2017

Town of Prospect Maine Ordinances

Prospect, Me.

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TOWN OF PROSPECT

AQUIFER PROTECTION ORDINANCE

I. Short Title: This Ordinance may be known and cited as the “Town of Prospect Aquifer Protection Ordinance.”

II. Authority

This ordinance is adopted pursuant to the Maine Constitution, Article VIII, Part Second of the Maine State Constitution, the provisions of Title 30-A M.R.S.A. Section 3001 (Home Rule), and Title 30-A M.R.S.A. Sections 4301 et seq. (Comprehensive Planning and Land Use Regulation).

III. Findings and Purpose

The Town of Prospect finds that the transport or removal of groundwater for commercial purposes or for purposes of supplying consumers of any public water utility in large quantities away from its natural location constitutes a substantial threat to the health, safety and welfare of the citizens of the Town of Prospect. If such transportation or removal occurs, persons who relied on the presence of groundwater when establishing residences or commercial establishments may find themselves with inadequate water supplies. The Town further finds that potable supplies of groundwater are not a limitless resource and that future development of the Town of Prospect is reasonably threatened by depletion of groundwater resources located in Prospect’s sand and gravel aquifers. The Town finds that the only reasonable and practicable way in which to prevent the depletion of the Town of Prospect’s groundwater resources is to prohibit the transport of groundwater in large quantities away from the vicinity of its natural location within the Town of Prospect.
The purpose of the Aquifer Protection Ordinance is to safeguard the public health, safety, and welfare of the citizens of the Town of Prospect by providing for the protection and conservation of groundwater resources stored in the Town’s sand and gravel aquifers and to prevent a shortage or overburdening of groundwater resources situated within the Town of Prospect. The further purpose of the Aquifer Protection Ordinance is to protect the quality and manage the quantity of the Town’s groundwater resources.

IV. Definitions

The following words when used in this ordinance shall have the following meanings unless the context in which they are used clearly indicates a different meaning.

A. “Sand and gravel aquifer” means a porous formation of ice-contact and glacier outwash sand and gravel that contains significant recoverable quantities of water (greater than ten gallons per minute from a properly installed well) that is likely to provide drinking water supplies as defined by the Maine Geological Survey.

B. “Person or entity” means any individual, corporation, partnership, firm, organization, or other legal entity, including quasi-municipal corporations or public water utilities as defined by Title 35-A of the Maine Revised Statutes.

V. Prohibitions

A. Except as otherwise provided or permitted by local law, no person or entity may transport or remove water from the Town of Prospect’s sand and gravel aquifers, for commercial purposes or for purposes of supplying consumers of a public water utility as defined by Title 35-A of the Maine Revised Statutes, by pipeline or other conduit or by tank truck or in a container, greater in size than ten (10) gallons, beyond the boundaries of the Town of Prospect.
B. No person or entity may install wells, pipelines, conduits, water storage facilities or other structures, in or upon property situated within the Town of Prospect, for the purpose of transporting water beyond the boundaries of the Town of Prospect.

VI. **Penalties and Enforcement**

Any person or entity who violates any prohibition of this Ordinance shall be subject to prosecution pursuant to the provisions of 30-A M.R.S.A. Section 4452. Each day of violation shall constitute a separate offense. The municipal officers or authorized designee may exercise authority under Section 4452 to petition the Court to assess civil penalties of $100.00 to $2500.00 per violation, and to petition the Court for abatement of the violation or other injunctive relief. The violator shall be responsible for all legal costs in enforcing the terms of this Ordinance, including attorney fees.

VII. **Validity and Severability**

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

Whenever the requirements of this ordinance are inconsistent with the requirements of any other ordinance, code or statute, the more restrictive requirements shall apply.

VIII. **Effective Date**

This ordinance shall be effective upon the date of its passage.

IX. **Applicability to Existing Operations**

This ordinance shall apply to any existing operations. The express intention of the Town is to apply this ordinance retroactively to any applicable existing operations for purpose of prohibiting all activities described in Section V, and for the purpose of safeguarding the public health, safety, and
welfare of the citizens of the Town of Prospect.

X. **Amendments**

This ordinance may be amended by a majority vote at any annual or special town meeting of the Town of Prospect. Amendments may be initiated by a request of the Board of Selectmen, or on petition of 10% of the votes cast in the last gubernatorial election in the Town. The Board of Selectmen shall conduct a public hearing on any proposed amendment.
BUILDING NOTIFICATION ORDINANCE
TOWN OF PROSPECT, ME

Section 1. Title and Purpose:

This ordinance shall be known as the “Building Notification Ordinance of the Town of Prospect, Maine” and will be referred to herein as “this Ordinance.” It is enacted by the inhabitants of the Town of Prospect to promote the health, safety, convenience, welfare, and property values of the inhabitants by requiring notification of intention to build for all dwellings and structures, as defined by this Ordinance.

Section 2. Authority:

2.1 This ordinance is enacted pursuant to the authority given the town in 30A MRSA 3001 (home rule) and 30A MRSA 4201 and 4211.
2.2 The effective date of this ordinance shall be thirty (30) days after it is adopted by the vote of the legislative body of the Town of Prospect.
2.3 This ordinance in no way shall impair or remove the necessity of compliance with any other rule, regulation, by-law, permit or provision of law.
2.4 This ordinance shall apply to all construction commenced after the effective date of this ordinance.
2.5 Should any section of this ordinance be declared by the courts to be invalid, such decision shall not invalidate any other section or provision of this ordinance, and to this end, the provisions of this ordinances are hereby declared to be severable.

Section 3. Administration:

3.1 The Code Enforcement Officer(s) or Plumbing Inspector shall enforce all State plumbing laws and the regulations of this ordinance, with the assistance of the Town Selectmen.
3.2 The Code Enforcement Officer(s) or Plumbing Inspector shall immediately report any violations of this ordinance to the Board of Selectmen.
3.3 The Town Clerk shall receive completed Intention to Build Notification Forms and shall notify Code enforcement Officer or receipt. Copy of submitted forms shall be placed on file in the Town Office.
3.4 The Code Enforcement Officer shall sign the completed form before construction shall begin.

Section 4. Notification of Intention to Build Form

4.1 Before construction is started on any structure, the owner shall complete an Intention to Build Notification form. Forms may be obtained from the Town Office.
4.2 A completed Intention to Build Notification Form shall include:
   A. Sketch showing locations and layout of proposed structure(s).
   B. Estimated cost of the proposed structure(s), including cost of labor. A pre-fabricated structure, estimated purchase price.
C. for new dwellings, expansion of existing dwellings, conversion of seasonal dwellings to year round use, or the placing of pre-fabricated dwellings, a valid permit for subsurface disposal system or letter that such a permit is not necessary for the local plumbing inspector.

D. Indoor plumbing permit if applicable.

E. Shore land zoning permit for construction within the shore land district.

4.3 “Structure” is hereby defined as a building(s) or portion thereof on a single parcel constructed or erected or placed with a fixed location on or in the ground or attached to something on or in the ground which occupies a ground area in excess of 200 sq. feet or value of materials and labor to construct in excess of $1,500. “Structure” is further defined to be anything built for the support, shelter, or enclosure of persons, animals, goods or property of any kind, exclusive of fences.

4.4 “Dwelling” is hereby defined as a room or suite of rooms used as a habitation which is separate from other such rooms or suites of rooms, and which contains independent living, cooking, sleeping, bathing, and sanitary facilities; includes single family houses, and units in a duplex, apartment house, multifamily dwellings, residential condominiums, trailer, mobile homes, and modular homes.

Section 5. Enforcement and Violations:

The Code Enforcement Officer(s) shall notify in writing by registered mail any individual proceeding to build without prior notification to discontinue until such notification has been provided. A copy of such notices shall be maintained as a permanent record.

Any person continuing to build without providing notification after notice by the Code Enforcement Officer(s) shall have committed a civil violation subject to a fine of not less than $100.00 and not to exceed $2,500.00 and other penalties provided pursuant to 30A MRSA . Each day that such violation exists shall be deemed a separate offense.

Section 6. Appeal:

An aggrieved party may appeal any decision of the Code Enforcement Officer(s) under this ordinance to Waldo County Superior Court.

Section 7. Amendments:

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

Adopted at Town Meeting: 3/20/89
Amended at Town Meeting: ____/____/2012
The Municipality of Prospect adopts the MMA Model Ordinance GA Appendices (A-D) for the period of Oct. 1, 2016—September 30, 2017. These appendices are filed with the Department of Health and Human Services (DHHS) in compliance with Title 22 M.R.S.A. §4305(4).

Signed the \( \frac{60}{12} \)th (day) of September (month) 2016 (year) by the municipal officers:

Heather R. Boynton
(Print Name)

Diane Terry
(Print Name)

William A. Swee, Jr.
(Print Name)

Heather R. Boynton
(Signature)

Diane Terry
(Signature)

William A. Swee, Jr.
(Signature)
TOWN OF PROSPECT
MORATORIUM ORDINANCE ON MINERAL EXTRACTION

WHEREAS, the Town of Prospect (hereinafter "the Town") does not have a zoning ordinance and does not comprehensively regulate land use activities within the town;

WHEREAS, areas within the town which are suitable for mineral extraction are located within close proximity to a variety of residential and commercial uses;

WHEREAS, quarrying, mineral extraction and related blasting activities often produce noise, dust and runoff which may be incompatible with residential and commercial development;

WHEREAS, the significant clearing and earth moving associated with quarrying and mineral extraction may lead to increased runoff and both surface and groundwater pollution;

WHEREAS, the Town currently lacks any ordinance or related standards to address the potential negative impacts of mineral extraction activities;

WHEREAS, the Town's Planning Board has been developing an ordinance governing mineral extraction activities but the Board of Selectmen finds that more work is needed before the ordinance may be submitted to the voters;

WHEREAS, allowing such mineral extraction activities pursuant to the current Town ordinances could pose serious threats to the public health, safety and welfare of the residents of the Town by allowing such activities to be conducted without adequate provisions for issues of safety, noise, vibration, dust, groundwater protection, setback distances, land use compatibility, and screening;

WHEREAS, the Town will require at least one hundred eighty (180) days to develop and implement ordinance standards to adequately address the impacts of mineral extraction activities; and

WHEREAS, in the judgment of the Town, these facts justify the enactment of the present moratorium pursuant to 30-A M.R.S. § 4356 because existing Town ordinances are inadequate to prevent serious public harm from mineral extraction activities within the Town;

NOW, THEREFORE, a MORATORIUM is hereby imposed for a period of one hundred eighty (180) days on any new or expanded mineral extraction or blasting that is not currently permitted by written permit received from the Town or State, approved and/or under construction.

For the purposes of this Moratorium, "mineral extraction" shall be defined as "the removal, processing and storage of topsoil, loam, rock, sand, gravel, stone and other earth materials." and "blasting" shall be defined as "the use of explosives to break up or otherwise aid in the extraction or removal of a rock or other consolidated natural formation, as associated with Mineral Extraction."

