supervision of the CEO. (4) The CEO or their agent shall be available to supervise and inspect the connection within two (2) business days after notification of readiness.

SECTION 413. EXCAVATION PROTECTION REQUIRED

All excavations for building sewer installation shall be adequately guarded with barricades and lights so as to protect the public from hazard. Streets, sidewalks, and other public property disturbed in the course of the work shall be restored in a manner satisfactory to the CEO.
SECTION 414. WINTER CONDITIONS

Except in case of emergency, no connections will be installed during winter conditions which will increase the cost of the work, unless payment of the extra expense above the ordinary cost is assumed by the owner or occupant.

SECTION 415. SEWER EXTENSIONS

All extensions of the Town’s sewer system, whether for a public or private sewer, will only be allowed by vote of the Board of Selectmen. The Board will authorize such extensions only after receipt of a written report from the Engineer outlining the engineering, feasibility and estimated cost of such proposed extension, as well as an assessment of the potential properties benefiting from such action.
ARTICLE 5 - USE OF THE PUBLIC SEWERS

SECTION 501. DISPOSED OF UNPOLLUTED WATERS PROHIBITED

No person shall discharge or cause to be discharged, any storm water, surface water, ground water, roof runoff, subsurface drainage, cooling water or unpolluted industrial process waters into any sanitary sewer.

SECTION 502. SUBSOIL DRAINAGE CONTROL

Where new subsoil drains are placed under the cellar floor or used to encircle the outer walls of a building, a separate drain must be provided. No subsoil drains shall be connected to the Town’s sewer system.

SECTION 503. DISCHARGE METHOD SPECIFIED

Storm water and all other unpolluted drainage shall be discharged to such sewers as are specifically designated as storm sewer, or to a natural outlet approved in writing by the CEO.

SECTION 504. DISCHARGE RESTRICTED

No person or corporation shall cause or allow any sewage, (including industrial waste) containing any substance which by the CEO or City of Brewer POTW Superintendent is deemed deleterious by reason of its composition, consistency, temperature or in any other respect, in the operation of the sewer system, to enter the system. No person shall discharge or cause or allow to be discharged into any sewer under the control of the Town, the following described substances, materials, waters or wastes if in the opinion of the CEO or City of Brewer POTW Superintendent, such substances, materials, water or wastes are in excessive amounts or concentrations. Persons who desire to discharge industrial wastewater into facilities of the POTW shall make their formal application to the City of Brewer WPCF Superintendent or his designee. In forming an opinion as to the limitations or acceptability of any wastes, the City of Brewer WPCF Superintendent or his designee will give consideration to such factors as the quantities of subject wastes in relation to flows and velocities in the sewers, materials of construction of the sewers, nature of the wastewater treatment process, degree of treatability of wastes, the facilities discharge permit, and other pertinent factors.
SECTION 505.  GENERAL PROHIBITIONS

No discharger or user shall introduce or cause to be introduced into the Town’s sewer system any pollutant or wastewater which causes pass-through or interference. These general prohibitions apply to all users of the sewer system whether or not they are subject to categorical pretreatment standards or any other federal, state, or local pretreatment standards or requirements.

SECTION 506.  SPECIFIC PROHIBITIONS

Any person wishing to discharge industrial waste shall only do so after he has entered into a permit with the City of Brewer WPCF Superintendent or his designee to discharge the industrial waste. Said permit shall contain adequate provisions to insure compliance with and prevent violations of any of the following at the time of the permit and in the future:

(a) Codes and Ordinances of the Town of Orrington;

(b) Industrial pretreatment regulations imposed upon Town by the City of Brewer;

(c) State and Federal laws;

(d) Rules and regulations issued pursuant to State and Federal laws;

(e) Discharge and emission licenses held by the City of Brewer, its subdivisions, districts or agencies.

Any person discharging industrial wastewater directly or indirectly into facilities of the Town that does not comply with this Ordinance may be subject to action by the Town, which action shall include, but not be limited to, the withdrawal of permission to discharge waste waters into facilities of the Town.

Any spill shall be reported immediately to the CEO and the City of Brewer WPCF Superintendent or his designee.

Any damages experienced by the Town as a result of a spill are considered a violation of this Ordinance and costs for repair, replacement of other associated costs are recoverable.

No discharger or user shall introduce or cause to be introduced into the Town’s sewer system the following pollutants, substances, or wastewater:
(a) Any wastewater containing toxic or poisonous liquids, gases, or solids in excessive quantity, either singly or by interaction with other wastes. Said toxic pollutants are defined in standards, issued from time to time under Section 307A of the Act.

(b) Any incompatible pollutant controlled by an industry in an amount or concentration in excess of that allowed under standards or guidelines issued from time to time pursuant to Sections 304, 306 and/or 307 of the Act.

(c) Any wastewater, liquid or vapor having a temperature higher than one hundred four (104°) F.

(d) Any wastewater containing caustic alkalinity, calculated as CaCO₃ (Calcium Carbonate) in excess of 75 parts per million by weight, or in volumes which may be excessive.

(e) Any wastewater having a ph lower than 5.0 or higher than 9.5 or having any other corrosive property capable of causing damage or hazard to sewers, structures, equipment process or personnel at the BWWTP.

(f) Any wastewater containing fats, wax, grease or oils, whether emulsified or not, in excess of one hundred (100) mg/L or containing substances which may solidify or become viscous at temperatures between thirty-two (32°) F and one hundred fifty (150°) F.

(g) Pollutants which create a fire or explosive hazard, including but not limited to, waste streams with a closed-cup flash point of less than one hundred forty (140°) F using the test methods specified in 40 CFR 261.21.

(h) Any solid or viscous substances in such quantities or of such size to be capable or causing obstruction to the flow in sewers, or other interference with the proper operation of the wastewater works such as, but not limited to, ashes, cinders, sand, mud, straw, shavings, metal, glass, rags, feathers, tar, plastics, wood, unground garbage, whole blood, paunch, manure, hair, fleshing, entrails, paper dishes, cups, mild container, etc., either whole or ground by garbage grinders.
(i) Any garbage that has not been "properly shredded" (See Article 1, Section 100.3, Definition "58" of this Ordinance).

(j) Any wastewater containing excessive amounts of iron, chromium, copper, zinc, mercury, mineral acid, and similar objectionable or toxic substances.

(k) Any wastewater containing phenols or other taste or odor producing substances in excessive amounts.

(l) Any radioactive wastes or isotopes in excessive amounts or such half-life or concentration as may exceed limits established in applicable State or Federal regulations.

(m) Any obnoxious or malodorous liquids, gases, solids or other wastewater which either singly or by interaction with other wastes, are sufficient to cause acute worker health and safety problems.

(n) Any wastewater containing:

(1) Materials which cause excessive discoloration (such as, but not limited to, dye wastes and vegetable tanning solutions).

(2) Materials with oxygen demanding pollutants or chlorine requirements when released in a discharge at a flow or pollutant concentration that will cause interference.

(3) Materials in such concentration as to constitute "slugs" as defined in Article 1, Section 100.3, Definition "73" of this Ordinance.

(4) Materials which are not amenable to treatment or reduction by the wastewater treatment processes employed, or are amenable to treatment only to such a limited degree that the wastewater treatment plant effluent cannot meet the requirements of other agencies having jurisdiction over discharge to the receiving waters.

(5) Septic tank solids.

(o) Medical wastes.
SECTION 507. DILUTION

No user shall ever increase the use of process water, or in any way attempt to dilute a discharge, as a partial or complete substitute for adequate treatment to achieve compliance with a discharge limitation unless expressly authorized by an applicable pretreatment standards or requirements. The City of Brewer WPCF Superintendent or his designee may impose mass limitations on users who are using dilution to meet applicable pretreatment standards or requirements, or in other cases when imposition of mass limitations is appropriate.

SECTION 508. INTERCEPTORS REQUIRED

Grease, oil and sand interceptors shall be provided when, in the opinion of the CEO, they are necessary for the proper handling of liquid wastes containing grease in excessive amounts, or any flammable wastes, sand and other harmful ingredients; except that such interceptors shall not be required for private living quarters or dwelling units. All interceptors shall be of a type and capacity approved by the CEO and shall be located as to be readily and easily accessible for cleaning and inspection.

Grease and oil interceptors shall be constructed of impervious materials capable of withstanding abrupt and extreme changes in temperature. They shall be of substantial construction, watertight, and equipped with easily removable covers which when bolted in place shall be gastight and watertight.

SECTION 509. INTERCEPTOR MAINTENANCE REQUIRED

Where installed, all grease, oil and sand interceptors shall be maintained by the owner, at his expense, in continuously efficient operation at all times.

SECTION 510. NOTIFICATION OF DISCHARGE CHANGE REQUIRED

The Town must be notified 45 days in advance by any person or persons involved in:

(1) proposed substantial change in volume or character of pollutants over that being discharged into the sewer system at the time of issuance of their permit.

(2) proposed new discharge into the treatment works of pollutants from any source which would be a new source
as defined in Section 306 of the Act if such source were discharging pollutants.

SECTION 511. CONTROL OF DISCHARGE REQUIRED

If any wastewaters are discharged, or are proposed to be discharged to the public sewers, containing excessive substances or possessing excessive characteristics, the Town may:

(a) Reject the wastewater or the wastes.

(b) Require that pretreatment of wastewater or wastes be provided to modify them to an acceptable condition for discharge to the public sewer, and/or

(c) Require control over the quantities and rates of discharge of the wastewater of the wastes, and/or

(d) Require payment to cover the added costs of handling and treating the wastes not covered by existing taxes or sewer charges.

(e) Take any appropriate enforcement action against an industrial user or user which violates the prohibitions of this Section.

SECTION 512. PRELIMINARY TREATMENT FACILITY MAINTENANCE REQUIRED

If the City of Brewer WPCF Superintendent or his designee permits the pretreatment or flow equalization of waste flows, the design and installation of the plant and equipment for such pretreatment or flow equalization shall be subject to the review and approval of the City of Brewer WPCF Superintendent or his designee and subject to the requirements of all applicable Town, State and federal codes, ordinances and laws. The Superintendent or his designee approval, if granted, shall not be deemed to relieve the discharger of its responsibility to comply with its wastewater discharge permit requirements and shall not constitute an acceptance of the adequacy of the pretreatment process equipment selected. Where preliminary treatment of flow equalizing facilities are provided for any wastewater or other wastes, they shall be maintained continuously in satisfactory and effective operation by the owner at the owner's expense.
SECTION 513. CONTROL MANHOLE REQUIRED

When required by the City of Brewer WPCF Superintendent or his designee, the owner of any property served by a building sewer carrying industrial wastes shall install a suitable control manhole in the building sewer to facilitate observation, sampling and measurement and monitoring of wastes. Such manhole, when required, shall be accessible and safely located, and shall be constructed in accordance with plans approved by the City of Brewer WPCF Superintendent or his designee. The manhole shall be installed by the owner at his expense and shall be maintained by him so as to be safe and accessible at all times.