BE IT FURTHER ORDAINED, that if any activities described herein are conducted in violation of this Moratorium Ordinance, each day of any continuing violation shall constitute a separate

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violation of this Moratorium Ordinance, and the Town shall be entitled to all rights available to it in law and equity, including, but not limited to, fines and penalties, injunctive relief, and its reasonable attorney’s fees and costs in prosecuting any such violations; and

BE IT FURTHER ORDAINED, that the Planning Board, Board of Appeals, Code Enforcement Officer and all Town agencies and all Town employees and officials shall neither accept nor approve applications, plans, permits, licenses, and/or fees for any new activities governed by this Moratorium Ordinance for the period of time described below;

BE IT FURTHER ORDAINED, that any provisions of the Town’s ordinances that are inconsistent or conflicting with the provisions of this Moratorium Ordinance are hereby repealed to the extent that they are applicable for the duration of the moratorium hereby ordained;

BE IT FURTHER ORDAINED, that this Moratorium Ordinance may be extended by the Board of Selectmen, after notice and hearing, for additional 180-day periods if the Board finds that:

1. The problem giving rise to the need for this Moratorium Ordinance still exists: and
2. Reasonable progress is being made to alleviate the problem giving rise to the need for this Moratorium Ordinance:

BE IT FURTHER ORDAINED, that to the extent any provision of this Moratorium Ordinance is deemed invalid by a court of competent jurisdiction, the balance of the Moratorium Ordinance shall remain valid;

BE IT FURTHER ORDAINED, that, in view of the facts cited herein, this Moratorium Ordinance shall take effect immediately upon approval by the Town of Prospect town meeting and, notwithstanding the provisions of 1 M.R.S.§ 302, shall be applicable, to the maximum extent permitted by law and subject to the severability clause above, to all proceedings, applications and petitions not finally approved as of June 5, 2018, the date upon which this Moratorium Ordinance was first discussed by the Board of Selectmen. It shall also apply to all activities subject to this Moratorium Ordinance which were not substantially commenced prior to June 5, 2018. This Moratorium Ordinance shall remain in effect for 180 days from the date of enactment, unless sooner repealed or extended by the Board of Selectmen.
2012 AMENDMENTS TO
PROPECT MINIMUM LOT SIZE ORDINANCE

Section I: Purpose

It is declared a necessary public purpose for the preservation of the public health, safety, welfare and prevention of public nuisance to regulate the minimum lot size upon which all new dwellings and/or buildings are erected or placed in the Town of Prospect.

Section II: Authority and Administration

A: Authority: Authority: This ordinance is adopted pursuant to and with Title 30-A M.R.S.A. Section 3001, and may be known and cited as the “Minimum Lot Size Ordinance and Regulations of the Town of Prospect”.

B: Administration: The Code Enforcement Officer (CEO) of the Town of Prospect shall administer this ordinance.

Section III: Applicability

This Ordinance shall apply to all new seasonal or permanent houses, mobile homes, modular homes, and all other dwellings and/or buildings erected or placed on any land within the Town of Prospect.

Section IV: Specifications

A: The minimum lot size for all new dwellings and/or buildings shall be 2 acres per dwelling and/or building and shall be of such dimensions as to accommodate within the boundaries a square measure no less than 150 by 150 feet.

B: All new dwellings and/or buildings shall be set back a minimum of 40 feet from all public or private right-of-way property lines.

C: No part of any dwelling and/or building shall be closer than 15 feet to any property line.

Section V: Qualifications

A: Any lot conveyed by registered deed to the present owner(s) prior to the enactment of this Ordinance, which is of smaller size or dimension than specified in Section IV, above, may be utilized as a building lot by the present owner(s).
B: Any dwelling and/or building destroyed by fire or other act of God and which is on a lot of smaller size or dimension than specified in Section IV, above, may be replaced by any type of dwelling and/or similar building so long as replacement is the complete or substantially underway within 2 years of the original loss, and new dwelling and/or building is located no closer to property lines than was the original.

C: For the purposes of this Ordinance, buildings, other than dwellings shall be classified as either (1) a Principal building or (2) an Accessory building. (1) A principal building is one that is not incidental to or accessory to the use of a dwelling or building on the same lot. Accessory buildings shall be exempt from Section IV A.

D: For the purposes of this Ordinance, a dwelling shall be construed to mean one residential housing unit, a single family house, mobile home, or modular home.

Section VI: Waiver and Modification of this Ordinance

A: Where the Planning Board finds that extraordinary and unnecessary hardships may result from strict compliance with this Ordinance, or where there are special circumstances of a particular building-lot location, it may waive any provision of this Ordinance provided that such a waiver will not have the effect of nullifying the purpose of this Ordinance, any Comprehensive Plan, Shoreland Zoning, or any other land use Ordinance or regulation.

B: In granting any waiver, the Planning Board shall require such conditions as will, in its judgment, secure substantially the objectives of the requirements so waived.

Section VII: Validity, Effective Date, Conflict of Ordinances

A: Validity: Should any section or provision of the Ordinance be declared by the courts to be invalid, such decision shall not invalidate any other section or provision of this Ordinance, and to this end, the provisions of this Ordinance are hereby declared to be severable.

B: Effective Date: November 3, 1977
C: Conflict of Ordinances: This Ordinance shall not repeal, annul, or in any way impair or remove the necessity of compliance with any other rule, regulation, by-law, permit or provision of law. Where this Ordinance imposes a higher standard for the promotion and protection of health, safety, or welfare, the provisions of this Ordinance shall prevail.

Section VIII: Appeal

A. The Board of Appeals may, upon written application of the affected landowner, grant a variance from the strict application of this Ordinance under the following conditions:
   a. The strict application of the terms of this Ordinance would result in undue hardship to the applicant. The term “undue hardship” shall mean:
      1. That the land in question cannot yield a reasonable return unless a variance is granted.
      2. That the need for a variance is due to the unique circumstances of the property and not the general conditions in the neighborhood.
      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.
   b. The Board of Appeals, based upon clear and convincing evidence presented to it will make a finding. A variance is authorized only for dimension requirements. A variance may not be granted regarding offsets from property lines or set back requirements from the property line of public or private right-of-ways.
   c. The Board of Appeals may upon written application of an aggrieved party and after public notice, hear appeals from the determinations of the Planning Board or CEO in the administration of this Ordinance. Such hearings shall be held in accordance with state laws. Following such hearing, the Board of Appeals may reverse the decision of the Planning Board or CEO only upon finding that the decision is clearly contrary to specific provisions of this Ordinance.
   d. An appeal may be taken within thirty days after any decision is rendered by the Board of Appeals, by any party, to Waldo County Superior Court in accordance with State laws.
Section IX: Amendments

This Ordinance may be amended by a majority vote in a special or regular town meeting of the Town of Prospect.

Section X: Enforcement

A. The CEO shall act in all cases of violations of this Ordinance by notifying, in writing, the owner or lessor of the lot and the Selectpersons of the kind of nature of the violation and correction of same, if possible. Said notification shall be deemed to have been made when sent to the owner or lessor by certified or registered mail.

B. The Selectpersons are charged with the prosecution for all violations of the provisions of this ordinance. In cases where such notices referred to in Paragraph XA, above, are not promptly complied with after receipt of said notices, the Selectpersons shall make such complaints to the courts as, in their judgment are proper, or may institute such action or proceedings at laws or in equity as are proper to restrain, correct, remove, or punish such violations.

C. Any person or corporation who shall violate any provisions of this Ordinance or fail to comply with any of the requirements thereof shall, upon conviction, be punished by a fine of not less than $100. Nor more than $2500 and each day on which such violations shall continue shall constitute a separate offense. In accordance with Title 30-A, M.R.S.A., Section 4452

Section XI: Amendments

March 27th, 1978 warrant article 30;

To see if the Town will amend the ordinance entitled “Minimum Lot Size and Specifications” so as to protect the present lots of less than two acres

March 20th, 1989 warrant article 71;

To see if the Town will amend the ordinance entitled “Minimum Lot Size and Specifications” so as to: clarify and define the terms Building and Dwelling”; establish a 200 foot road frontage requirement; to revise the appeals process; to revise the fines.
Action; Motion to pass over “establish a 200 foot road frontage requirement” and accept rest of article as read. –Sneed-2nd Dwight Accepted

March 31st, 2012; to see what action the Town will take regarding proposed changes to the “Minimum Lot Size Ordinance”.

Heather Boynton

William Sneed Jr.

Diane Terry

True attested copy:

3/31/12

Jill Orestis, Town Deputy Clerk
Parking and Snow Removal Ordinance

Enacted by municipal officers at Selectmen’s meeting of 26 December 1978.

There shall be "No Parking" on any roads of highways at Anytime which will interfere with the removal of snow or sanding operations or interfere with the performance of Fire or Ambulance Duties.

any person or persons who violates any Provision of the Ordinance may upon conviction be punished by a fine of not more than Twenty-five (25) dollars plus all expenses incurred in the removal of the vehicle.

(See p. 172 of the Clerk’s notes volume for this year)
Town of Prospect
Road Posting Ordinance

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

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

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

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

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

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

Section 4. Exemptions
Vehicles that are exempt from the Maine Department of Transportation's (MaineDOT) "Rules and Regulations Restricting Heavy Loads on Closed Ways" dated December 31, 1996 and amended on March 4, 1998, a copy of which is hereby incorporated as part of this Ordinance, are exempt from this Ordinance. In addition, any vehicle delivering home heating fuel and operating in accordance with a permit issued by the MaineDOT under 29-A M.R.S.A. § 2395 (4) and, when necessary during a period of drought emergency declared by the governor, any vehicle transporting well-drilling equipment for the purpose of drilling a replacement well or for improving an existing well on property where that well is no longer supplying sufficient water for residential or agricultural purpose and operating in accordance with a permit issued by the MaineDOT under 29-A M.R.S.A. § 2395 (4-A).
Section 5. Permits
The owner or operator of any vehicle not otherwise exempt as provided herein may apply in writing to the municipal officers for a permit to operate on a posted way or bridge notwithstanding the restriction. The municipal officers may issue a permit only upon all of the following findings:
(a) no other route is reasonably available to the applicant;
(b) it is a matter of economic necessity and not mere convenience that the applicant use the way or bridge; and
(c) the applicant has tendered cash, a bond or other suitable security running to the municipality in an amount sufficient, in their judgment, to repair any damage to the way or bridge which may reasonably result from the applicant's use of same.

Even if the municipal officers make the foregoing findings, they need not issue a permit if they determine the applicant's use of the way or bridge could reasonably be expected to create or aggravate a safety hazard or cause substantial damage to a way or bridge maintained by the municipality. They may also limit the number of permits issued or outstanding as may, in their judgment, be necessary to preserve and protect the highways and bridges. In determining whether to issue a permit, the municipal officers shall consider the following factors:
(a) the gross registered weight of the vehicle;
(b) the current and anticipated condition of the way or bridge;
(c) the number and frequency of vehicle trips proposed;
(d) the cost and availability of materials and equipment for repairs;
(e) the extent of use by other exempt vehicles; and
(f) such other circumstances as may, in their judgment, be relevant.
The municipal officers may issue permits subject to reasonable conditions, including but not limited to restrictions on the actual load weight and the number or frequency of vehicle trips, which shall be clearly noted on the permit.

Section 6. Administration and Enforcement
This Ordinance shall be administered and may be enforced by the municipal officers and their duly authorized designee [such as road commissioner, code enforcement officer or law enforcement officer].

Section 7. Penalties
Any violation of this Ordinance shall be a civil infraction subject to a fine of not less than $250.00 nor more than $1000.00. Each violation shall be deemed a separate offense. In addition to any fine, the municipality may seek restitution for the cost of repairs to any damaged way or bridge and reasonable attorney fees and costs. Prosecution shall be in the name of the municipality and shall be brought in the Maine District Court.

Section 8. Amendments
This Ordinance may be amended by the municipal officers at any properly noticed meeting.

Section 9. Severability; Effective Date
In the event any portion of this Ordinance is declared invalid by a court of competent jurisdiction, the remaining portions shall continue in full force and effect. This Ordinance shall take effect immediately upon enactment by the municipal officers at any properly noticed meeting.
SUMMARY: The following rules and regulations restrict heavy loads on posted State and State Aid Highways from November 15 to June 1, pursuant to the Department's authority under Title 29-A M.R.S.A., Section 2395.

Definitions

A. The definitions contained in Title 29-A, Section 101 of the Maine Revised Statutes Annotated shall govern the construction of the words contained in this regulation.

B. Gross weight is the combined weight of the vehicle and its load.

C. Special Mobile Equipment. "Special Mobile Equipment" shall mean every self-propelled vehicle not designed or used primarily for the transportation of persons or property but which is operated over the highways, including road construction or maintenance machinery, ditch-digging apparatus, stone crushers, air compressors, power shovels, cranes, graders, rollers, trucks used only as snowplows and for carrying sand for ballast only, well drillers and woodsawing equipment used for hire. This enumeration shall be deemed partial and shall not operate to exclude other such vehicles which are within the general terms of this section.

Designated Closed Ways

In order to prevent excessive damage to State and State-Aid Highways, the Director of Bureau of Maintenance and Operations or the Region Manager in whose Region the highway lies may close all or part of a highway to heavy vehicles during any time from November 15 to June 1. No vehicles shall travel over closed ways except those permitted by this regulation.

Notice

Notice shall be given by erecting at each end of the closed highway a poster indicating the following: (1) the date of the posting, (2) a description of the highway closed, (3) a summary of the vehicles exempt from the closing, (4) the name of the Region Manager, and (5) statutory and regulatory references.

Exemption - Frozen Highways

This regulation shall not apply to any closed highway which is solidly frozen. The highway is considered "solidly frozen" only when the air temperature is 32 degrees Fahrenheit or below and no water is showing in the cracks of the road. Both conditions must be met.

Exempt Vehicles

The following vehicles are exempt from this regulation:

A. Any vehicle or combination of vehicles registered for a gross weight of 23,000 pounds or less.

B. Any vehicle or combination of vehicles registered for a gross weight in excess of 23,000 pounds and traveling without a load other than tools or equipment necessary for the proper operation of the vehicle. This exemption does not apply to special mobile equipment. It shall be a defense to a violation of this sub-section if the combined weight of any vehicle or combination of vehicles registered for a gross weight in excess of 23,000 pounds and its load is in fact less than 23,000 pounds.

C. Maine Department of Transportation highway maintenance vehicles or vehicles under the direction of a public jurisdiction with permission of the Department engaged in emergency maintenance of public highways or appurtenances thereto.
D. Passenger cars, pickup trucks, emergency vehicles, school buses, a wrecker towing a disabled vehicle of legal weight from a posted highway, and vehicles with three axles or less under the direction of a public utility and engaged in plant maintenance or repair.

E. Any vehicle transporting home heating fuel (oil, gas, coal, stove size wood, propane and wood pellets) to a private consumer, gasoline, groceries, bulk milk, bulk feed, solid waste, rubbish, animal bedding, returnable beverage containers, removing sewage from private septic tank or providing porta-potty services, or medical gases may apply for an exemption certificate (Attachment A). These vehicles must be registered in excess of 23,000 pounds and must be carrying a partial load with a weight equal to or less than that indicated on an exemption certificate issued by the Maine Department of Transportation (Attachment B). This certificate shall accompany the vehicle at all times as shall weigh slips, delivery slips, or bills of lading for the load being carried. The allowable weight indicated on the exemption certificate will be based on weights listed in the table in Attachment C. Applicants for exemption certificates must present a certified weigh slip for the empty weight of the unloaded vehicle as a prerequisite to obtaining an exemption certificate.

F. Any combination vehicle of five axles or more weighing 80,000 pounds gross or less hauling perishable products. A permit issued by the Department of Transportation shall accompany any load of perishable products.

G. Maine Department of Transportation, at their discretion, may allow heavy loads over posted roadways involving singular, nonrecurring moves. Such permission shall be made in writing specifying limitations and shall accompany the vehicle at all times.

Procedures for obtaining and using trip tickets for hauling perishable products over seasonally posted roads

A. It is now possible for a shipper to haul perishable products over seasonally closed ways by securing a permit from the Maine Department of Transportation at any one of MaineDOT's five Region Offices.

B. The permit issued will be in the form of individual pre-numbered trip tickets for hauling of perishable products by 5 axle or more combination vehicles and will be limited to a combined weight of 80,000 lbs. and may, on occasion, be further limited by time, route, and temperature.

C. These trip tickets for hauling perishable products over seasonally closed ways will cost $5.00 each. (Checks payable to Treasurer, State of Maine). These trip tickets will consist of three copies each with the following distribution: (1) original copy (white) - for driver, (2) second copy (green) - to be returned immediately to the Maine Department of Transportation, and (3) third copy (pink) - to be retained by the shipper.

D. The shipper or shipper's agent will call the appropriate Region Office and complete his/her form simultaneously with, and under guidance of the Permit Clerk. The customer is to have all the information that is required on the trip ticket before he/she makes the call. Trip tickets are to be made out in ink.

E. After routing check and verification, the customer will be given a permit number which must be entered on the form in order to make it valid for law enforcement purposes. When the required information is entered and the call is completed, the permit is issued and the move may be made. The original trip ticket must accompany the load.

F. Each time a trip ticket is filled out, the green copy must be mailed immediately to the Maine Department of Transportation.

G. MaineDOT clerks will be available to take information for these trip tickets between the hours of 7:30 A.M. and 4:30 P.M., Monday through Friday at the appropriate Region Office.
H. Additional trip tickets will not be issued to shippers in continual violation of any of the required procedures.

I. The Department will retain the right to close any posted road to the hauling of perishable products in extreme circumstances.

EFFECTIVE DATE:

SIGNED ______________________________________________

, COMMISSIONER

MAINE DEPARTMENT OF TRANSPORTATION

Section 5D amended on March 4, 1998, to include wreckers towing vehicles.

Subsection D is amended to read: "Passenger cars, pickup trucks, emergency vehicles, school buses, a wrecker towing a disabled vehicle of legal weight from a posted highway and vehicles with three axles or less under the direction of a public utility and engaged in plant maintenance and repair".

Section 5E amended on January 4, 2006 to include animal bedding

Section 5E amended on January 10, 2013 to include removing sewage from private septic tanks or providing porta-potty services.

Section 5E amended on March 13, 2013 to include propane and wood pellets to the list of fuels used for home heating use.
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Original Ordinance Repealed
Enacted
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Town of Prospect Shoreland Zoning Ordinance

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Section 1. Purposes.

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

Section 2. Authority.

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

Section 3. Applicability.

This Ordinance applies to all land areas within 250 feet, horizontal distance of

- normal high-water line of any great pond or river,
- 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.

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

Section 4. Effective Date

Effective Date of Ordinance and Ordinance Amendments. This Ordinance, which was adopted by the municipal legislative body on June 1, 2017 shall not be effective unless approved by the Commissioner of the Department of Environmental Protection. A certified copy of the Ordinance, or Ordinance Amendment, attested and signed by the Municipal Clerk, shall be forwarded to the Commissioner for approval. If the Commissioner fails to act on this Ordinance or Ordinance Amendment, within forty-five (45) days of his/her receipt of the Ordinance, or Ordinance Amendment, it shall be automatically approved.
Any application for a permit submitted to the municipality within the forty-five (45) day period shall be governed by the terms of this Ordinance, or Ordinance Amendment, if the Ordinance, or Ordinance Amendment, is approved by the Commissioner.

Section 5. Availability.

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

Section 6. Severability.

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

Section 7. Conflicts with Other Ordinances.

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

Section 8. Amendments.

This Ordinance may be amended by majority vote of the legislative body. Copies of amendments, attested and signed by the Municipal Clerk, shall be submitted to the Commissioner of the Department of Environmental Protection following adoption by the municipal legislative body and shall not be effective unless approved by the Commissioner. If the Commissioner fails to act on any amendment within forty-five (45) days of his/her receipt of the amendment, the amendment is automatically approved. Any application for a permit submitted to the municipality within the forty-five (45) day period shall be governed by the terms of the amendment, if such amendment is approved by the Commissioner.
Section 9. Districts and Zoning Map

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

1. Resource Protection
2. Stream Protection
3. Limited Residential

B. Scale of Map.

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

C. Certification of Official Shoreland Zoning Map.

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

D. Changes to the Official Shoreland Zoning Map.

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

Section 10. Interpretation of District Boundaries.

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

Section 11. Land Use Requirements.

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

**Section 12. Non-conformance.**

**A. Purpose.**

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

**B. General**

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

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

**C. Non-conforming Structures**

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

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

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

(i) The maximum total footprint for the principal structure may not be expanded to a size greater than 800 square feet or 30% larger than the footprint that existed on January 1, 1989, whichever is greater. The maximum height of the principal structure may not be greater than 15 feet or the height of the existing structure, whichever is greater.

(c) All other legally existing nonconforming principal and accessory structures that do not meet the water body, tributary stream, or wetland setback requirements may be expanded or altered as follows, as long as other applicable municipal land use standards are met and the expansion is not prohibited by Section 12(C)(1)(a), above.

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

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

(iii) In addition to the limitations in subparagraphs (i) and (ii), for structures that are legally nonconforming due to their location within the Resource Protection District when located at less than 250 feet from the normal
Town of Prospect Shoreland Zoning Ordinance

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

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

2. **Foundations.** Whenever a new, enlarged, or replacement foundation is constructed under a non-conforming structure, the structure and new foundation must be placed such that the setback requirement is met to the greatest practical extent as determined by the Planning Board or its designee, basing its decision on the criteria specified in Section 12(C3) relocation, below.

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

In determining whether the building relocation meets the setback to the greatest practical extent, the Planning Board or its designee shall consider the size of the lot, the slope of the land, the potential for soil erosion, the location of other structures on the property and on adjacent properties, the location of the septic system and other on-site soils suitable for septic systems, and the type and amount of vegetation to be removed to accomplish the relocation.
When it is necessary to remove vegetation within the water or wetland setback area in order to relocate a structure, the Planning Board shall require replanting of native vegetation to compensate for the destroyed vegetation in accordance with Section 15(P-3). In addition, the area from which the relocated structure was removed must be replanted with vegetation. Replanting shall be required as follows:

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

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

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

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

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

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

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

**D. Non-conforming Uses**

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

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

3. **Change of Use.** An existing non-conforming use may be changed to another non-conforming use provided that the proposed use has no greater adverse impact on the subject and adjacent properties and resources than the former use, as determined by the
Planning Board. The determination of no greater adverse impact shall be made according to criteria listed in Section 12(C)(5) above.

E. Non-conforming Lots

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

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

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

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

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

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

Section 13. Establishment of Districts

1. 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.

1. Areas within 250 feet, horizontal distance, of the upland edge of freshwater wetlands and wetlands associated with great ponds and rivers, which are rated "moderate" or "high" value waterfowl and wading bird habitat, including nesting and feeding areas, by the Maine Department of Inland Fisheries and Wildlife (MDIF&W) that are depicted on a Geographic Information System (GIS) data layer maintained by either MDIF&W or the Department as of December 1, 2008. For the purposes of this paragraph “wetlands associated with great ponds and rivers” shall mean areas characterized by non-forested wetland vegetation and hydric soils that are contiguous with a great pond or river, and have a surface elevation at or below the water level of the great pond or river during the period of normal high water. “Wetlands associated with great ponds or rivers” are considered to be part of that great pond or river.

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

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

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

5. Land areas along rivers subject to severe bank erosion, undercutting, or river bed movement, and lands adjacent to tidal waters which are subject to severe erosion or mass movement, such as steep coastal bluffs.
**Limited Residential District.** The Limited Residential District includes those areas suitable for residential and recreational development. It includes areas other than those in the Resource Protection District, or Stream Protection District.

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

**Section 14. Table of Land Uses.**

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

Key to Table 1:

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

No - Prohibited

PB - Allowed with permit issued by the Planning Board.