SECTION 514. STANDARD ANALYSES METHODS REQUIRED

All measurements, tests and analyses of the characteristics of waters and wastes to which reference is made in this Ordinance shall be determined in accordance with the latest edition of "Standard Methods for the Examination of Water and Wastewater", Published by American Public Health Association, American Water Works Association and Water Environment Federation and shall be determined at the control manhole provided for in this Ordinance, or upon suitable samples taken. In the event that no special manhole has been required, the control manhole shall be considered to be the nearest downstream manhole in the public sewer to the point at which the building sewer is connected.

SECTION 515. APPLICANT AGREEMENT REQUIRED

All applications to discharge any industrial wastewater, drainage, substances or wastes directly into any sewer under the control of the Town, or tributary thereto, shall be accompanied by an agreement stating that the applicant agrees to abide by all ordinances and rules and regulations of the Town, that the applicant will provide such works for the preliminary treatment of the wastewater, drainage, substances or wastes as may be required by the Town, and that the applicant will permit duly authorized representative of the Town to enter the premises of the industry to sample and measure wastewaters, as needed, to check characteristics of the wastewaters, when so directed by the Town. Applications are to be accompanied by a plan showing essential characteristics of all wastewater outlets, analyses of existing wastewater, and statements as to existing and expected average and maximum wastewater flows, and must be submitted to and approved by the Town prior to initiating discharge into facilities of the Town.
SECTION 516. ANNUAL REPORT REQUIRED

Each industrial user may be required to submit an annual report on the first of July each year, or such other time as designated by the Town, to the Town containing information as to the minimum, average, and peak flows of industrial wastewater discharges during the previous year and at times designated by the Town accompanied by designated analyses of wastewater samples taken in an acceptable manner at approved times during the flow measuring periods.

SECTION 517. SPECIAL AGREEMENTS ALLOWED

No statement contained in this Article shall be construed as preventing any special agreement or agreement between the Town and any industrial concern whereby an industrial waste of unusual strength or character may be accepted by the Town for treatment, subject to payment therefore by the industrial concern.

SECTION 518. MONITORING STATION

Each industrial discharger may be required to provide and operate, at the discharger's expense, a monitoring facility to allow inspection, sampling and flow measurement of each sewer discharge to the Town’s sewers.

SECTION 519. LOCAL LIMITS

A. Users of the Town’s sewer system shall comply with any local limits established by the City of Brewer which may regulate the character or wastewaters acceptable for discharge or treatment to the BWPCF.

B. The Town may also impose its own local limits to protect its sewer system.

C. Limits for certain pollutants will be established to protect against pass-through or interference. No person shall discharge wastewater containing in excess of the instantaneous maximum allowable discharge limits as identified on the user's wastewater discharge permit. All discharge local limits shall be technically based and approved by the EPA.

D. Local limits may be set for the following pollutants: arsenic, barium, cadmium, chromium, copper, cyanide, lead, mercury, molybdenum, nickel, oil and grease and other
petroleum or mineral oil products, selenium, silver, TTO and zinc. This list may be amended or local limits may be developed for any other pollutants deemed appropriate, including pollutants that can cause pass through, interference, worker health and safety problems, fume toxicity, etc. The Town will provide advanced written notice of new local limits to users prior to initiating enforcement actions.

E. The discharge local limits must be met at the point where the user's wastewater is discharged to the Orrington’s Sewer System. All concentrations for metallic substances are for "total" metal unless otherwise indicated on the wastewater discharge permit. The CEO may impose mass limitations in addition to or in place of concentration-based limitations.

SECTION 520. TOWN’S RIGHT OF REVISION

The Town reserves the right to establish, by Ordinance or in wastewater discharge permits, more stringent standards or requirements on discharges to the sewer system.

SECTION 521. SPECIAL AGREEMENT

The Town with the approval from the City of Brewer’s Superintendent or his designee reserves the right to enter into special agreements with users setting out special terms under which they may discharge to the sewer system. In no case will a special agreement waive compliance with a pretreatment standard or requirement. However, the user may request a net gross adjustment to a categorical standard in accordance with 40 CFR Part 403.15. They may also request a variance from the categorical pretreatment standard from the Town. Such a request will be approved only if the user can prove the factors relating to its discharge are fundamentally different from the factors considered by the EPA when establishing that categorical pretreatment standard. A user requesting a fundamentally different factor variance must comply with the procedural and substantive provisions in 40 CFR Part 403.13. The Town is authorized to set appropriate fees or other charges for such agreements.

SECTION 522. PRETREATMENT FACILITIES

Users shall provide necessary wastewater pretreatment as required to comply with this Ordinance and shall achieve compliance with all categorical pretreatment standards, local limits, and the
prohibitions set out in this Ordinance within the time limitations specified by the EPA, the State, or the City of Brewer WPCF Superintendent or his designee, whichever is more stringent. Any facilities required to pretreat wastewater to a level acceptable to the Town shall be provided, operated, and maintained at the user's expense. Detailed plans showing the pretreatment facilities and operating procedures shall be submitted to the Town for review, and shall be approved by the Town before construction of the facility. The review of such plans and operating procedures will in no way relieve the user from the responsibility of modifying the facility as necessary to produce an acceptable discharge to the Town's sewer system under the provisions of this Ordinance.

SECTION 523. ACCIDENTAL DISCHARGE/SLUG CONTROL PLANS

The City of Brewer WPCF Superintendent or his designee may require any user to develop and implement an accidental discharge/slug control plan. At least once every two (2) years, the CEO and/or City of Brewer WPCF Superintendent or his designee shall evaluate whether each significant industrial user needs such a plan. Any user required to develop and implement an accidental discharge/control slug plan shall submit a plan which addresses, at a minimum, the following:

A. Description of discharge practices, including non-routine batch discharges;

B. Description of stored chemicals;

C. Procedures for immediately notifying the Town of any accidental or slug discharge. Such notification must also be given for any discharge which would violate any of prohibited discharges in this section of this Ordinance; and

D. Procedures to prevent adverse impact from any accidental or slug discharge. Such procedures include, but are not limited to, inspection and maintenance of storage areas, handling and transfer of materials, loading and unloading operations, control of plant site runoff, worker training, building of containment structures or equipment, measures of containing toxic organic pollutants (including solvents), and/or measures and equipment for emergency response.
ARTICLE 6 - INDUSTRIAL DISCHARGES

SECTION 601 - ORDINANCE COMPLIANCE REQUIRED

It shall be unlawful to discharge industrial wastes to any sewer within the Town or any sewer connecting to the Town's treatment facility without having first complied with the terms of this Ordinance.

SECTION 601.1

Industrial dischargers shall complete and file with the City of Brewer WPCF Superintendent or his designee an Industrial Survey Form prescribed by the City of Brewer WPCF Superintendent or his designee. Existing industrial dischargers shall file a survey form within thirty (30) days after being notified by the City of Brewer WPCF, and proposed new dischargers shall file a survey form at least ninety (90) days prior to connecting to the sewer system. The disclosure to be made by the discharger shall be made on written forms provided by the City of Brewer WPCF and shall cover:

(1) Disclosure of name, address and location of discharger.

(2) Disclosure of Standard Industrial Classification (SIC) number according to the Standard Industrial Classification Manual, Bureau of the Budget, 1972, as amended.

(3) Disclosure of known, or suspected to be present, wastewater constituents and characteristics including, but not limited to, those mentioned in this Ordinance. Any sampling or analysis that is required by the Town shall be performed in accordance with procedures established by the U.S. EPA and contained in 40 CFR Part 136, as amended. The costs of all such sampling shall be fully borne by the industrial discharger.

(4) Disclosure of time and duration of discharges.

(5) Disclosure of average daily and instantaneous peak wastewater flow rates, in gallons per day, including daily, monthly and seasonal variations, if any. All flows shall be measured unless other verifiable techniques are approved by the City of Brewer WPCF.
Superintendent or his designee due to cost or non-feasibility.

(6) Disclosure of site plans, floor plans, mechanical and plumbing plans and details to show all sewers, sewer connections, inspection manholes, sampling chambers and appurtenances by size, location and elevation.

(7) Description of activities, facilities, and plant processes on the premises including all material which are or may be discharged to the sewage works of the Town.

(8) Disclosure of the nature and concentration of any known or suspected pollutants or materials prohibited by this Ordinance if compliance is being achieved with this Ordinance on a consistent basis and, if not, whether additional operations and maintenance activities and/or additional pretreatment is required for the discharger to comply with this Ordinance.

(9) Disclosure of each product by type, amount, process or processes and rate of production.

(10) Disclosure of the type and amount of raw materials utilized (average and maximum per day).

(11) All disclosure forms and any periodic reports submitted by a discharger shall be signed by the principal executive officer of the discharger and shall contain the following certification:

"I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with system designed to assure that qualified personnel gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the systems, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."
(12) The City of Brewer WPCF Superintendent or his designee will evaluate the completed survey form and material safety data sheets furnished by the discharger and may require the discharger to furnish additional information. The discharger shall provide all requested additional information within fifteen (15) days after receiving notification from the City of Brewer WPCF Superintendent or his designee that additional information is required.

SECTION 602. INDUSTRIAL DISCHARGES - WASTEWATER DISCHARGE PERMITS

Every new or existing user of the Town's sewer system or treatment plant who is determined to be a "categorical user" or "significant industrial user" as defined in Article 1, Section 100.3, of this Ordinance is required to obtain a wastewater discharge permit from the City of Brewer WPCF Superintendent or his designee. Failure to obtain a permit required under this section shall be a civil offense, and shall be punished by a fine not to exceed $2,500 per day from the date the discharger receives notice or becomes aware of the permit requirement, to be recovered by the City of Brewer upon complaint and provided that any repeat offense by the same user, shall be punished by a fine not to exceed $25,000 per day.

SECTION 602.1 SPECIAL LICENSES FOR CERTAIN NON-INDUSTRIAL USERS

The City of Brewer WPCF Superintendent or his designee may require special license, disclosure and reporting requirements for non-industrial dischargers of high strength conventional waste as defined in Article 1 of this Chapter, distinct from the requirements imposed on industrial dischargers under this Section. In addition, non-industrial dischargers of high strength conventional waste, whether or not licensed, may be subject to surcharges on their regular sewer charges for any discharge that results in "excessive loading", as defined in Article 1 of this Ordinance.

SECTION 602.2 PERMIT PROVISIONS

Wastewater discharge permits shall be expressly subject to all provisions of this Ordinance and all other regulations, user charges and fees established by the Board of Selectmen. The conditions of the wastewater discharge permits shall be uniformly enforced in accordance with Article 6 of this Ordinance, and applicable State and Federal regulations.
SECTION 602.3 EFFlUENT RESTRICTIONS

Wastewater discharge permits may impose effluent restrictions or limits on the discharger if the City of Brewer WPCF Superintendent or his designee determines that such limits are necessary to protect the quality of the treatment plant influent, effluent, or sludge, or to maintain compliance with any applicable Federal or State law including requirements under the BWPCF NPDES permit and national categorical pretreatment standards for new and existing sources currently set out in 40 CFR Subpart N Section 401-471.