CEO - Allowed with permit issued by the Code Enforcement Officer

LPI - Allowed with permit issued by the Local Plumbing Inspector

Abbreviations:

RP - Resource Protection

LR - Limited Residential

SP - Stream Protection
TABLE 1. LAND USES IN THE SHORELAND ZONE

<table>
<thead>
<tr>
<th>LAND USES</th>
<th>SP</th>
<th>RP</th>
<th>LR</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. Non-intensive recreational uses not requiring structures such as hunting, fishing and hiking</td>
<td>yes</td>
<td>yes</td>
<td>yes</td>
</tr>
<tr>
<td>2. Motorized vehicular traffic on existing roads and trails</td>
<td>yes</td>
<td>yes</td>
<td>yes</td>
</tr>
<tr>
<td>5. Clearing or removal of vegetation for activities other than timber harvesting</td>
<td>CEO</td>
<td>CEO1</td>
<td>yes</td>
</tr>
<tr>
<td>6. Fire prevention activities</td>
<td>yes</td>
<td>yes</td>
<td>yes</td>
</tr>
<tr>
<td>7. Wildlife management practices</td>
<td>yes</td>
<td>yes</td>
<td>yes</td>
</tr>
<tr>
<td>8. Soil and water conservation practices</td>
<td>yes</td>
<td>yes</td>
<td>yes</td>
</tr>
<tr>
<td>9. Mineral exploration</td>
<td>no</td>
<td>yes2</td>
<td>yes2</td>
</tr>
<tr>
<td>10. Mineral extraction including sand and gravel extraction</td>
<td>no</td>
<td>PB3</td>
<td>PB</td>
</tr>
<tr>
<td>11. Surveying and resource analysis</td>
<td>yes</td>
<td>yes</td>
<td>yes</td>
</tr>
<tr>
<td>12. Emergency operations</td>
<td>yes</td>
<td>yes</td>
<td>yes</td>
</tr>
<tr>
<td>13. Agriculture</td>
<td>yes</td>
<td>PB</td>
<td>yes</td>
</tr>
<tr>
<td>14. Aquaculture</td>
<td>PB</td>
<td>PB</td>
<td>PB</td>
</tr>
<tr>
<td>15. Principal structures and uses</td>
<td>PB4</td>
<td>PB9</td>
<td>CEO</td>
</tr>
<tr>
<td>A. One and two family residential, including driveways</td>
<td>no</td>
<td>no</td>
<td>PB</td>
</tr>
<tr>
<td>B. Multi-unit residential</td>
<td>no</td>
<td>no10</td>
<td>no10</td>
</tr>
<tr>
<td>C. Commercial</td>
<td>no</td>
<td>no</td>
<td>no</td>
</tr>
<tr>
<td>D. Industrial</td>
<td>no</td>
<td>no</td>
<td>no</td>
</tr>
<tr>
<td>E. Governmental and institutional</td>
<td>no</td>
<td>no</td>
<td>PB</td>
</tr>
<tr>
<td>F. Small non-residential facilities for educational, scientific, or nature interpretation purposes</td>
<td>PB4</td>
<td>PB</td>
<td>PB</td>
</tr>
<tr>
<td>I. Expansions of non-conforming structures</td>
<td>PB</td>
<td>PB</td>
<td>PB</td>
</tr>
<tr>
<td>16. Structures accessory to allowed uses</td>
<td>CEO</td>
<td>CEO</td>
<td>CEO</td>
</tr>
<tr>
<td>17. Piers, docks, wharfs, bridges and other structures and uses extending over or below the normal high-water line or within a wetland</td>
<td></td>
<td>CEO11</td>
<td>CEO11</td>
</tr>
<tr>
<td>a. Temporary</td>
<td>CEO6</td>
<td>CEO6</td>
<td>yes12</td>
</tr>
<tr>
<td>b. Permanent</td>
<td>CEO6</td>
<td>CEO6</td>
<td>CEO</td>
</tr>
<tr>
<td>18. Conversions of seasonal residences to year-round residences</td>
<td>LPI</td>
<td>LPI</td>
<td>LPI</td>
</tr>
<tr>
<td>19. Home occupations</td>
<td>PB</td>
<td>PB</td>
<td>PB</td>
</tr>
<tr>
<td>20. Private sewage disposal systems for allowed uses</td>
<td>LPI</td>
<td>no</td>
<td>LPI</td>
</tr>
<tr>
<td>21. Essential services</td>
<td>PB6</td>
<td>PB6</td>
<td>PB</td>
</tr>
<tr>
<td>A. Roadside distribution lines (34.5kV and lower)</td>
<td>CEO6</td>
<td>CEO6</td>
<td>yes12</td>
</tr>
<tr>
<td>B. Non-roadside or cross-country distribution lines involving ten poles or less in the shoreland zone</td>
<td>PB6</td>
<td>PB6</td>
<td>CEO</td>
</tr>
<tr>
<td>C. Non-roadside or cross-country distribution lines involving eleven or more poles in the shoreland zone</td>
<td>PB6</td>
<td>PB6</td>
<td>PB</td>
</tr>
<tr>
<td>D. Other essential services</td>
<td>PB6</td>
<td>PB6</td>
<td>PB</td>
</tr>
<tr>
<td>22. Service drops, as defined, to allowed uses</td>
<td>yes</td>
<td>yes</td>
<td>yes</td>
</tr>
<tr>
<td>23. Public and private recreational areas involving minimal structural development</td>
<td>PB</td>
<td>PB</td>
<td>PB</td>
</tr>
<tr>
<td>24. Individual, private campsites</td>
<td>PB</td>
<td>PB</td>
<td>PB</td>
</tr>
<tr>
<td>25. Campgrounds</td>
<td>no</td>
<td>no7</td>
<td>PB</td>
</tr>
<tr>
<td>26. Road / Driveway construction</td>
<td>PB</td>
<td>no8</td>
<td>CEO</td>
</tr>
<tr>
<td></td>
<td>Land management roads</td>
<td>27. Land management roads</td>
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</tr>
<tr>
<td></td>
<td>yes</td>
<td>PB</td>
<td>yes</td>
</tr>
</tbody>
</table>

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

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

Section 15. Land Use Standards.

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

A. Minimum Lot Standards

<table>
<thead>
<tr>
<th>Minimum Lot Area (sq. ft.)</th>
<th>Minimum ShoreFrontage (ft.)</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
</tr>
</tbody>
</table>

1. Residential per dwelling unit
   1. Within the Shoreland Zone Adjacent to Tidal Areas
      30,000 150

2. Within the Shoreland Zone Adjacent to Non-Tidal Areas
   40,000 200

b. Governmental, Institutional, Commercial or Industrial per principal structure

1. Within the Shoreland Zone Adjacent to Tidal Areas, Exclusive of Those Areas Zoned for Commercial Fisheries and Maritime Activities
   40,000 200

2. Within the Shoreland Zone Adjacent to Non-tidal Areas
   40,000 200

c. Public and Private Recreational Facilities

1. Within the Shoreland Zone Adjacent to Tidal and Non-Tidal Areas
   40,000 200
2. Land below the normal high-water line of a water body or upland edge of a wetland and land beneath roads serving more than two (2) lots shall not be included toward calculating minimum lot area.

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

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

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

B. Principal and Accessory Structures

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

In addition:

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

b. All principal structures along Significant River Segments as listed in 38 M.R.S.A. section 437, shall be set back a minimum of one hundred and twenty-five (125) feet, horizontal distance, from the normal high-water line and shall be screened from the river by existing vegetation. This provision does not apply to structures related to hydropower facilities.
c. For principal structures, water and wetland setback measurements shall be taken from the top of a coastal bluff that has been identified on Coastal Bluff maps as being "highly unstable" or "unstable" by the Maine Geological Survey pursuant to its "Classification of Coastal Bluffs" and published on the most recent Coastal Bluff map. If the applicant and the permitting official(s) are in disagreement as to the specific location of a "highly unstable" or "unstable" bluff, or where the top of the bluff is located, the applicant may at his or her expense, employ a Maine Registered Professional Engineer, a Maine Certified Soil Scientist, a Maine State Geologist, or other qualified individual to make a determination. If agreement is still not reached, the applicant may appeal the matter to the board of appeals.

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

2. Principal or accessory structures and expansions of existing structures which are permitted in the Resource Protection, Limited Residential, Limited Commercial, and Stream Protection Districts, shall not exceed thirty-five (35) feet in height. This provision shall not apply to structures such as transmission towers, windmills, antennas, and similar structures having no floor area.

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

4. The total footprint area of all structures, parking lots and other non-vegetated surfaces, within the shoreland zone shall not exceed twenty (20) percent of the lot or a portion thereof, located within the shoreland zone, including land area previously developed

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

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

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

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

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

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

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

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

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

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

      (ii) Vegetation plantings must be in quantities sufficient to retard erosion and provide for effective infiltration of stormwater runoff;
(iii) Only native species may be used to establish the buffer area;

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

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

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

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

1. No more than one pier, dock, wharf or similar structure extending or located below the normal high-water line of a water body or within a wetland is allowed on a single lot; except that when a single lot contains at least twice the minimum shore frontage as specified in Section 15(A), a second structure may be allowed and remain as long as the lot is not further divided.

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

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

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

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

6. No new structure shall be built on, over or abutting a pier, wharf, dock or other structure extending beyond the normal high-water line of a water body or within a wetland unless the structure requires direct access to the water body or wetland as an operational necessity.
7. New permanent piers and docks shall not be permitted unless it is clearly demonstrated to the Planning Board that a temporary pier or dock is not feasible, and a permit has been obtained from the Department of Environmental Protection, pursuant to the Natural Resources Protection Act.

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

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

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

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

   b. Revegetation must occur in accordance with Section 15(S).

D. Campgrounds.

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

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

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

Individual private campsites not associated with campgrounds are allowed provided the following conditions are met:

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

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

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

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

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

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

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

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

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

G. Parking Areas

1. Parking areas shall meet the shoreline and tributary stream setback requirements for structures for the district in which such areas are located, except that in the Commercial Fisheries/Maritime Activities District parking areas shall be set back at least twenty-five (25) feet, horizontal distance, from the shoreline. The setback requirement for parking areas serving public boat launching facilities in Districts other than the General Development I District and Commercial Fisheries/Maritime Activities District shall be no less than fifty (50) feet, horizontal distance, from the shoreline or tributary stream if the Planning Board finds that no other reasonable alternative exists further from the shoreline or tributary stream.
2. Parking areas shall be adequately sized for the proposed use and shall be designed to prevent stormwater runoff from flowing directly into a water body, tributary stream or wetland and where feasible, to retain all runoff on-site.

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

H. Roads and Driveways.

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

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

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

Section 15 (H)(1) does not apply to approaches to water crossings or to roads or driveways that provide access to permitted structures and facilities located nearer to the shoreline or tributary stream due to an operational necessity, excluding temporary docks for recreational uses. Roads and driveways providing access to permitted structures within the setback area shall comply fully with the requirements of Section 15(H)(1) except for that portion of the road or driveway necessary for direct access to the structure.
2. Existing public roads may be expanded within the legal road right of way regardless of their setback from a water body, tributary stream or wetland.

3. New permanent roads are not allowed within the shoreland zone along Significant River Segments except:
   a. To provide access to structures or facilities within the zone; or
   c. When the applicant demonstrates that no reasonable alternative route exists outside the shoreland zone. When roads must be located within the shoreland zone they shall be set back as far as practicable from the normal high-water line and screened from the river by existing vegetation.

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

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

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

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

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

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>
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<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>
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<td>11-15</td>
<td>80-60</td>
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<tr>
<td>16-20</td>
<td>60-45</td>
</tr>
<tr>
<td>21 +</td>
<td>40</td>
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</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 down slope from a line perpendicular to the centerline of the road or driveway.

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

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

I. Signs.

The following provisions shall govern the use of signs in the Resource Protection, Stream Protection, Marine Residential-Recreational Districts:

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

2. Name signs are allowed, provided such signs shall not exceed two (2) signs per premises, and shall not exceed twelve (12) square feet in the aggregate.
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3. Residential users may display a single sign not over three (3) square feet in area relating to the sale, rental, or lease of the premises.

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

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

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

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

J. Storm Water Runoff

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

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

K. Septic Waste Disposal

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

L. Essential Services

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

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

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

M. Mineral Exploration and Extraction.

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

Mineral extraction may be permitted under the following conditions:

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

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

3. Developers of new gravel pits along Significant River Segments shall demonstrate that no reasonable mining site outside the shoreland zone exists. When gravel pits must be located within the zone, they shall be set back as far as practicable from the normal high-water line and no less than seventy-five (75) feet and screened from the river by existing vegetation.

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

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

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

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

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

N. Agriculture

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

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

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

4. There shall be no new tilling of soil within one-hundred (100) feet, horizontal distance, of the normal high-water line of a great pond classified GPA; within seventy-five (75) feet, horizontal distance, from other water bodies; nor within twenty-five
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(25) feet, horizontal distance, of tributary streams and wetlands. Operations in existence on the effective date of this ordinance and not in conformance with this provision may be maintained.

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

O. Repealed

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

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

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

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

   a. There shall be no cleared opening greater than 250 square feet in the forest canopy (or other existing woody vegetation if a forested canopy is not present) as measured from the outer limits of the tree or shrub crown. However, a single footpath not to exceed six (6) feet in width as measured between tree trunks and/or shrub stems is allowed for accessing the shoreline provided that a cleared line of sight to the water through the buffer strip is not created.
Notwithstanding the above provisions, no more than 40% of the total volume of trees four (4) inches or more in diameter, measured at 4 1/2 feet above ground level may be removed in any ten (10) year period.

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

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

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

f. In order to maintain a buffer strip of vegetation, clearing or vegetation removal for permitted construction activities within or beyond the buffer strip must comply with the requirements of Section 15(P)(2). Note: In some cases, construction limitations may result in a new structure being located further from the shoreline than the minimum setback requirements.

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

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

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

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

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

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

The following shall govern in applying this point system:

I. The 25-foot by 50-foot rectangular plots must be established where the landowner or lessee proposes clearing within the required buffer;

II. Each successive plot must be adjacent to, but not overlap a previous plot;

III. Any plot not containing the required points must have no vegetation removed except as otherwise allowed by this Ordinance;

IV. Any plot containing the required points may have vegetation removed down to the minimum points required or as otherwise allowed by this Ordinance;

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

For the purposes of Section 15(P)(2)(b) "other natural vegetation" is defined as retaining existing vegetation under three (3) feet in height and other ground cover and retaining at least five (5) saplings less than two (2) inches in diameter at four and one half (4 1/2) feet above ground level for each 25-foot by 50-foot rectangle area. If five saplings do not exist, no woody stems less than two (2) inches in diameter can be removed until 5 saplings have been recruited into the plot.
Q. Hazard Trees, Storm-Damaged Trees, and Dead Tree Removal

1. Hazard trees in the shoreland zone may be removed without a permit after consultation with the Code Enforcement Officer if the following requirements are met:

   a. Within the shoreline buffer, if the removal of a hazard tree results in a cleared opening in the tree canopy greater than two hundred and fifty (250) square feet, replacement with native tree species is required, unless there is new tree growth already present. New tree growth must be as near as practicable to where the hazard tree was removed and be at least two (2) inches in diameter, measured at four and one half (4.5) feet above the ground level. If new growth is not present, then replacement trees shall consist of native species and be at least four (4) feet in height, and be no less than two (2) inches in diameter. Stumps may not be removed.

   b. Outside of the shoreline buffer, when the removal of hazard trees exceed forty (40) percent of the volume of trees four (4) inches or more in diameter, measured at four and one half (4.5) feet above ground level in any ten year period, and/or results in cleared openings exceeding twenty-five (25) percent of the lot area within the shoreland zone, or ten thousand (10,000) square feet, whichever is greater, replacement with native tree species is required, unless there is new tree growth already present. New tree growth must be as near as practicable to where the hazard tree was removed and be at least two (2) inches in diameter, measured at four and one half (4.5) above the ground level. If new growth is not present, then trees shall consist of native species and be at least two (2) inches in diameter, measured at four and one half (4.5) above the ground level.

   c. The removal of standing dead trees, resulting from natural causes, is permissible without the need for replanting or a permit, as long as the removal does not result in the creation of new lawn areas, or other permanently clear areas, and stumps are not removed. For purposes of this provision dead trees are those trees that contain no foliage during the growing season.

   d. The Code Enforcement Officer may require the property owner to submit an evaluation from a licensed forester or arborist before any hazard tree can be removed within the shoreland zone.
e. The Code Enforcement Officer may require more than a one-for-one replacement for hazard trees removed that exceed eight (8) inches in diameter at four and one half (4.5) feet above ground level.

2. Storm-damaged trees in the shoreland zone may be removed without a permit after consultation with the Code Enforcement Officer if the following requirements are met:

   a. Within the shoreline buffer, when the removal of storm-damaged trees results in a cleared opening in the tree canopy greater than two hundred and fifty (250) square feet, replanting is not required, but the area shall be required to naturally revegetate, and the following requirements must be met:
      i. The area from which a storm-damaged tree is removed does not result in new lawn areas, or other permanently cleared areas;
      ii. Stumps from the storm-damaged trees may not be removed;
      iii. Limbs damaged from a storm event may be pruned even if they extend beyond the bottom one-third (1/3) of the tree; and
      iv. If after one growing season, no natural regeneration or regrowth is present, replanting of native seedlings or saplings is required at a density of one seedling per every eighty (80) square feet of lost canopy.

   b. Outside of the shoreline buffer, if the removal of storm-damaged trees exceeds 40% of the volume of trees four (4) inches or more in diameter, measured at four and one half (4.5) above the ground level in any ten (10) year period, or results in cleared openings exceeding 25% of the lot area within the shoreland zone or ten thousand (10,000) square feet, whichever is greater, and no natural regeneration occurs within one growing season, then native tree seedlings or saplings shall be replanted on a one-for-one basis.

R. Exemptions to Clearing and Vegetation Removal Requirements

The following activities are exempt from the clearing and vegetation removal standards set forth in Section 15(P), provided that all other applicable requirements of this chapter are complied with, and the removal of vegetation is limited to which is necessary:

   1. The removal of vegetation that occurs at least once every two (2) years for the maintenance of legally existing areas that do not comply with the vegetation
standards in this chapter, such as but not limited to cleared openings in the canopy or fields. Such areas shall not be enlarged, except as allowed by this section. If any of these areas, due to lack of removal of vegetation every two (2) years, reverts back to primary woody vegetation, the requirements of Section 15(P) apply;

2. The removal of vegetation from the location of allowed structures or allowed uses, when the shoreland setback requirements of Section 15(B) are not applicable;

3. The removal of vegetation from the location of public swimming areas associated with an allowed public recreational facility;

4. The removal of vegetation associated with allowed agricultural uses, provided best management practices are utilized, and provided all requirements of Section 15(N) are complied with;

5. The removal of vegetation associated with brownfields or voluntary response action program (VRAP) projects provided that the removal of vegetation is necessary for remediation activities to clean-up contamination on a site in a general development district, commercial fisheries and maritime activities district or other equivalent zoning district approved by the Commissioner that is part of a state or federal brownfields program or a voluntary response action program pursuant 38 M.R.S.A Section 343-E, and that is located along:

a. A coastal wetland; or

b. A river that does not flow to a great pond classified as GPA pursuant to 38 M.R.S.A. Section 465-A.

6. The removal of non-native invasive vegetation species, provided the following minimum requirements are met;

a. If removal of vegetation occurs via wheeled or tracked motorized equipment, the wheeled or tracked motorized equipment is operated and stored at least twenty-five (25) feet, horizontal distance, from the shoreline, except that wheeled or tracked equipment may be operated or stored on existing structural surfaces, such as pavement or gravel;

b. Removal of vegetation within twenty-five (25) feet, horizontal distance, from the shoreline occurs via hand tools; and
Town of Prospect Shoreland Zoning Ordinance

c. If applicable clearing and vegetation removal standards are exceeded due to the removal of non-native invasive species vegetation, the area shall be revegetated with native species to achieve compliance.

7. The removal of vegetation associated with emergency response activities conducted by the Department, the U.S. Environmental Protection Agency, the U.S. Coast Guard, and their agents.

S. Revegetation Requirements

When revegetation is required in response to violations of the vegetation standards set forth in Section 15(P), to address the removal of non-native invasive species of vegetation, or as a mechanism to allow for development that may otherwise not be permissible due to the vegetation standards, including removal of vegetation in conjunction with a shoreline stabilization project, the revegetation must comply with the following requirements:

1. The property owner must submit a revegetation plan, prepared with and signed by a qualified professional, that describes revegetation activities and maintenance. The plan must include a scaled site plan, depicting where vegetation was, or is to be removed, where existing vegetation is to remain, and where vegetation is to be planted, including a list of all vegetation to be planted.

2. Revegetation must occur along same segment of shoreline and in the same area where vegetation was removed and at a density comparable to the pre-existing vegetation, except where a shoreline stabilization activity does not allow revegetation to occur in the same area and at a density comparable to the pre-existing vegetation, in which case revegetation must occur along same segment of shoreline and as close as possible to area where vegetation was removed.

3. If part of a permitted activity, revegetation shall occur before the expiration of the permit. If the activity or revegetation is not completed before the expiration of the permit, a new revegetation plan shall be submitted with any renewal or new permit application.

4. Revegetation activities must meet the following requirements for trees and saplings:

   a. All trees and sapling removed must be replaced with native non-invasive species;

   b. Replacement vegetation must at a minimum consist of saplings;
c. If more than three (3) trees or saplings are planted, then at least three (3) different species shall be used;

d. No one species shall make up 50% or more of the number of trees and saplings planted;

e. If revegetation is required for a shoreline stabilization project, and it is not possible to plant trees and saplings in the same area where trees or saplings were removed, then trees or saplings must be planted in a location that effectively reestablishes the screening between the shoreline and structures; and

f. A survival rate of at least eighty (80) percent of planted trees or saplings is required for a minimum five (5) year period.

5. Revegetation activities must meet the following requirements for woody vegetation and other vegetation under three (3) feet in height:

a. All woody vegetation and vegetation under three (3) feet in height must be replaced with native non-invasive species of woody vegetation and vegetation under three (3) feet in height as applicable;

b. Woody vegetation and vegetation under three (3) feet in height shall be planted in quantities and variety sufficient to prevent erosion and provide for effective infiltration of stormwater;

c. If more than three (3) woody vegetation plants are to be planted, then at least three (3) different species shall be planted;

d. No one species shall make up 50% or more of the number of planted woody vegetation plants; and

e. Survival of planted woody vegetation and vegetation under three feet in height must be sufficient to remain in compliance with the standards contained within this chapter for minimum of five (5) years.

6. Revegetation activities must meet the following requirements for ground vegetation and ground cover:

a. All ground vegetation and ground cover removed must be replaced with native herbaceous vegetation, in quantities and variety sufficient to prevent erosion and provide for effective infiltration of stormwater;
b. Where necessary due to lack of sufficient ground cover, an area must be supplemented with a minimum four (4) inch depth of leaf mulch and/or bark mulch to prevent erosion and provide for effective infiltration of stormwater; and

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

T. Erosion and Sedimentation Control

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

   a. Mulching and revegetation of disturbed soil.

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

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

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

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

4. Any exposed ground area shall be temporarily or permanently stabilized within one (1) week from the time it was last actively worked, by use of riprap, sod, seed, and mulch, or other effective measures. In all cases permanent stabilization shall occur within nine (9) months of the initial date of exposure. In addition:
a. Where mulch is used, it shall be applied at a rate of at least one (1) bale per five hundred (500) square feet and shall be maintained until a catch of vegetation is established.

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

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

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

U. Soils.

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

V. Water Quality.

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

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

Section 16. Administration

A. Administering Bodies and Agents

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

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

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

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

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

   a. The replacement culvert is not more than 25% longer than the culvert being replaced;
   b. The replacement culvert is not longer than 75 feet; and
   c. Adequate erosion control measures are taken to prevent sedimentation of the water, and the crossing does not block fish passage in the watercourse.

2. A permit is not required for an archaeological excavation as long as the excavation is conducted by an archaeologist listed on the State Historic Preservation Officer’s level 1 or level 2 approved list, and unreasonable erosion
and sedimentation is prevented by means of adequate and timely temporary and permanent stabilization measures.