SECTION 602.4 PERMIT DURATION

Permits shall be issued for a specified time period, not to exceed five (5) years. A permit may be issued for a period of less than one (1) year, or may be stated to expire on a specified date. The terms and conditions of the permit may be subject to modification and change by the City of Brewer WPCF Superintendent or his designee during the life of the permit, as limitations or requirements are modified and changed. The user should be informed of any proposed changes in their permit at least forty-five (45) days prior to the effective date of change. Any change or new conditions in the permit shall include a reasonable time schedule for compliance.

SECTION 602.5 DESIGNATED PERMITTEE

Wastewater discharge permits are issued to a specific operation. A wastewater discharge permit shall not be reassigned or transferred or sold to a new owner or a new user, different premises, or a new or changed operation. To facilitate the issuance of new, separate permits, the City of Brewer WPCF Superintendent or his designee may allow new owners or individuals to operate under an existing wastewater discharge permit for a time period not to exceed ninety (90) days.

SECTION 602.6 PERMIT CONDITIONS

Wastewater discharge permits shall include such conditions as are reasonably deemed necessary by the City of Brewer WPCF Superintendent or his designee to prevent pass-through or interference, protect the quality of the water body receiving the treatment plant's effluent, protect worker health and safety,
facilitate sludge management and disposal, and protect against damage to the BWPCF of Town’s sewerage system.

A. Wastewater discharge permits shall contain the following conditions:

(1) A statement that indicates that the wastewater discharge permit duration;

(2) A statement that indicates the wastewater discharge permit is non-transferable pursuant to Article 6 of this Ordinance, and a provision requiring any new owner or operator to be furnished with a copy of the existing wastewater discharge permit by the prior user;

(3) Pretreatment standards and effluent limits based on the general and specific prohibited discharge standards, local limits, and all applicable laws.

(4) Self-monitoring, sampling, reporting, notification, and record-keeping requirements. These requirements shall include a sampling frequency and sample type based on Federal, State and local law;

(5) A statement of applicable penalties for violation of pretreatment standards and requirements, and any required compliance schedule. Such schedule may not extend the time for compliance beyond that required by Federal, State or local law; and

(6) Other specific conditions the City of Brewer WPCF Superintendent or his designee deems necessary to ensure compliance with this Ordinance, and federal and state regulations and statutes.

B. Wastewater discharge permits may contain, but need not be limited to, the following conditions:

(1) Limits on the average and/or maximum rate of discharge, time of discharge, and/or requirements for flow regulation and flow-equalization;

(2) Limits on the instantaneous, daily and monthly average, and/or maximum concentration, mass, or
other measure of identified wastewater pollutants or properties;

(3) Requirements for the installation of pretreatment technology, pollution control, or construction of appropriate containment devices, any of which would be designed to reduce, eliminate, or prevent the introduction of pollutants into the sewer system.

(4) Requirements for the development and implementation of spill control plans or other special conditions including management practices necessary to adequately prevent accidental, unanticipated, or routine discharge;

(5) Development and implementation of waste minimization plans to reduce the amount of pollutants discharged to the sewer system by the user;

(6) The unit charge or schedule of user charges and fees for the management of the user's wastewater discharged to the sewer system;

(7) Requirements for the installation and maintenance of inspection and sampling facilities and equipment;

(8) A statement that compliance with the wastewater discharge permit does not relieve the permittee of responsibility for compliance with all applicable Federal and State pretreatment standards, including those which become effective during the term of the wastewater discharge permit;

(9) Identification by the user of the location of the user's outfall to the sewer system.

(10) Other specific conditions the City of Brewer WPCF Superintendent or his designee deems necessary to ensure compliance with this Ordinance and Federal and State regulations and statutes.

SECTION 602.7 PETITIONS AND APPEALS
Any aggrieved person, including the user, may file a Petition with the City of Brewer WPCF Superintendent or his designee in writing to reconsider the terms of a wastewater discharge permit or the denial of a wastewater discharge permit application within 15 days of the permit's issuance or notification of the City of Brewer WPCF Superintendent or his designee's denial.

A. Failure to submit a timely Petition for review shall be deemed to be a waiver of any administrative appeal.

B. In its petition, the petitioner must indicate the wastewater discharge permit provisions objected to, the reasons for this objection, and the alternative condition, if any, it seeks to place in the wastewater discharge permit. A petitioner seeking review of a permit denial must specifically allege reasons why a permit should be issued, along with conditions of issuance that petitioner believes should satisfy any concerns the City of Brewer WPCF Superintendent or his designee may have about the suitability of the users' wastewater for discharge to the Town’s sewer system.

C. The requirements or conditions of any wastewater discharge permit shall not be stayed by the City of Brewer WPCF Superintendent or his designee pending the outcome of the administrative appeal.

D. Upon receipt of the Petition, the City of Brewer WPCF Superintendent or his designee may act to grant the petitioner's request. Said action must take place within 14 days of receipt of the petition. If the City of Brewer WPCF Superintendent or his designee refuses to grant the petitioner's request, however, the City of Brewer WPCF Superintendent or his designee shall notify, in writing, the Town’s Board of Selectmen having oversight responsibility for the operation of the Town’s sewer system. The Board of Selectmen shall schedule an administrative hearing, which shall be recorded, within 30 days of notification by the City of Brewer WPCF Superintendent or his designee or as soon thereafter as may be arranged. The Board of Selectmen shall conduct the hearing so as to develop an adequate administrative record and the Board of Selectmen may choose to limit the asking of questions to the members of the Board only. The petitioner will bear the burden of proof at the hearing and will present its case first. The Board of Selectmen shall issue its decision
in writing within 45 days of the hearing. The provisions of this Ordinance must guide the Board of Selectmen’s decision. Failure by the Board to issue a decision within that time period shall constitute a denial of the administrative appeal, however, the record of the administrative hearing, including any exhibits, shall be made a part of any further judicial reviews. Board of Selectmen decisions not to reconsider a wastewater discharge permit, not to issue a wastewater discharge permit, not to modify a wastewater discharge permit or to issue a modified wastewater discharge permit shall be considered final administrative actions for purposes of judicial review.

E. Parties seeking judicial review of the final administrative action must do so by filing a complaint with the Penobscot County Superior Court pursuant to M.R.Civ.P. 80B within Thirty (30) days after notification of denial or from failure to act.

SECTION 602.8 MODIFICATIONS

The City of Brewer WPCF Superintendent or his designee may modify at any time the wastewater discharge permit for good cause including, but not limited to, the following:

A. To incorporate any new or revised Federal, State, or local pretreatment standards or requirements;

B. To address significant alterations or additions to the user's operation, processes, or wastewater volume or character since the issuance of the wastewater discharge permit;

C. A change in the BWWTP that requires either a temporary or permanent reduction or elimination of the authorized discharge;

D. Information is received by the City of Brewer WPCF Superintendent or his designee indicating that the permitted discharge poses a threat to the Town’s sewers or the City of Brewer’s sewers or treatment plant, or the receiving waters;

E. Violation of any terms or conditions of the wastewater discharge permit;
F. Misrepresentations or failure to fully disclose all relevant facts in the wastewater survey form, wastewater discharge permit application or in any other required reporting;

G. Revision of, or a grant of a variance from, categorical pretreatment standards pursuant to 40 CFR Part 403.1; and

H. To correct typographical or other errors or omissions in the wastewater discharge permit.

Challenges to any such modifications can be made pursuant to the provisions of this Ordinance.

SECTION 602.9 VIOLATIONS

Any user who violates any condition of its permit, or of this Ordinance, or of applicable State and Federal statute and regulations, may have its permit revoked by the City of Brewer WPCF Superintendent or his designee or CEO. Violations subjecting a user to possible revocation of its permit include, but are not limited to, the following:

A. Failure of a user to accurately report the wastewater constituents and characteristics of its discharge;

B. Failure of a user to report significant changes in operations or its wastewater constituents and characteristics;

C. Refusal of reasonable access by the City of Brewer WPCF Superintendent or his designee to the user's premises during regular business hours for the purpose of inspection or monitoring;

D. Violations of the conditions of the permit;

E. Failure to provide advance notice of the transfer of the ownership of a permitted user;

F. Misrepresentation or failure to fully disclose all relevant facts in the wastewater discharge permit application, any required wastewater surveys or other required reporting;
G. Falsifying monitoring reports or tampering with monitoring equipment;

H. Failure to pay surcharges, user fees, permit fees, fines or other required payments; or

I. Failure to meet the requirements of a compliance schedule.

J. Denial by City of Brewer to accept waste characterization of user provided that such denial is reasonably based with cause upon the provisions of this Ordinance or on provisions of applicable City of Brewer, State, or Federal regulations.

SECTION 603. COMPLIANCE SCHEDULES

Where additional pretreatment and/or operation and maintenance activities will be required to comply with this Ordinance, the discharger shall provide a declaration of the shortest schedule by which the discharger will provide such additional pretreatment and/or implementation of additional operational and maintenance activities.

SECTION 603.1 TIME LIMITATION

Under no circumstances shall the City of Brewer WPCF Superintendent or his designee permit a time increment for any single step directed toward compliance which exceeds nine (9) months.

SECTION 603.2 PROGRESS REPORTS

No later than fourteen (14) days following each milestone date in the schedule and the final date for compliance, the discharger shall submit a progress report to the City of Brewer WPCF Superintendent or his designee including no less than a statement as to whether or not it has complied with the increment of progress represented by that milestone date and, if not, the date at which it expects to comply, the reason for the delay, and the steps being taken by the discharger to return the construction to the approved schedule. In no event shall more than nine (9) months elapse between such progress reports to the City of Brewer WPCF Superintendent or his designee. Progress reports may be required every thirty days if, in the opinion of the City of Brewer WPCF Superintendent or his designee, such reports are necessary.
SECTION 604. REPORTING REQUIREMENTS

604.1 Baseline Monitoring Reports

A. Within either one hundred and eighty (180) days after the effective date of a categorical pretreatment standard, or the final administrative decision on a category determination under 40 CFR Part 403.6 (a)(4), whichever is later, existing categorical users currently discharging to or scheduled to discharge to the Town’s sewers shall be required to submit to the City of Brewer WPCF Superintendent or his designee a report which contains the information listed in paragraph B, below. At least ninety (90) days prior to commencement of their discharge, new sources and sources that become categorical users subsequent to the promulgation of an applicable categorical standard, shall be required to submit to the City of Brewer WPCF Superintendent or his designee a report which contains the information listed in paragraph B, below. A new source shall also give estimates of its anticipated flow and quantity of pollutants discharged.

B. Users described in paragraph A above shall submit the information set forth below:

(1) The name and address of the facility, including the name of the operator and owner.

(2) A list of any environmental control permits held by or for the facility.

(3) A brief description of the nature, average rate of production, and SIC of the operation(s) carried out by such user. This description should include a schematic process diagram which indicates points of discharge to the Town’s sewers from the regulated processes.

(4) Information showing the measured average daily and maximum daily flow, in gallons per day, to the Town’s sewers from regulated process streams and other streams, as necessary, to allow use of the
combined wastestream formula set out in 40 CFR Part 403.6 (e).