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

C. Permit Application

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

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

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

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

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

The applicant shall have the burden of proving that the proposed land use activity is in conformity with the purposes and provisions of this Ordinance.
After the submission of a complete application to the Planning Board, the Board shall approve an application or approve it with conditions if it makes a positive finding based on the information presented that the proposed use:

1. Will maintain safe and healthful conditions;
2. Will not result in water pollution, erosion, or sedimentation to surface waters;
3. Will adequately provide for the disposal of all wastewater;
4. Will not have an adverse impact on spawning grounds, fish, aquatic life, bird or other wildlife habitat;
5. Will conserve shore cover and visual, as well as actual, points of access to inland waters;
6. Will protect archaeological and historic resources as designated in the comprehensive plan;
7. Will avoid problems associated with floodplain development and use; and
8. Is in conformance with the provisions of Section 15, Land Use Standards.

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

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

1. There is no location on the property, other than a location within the Resource Protection District, where the structure can be built.
2. The lot on which the structure is proposed is undeveloped and was established and recorded in the registry of deeds of the county in which the lot is located before the adoption of the Resource Protection District.
3. All proposed buildings, sewage disposal systems and other improvements are:
a. Located on natural ground slopes of less than 20%; and

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

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

4. The total footprint, including cantilevered or similar overhanging extensions, of all principal and accessory structures is limited to a maximum of 1,500 square feet. This limitation shall not be altered by variance.

5. All structures, except functionally water-dependent structures, are set back from the normal high-water line of a water body, tributary stream or upland edge of a wetland to the greatest practical extent, but not less than 75 feet, horizontal distance. In determining the greatest practical extent, the Planning Board shall consider the depth of the lot, the slope of the land, the potential for soil erosion, the type and amount of vegetation to be removed, the proposed building site's elevation in regard to the flood-plain, and its proximity to moderate-value and high-value wetlands.

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

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

H. Appeals

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

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

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

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

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

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

(i) The proposed structure or use would meet the provisions of Section 15 except for the specific provision which has created the non-conformity and from which relief is sought; and

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

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

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

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

d. Notwithstanding Section 16(H)(2)(c)(ii) above, the Board of Appeals may grant a variance to an owner of a residential dwelling for the purpose of making that dwelling accessible to a person with a disability who resides in or regularly uses the dwelling. The board shall restrict any variance granted under this subsection solely to the installation of equipment or the construction of structures necessary for access to or egress from the dwelling by the person with the disability. The board may impose conditions on the variance, including limiting the variance to the duration of the disability or to the time that the person with the disability lives in the dwelling. The term "structures necessary for access to or egress from the dwelling" shall include railing, wall or roof systems necessary for the safety or effectiveness of the structure. Any permit issued pursuant to this subsection is subject to Sections 16(H)(2)(f) and 16(H)(4)(b)(iv) below.

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

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

3. Administrative Appeals

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

When the Board of Appeals hears a decision of the Planning Board, it shall hold an appellate hearing, and may reverse the decision of the Planning Board only upon finding that the decision was contrary to specific provisions of the
4. Appeal Procedure

a. Making an Appeal

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

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

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

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

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

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

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

(iii) The Board shall decide all administrative appeals and variance appeals within thirty five (35) days after the close of the hearing, and shall issue a written decision on all appeals.

(iv) The Board of Appeals shall state the reasons and basis for its decision, including a statement of the facts found and conclusions reached by the Board. The Board shall cause written notice of its decision to be mailed or hand-delivered to the applicant and to the Department of Environmental Protection within seven (7) days of the Board’s decision. Copies of written decisions of the Board of Appeals shall be given to the Planning Board, Code Enforcement Officer, and the municipal officers.

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

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

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

I. Enforcement

1. Nuisances. Any violation of this Ordinance shall be deemed to be a nuisance.
2. Code Enforcement Officer

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

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

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

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

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

J. Fees

The Selectmen in the Town of Prospect shall set fees from time to time where appropriate.

Section 17. Definitions.

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

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

Agriculture - the production, keeping or maintenance for sale or lease of plants 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 greenhouse products. Agriculture does not include forest management and timber harvesting activities.

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

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

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

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

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

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

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

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

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

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

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

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

Essential services - gas, electrical or communication facilities; steam, fuel, electric power or water transmission or distribution lines, towers and related equipment; telephone cables or lines, poles and related equipment; gas, oil, water, slurry or other similar pipelines; municipal sewage lines, collection or supply systems; and associated storage tanks. Such systems may include towers, poles, wires, mains, drains, pipes, conduits, cables, fire alarms and police call boxes, traffic signals, hydrants and similar accessories, but shall not include service drops or buildings which are necessary for the furnishing of such services.
Expansion of a structure - an increase in the footprint of a structure, including all extensions such as, but not limited to: attached decks, garages, porches and greenhouses.

Expansion of use - the addition of one or more months to a use's operating season; or the use of more footprint of a structure or ground area devoted to a particular use.

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

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

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

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

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

Foundation - the supporting substructure of a building or other structure, excluding wooden sills and post supports, but including basements, slabs, frostwalls, or other base consisting of concrete, block, brick or similar material.

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

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

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

Freshwater wetlands may contain small stream channels or inclusions of land that do not conform to the criteria of this definition.
Functionally water-dependent uses - those uses that require, for their primary purpose, location on submerged lands or that require direct access to, or location in, inland waters and that cannot be located away from these waters. The uses include, but are not limited to, commercial and recreational fishing and boating facilities, finfish and shellfish processing, fish-related storage and retail and wholesale fish marketing facilities, waterfront dock and port facilities, shipyards and boat building facilities, marinas, navigation aids, basins and channels, shoreline structures necessary for erosion control purposes, industrial uses dependent upon water-borne transportation or requiring large volumes of cooling or processing water that cannot reasonably be located or operated at an inland site, and uses that primarily provide general public access to inland waters. Recreational boat storage buildings are not considered to be a functionally water-depend

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

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

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

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

Hazard tree - a tree with a structural defect, combination of defects, or disease resulting in a structural defect that under the normal range of environmental conditions at the site exhibits a high probability of failure and loss of a major structural component of the tree in a manner that will strike a target. A normal range of environmental conditions does not include meteorological anomalies, such as, but not limited to: hurricanes; hurricane-force winds; tornados; microbursts; or significant ice storm events. Hazard trees also include those trees that pose a serious and imminent risk to bank stability. A target is the area where personal injury or property damage could occur if the tree or a portion of the tree fails. Targets include roads, driveways, parking areas, structures, campsites, and any other developed area where people frequently gather or linger.
**Height of a structure** - the vertical distance between the mean original (prior to construction) grade at the downhill side of the structure and the highest point of the structure, excluding chimneys, steeples, antennas, and similar appurtenances that have no floor area.

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

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

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

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

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

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

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

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

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

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

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

**Native** - indigenous to the local forests.

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

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

**Non-conforming structure** - a structure which does not meet any one or more of the following dimensional requirements; setback, height, lot coverage or footprint, but which is allowed solely because it was in lawful existence at the time this Ordinance or subsequent amendments took effect.
Non-conforming use - use of buildings, structures, premises, land or parts thereof which is not allowed in the district in which it is situated, but which is allowed to remain solely because it was in lawful existence at the time this Ordinance or subsequent amendments took effect.

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

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

Outlet stream – any perennial or intermittent stream, as shown on the most recent highest resolution version of the national hydrography dataset available from the United States Geological Survey on the website of the United States Geological Survey or the national map, that flows from a freshwater wetland.

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

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

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

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

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

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

Public facility - any facility, including, but not limited to, buildings, property, recreation areas, and roads, which are owned, leased, or otherwise operated, or funded by a governmental body or public entity.
Recent floodplain soils - the following soil series as described and identified by the National Cooperative Soil Survey:

- Fryeburg
- Lovewell
- Alluvial
- Podunk
- Suncook

- Hadley
- Medomak Ondawa
- Cornish
- Rumney
- Sunday

- Limerick
- Charles
- Saco
- Winooski

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

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

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

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

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

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

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.
Salt marsh - Areas of coastal wetland (most often along coastal bays) that support salt tolerant species, and where at average high tide during the growing season, the soil is irregularly inundated by tidal waters. The predominant species is saltmarsh cordgrass (Spartina alterniflora). More open areas often support widgeon grass, eelgrass, and Sago pondweed.

Salt meadow - Areas of a coastal wetland that support salt tolerant plant species bordering the landward side of salt marshes or open coastal water, where the soil is saturated during the growing season but which is rarely inundated by tidal water. Indigenous plant species include salt meadow cordgrass (Spartina patens) and black rush; common threesquare occurs in fresher areas.

Sapling – a tree species that is less than two (2) inches in diameter at four and one half (4.5) feet above ground level.

Seedling – a young tree species that is less than four and one half (4.5) feet in height above ground level.

Service drop - any utility line extension which does not cross or run beneath any portion of a water body provided that:

1. in the case of electric service
   a. the placement of wires and/or the installation of utility poles is located entirely upon the premises of the customer requesting service or upon a roadway right-of-way; and
   b. the total length of the extension is less than one thousand (1,000) feet.

2. in the case of telephone service
   a. the extension, regardless of length, will be made by the installation of telephone wires to existing utility poles, or
   b. the extension requiring the installation of new utility poles or placement underground is less than one thousand (1,000) feet in length.

Setback - the nearest horizontal distance from the normal high-water line of a water body or tributary stream, or upland edge of a wetland, to the nearest part of a structure, road, parking space or other regulated object or area.

Shore frontage - the length of a lot bordering on a water body or wetland measured in a straight line between the intersections of the lot lines with the shoreline.
Town of Prospect Shoreland Zoning Ordinance

Shoreland zone - the land area located within two hundred and fifty (250) feet, horizontal distance, of the normal high-water line of any great pond or river; within 250 feet of the upland edge of a freshwater wetland; or within seventy-five (75) feet, horizontal distance, of the normal high-water line of a stream.

Significant River Segments - See Appendix A or 38 M.R.S.A. section 437.

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

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

Stream - a free-flowing body of water from the outlet of a great pond or the confluence of two (2) perennial streams as depicted on the most recent, highest resolution version of the national hydrography dataset available from the United States Geological Survey on the website of the United States Geological Survey or the national map, to the point where the stream becomes a river or where the stream meets the shoreland zone of another water body or wetland. When a stream meets the shoreland zone of a water body or wetland and a channel forms downstream of the water body or wetland as an outlet, that channel is also a stream.

Structure - anything temporarily or permanently located, built, constructed or erected for the support, shelter or enclosure of persons, animals, goods or property of any kind, or anything constructed or on or in the ground. The term includes structures temporarily or permanently located, such as decks, patios, and satellite dishes. Structure does not include fences; poles and wiring and other aerial equipment normally associated with service drops, including guy wires and guy anchors; subsurface waste water disposal systems as defined in Title 30-A, Section 4201, subsection 5; geothermal heat exchange wells as defined in Title 32, Section 4700-E, subsection 3-C; or wells or water wells as defined in Title 32, Section 4700-E, subsection 8.

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

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

**Sustained slope** - a change in elevation where the referenced percent grade is substantially maintained or exceeded throughout the measured area.

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

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

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

**Tributary stream** – means a channel between defined banks created by the action of surface water, which is characterized by the lack of terrestrial vegetation or by the presence of a bed, devoid of topsoil, containing waterborne deposits or exposed soil, parent material or bedrock; and which is connected hydrologically with other water bodies. “Tributary stream” does not include rills or gullies forming because of accelerated erosion in disturbed soils where the natural vegetation cover has been removed by human activity.

This definition does not include the term "stream" as defined elsewhere in this Ordinance, and only applies to that portion of the tributary stream located within the shoreland zone of the receiving water body or wetland.

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

**Upland edge of a wetland** - the boundary between upland and wetland. For purposes of a 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; or where the soils support the growth of wetland vegetation, but such vegetation is dominated by woody stems that are six (6) meters (approximately twenty (20) feet) tall or taller.