(5) A. The categorical pretreatment standards applicable to each regulated process.

B. The results of sampling and analysis identifying the nature and concentration, and/or mass where required by the standard or by the Town, of regulated pollutants in the discharge from each regulated process. Instantaneous, daily maximum, and long term average concentrations or mass, where required, shall be reported. The sample shall be representative of daily operations and shall be sampled and analyzed in accordance with the provisions of Article 6 of this Ordinance.

(6) A statement, reviewed by the user's authorized representative and certified by a qualified professional, indicating whether pretreatment standards are being met on a consistent basis, and if not, whether additional Operation & Maintenance measurers and/or pretreatment is required to meet the pretreatment standards and requirements.

(7) If additional pretreatment and/or Operation & Maintenance measurers will be required to meet the pretreatment standards, the shortest schedule by which the user will provide such additional pretreatment and/or Operation & Maintenance measurers. The completion date in this schedule shall not be later than the compliance date established for the applicable pretreatment standard. A compliance schedule pursuant to this section must meet the requirements set out in Article 6, Section 603 of this Ordinance.

(8) All baseline monitoring reports must be signed and certified in accordance with of this Ordinance.

SECTION 604.2 Compliance Schedule Progress Report

The requirements imposed by Article 6, of this Ordinance shall apply to the compliance schedule required by of this Ordinance.
SECTION 604.3 Report on Compliance with Categorical Pretreatment Standard Deadline

Within ninety (90) days following the date for final compliance with applicable categorical pretreatment standards, or in the case of a new source following commencement of the introduction of wastewater into the Town’s sewers, any user subject to such pretreatment standards and requirements shall submit to the City of Brewer WPCF Superintendent or his designee a report containing the information described in Article 6 of this Ordinance. For users subject to equivalent mass or concentration limits established in accordance with the procedures in 40 CFR Part 403.6 (c), this report shall contain a reasonable measure of the user's long-term production rate. For all other users subject to categorical pretreatment standards expressed in terms of allowable pollutant discharge per unit of production or other measure of operation, this report shall include the user's actual production during the appropriate sampling period. All compliance reports must be signed and certified in accordance with of this Ordinance.

SECTION 604.4 Periodic Compliance Reports

A. All significant industrial user(s) shall, at a frequency determined by the City of Brewer WPCF Superintendent or his designee, but in no case less than twice per year in June and December, submit a report indicating the nature and concentration of pollutants in the discharge which are limited by pretreatment standards and the measured or estimated average and maximum daily flows for the reporting period. All periodic compliance reports must be signed and certified in accordance with of this Ordinance.

B. All wastewater samples must be representative of the user's discharge. Wastewater monitoring and flow measurement facilities shall be properly operated, kept clean, and maintained in good working order at all times. The failure of a user to keep its monitoring facility in good working order shall not be grounds for the user to claim that sample results are unrepresentative of its discharge.

C. If a user subject to the reporting requirement in this section monitors any pollutant more frequently than required, using the analytical requirements and sampling procedures prescribed in Article 6 of this Ordinance, the results of this monitoring shall be included in the report.
SECTION 604.5  Report of Changed Conditions

Each user must notify the City of Brewer WPCF Superintendent or his designee of any planned significant changes to the user's operations or process systems which might alter the nature, quality or volume of its wastewater at least sixty (60) days before the change.

A. The City of Brewer WPCF Superintendent or his designee may require the user to submit such information as may be deemed necessary to evaluate the changed condition, including the submission of a wastewater discharge permit application under Article 6, Section 602 of this Ordinance.

B. The City of Brewer WPCF Superintendent or his designee may issue a wastewater discharge permit under Article 6 of this Ordinance or modify an existing wastewater discharge permit under Article 6 of this Ordinance in response to changed conditions or anticipated changed conditions.

C. No user shall implement the planned changed conditions(s) until and unless the City of Brewer WPCF Superintendent or his designee has responded in writing to the user's notice.

D. For purposes of this subsection, significant changes include, but are not limited to, flow increases of ten percent (10%) or greater, and the discharge of any previous unreported pollutants.

SECTION 604.6  Reports of Potential Problems

A. In the case of any discharge, including, but not limited to, hazardous waste discharges, accidental discharges, discharges of a non-routine or episodic nature, a non-customary batch discharge, or a slug load, that may cause potential problems for the sewer system or BWPCF, the user shall immediately telephone and notify the City of Brewer WPCF Superintendent or his designee of the incident. This notification shall include the location of the discharge, type of waste, concentration and volume, if known, and corrective actions taken by the user.

B. Within five (5) days following such a discharge, the user shall submit a detailed written report describing the cause(s) of the discharge and the measures to be taken by the user to prevent similar future occurrences. Such notification shall not relieve the user of any expense,
loss, damage or other liability which may be incurred as a result of damage to the sewer system or BWWTP, natural resources or other damage to person or property; nor shall such notification relieve the user of any fines, penalties or other liability which may be imposed pursuant to this Ordinance.

C. A notice shall be permanently posted on the user's bulletin board or other prominent place advising employees whom to call in the event of a discharge described in paragraph A above. Employers shall ensure that all employees, who may cause such a discharge to occur, are advised of the emergency notification procedure.

SECTION 604.7 Notification of the Discharge of Hazardous Waste

In addition to all other requirements of this Ordinance, any user who commences to discharge into the sewer system a substance which, if otherwise disposed of, would be a hazardous waste under 40 CFR Part 261, shall notify the City of Brewer WPCF Superintendent or his designee, the EPA Regional Waste Management Division Director and Maine hazardous waste authorities, in writing, within five (5) days of the discharge, of any such discharge. Such notification must include the name of the hazardous waste as set forth in 40 CFR Part 261, the EPA hazardous waste number, the type of discharge (continuous, batch or other) and the user's plan to avoid future discharges of the same or other hazardous waste. Such notification shall not relieve the user of any expense, loss, damage or other liability which may be incurred as a result of damage to the sewer system, BWPCF, natural resources or other damage to person or property; nor shall such notification relieve the user of any fines, penalties or other liability which may be imposed pursuant to this Ordinance.

SECTION 604.8 Notice of Violation/Repeat Sampling and Reporting

If sampling performed by a user indicates a violation, the user must notify the City of Brewer WPCF Superintendent or his designee within twenty four (24) hours of becoming aware of the violation. The user shall also repeat the sampling and analysis and submit the results of the repeat analysis to the City of Brewer WPCF Superintendent or his designee within thirty (30) days after becoming aware of the violation.

SECTION 604.9 Analytical Requirements
All pollutant analyses, including sampling techniques, to be submitted as part of a wastewater discharge permit application or a report required by this Ordinance shall be performed in accordance with the techniques prescribed in 40 CFR Part 136, unless otherwise specified in an applicable categorical pretreatment standard. If 40 CFR Part 136 does not contain sampling or analytical techniques for the pollutant in question, sampling and analyses must be performed in accordance with appropriate procedures approved by the EPA.

SECTION 604.10 Sample Collection

A. Except as indicated in paragraph B below, the user must collect wastewater samples using flow proportional composite collection techniques. In the event flow proportional sampling is unfeasible, the City of Brewer WPCF Superintendent or his designee may authorize the use of time proportional sampling or appropriate grab samples where the user demonstrates that this will provide a representative sample of the effluent being discharged. In addition, grab samples may be required to show compliance with instantaneous discharge limits.

B. Samples for oil and grease, temperature, pH, cyanide, phenols, toxicity, sulfides, and volatile organic chemicals must be obtained using grab sample collection techniques.

SECTION 604.11 Determination of Noncompliance

The City of Brewer WPCF Superintendent or his designee will use appropriate sampling to determine noncompliance with pretreatment standards, including the use of standard methods.

SECTION 604.12 Timing

Written reports will be deemed to have been submitted on the date postmarked. For reports which are not mailed, postage prepaid, into a mail facility serviced by the United States Postal Service, the date of receipt of the report shall control.

SECTION 604.13 Record Keeping

Users subject to the reporting requirements of this Ordinance shall retain and make available for inspection and copying all records or information obtained pursuant to any monitoring activities required by this Ordinance and any additional records or information obtained pursuant to monitoring activities
undertaken by the user independent of such requirements. Records shall include, but not be limited to, the date, exact place, method, and time of sampling and the name of the person(s) taking the samples; the dates analyses were performed; who performed the analyses; the analytical techniques or methods used; and the results of such analyses. These records shall be retained by the user for a period of at least three (3) years. This period shall be automatically extended for the duration of any litigation concerning the user or the Town, or where the user has been specifically notified of a longer retention period by the City of Brewer WPCF Superintendent or his designee.

SECTION 604.14 State Requirements

State requirements and limitations on discharges to the sewer system shall be met by all users which are subject to such requirements and limitations, provided, however, that such requirements and limitations are more stringent than the provisions of this Ordinance or Federal law requirements or limitations.

SECTION 604.15 Reports from Unpermitted Users

All users not required to obtain a wastewater discharge permit shall provide appropriate reports to the City of Brewer WPCF upon the request of the City of Brewer WPCF Superintendent or his designee.

SECTION 605. COMPLIANCE MONITORING

SECTION 605.1 Inspection and Sampling

The City of Brewer WPCF Superintendent or his designee shall have the right to enter the facilities of any user to ascertain whether the purpose of this Ordinance, and any permit or order issued hereunder, is being met and whether the user is complying with all requirements thereof. All users shall allow the City of Brewer WPCF Superintendent or his designee ready access to all parts of the premises for the purpose of inspection, sampling, records examination and copying, and the performance of any additional duties as the City of Brewer WPCF Superintendent or his designee deems necessary.

A. Each user shall provide and operate at its own expense a monitoring facility to allow inspection, sampling, and flow measurement of the user's wastewater discharge to the Town's sewers.
B. Where a user has security measures in force which require proper identification and clearance before entry into its premises, the user shall make necessary arrangements with its security guards so that upon presentation of suitable identification, the City of Brewer WPCF Superintendent or his designee will be permitted to enter without delay for the purposes of performing compliance monitoring.

C. The City of Brewer WPCF Superintendent or his designee shall have the right to set up on the user's property, or require installation of, such devices as are necessary to conduct sampling and/or metering of the user's operations. The user shall bear the costs of such setup or installation.

D. The City of Brewer WPCF Superintendent or his designee shall require the user to install monitoring equipment as the City of Brewer WPCF Superintendent or his designee deems necessary. The user's sampling and monitoring equipment shall be maintained at all times in a safe and proper operating condition by the user at its own expense. All devices used to measure wastewater flow and quality shall be calibrated quarterly (4 times per year) to ensure their accuracy.

E. Any temporary or permanent obstruction to the safe and easy access to the facility to be inspected and/or sampled shall be promptly removed by the user at the written or verbal request of the CEO and the obstruction shall not be replaced. The costs of clearing such access shall be born by the user.

F. Unreasonable delays in allowing the City of Brewer WPCF Superintendent or his designee access to the user's premises shall be a violation of this Ordinance.