**Vegetation** - all live trees, shrubs, and other plants including without limitation, trees both over and under 4 inches in diameter, measured at 4 1/2 feet above ground level.
Volume of a structure - the volume of all portions of a structure enclosed by roof and fixed exterior walls as measured from the exterior faces of these walls and roof.

Velocity zone - an area of special flood hazard extending from offshore to the inland limit of the primary frontal dune along an open coast and any other area subject to high velocity wave action from storms or seismic sources.

Water body - any great pond, river or stream.

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

Wetland - a freshwater wetland.

Windmill - a machine that is powered by the energy of the wind. It is designed to convert the energy of the wind into more useful forms using rotating blades or sails. The term also refers to the structure it is commonly built on.

Woody Vegetation - live trees or woody, non-herbaceous shrubs.
Town of Prospect

Site Plan Review Ordinance

Enacted 4/11/15

Certification of Proposed Ordinances by the Municipal Officers

This certifies to the municipal clerk of Prospect that the within ordinance is a true copy of an ordinance entitled Site Plan Review Ordinance to be acted upon by the voters at a Town Meeting to be held on April 11th, 2015.

Dated: April 11th, 2015

Municipal Officers of Prospect

Attested By: Prospect Town Clerk
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ARTICLE I - TITLE AND PURPOSE

1 Title

This ordinance shall be known and may be cited as the Site Plan Review Ordinance of the Town of Prospect, Maine.

2 Purpose

The purposes of this Ordinance are to promote the health, welfare and safety of the residents of the Town of Prospect, Maine; to provide a level of municipal review for commercial and industrial projects that could potentially impact the community; to balance the rights of landowners to use their land while minimizing adverse impacts on adjacent properties; to protect the town’s natural resources; to reduce the off-site effects of development, thereby controlling the costs of maintaining or improving municipal services; and to promote a fair, thorough, and expedient review process for proposed activities subject to this ordinance.

ARTICLE II - ADMINISTRATION AND APPLICABILITY

1 Administration

As described herein, this ordinance shall be administered and enforced by the Town of Prospect Planning Board and a Code Enforcement Officer (CEO) appointed by the Select Board.

2 Approval Required

A person or entity with right, title, or interest in a parcel of land must obtain site plan approval prior to commencing any of the following activities on the parcel:

A. New development of the following: commercial uses, retail uses, industrial uses, multi-family dwellings and subdivisions as defined by 30-A M.R.S.A. § 4401, even if no buildings or structures are proposed.
B. Substantial expansion of the aforementioned uses;
C. Changing the use of an existing building or structure from a residential to a commercial or other non-residential use;
D. Changing a non-residential use to an industrial use.

3 Approval Not Required

Site plan approval is not required for the following:

A. This ordinance does not apply to:
   1. Detached single and two family dwelling units (the Town of Prospect Subdivision Ordinance may apply),
   2. Town of Prospect projects,
   3. Home occupations as defined herein, or
4. Changes of ownership of an existing non-commercial use, as long as no substantial expansion or change of use is planned.

B. Nothing in this ordinance shall be construed to prevent ordinary repair, maintenance or replacement of any part of the building or landscaping which does not involve a substantial expansion or change of use.

C. Minimal Impact Developments as defined in Article III(2) below.

ARTICLE III - CLASSIFICATION OF PROJECTS

1 Project Classes

The Planning Board shall classify each project as one of three classifications: Minimal Impact Development, Minor Development, or Major Development.

2 Minimal Impact Development

A Minimal Impact Development shall include those projects involving the construction or addition of less than 1,000 square feet of gross non-residential floor area, and/or projects involving the installation of less than 1,000 square feet of impervious surfaces. Minimal Impact Developments will not require site plan review.

3 Minor Development

A Minor Development shall include those projects involving:

A. The construction, enlargement or expansion of at least 1,000 square feet, but less than 3,000 square feet, of gross non-residential floor area,
B. Those projects involving the installation of at least 1,000 square feet, but less than 3,000 square feet, of impervious surfaces for non-residential use,
C. Those projects involving the conversion of existing buildings or structures from residential to non-residential use as outlined in the provisions of this Ordinance, and/or
D. Those projects involving the construction of between three and five residential dwelling units.
E. Minor Developments will require site plan approval.

4 Major Developments

A Major Development shall include those projects involving:

A. The construction, enlargement or expansion of 3,000 or more square feet of gross non-residential floor area,
B. Projects involving the installation of 3,000 or more square feet of impervious surfaces for non-residential use,
C. Projects involving the construction of six or more residential dwelling units, and/or
D. Projects involving the establishment of any other commercial or industrial project not classified as a Minimal Impact or Minor Development.
E. Major Developments will require site plan approval.

ARTICLE IV - REVIEW AND APPROVAL AUTHORITY

This Ordinance is adopted pursuant to Home Rule Powers as provided for in Article VIII, Part 2, Section 1 of the Maine Constitution and Title 30-A MRSA § 3001. In considering site plans under this provision, the Prospect Planning Board may act to approve, disapprove or approve with conditions, any projects governed by the Ordinance.

ARTICLE V - REVIEW PROCEDURES

1 Pre-Application Procedures

The Planning Board shall use the following procedures in reviewing applications for site plan review. Prior to submitting a formal 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 Title 1 M.R.S.A. § 302. No decision on the substance of the plan shall be made at the pre-application conference, and any guidance given by the Code Enforcement Officer or Planning Board during such conference shall not be binding upon the Planning Board or applicant, except for decisions on waivers of submission requirements.

2 Purpose of Pre-Application

The purposes of the pre-application conference are to:
A. Allow the Planning Board to understand the nature of the proposed use and the issues involved in the proposal,
B. Allow the applicant to understand the development review process and required submissions, and to request waiver of any submission requirements,
C. Identify issues that need to be addressed in future submissions, and
D. Make the applicant aware of any opportunities for coordinating the development with community policies, programs, or facilities.

3 Information Required

There are no formal submission requirements for a pre-application conference. However, the applicant should be prepared to show a simple Sketch Plan and discuss the following with the Board:

A. The proposed site, including its location, size, and general characteristics,
4 Formal Application Procedures

The applicant must prepare and submit a site plan review application, including the development plan and supporting documentation that meets the submission requirements set forth below. This material must be submitted to the Chair of the Planning Board.

A. At the first meeting in which the application is considered, the Planning Board shall give a dated receipt to the applicant or to their appointed representative who shall be in attendance. The Town of Prospect shall notify, by certified return receipt mail, all property owners within 1,000 feet of the parcel on which the proposed development is located. The cost of said mailing will be the responsibility of the applicant. The town will bill the applicant for said costs. Written notice of the pending application shall be mailed to the Selectmen, Fire Chief, Road Commissioner, Plumbing Inspector, Code Enforcement Officer, the Town Clerk for public posting, and other interested parties. The list of property owners located within 1,000 feet and a copy of the written notice shall be submitted to the Planning Board and made part of the official record.

B. Within 45 days of the receipt of a formal site plan review application, the Planning Board shall review the material and determine whether or not the submission is complete. If the application is determined to be incomplete, the Board shall notify the applicant in writing of this finding, specify the additional materials required to make the application complete, and advise the applicant that the application will not be considered by the Board until the additional information is submitted. These steps, except the notification requirements, shall be repeated until the application is found to be complete.

C. As soon as the Planning Board determines that the application is complete, the Board shall notify the applicant in writing of this finding, place the item on the agenda for public hearing and meet the notification requirements of subsection (E) below. The public hearing may be scheduled to occur at the same meeting at which the Board determines the completeness of the application, so long as said agenda and notification requirements have been met.

D. The Planning Board shall hold a public hearing on the Site Plan Review application which shall be commenced within 45 days of receipt of the completed application.
E. The Planning Board shall give written notice of the date, time, and place of the public hearing to the applicant and all persons who received the written notice under subsection (A). Such notice shall be paid for by the applicant.

F. The Planning Board and/or Code Enforcement Officer may hold an on-site inspection of the site to review the existing conditions, field verify the information submitted and investigate the development proposal. The Board may schedule this visit during or after the first meeting at which the application is considered. The Board may decide not to hold an on-site inspection when the site is snow covered. If an application is pending during a period when there is snow cover, the deadline by which the Planning Board shall take final action on the application as specified in subsection (C) may be extended. This extension shall not exceed 45 days after the Board is able to conduct an on-site inspection. Written notice of the on-site inspection shall be provided to all parties entitled to notice under subsection (A), and shall be paid for by the applicant.

G. The Planning Board shall issue a final decision on said application within 45 days of the close of the hearing. In such decision, the Board shall act to deny, to approve, or to approve the application with conditions. The Board may impose such conditions as are deemed advisable to assure compliance with the standards of approval.

H. In issuing its decision, the Planning Board shall make written findings of fact establishing that the proposed development does or does not meet the standards of approval and other requirements of the Town.

I. All time limits provided for in this section may be extended by mutual agreement of the applicant and Planning Board.

5 Final Approval and Filing

Upon completion of the requirements outlined in this Ordinance and an approval vote by the majority of the Planning Board, the application shall be deemed to have final approval. The site plan shall be signed by a majority of the members of the Board and must be filed with the Code Enforcement Officer. The signed plan, with any agreed upon conditions of approval attached, must be recorded by the applicant in the Waldo County Registry of Deeds within 45 days of the vote to approve the plan. The Planning Board, by vote, may extend the filing period for good cause.

ARTICLE VI - PERFORMANCE GUARANTEES AND FEES

1 Performance Guarantees

A. With submittal of the application for Final Plan approval, the applicant shall provide a performance guarantee for an amount adequate to cover the total engineering and construction costs of all required public improvements, taking into account the time-span of the construction schedule and the inflation rate for construction costs.
B. If the Planning Board finds that a Major Development, if left partially completed or vacant, would cause potential economic or environmental harm to the Town, the Planning Board may require, as a condition of approval, that the applicant provide a performance guarantee in an amount sufficient to cover the total cost of construction for the development, or the cost to decommission and remove any project elements if the projected decommissioning costs exceed the total construction cost. Upon substantial completion of the development, the applicant or owner/operator may request release of such portion of the performance guarantee as is allocated toward construction costs, and the Planning Board shall release the guarantee requirement so long as the project is found to be in compliance with the approved and recorded plan and all other applicable Town ordinances. Any condition requiring the submission of a decommissioning guarantee shall specify the length of time the guarantee will be held by the Town, which shall not be less than one year following the date of substantial completion.

C. Performance guarantees may be given through any of the following options:
   i. Either a certified check payable to the Town of Prospect or a savings account or certificate of deposit naming the Town of Prospect as owner for the establishment of an escrow account,
   ii. A performance bond payable to the Town of Prospect issued by a surety company licensed to do business in the State of Maine and approved by the Selectmen, or
   iii. An irrevocable letter of credit from a financial institution establishing funding for the construction of the project, from which the Town may draw if construction is inadequate, approved by the Selectmen.

D. The Planning Board, with the advice of the Code Enforcement Officer, Road Commissioner, Selectmen, and/or Town Attorney, shall determine the conditions and amount of the performance guarantee. Any guarantee shall grant to the Town the right to access the funds and the property as necessary to complete or decommission any project elements.

2 Application Fee

An application fee must accompany an application for site plan review. This fee is intended to cover the cost of the municipality's administrative processing of the application, including notification, advertising, mailings, and similar costs. The fee shall not be refundable. This application fee must be paid to the municipality and evidence of payment of the fee must be included with the application. The application fee shall be established by the Town of Prospect Board of Selectmen following posting of the proposed schedule of fees and public hearing.
3 Technical Review Fee

In addition to the application fee, the applicant for site plan review may be required to pay a technical review fee to defray the municipality’s legal and technical costs of the application review. The application will be considered incomplete until evidence of payment of this fee is submitted to the Planning Board.

A. The fee will be set by the Planning Board. The Board, in consultation with the Code Enforcement Officer, will determine the costs of technical assistance needed after receiving estimates for the services.