G. In the event that user is in, or has previously been in, noncompliance with this Ordinance or with the user's wastewater discharge permit, the user shall be required to pay the full cost of all additional sampling and analysis that the City of Brewer WPCF Superintendent or his designee may conduct to determine the user's compliance with this Ordinance.
H. All monitoring facilities shall be constructed and maintained in accordance with all applicable construction codes, standards or specifications. Construction, if required, shall be completed within one hundred twenty (120) days of receipt of the wastewater discharge permit by the user.

SECTION 605.2 Administrative Inspection Warrants

If the City of Brewer WPCF Superintendent or his designee has been refused access to any building, structure or property, or any part thereof, for the purpose of inspecting, sampling or otherwise monitoring compliance with this Ordinance, the City of Brewer WPCF Superintendent or his designee shall seek to secure an administrative inspection warrant pursuant to M.R.Civ.P. 80E. The warrant, if issued by the District Court, shall be executed pursuant to M.R.Civ.P. 80E and the City of Brewer WPCF Superintendent or his designee shall be accompanied by a uniformed police officer during said execution. The cost of attorney and legal fees that the BWPCF occurs during this process will be absorbed by the Industrial User.

SECTION 605.3 TESTING PROTOCOL

All measurements, tests and analyses of the characteristics of waters and wastes to which reference is made in this Ordinance shall be made in accordance with analytical procedures specified by the U.S. EPA as currently set out in 40 CFR Part 136, and shall be determined at the control manhole. In the event that no special manhole has been required, the control manhole shall be considered to be the nearest point at which the building sewer is connected. Sampling shall be carried out by customarily accepted methods to reflect the effect of constituents upon the sewage works and to determine the existence of hazards to life, limb, and property. (The particular analyses involved will determine whether a twenty-four or whether a grab sample or samples should be taken. Normally, but not always, BOD and TSS analyses are obtained from a 24-hour composite of all outfalls whereas pH's are determined from periodic grab samples).

SECTION 606. NATIONAL PRETREATMENT STANDARDS

National Categorical Pretreatment Standards as promulgated by the U.S. EPA pursuant to the Act shall be met by all dischargers. An application for modification of the National Categorical Pretreatment Standards may be submitted to the Regional Administrator by the City of Brewer WPCF Superintendent or his
designee when the City of Brewer's wastewater treatment system achieves consistent removal of the pollutants as defined by 40 CFR Section 403.7.

SECTION 606.1 REPORTS

Any discharger subject to the National Categorical Pretreatment Standards as defined in Article 1 of this Chapter, after compliance date of such National Categorical Pretreatment Standard, or, in the case of a new discharger, after commencement of the discharge to the sewer system shall submit to the City of Brewer WPCF Superintendent or his designee during the months of June and December of each year, unless required more frequently by the BWPCF or the U.S. EPA, a report indicating the nature and concentrations of known or suspected prohibited and/or regulated substances in the effluent which are limited by the National Categorical Pretreatment Standards. Such reports shall be signed by the principal executive officer of the discharger, and shall contain the certification required in Article 6 this Ordinance. In addition, such reports shall include a record of all measured or estimated average and daily maximum flows, BOD and TSS loadings during the reporting period.

SECTION 607. CONFIDENTIAL INFORMATION

Information and data on a user obtained from reports, surveys, wastewater discharge permit and monitoring programs, and from the BWPCF's inspection and sampling activities, shall be available to the public without restriction, unless the user specifically requests, and is able to demonstrate to the satisfaction of the BWPCF, that the release of such information would divulge information, processes or methods of production entitled to protection as trade secrets or proprietary information of the user under applicable State law. When requested and demonstrated by the user furnishing a report that such information should be held confidential, the portions of a report which might disclose such confidential information shall not be made available for inspection by the public, unless ordered by a court of competent jurisdiction, but shall be made available immediately upon request to State and Federal governmental agencies for uses related to the NPDES program or pretreatment program, and in enforcement proceedings involving the person furnishing the report. Wastewater constituents and characteristics and other "effluent data" as defined by 40 CFR Part 2.302 will not be
recognized as confidential information and will be available to the public without restriction.

SECTION 608. SPECIAL AGREEMENTS

No statement contained in this Ordinance shall be construed as preventing any special agreement or arrangements between the Town, BWPCF, and any industrial concern whereby an industrial waste of unusual strength or character may be accepted by the Town, and BWPCF, for treatment, subject to the payment thereof, by the industrial concern, provided that such arrangements do not contravene any requirements of existing Federal laws or regulations, including the Town's interjurisdictional agreement with the City of Brewer permit requirements, and are compatible with any user charge and industrial cost recovery system in effect.

SECTION 609. PUBLICATION OF USERS IN SIGNIFICANT NONCOMPLIANCE

The Town shall publish annually, in the largest daily newspaper published in the Town, a list of the users, which, during the previous calendar year, were in significant noncompliance with applicable pretreatment standards and requirements. The term Significant Noncompliance shall be as defined in Article 1 of this Ordinance.

SECTION 610. CALCULATED TECHNICALLY BASED LOCAL LIMITS FOR INDUSTRIAL DISCHARGERS

Calculated Technically Based Local Limits, as defined in 40 CFR 403.5 (c), as developed and promulgated by the Brewer Wastewater Treatment Facility in cooperation with the Town of Orrington, shall be met by all Industrial Dischargers of wastewater into the Town of Orrington Sewer System.

Failure to meet these limits may result in a fine up to $1000.00 per day, one year in jail, or both.

The Local Limit Parameters and Maximum Daily Limit are as listed below.
The purpose of development and implementation of local limits is to control conventional, non-conventional, and toxic pollutant discharges from non-domestic industrial users, (IUs) to the Town of Orrington sewer system and Brewer Wastewater Treatment Facility. Discharges targeted for regulation include those that will interfere with the operation of the Wastewater Treatment Facility, sludge use or disposal, and cause pass-through or interference. In short, Development of Technically Based Local Limits establish Enforceable local requirements developed by the Town of Orrington to address Federal Standards as well as State and Local regulations.

Local Limits development requires the Town to use site-specific data to identify pollutants of concern which might reasonably be expected to be discharged in quantities sufficient to cause treatment plant or environmental difficulties. The Town of Orrington in cooperation with the City of Brewer’s Wastewater Treatment Facility has decided to select, as a technical approach for limit development the "Allowable Headwork’s Loading Method". In this procedure, the BWWTP Wastewater Treatment Facility will convert environmental and plant protection criteria into maximum allowable headwork’s loading that, if received, would still enable the Wastewater Treatment to meet environmental limits and avoid plant interference.

\[
\begin{array}{|l|c|}
\hline
\text{Parameter} & \text{Maximum Daily Limit (mg/L)} \\
\hline
\text{Arsenic} & 0.10 \\
\text{Cadmium} & 0.14 \\
\text{Chromium} & 1.31 \\
\text{Copper} & 0.62 \\
\text{Cyanide} & 0.25 \\
\text{Lead} & 0.26 \\
\text{Mercury} & 0.02 \\
\text{Nickel} & 2.59 \\
\text{Silver} & 0.42 \\
\text{Zinc} & 0.69 \\
\text{Selenium} & 0.25 \\
\hline
\end{array}
\]
ARTICLE 7 - OPERATION OF PRIVATE PUMP STATIONS & TREATMENT PLANTS

SECTION 701. PRIVATE PUMP STATIONS

The operation of all privately owned pump stations, lift stations or ejector stations for the purpose of pumping wastewater shall be subject to the approval of the CEO, and shall be subject to inspection as outlined in Article 6 of this Ordinance.

SECTION 701.1 REDUNDANT PUMPS

All private pump stations, lift stations or ejector stations shall be equipped with at least two pumps, each of which shall have a capacity to pump the total design flow of the facility, and each being provided with automatic switches which will insure uninterrupted operation in case of overload or failure of the other. In addition, the pump station facility shall have an approved standby gasoline or diesel generator system of sufficient capacity to operate the pumps in case of power failure, and shall also be equipped with an approved alarm system designed to provide warning in case of mechanical failure.

SECTION 701.2 MAINTENANCE

All private pump stations, lift stations and ejector stations and attendant facilities shall be properly maintained by a qualified mechanic or operator, and a proposed schedule and method of maintenance shall be subject to the approval of the CEO.

SECTION 701.3 PRIVATE TREATMENT FACILITIES

No person or firm shall construct or operate a private sewage treatment facility without first obtaining the necessary waste discharge permits from the DEP. If, in the opinion of the CEO, the operation of any privately owned sewage treatment plant is considered to be unsatisfactory and is creating a nuisance, then the CEO shall immediately notify the DEP of the problem. Any other duly authorized employee of the Town shall have the right to inspect said facilities as provided in Article 6 of this Ordinance.
ARTICLE 8 - ENFORCEMENT & PENALTIES

SECTION 800

The City of Brewer WPCF Superintendent or his designee is hereby empowered (in accordance with CFR 40 Part 403.8 f.l.), as the same may be amended from time to time, to issue Notices of Violation, Administrative Orders, conduct show cause hearings, assess administrative fines (penalties) as defined herein to an industrial user or any other user of the Orrington sewer system for violations of their pretreatment permit or violations of this Ordinance. Payment of a fine is due within 30 days of receipt of the administrative fine. A user desiring to dispute such fines must file a request for the City of Brewer WPCF Superintendent or his designee to reconsider the fine within 10 days of being notified of the fine. Where the City of Brewer WPCF Superintendent or his designee believes a request has merit, he/she shall convene a hearing on the matter within 15 days of receiving the request for reconsideration.

Whenever the City of Brewer WPCF Superintendent or his designee finds that a user has violated this Ordinance, a wastewater discharge permit, or order issued hereunder, the City of Brewer WPCF Superintendent or his designee may serve the user a written Notice of Violation. Within 10 days of the receipt date of this notice, an explanation of the violation and a plan for the correction and prevention thereof, shall be submitted to the City of Brewer WPCF Superintendent or his designee by the party upon whom the Notice of Violation was served. Submission of this plan in no way relieves the violator of liability for any violations occurring before or after receipt of the Notice of Violation.

When the City of Brewer WPCF Superintendent or his designee finds that a user has violated or continues to violate the Ordinance, a permit, or order issued hereunder, he/she may issue an Administrative Order directing, after a specified time period, adequate treatment facilities, devices, or other related equipment or procedures be installed and properly operated. Administrative Orders may also contain other requirements as might be reasonably necessary and appropriate to address the noncompliance, including the installation of pretreatment technology, additional self monitoring, and management practices. The City of Brewer WPCF Superintendent or his designee may order an industrial user which causes or contributes to violations of the Ordinance, wastewater permit, or order issued hereunder, to show cause why a proposed enforcement action should not be taken.
Notice shall be served on the user specifying the time and place for the meeting, the proposed enforcement action, and a request that the user show cause why this proposed enforcement action should not be taken. The City of Brewer WPCF Superintendent or his designee shall conduct the show cause hearing. The notice of the meeting shall be delivered personally or by registered or certified mail (return receipt requested) at least 10 days prior to the hearing. Such notice shall be served on any person, principal executive, general partner or corporate officer. Whether or not a duly notified user appears as noticed, immediate enforcement action may be pursued.

The following shall be a guide for determining fines for violations of the Sewer Ordinance:

**SCHEDULE OF FINES**

Discharge limit violation, significance
Of violation to be determined
by the City of Brewer WPCF Superintendent or his designee

$100/day/violation

Recurring and/or causing interference or pass-through of BWPCF as defined in this Ordinance $1000/day/violation

Late reports (30 days after NOV) $100/day/report

Reports still late after NOV or AO $500/day/report

Failure to report spill or changed discharge, with damage, pass-through or interference of WWTP $1000/day/violation

Repeated failure to report spills after NOV or AO $1000/day/violation

Repeated failure to monitor discharge after NOV $100/day/violation

Repeated failure to monitor discharge when AO is sent $1000/day/violation

Repeated failure to report additional monitoring $100/day/violation
Failure to install monitoring equipment more than 30 days late $100/day/violation

Failure to meet compliance schedule (milestone) by more than 30 days (with good cause but without approval of Superintendent) $100/day/violation

Failure to meet milestone by more than 30 days (no good cause) $1000/day/violation

Waste streams are diluted in lieu of treatment, recurring $500/day/violation

Improper sampling, recurring after NOV $100/day/violation

The guide from the previous page that determines the fines for violations of this Ordinance lists the maximum fine that can be accessed per violation. The City of Brewer WPCF Superintendent or his designee will decide after reviewing the violation the fine that will levied.

For noncompliance not specifically covered in the above schedule, the following may be considered in determining administrative fines (ranging from $50 to $1,000/day/violation):

1. Economic benefit enjoyed by violator from the noncompliance
2. Violation which cause - SNC
3. Compliance history of the violator
4. Duration of noncompliance
5. Number of violations
6. Type and severity of violation
7. Efforts by the violator to take corrective action
SECTION 801. INDUSTRIAL WASTEWATER PRETREATMENT ENFORCEMENT RESPONSE GUIDE

All significant industrial users shall be issued an industrial pretreatment permit. The City shall act on violations of any industrial pretreatment permit provision in accordance with the response as set in Article 9, Sections 802.2 through 802.7.

SECTION 801.1 DEFINITION: SIGNIFICANT INDUSTRIAL USER

1. All dischargers subject to categorical pretreatment standards;
2. All non-categorical dischargers that, in the opinion of the City of Brewer have a reasonable potential to adversely affect the BWPCF’s operation;
3. All non-categorical dischargers that contribute a process wastestream which makes up five percent or more of the average dry weather capacity of the BWWTP, or that discharge an average of 25,000 gallons per day or more of process wastewater to the BWWTP;
4. All dischargers that have the potential to violate any of the pretreatment standards or prohibitions.

SECTION 801.2 NONCOMPLIANCE WITH SAMPLING AND MONITORING PROCEDURES

<table>
<thead>
<tr>
<th>NONCOMPLIANCE</th>
<th>CIRCUMSTANCES</th>
<th>RANGE OF RESPONSE</th>
<th>PERSONNEL</th>
</tr>
</thead>
<tbody>
<tr>
<td>FAILURE TO SAMPLE, MONITOR</td>
<td>Isolated or infrequent</td>
<td>Phone call or NOV requiring PC</td>
<td>IU does not respond to AO is issued with compliance PC the verbal warning or schedule NOV.</td>
</tr>
<tr>
<td>OR REPORT (ROUTINE REPORTS, BMR’S)</td>
<td></td>
<td></td>
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</tbody>
</table>

Same as above.
Same as above. IU does not respond to the AO or is in frequent violation -SNC

FAILURE TO NOTIFY OF EFFLUENT LIMIT VIOLATION OR SLUG DISCHARGE.
Isolated or infrequent. No known effect to BWWTP or environment.

FAILURE TO NOTIFY OR REPORT A SPILL OR CHANGE IN DISCHARGE.
Isolated or Infrequent IU does not respond to NOV, no environmental and/or BWWTP damage -SNC

NONCOMPLIANCE CIRCUMSTANCES
Same as above. Known BWWTP damage or environmental damage -SNC

PUBLISH IU in local newspaper as S SNC with the possibility to seek or assess up to $1,000 per day in civil penalties or criminal investigation.

Isolated or infrequent. Phone call with NOV requiring a PC written report with corrective action taken to prevent recurrence. Report within ten days.

Same as above. No response to NOV, continued or recurring violation - SNC

AO with a show cause meeting PC,S with compliance schedule.

Same as above. IU does not respond to NOV, no environmental and/or BWWTP damage-SNC

Known BWWTP damage or environmental damage -SNC

Same as above. R e c u r r i n g o r environmental and/or BWWTP damage -SNC

PUBLISH IU in newspaper, assess up to $1,000 per day in penalties.

FAILURE TO NOTIFY OR REPORT A SPILL OR CHANGE IN DISCHARGE.
Isolated or Infrequent IU does not respond to NOV, no environmental and/or BWWTP damage -SNC

PUBLISH IU in newspaper, assess S up to $10,000 per day in penalties and/or jail and sewer.
<table>
<thead>
<tr>
<th>MINOR SAMPLING, MONITORING OR REPORTING DEFICIENCIES.</th>
<th>Infrequent or isolated.</th>
<th>No response to NOV or recurring.</th>
<th>Phone call or NOV requiring PC report within ten days.</th>
<th>AO with compliance schedule. If PC,S continued, publish IU in newspaper.</th>
</tr>
</thead>
<tbody>
<tr>
<td>Same as above.</td>
<td>No response to NOV or recurring.</td>
<td>AO with compliance schedule. If PC,S continued, publish IU in newspaper.</td>
<td>Assess up to $1,000 per day in penalties.</td>
<td></td>
</tr>
<tr>
<td>MAJOR OR GROSS SAMPLING, MONITORING OR REPORTING DEFICIENCIES (MISSING INFORMATION, LATE REPORTS).</td>
<td>Infrequent or isolated.</td>
<td>NOV-request corrections within PC ten days.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Same as above.</td>
<td>No response to NOV or frequent-SNC</td>
<td>AO with compliance schedule. If PC,S continued, publish IU in newspaper.</td>
<td>Assess up to $1,000 per day in penalties.</td>
<td></td>
</tr>
<tr>
<td>FAILURE TO SIGN OR CERTIFY REPORTS PROPERLY.</td>
<td>Infrequent or isolated.</td>
<td>IU does not respond to the verbal warning or NOV.</td>
<td>Phone call or NOV requiring PC report within ten days.</td>
<td>AO, with show cause meeting with PC,S compliance schedule</td>
</tr>
<tr>
<td>Same as above.</td>
<td>IU does not respond to the AO is in frequent violation-SNC</td>
<td>Publish IU in local newspaper as S SNC with the possibility to seek or assess up to $1,000 per day civil penalties or criminal investigation, sewer ban.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>NONCOMPLIANCE CIRCUMSTANCES RANGE OF RESPONSE PERSONNEL</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
REPORTING FALSE INFORMATION. Any instance -SNC

Criminal investigation and S
judicial action with a penalty
up to $10,000 per day, one year
in jail or both, sewer ban.
Publish IU in newspaper.

MISSED INTERIM DATE. Will not cause late final
date or other interim
dates.

Same as above. WILL result in missed
interim dates. Violation
for valid cause.

Same as above Failure or refusal to
comply without valid
cause -SNC

FAILU RE TO INSTALL
MONITORING EQUIPMENT.

Same as above. Continued-SNC

EXCEEDING DAILY LIMITS Infrequent, isolated
(CATEGORICAL, LOCAL OR minor violation.
PROHIBITED)

EXCEEDING FINAL LIMITS Infrequent, isolated,
(MONTHLY, AVERAGE LIMITS, minor violation.
CATEGORICAL, LOCAL OR

PROHIBITED.)* prevent recurrence.
Same as above.

EXCEEDING DAILY AVERAGE LIMITS AND/OR FINAL LIMITS. Recurring major violation.
Infrequent, isolated, major violation. Snow cause meeting and AO with PC,S compliance schedule.

NONCOMPLIANCE CIRCUMSTANCES Range of response personnel
Same as above. Recurring major violation environmental and/or BWWTP damage-SNC Publish IU in newspaper, assess up to $10,000 per day in penalties and/or one year in jail and sewer ban.

REPORTED SLUG LOAD Isolated without known damage.
Same as above. Isolated with known damage interference or pass through -SNC Publish IU in newspaper, assess PC,S up to $1,000 per day in penalties.

SAME AS ABOVE.

DISCHARGE WITHOUT A PERMIT OR APPROVAL One time without known environmental or BWWTP damage.
AO with a written report within PC,S ten days with corrective action to prevent recurrence.
<table>
<thead>
<tr>
<th>MINOR VIOLATION</th>
<th>MAJOR VIOLATION</th>
</tr>
</thead>
<tbody>
<tr>
<td>OF Any instance.</td>
<td>OF No evidence of negligence or willful intent.</td>
</tr>
<tr>
<td>NOV with written response within PC ten days.</td>
<td>NOV with written response within PC ten days documenting corrective action taken.</td>
</tr>
<tr>
<td></td>
<td>Evidence of negligence or willful intent -SNC</td>
</tr>
</tbody>
</table>

**SECTION 801.6 DEFINITION OF SIGNIFICANT NONCOMPLIANCE (SNC)**

SNC is when one or more other following criteria is met:

Chronic violations of wastewater discharge limits in which sixty six percent or more of all the measurements taken during a six month period exceed (by any magnitude) the daily maximum limit or the average limit for the same pollutant parameter.
Technical Review Criteria (TRC) violations are those in which thirty three percent or more of all of the measurements for each pollutant parameter taken during a six month period equal or exceed the product of the daily maximum limit or the average limit multiplied by the appropriate TRC (TRC = 1.4 for BOD, TSS, Fats, Oils, Grease and 1.2 for all other parameters except pH).

Any other violation of a pretreatment effluent limit (daily max. or longer-term average) that the Superintendent of the Brewer Wastewater Treatment Facility determines has caused, alone or in combination with other discharges, interference or pass-through (including endangering the health of the Brewer Wastewater Treatment Facility personnel or the general public).

Any discharge of a pollutant that is harmful to health and welfare or the environment which resulted in the Brewer Wastewater Treatment Facility exercising its emergency authority (under 40 CFR 403.8 (f) (1) (vi) (B)) to halt or prevent such a discharge.

Failure to meet, within 90 days after the schedule date, a compliance schedule milestone contained in the pretreatment permit or enforcement order for starting or completing construction, or attaining full and final compliance.

Failure to provide within 30 days of the due date, required reports such as Baseline Monitoring Reports (BMR), 90 day compliance progress reports, periodic self-monitoring reports, monthly reports, and compliance schedule reports.

Failure to report noncompliance accurately.
Any other violation or group of violations which the Superintendent of the Brewer Wastewater Treatment Facility determines will adversely affect the operation or implementation of Brewer’s pretreatment program. These definitions have been established in accordance with 40 CFR 403.8 (f) (2) (vii).

Section 801.7 TIMEFRAMES FOR ENFORCEMENT RESPONSES

A. All violations will be identified and documented within five (5) days of receiving compliance information. The WWTP Superintendent and/or Pretreatment Coordinator will be responsible for initiating enforcement responses.

B. Initial enforcement responses (involving contact with the IU and requesting information or corrective or preventive actions) will occur within five (5) days of violation detection.

C. Follow up actions for continuing or recurring violations will be taken within thirty (30) days of the initial enforcement response. For all continuing violations, the response will also include a compliance schedule.

D. Violations which will threaten health, property or the environment are considered emergencies and will receive an immediate response.

E. All violations meeting the criteria for SNC Article 9, Section 902.6 will be addressed with an enforcement order within thirty (30) days of the identification of significant noncompliance –SNC.
SECTION 803. NOTICE OF VIOLATION

When the City of Brewer WPCF Superintendent or his designee finds that a user has violated or continues to violate any provision of this Ordinance, a wastewater discharge permit or order issued hereunder, or any other pretreatment standard or requirement, the City of Brewer WPCF Superintendent or his designee may serve upon that user a written NOV. Within ten (10) days of the receipt of this notice, an explanation of the violation and a plan for the satisfactory correction and prevention thereof, which must include specific required actions, shall be submitted by the user to the CEO. Submission of this plan in no way relieves the user of liability for any violations occurring before or after receipt of the NOV.

SECTION 804. CONSENT ORDERS

The City of Brewer WPCF Superintendent or his designee may enter into Consent Orders, assurances of voluntary compliance, or other documents establishing an agreement with any user responsible for noncompliance. Such documents will include specific action to be taken by the user to correct the noncompliance within a time period specified by the document. Such documents shall have the same force and effect as the administrative orders issued pursuant to this Article and shall include language which make them judicially enforceable. Such orders may require the payment of administrative fines pursuant to of this Article.

SECTION 805. SHOW CAUSE HEARING

The City of Brewer WPCF Superintendent or his designee may order a user which has violated or continues to violate any provision of this Ordinance, a wastewater discharge permit or order issued hereunder, or any other pretreatment standard or requirement, to appear before the City of Brewer WPCF Superintendent or his designee and show cause why the proposed enforcement should not be taken. Notice shall be served on the user specifying the time and place for the meeting, the proposed enforcement actions, the reasons for such action, and a request that the user show cause why the proposed enforcement action should not be taken. The notice of the meeting shall be served personally by the City of
Brewer WPCF Superintendent or his designee or by registered or certified mail, return receipt requested, at least fourteen (14) days prior to the hearing. Such notice may be served on any authorized representative of the user. A show cause hearing shall not be a bar against, or prerequisite for, taking any other action against the user. Failure to appear for a show cause hearing may be grounds for revocation of the user's wastewater discharge permit and disconnection from or termination of discharge to the Town’s sewer system.

SECTION 806. COMPLIANCE ORDERS

When the City of Brewer WPCF Superintendent or his designee finds that a user has violated or continues to violate any provision of this Ordinance, a wastewater discharge permit or order issued hereunder, or any other pretreatment standard or requirement, the City of Brewer WPCF Superintendent or his designee may issue an order to the user responsible for the discharge directing that the user comes into compliance within thirty (30) days. If the user does not come into compliance within thirty (30) days, sewer service shall be discontinued unless adequate treatment facilities, devices or other related appurtenances are installed and properly operated. Compliance orders may also contain other requirements to address the noncompliance, including additional self-monitoring and management practices designed to minimize the amount of pollutants discharged to the Town’s sewer system. A compliance order may not extend the deadline for compliance established for a Federal pretreatment standard or requirement, nor does a compliance order relieve the user of liability for any violation, including any continuing violation. Issuance of a compliance order shall not be a bar against, or a prerequisite for, taking any other action against the user.

SECTION 807. CEASE AND DESIST ORDERS

When the City of Brewer WPCF Superintendent or his designee determines that a user violated or continues to violate any provision of this Ordinance, a wastewater discharge permit or order issued hereunder, or any other pretreatment standard or requirement, or that the user's past violations are likely to recur, the City of Brewer WPCF Superintendent or his designee may
issue an order to the user directing it to cease and desist any such violations and directing the user to:

A. Immediately comply with all requirements; and

B. Take such appropriate remedial or preventative action as may be needed to properly address a continuing or threatened violation, including halting operations and/or terminating the discharge to the sewer system.

Issuance of a cease and desist order shall not be a bar against, or a prerequisite for, taking any other action against the user.

SECTION 808. ADMINISTRATIVE FINES

When the City of Brewer WPCF Superintendent or his designee finds that a user violated or continues to violate any provision of this Ordinance, a wastewater discharge permit or order issued hereunder, or any other pretreatment standard or requirement, including a user's failure to obtain a wastewater discharge permit pursuant to Article 6, of this Ordinance, the City of Brewer WPCF Superintendent or his designee may fine such user in an amount not to exceed $1,000 per day per violation. Each day of violation shall constitute a separate offense subject to fine. In the case of monthly or other long term average discharge limits, fines shall be assessed for each day during the period of violation. In the case of failure to obtain a required wastewater discharge permit, the fine shall accrue on a daily basis commencing on the day the user first was notified or became aware of the need for such a permit. The Town may add the costs of preparing administrative enforcement actions, such as notices and orders, legal fees, attorney fees, to any fine assessed.

A. Any and all unpaid fines, and penalties under this Ordinance shall, after (30) calendar days from the due date, be assessed an additional penalty of one percent (1%) of the unpaid balance, and interest shall accrue thereafter at a rate of one percent (1%) per month. A lien against the user's property may be sought for unpaid charges, fines and penalties as allowed under State law.
B. Users desiring to dispute such fines must file a written request for the City of Brewer WPCF Superintendent or his designee to reconsider the fine along with full payment of the fine amount within thirty (30) days of being notified of the fine. The City of Brewer WPCF Superintendent or his designee shall convene an administrative hearing on the matter and conduct said hearing in accordance with the procedures delineated in Article 6 of this Ordinance. Failure to timely request an administrative hearing constitutes a waiver of any administrative appeal. The decision of the Board of Selectmen conducting the administrative hearing, including a decision to not reduce the fine, shall be final and any appeal must follow the requirements of M.R.Civ.P. 80B. In the event the user's appeal is successful, the payment, together with any interest accruing thereto, shall be returned to the user.

C. Issuance of an administrative fine shall not be a bar against, or a prerequisite for, taking any other action against the user.

SECTION 809. EMERGENCY SUSPENSIONS

The City of Brewer WPCF Superintendent or his designee may immediately suspend a user's discharge either with or without written or verbal notice to the user whenever such suspension is necessary to stop an actual or threatened discharge which reasonably appears to present or cause an imminent or substantial endangerment to the health or welfare of the public. The City of Brewer WPCF Superintendent or his designee may also immediately suspend a user's discharge, either with or without written or verbal notice, that threatens to interfere with the operation of the sewer system or BWPCF, or which presents or may present an endangerment to the environment.

A. Any user notified of a suspension of its discharge shall immediately stop or eliminate its discharge to the sewer system. In the event of a user's failure to immediately comply voluntarily with the suspension order, the City of Brewer WPCF Superintendent or his designee shall take such steps as deemed necessary, including immediate severance of
the connection to the sewer system, to prevent or minimize damage to the sewer system, its receiving waters or endangerment to any persons. The City of Brewer WPCF Superintendent or his designee shall allow the user to recommence its discharge when the user has demonstrated to the satisfaction of the City of Brewer WPCF Superintendent or his designee that the period of endangerment has passed, unless the termination proceedings in Article 8 of this Ordinance are initiated against the user.

B. A user that is responsible, in whole or in part, for any discharge presenting imminent endangerment shall submit a detailed written statement to the City of Brewer WPCF Superintendent or his designee describing the causes of the harmful contribution and the measures taken to prevent any future occurrence. Said report must be submitted at least seven (7) days prior to the date of any show cause or termination hearing held pursuant to Article 8 of this Ordinance.

Nothing in this subsection shall be interpreted as requiring a hearing prior to any emergency suspension under this subsection.

SECTION 810. TERMINATION OF DISCHARGE

In addition to the provisions in Article 6, of this Ordinance, any user that violates the following conditions is subject to termination of the user's discharge to the Town's sewer system;

A. Violation of wastewater discharge permit conditions;

B. Failure to accurately report the wastewater constituents and characteristics of the user's discharge;

C. Failure to report significant changes in operations or wastewater volume, constituents and characteristics prior to discharge;

D. Refusal of reasonable access to the user's premises for that purpose of inspection, monitoring or sampling; or
E. Violation of the pretreatment standards in Article 5 of this Ordinance.

Such user will be notified of the proposed termination of its discharge and be offered an opportunity to show cause pursuant to Article 8 of this Ordinance why the proposed action should not be taken. Additionally, the user may request an administrative hearing in writing within thirty (30) days of the decision of the show cause hearing. The hearing shall be conducted in accordance with the procedures delineated in Section 808 of this Ordinance. Exercise of this option by the Town shall not be a bar to, or a prerequisite for, taking any other action against the user.

SECTION 811. JUDICIAL ENFORCEMENT REMEDIES

SECTION 811.1 Injunctive Relief

When the City of Brewer WPCF Superintendent or his designee determines that a user has violated or continues to violate any provision of this Ordinance, a wastewater discharge permit, or order issued hereunder, or any other pretreatment standard or requirement, the City of Brewer WPCF Superintendent or his designee may request that the Town Solicitor or his designee seek appropriate injunctive relief pursuant to the laws of this State which restrains or compels the specific performance of the conditions of the wastewater discharge permit, order, or other requirements imposed by this Ordinance on activities of the user. The City of Brewer WPCF Superintendent or his designee may also seek such other action as is appropriate for legal and/or equitable relief, including a requirement for the user to conduct environmental remediation. The decision whether to seek injunctive relief shall not be a bar against, or a prerequisite for, taking any other action against a user.

SECTION 811.2 Civil Penalties and Criminal Referral

A. Any person who violates the provisions of this Ordinance shall be subject to civil penalties pursuant to 30-A M.R.S.A. Section 4452, as well as applicable civil or criminal penalties pursuant to 38 M.R.S.A. Sections 349 and
1319-T. The penalties in those statutes shall be in addition to the specific penalties in this Ordinance.

B. A user which has violated or continues to violate any provision of this Ordinance, a wastewater discharge permit, or other permit issued hereunder, or any other pretreatment standard or requirement shall be required to pay a fine of not less than $1,000 per day per violation and not more than $2,500 per day per violation for each and every day of a violation for a first offense. These fines shall increase to a minimum of $2,500 per day per violation and a maximum of $25,000 per day per violation for a second offense of the same or a similar nature occurring within two (2) years of the first offense. Each day of violation shall constitute a separate offense subject to fine. In the case of a monthly or other long-term average discharge limit, penalties shall accrue for each day during the period of the violation.

C. Pursuant to 30-A M.R.S.A. Section 4452 and M.R.Civ.P. 80K, the Town and/or the City of Brewer may seek reasonable attorney's fees, court costs, and other expenses associated with enforcement activities, including sampling and monitoring expenses, and the cost of any actual damages incurred by the Town and/or the City of Brewer.

D. In determining the amount of civil liability, the Court shall be asked to take into account all relevant circumstances, including, but not limited to, the extent of harm caused by the violation, the magnitude and duration, any economic benefit gained through the user's violation, corrective actions undertaken by the user, the compliance history of the user, and any other factor as justice requires.

E. No person shall willfully or negligently break, damage, destroy, uncover, deface, tamper with, prevent access to any structure, appurtenance or equipment, or other part of or otherwise harm the Town’s sewer system or the BWWTP. Penalties for violations of this provision of this Ordinance shall be a minimum $1,000 and maximum $10,000 fine for the first offense. A second offense committed within 5 years
shall be punished by a minimum $10,000 and a maximum of $25,000 fine. These penalties are in addition to any penalties associated with other civil or criminal provisions of state and federal law which said person may be subject to for such action.

SECTION 811.3 LITIGATION

Filing a suit for civil penalties or making a criminal referral shall not be a bar against, or a prerequisite for, taking any other action against a user.

SECTION 811.4 PROSECUTION

The City of Brewer WPCF Superintendent or his designee reserves the right to make referrals for criminal prosecution pursuant to the provisions of 38 M.R.S.A. Sections 349 and 1319-T, as well as any other applicable Federal or State law. Additionally, enforcement of this Ordinance shall not preclude criminal prosecution for other violations of State or Federal law and the Town and the City of Brewer WPCF will cooperate in any such prosecutions.

SECTION 811.5 OTHER REMEDIES

The provisions of Article 8, Section 800 of this Ordinance are not exclusive remedies. The Town and the City of Brewer WPCF reserves the right to take any and all enforcement actions or combinations thereof against a noncompliant user.

SECTION 812. SUPPLEMENTAL ENFORCEMENT ACTION

SECTION 812.1 Performance Bonds

The City of Brewer WPCF Superintendent or his designee may decline to issue or reissue a wastewater discharge permit to any user which has failed to comply with any provision of this Ordinance, a previous wastewater discharge permit or order issued hereunder, or any other pretreatment standard or requirement, unless such user first files a satisfactory bond with the City of Brewer, payable to the City of Brewer, in a sum not to exceed a
The City of Brewer WPCF Superintendent or his designee may decline to issue or reissue a wastewater discharge permit to any user which has failed to comply with any provision of this Ordinance, a previous wastewater discharge permit or order issued hereunder, or any pretreatment standard or requirement, unless the user first submits proof that it has obtained financial assurances sufficient to restore or repair damage to the sewer system or BWPCF caused by its discharge, which shall include naming the Town of Orrington and the City of Brewer, as an additional insured.

SECTION 812.3 Water Supply Severance

Whenever a user violates or continues to violate any provision of this Ordinance, a wastewater discharge permit or order issued hereunder, or any other pretreatment standard or requirement, the Town will work with the Bangor or Brewer Water District to sever water service to the user under District regulations, if applicable. Service will only recommence at the user's expense, after the user has satisfactorily demonstrated its ability to comply with this Ordinance.

SECTION 813. AFFIRMATIVE DEFENSES TO DISCHARGE VIOLATIONS

SECTION 813. Upset

A. An upset shall constitute an affirmative defense to an action brought for noncompliance with categorical pretreatment standards if the requirements of paragraph B below are met.

B. A user who wishes to establish the affirmative defense of upset shall demonstrate, through properly signed, contemporaneous operating logs, or other relevant evidence that:
6. An upset occurred and the user can identify the cause(s) of the upset;

2. The facility was at the time being operated in a prudent and workman-like manner and in compliance with applicable Operation & Maintenance procedures; and

3. The user has submitted the following information to the City of Brewer WPCF Superintendent or his designee within twenty-four (24) hours of becoming aware of the upset. If this information is provided orally, a written submission must be provided within five (5) days:

   (a) A description of the indirect discharge and cause of noncompliance;

   (b) The period of noncompliance, including exact dates and times or, if not corrected, the anticipated time period the noncompliance is expected to continue; and

   (c) Steps being taken and/or planned to reduce, eliminate and prevent reoccurrence of the noncompliance.

C. In any enforcement proceeding, the user seeking to establish the occurrence of an upset shall have the burden of proof.

D. Users will have the opportunity for a judicial determination on any claim of upset only in an enforcement action brought for noncompliance with categorical pretreatment standards.

E. Users shall control production of all discharges to the extent necessary to maintain compliance with categorical pretreatment standards upon reduction, loss, or failure of its treatment facility until the facility is restored or an alternative method of treatment is provided. This requirement applies in the situation where, among other things, the primary source of power of the treatment facility is reduced, lost, or fails.
SECTION 813.1  Prohibited Discharge Standards

A user shall have an affirmative defense to an enforcement action brought against it for noncompliance with the general prohibitions in Article 5 of this Ordinance or the specific prohibitions in Article 5, of this Ordinance if it can prove that it did not know, or have reason to know, that its discharge, alone or in conjunction with discharges from other sources, would cause pass-through or interference and that either: (a) a local limit exists for each pollutant discharged and the user was in compliance with each limit directly prior to, and during, the pass-through or interference; or (b) no local limits exist, but the discharge did not change substantially in nature or constituents from the user's prior discharge when the Town was regularly in compliance with the BWPCF NPDES permit, and in the case of interference, was in compliance with applicable sludge use or disposal requirements.

SECTION 813.2  Bypass

A. For the purposes of this Ordinance:

(1) "Bypass" means the intentional diversion of wastestreams from any portion of a user's treatment facility.

(2) "Severe property damage" means any substantial physical damage to property, damage to the treatment facilities which causes them to become inoperable, or substantial and permanent loss of natural resources which can reasonably be expected to occur in the absence of a bypass. Severe property damage does not mean economic loss caused by delays in production.

B. A user may allow any bypass to occur which does not cause pretreatment standards or requirements to be violated, but only if it also is for essential maintenance to assure efficient operation. These bypasses are not subject to the provision of paragraphs (C) and (D) of this subsection.
C. (1) If a user knows in advance of the need for a bypass, it shall submit prior notice to the City of Brewer WPCF Superintendent or his designee at least ten (10) days before the date of the bypass, if possible.

(2) A user shall submit oral notice to the City of Brewer WPCF Superintendent or his designee of an unanticipated bypass that exceeds applicable pretreatment standards within twenty-four (24) hours from the time it becomes aware of the bypass. A written submission shall also be provided within five (5) days of the time the user becomes aware of the bypass. The written submission shall contain a description of the bypass and its cause; the duration of the bypass, including exact dates and times, and if the bypass has not been corrected, the anticipated time it is expected to continue; and steps taken or planned to reduce, eliminate and prevent reoccurrence of the bypass. The City of Brewer WPCF Superintendent or his designee may waive the written report on a case-by-case basis if the oral report has been received within twenty-four (24) hours.

D. (1) Bypass is prohibited, and the City of Brewer WPCF Superintendent or his designee may take an enforcement action against a user for a bypass, unless:

(a) Bypass was unavoidable to prevent loss of life, personal injury, or severe property damage;

(b) There were no feasible alternatives to the bypass, such as the use of auxiliary treatment facilities, retention of untreated wastes, or maintenance during normal periods of equipment downtime. This condition is not satisfied if adequate back-up equipment should have been installed in the exercise of reasonable engineering judgment to prevent a bypass which occurred during normal periods of equipment downtime or preventive maintenance; and
(c) The user submitted notices as required under subsection C of this subsection.

(2) The City of Brewer WPCF Superintendent or his designee may approve an anticipated bypass, after considering the adverse effects, if the City of Brewer WPCF Superintendent or his designee determines that it will meet the three conditions listed in subsection D (1) of this subsection.

ARTICLE 9 - PROTECTION FROM DAMAGE

SECTION 900.

No person shall maliciously, willfully or negligently break, damage, destroy, uncover, deface or tamper with any structure, appurtenance or equipment which is a part of the municipal wastewater collection system. No person other than an authorized representative of the Town shall open, close or tamper with any of the manholes or sewer pipes of the Town. Any person violating this provision shall be subject to immediate arrest under charge of disorderly conduct.

ARTICLE 10 - ORDINANCE IN FORCE

SECTION 10.

This Ordinance shall be in full force and effect from and after its passage, approval, recording, and publication as provided by federal law.

ARTICLE 11 – SCHEDULE OF SEWER RATES AND INTEREST FEES

SECTION 1100 USER RATES AND INTEREST FEES

Sewer user rates will be established by the City of Brewer and charged on a quarterly basis. The Board of Selectmen of the Town of Orrington shall establish interest rates applicable on delinquent payments.
SECTION 1101. DEBT SERVICE CHARGES

A separate charge shall be made as determined by the Orrington Board of Selectmen for recovery of debt associated with capital improvements related to sewer system construction beginning 1996. Such rate schedules will be based on actual costs for sewer capital projects as established by the Selectmen as needed and in incorporated into this Ordinance by reference.

Section 1102. CONNECTION FEES

A connection fees of $200 per lot per elapsed year shall be assessed by the Town for any new sewer user or new lot that connects to the municipal sewer after August 1, 2005. This connection fee shall also be assessed against any user or lot that exists prior to August 1, 2005, but that undergoes a change of use or subdivision after August 1, 2005. If an existing property is expanded or modified with no change of use or increase in lots, the Town may waive the connection fee at its sole discretion. The number of years to be used in the connection fee calculation shall be the elapsed years or part thereof between the date the connection is made and December 31, 2002 which is the date that the Town first began to provide public sewer service. The purpose of the connection fee is to offset the Town’s capital costs of creating in-place, residual incremental capacity that allows new development projects to connect to the sewers.

SECTION 1103. IMPACT FEES

Should a specific residential, commercial, or industrial development project require immediate wastewater collection or sewer system capacity expansions in order to allow the Town the ability to convey and process the proposed development’s wastewater, the Town may assess an additional sewer impact fee to cover the capital costs of the specific improvements. Example improvements might include the upgrade of sewer, pumping stations or treatment processes to accommodate the wastewater capacity needs of the new development. Should the Town agree to provide the added capacity, the developer shall pay an up front capital cost share impact fee that will be assessed in proportion to the
development project’s use of the added design capacity. Impact fees assessed by the Town shall conform to Title 30-A MRSA, Section 4354 as may be amended from time-to-time.

ARTICLE 12 - VALIDITY & AMENDMENTS

SECTION 12.

All other Ordinances or parts of other Ordinances in conflicts herewith, are superseded by this Ordinances.

SECTION 1201.

The invalidity of any section, clause, sentence, or provision of this Ordinance by any Court of competent jurisdiction shall not affect the validity of any other part of this Ordinance which can be given effect without such invalid part or parts.

SECTION 1202.

This Ordinance can be periodically amended as necessary to respond to changes in Town, State and Federal regulations.