B. This fee must be paid to the municipality and shall be deposited in the Development Review Trust Account, which shall be separate and distinct from all other municipal accounts. If funds are expended then additional funds will be requested of the applicant and placed into the account.

C. The technical review fee may be used by the Planning Board to pay reasonable costs incurred by the Board, at its discretion, which relate directly to the review of the application pursuant to the review criteria. Such services may include, but need not be limited to, consulting, engineering or other professional fees, attorney fees, recording fees, and appraisal fees.

D. The municipality shall provide the applicant, upon written request, with an accounting of his or her account and shall refund all of the remaining monies, including accrued interest, in the account after the payment by the Town of all costs and services related to the review. Such payment of remaining monies shall be made no later than 60 days after the approval of the application, denial of the application, formal withdrawal of the application, or approval with condition of the application. Such refund shall be accompanied by a final accounting of expenditures from the fund. The monies in such fund shall not be used by the Board for any enforcement purposes nor shall the applicant be liable for costs incurred by or costs of services contracted for by the Board which exceed the amount deposited to the trust account.

ARTICLE VII - SUBMISSION REQUIREMENTS

1 Waivers

Applications for site plan review must be submitted on application forms provided by the Town of Prospect. The complete application forms, evidence of payment of the required fees, and the required plans and related information must be submitted to the Code Enforcement Officer and the Chair of the Planning Board. The submissions must contain at least the following exhibits and information unless specifically waived by vote of the Planning Board. The Planning Board may waive any of the
submission requirements based upon a written request of the applicant. Such request must be made at the time of the pre-application conference or at the initial review of the application if no pre-application conference is held. A waiver of any submission requirement may be granted only if the Board makes a written finding that the information is not required to determine compliance with the standards.

2 Information Required

All applications for site plan review must contain the following information:

A. A fully executed and signed copy of the application for site plan review.
B. Evidence of payment of the application and all other required fees.
C. Thirteen copies of written materials plus thirteen sets of maps or drawings containing the information listed below. The written materials must be contained in a bound report. The maps or drawings must be at a scale sufficient to allow review of the items listed under the approval standards and criteria, but in no case shall be more than 100 feet to the inch for that portion of the tract of land being proposed for development.

3 General Information

The following general information must be included in all applications:

A. Record owner’s name, address and phone number and applicant’s name, address and phone number if different.
B. The location of all required building setbacks, yards, and buffers.
C. Names and addresses of all property owners within 1,000 feet of any and all property boundaries.
D. Sketch map showing general location of the site within the municipality. The DeLorme map is preferred.
E. 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.
F. The tax map(s) and lot number(s) of the parcel(s) on which the project is located.
G. 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 on the part of the applicant.
H. The name, registration numbers, and seal of the person who prepared the plan, if applicable.

The following general information must be included with applications for Major Developments only:

A. Evidence of the applicant’s technical and financial capability to carry out the project as proposed.
4 Existing Conditions

The following existing conditions must be included in all applications:

A. The boundaries of the Shoreland District of any portion of the property being developed are located in the Shoreland Zone as depicted on the Town of Prospect Shoreland Zoning Map.

B. A boundary survey depicting the bearings and length of all property lines of the property to be developed and the source of this information. The Planning Board may waive this requirement of a boundary survey when sufficient information is available to establish, on the ground, all property boundaries.

C. Location and size of any existing sewer and water mains, culverts and drains, on-site sewage disposal systems, wells, underground tanks or installations, power and telephone lines, poles on the property to be developed, or 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.

D. Location, names, and present widths of existing public and/or private streets and rights-of-way within or adjacent to the proposed development.

E. The location and dimensions of existing driveways, parking and loading areas, walkways, and sidewalks on or immediately adjacent to the site.

F. Location of intersecting roads or driveways within 200 feet of the site.

G. The location of open drainage courses, wetlands, stonewalls, graveyards, fences, stands of trees, and other important or unique natural areas and site features, including but not limited to floodplains, deer wintering areas, significant wildlife habitats, scenic areas, habitat for rare and endangered plants and animals, unique natural communities and natural areas, sand and gravel aquifers, and historic and/or archaeological resources, together with a description of such features.

H. The direction of existing surface water drainage across the site.

I. Location and dimensions of any existing easements and copies of existing covenants or deed restrictions.

J. The location and description of the nearest water supply for fire protection.

K. A description, prepared by a licensed site evaluator, or any existing subsurface wastewater disposal system and its viability.
The following additional existing conditions must be included with Major Development applications:

A. A general description of the soils in the area of the proposed development or expansion. This information can be taken from the Soil Survey of Waldo County or provided by a certified soil scientist.
B. The location, front view, dimensions, and lighting of existing signs.
C. The location, dimensions and ground floor elevation of all existing buildings on the site.

5 Proposed Development Activity

The following proposed development activities must be included in all applications:

A. Estimated demand for water supply and sewage disposal together with the location and dimensions of all provisions for water supply and wastewater disposal, and evidence of their adequacy for the proposed use, including soils test pit data if on-site sewage disposal is proposed.
B. The direction of proposed surface water drainage across the site and from the site, with an assessment of impacts on downstream properties.
C. Descriptions by type and amount, as well as provisions for handling all solid wastes, including hazardous and special wastes and the location and proposed screening of any on-site collection or storage facilities.
D. The location, dimensions, and materials to be used in the construction of proposed driveways, parking and loading areas, and walkways and any changes in traffic flow onto or off-site.
E. Proposed landscaping and buffering.
F. The location, dimensions, and ground floor elevation of all proposed buildings or building expansion proposed on the site.
G. Location, front view, materials, and dimensions of proposed signs together with the method for securing the sign.
H. The size, location, direction, and intensity of illumination and method of installation of all major outdoor lighting apparatus and signs.
I. The location of all utilities, including fire protection systems.
J. A general description of the proposed use or activity, including hours and days of operation.
K. An estimate of the peak hour and daily traffic to be generated by the project.
L. 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.
M. A list of any state and federal approvals or permits that are required, as well as copies of any permits or approvals received. The Board may approve development plans subject to the issuance of specified State approvals and permits where it determines that it is not feasible for the applicant to obtain them at the time of development review.
N. A schedule of construction including anticipated beginning and completion dates.

The following proposed development activities must be included with Major Development applications:

A. Stormwater calculations, erosion and sedimentation control measures, and water quality and/or phosphorous export management provisions, if the project requires a stormwater permit from the Maine Department of Environmental Protection or if the Planning Board determines that such information is necessary based upon the scale of the project or the existing conditions in the vicinity of the project.

6 Approval Block

Space must be provided on the plan drawing for the signatures of the Planning Board and date together with the following words, “Approved: Town of Prospect, Maine, Planning Board.”

ARTICLE VIII - APPROVAL STANDARDS AND CRITERIA

1 Approval Standards

The following criteria shall be used by the Planning Board in reviewing applications for site plan review and shall serve as minimum requirements for approval of the application. The application shall be approved unless the Planning Board determines that the applicant has failed to meet one or more of these standards. In all instances, the burden of proof shall be on the applicant who must produce evidence sufficient to warrant a finding that all applicable criteria have been met.

2 Utilization of the Site

The plan for the development must reflect the natural capabilities of the site to support development. Buildings, lots, and support facilities must be clustered in those portions of the site that have the most suitable conditions for development. Environmentally sensitive areas, including but not limited to, wetlands, steep slopes, floodplains, significant wildlife habitats, fisheries, scenic areas, habitat for rare and endangered plants and animals, unique natural communities and natural areas, and sand and gravel aquifers must be maintained and preserved to the maximum extent. Natural drainage areas must also be preserved to the maximum extent. The development must include appropriate measures for protecting these resources, including but not limited to, modification of the proposed design of the site, timing of construction, and limiting the extent of excavation.

3 Adequacy of Road System

Vehicular access to the site must be on roads that have adequate capacity to accommodate the additional traffic generated by the development.
A. For developments that generate 100 or more peak-hour trips (based on the latest edition of the Trip Generation Manual of the Institute of Traffic Engineers), intersections on major access routes to the site within one mile of any entrance road which are functioning at a Level of Service of D or better prior to the development, must function at a minimum at Level of Service D after development.

B. If any such intersection is functioning at a Level of Service E or lower prior to the development, the project must not reduce the current level of service.

C. A development not meeting this requirement may be approved if the applicant demonstrates that:
   1. A public agency has committed funds to construct the improvements necessary to bring the level of access to this standard, or
   2. The applicant will assume financial responsibility for the improvements necessary to bring the level of service to this standard and will assure the completion of the improvements with a financial guarantee acceptable to the municipality.

4 Access into the Site

Vehicular access to and from the development must be safe, convenient and include:

A. Any driveway or proposed street must be designed so as to provide at least the minimum sight distance according to the Maine Department of Transportation standards.

B. Points of access and egress must be located to avoid hazardous conflicts with existing turning movements and traffic flows.

C. The grade of any proposed drive or street must be not more than ±3% for a minimum of two car lengths, or 40 feet from the intersection.

D. The intersection of any access/egress drive or proposed street must function at a Level of Service of D following development if the project will generate 1,000 or more vehicle trips per 24-hour period; or (b) at a level which will allow safe access into and out of the project if less than 1,000 trips are generated.

E. Where a lot has frontage on two or more streets, the primary access to and egress from the lot must be provided from the street where there is less potential for traffic congestion and for traffic and pedestrians hazards. Access from other streets may be allowed if it is safe.

F. Where it is necessary to safeguard against hazards to traffic and pedestrians and/or to avoid traffic congestion; the applicant shall be responsible for providing traffic controls within public streets.

G. Access ways must be designed and have sufficient capacity to avoid queuing of entering vehicles on any public street.
H. The following criteria must be used to limit the number of driveways serving a proposed project:
1. No use that generates less than 100 vehicle trips per day shall have more than one two-way driveway onto a single roadway. Such driveway must be no greater than 30 feet wide.
2. No use that generates 100 or more vehicle trips per day shall have more than two points of entry from and two points of egress to a single roadway. The combined width of all access ways must not exceed 60 feet.

5 Access Way Location and Spacing

All access ways must meet the following standards:
A. Private entrances/exits must be located at least 50 feet from the closest unsignalized intersection and 150 feet from the closest signalized intersection, as measured from the point of tangency for the corner to the point of tangency for the access way. This requirement may be reduced if the shape of the site does not allow conformance with this standard.
B. Private access ways in or out of a development must be separated by a minimum of 75 feet where possible.

6 Internal Vehicular Circulation

The layout of the site must provide for the safe movement of passenger, service, and emergency vehicles through the site to include:
A. Non-residential projects that will be served by delivery vehicles must provide a clear route for such vehicles with appropriate geometric design to allow turning and backing.
B. Clear routes of access must be provided and maintained for emergency vehicles to and around buildings and must be posted with appropriate signage (fire lane - no parking).
C. The layout and design of parking areas must provide for safe and convenient circulation of vehicles and pedestrians throughout the lot.
D. All roadways must be designed to harmonize with the topographic and natural features of the site insofar as practical by minimizing filling, grading, excavation, or other similar activities which result in unstable soil conditions and soil erosion, by fitting the development to the natural contour of the land and avoiding substantial areas of excessive grade and tree removal, and by retaining existing vegetation during construction.
E. The road network must provide for vehicular, pedestrian, and cyclist safety, all season emergency access, snow storage, adequate parking, and delivery and collection services.
7 Parking Layout and Design

Off-street parking must conform to the following standards:

A. Parking areas with more than two parking spaces must be arranged so that it is not necessary for vehicles to back into the street. Parking to the side or rear of buildings is encouraged. Parking stalls shall not be directly accessible from any public way. Ingress and egress to parking areas shall be limited to driveway entrance.

B. All parking spaces, access drives, and impervious surfaces must be located at least five feet from any side or rear lot line, except where standards for buffer yards require a greater distance. No parking spaces or asphalt type surface shall be located within five feet of the entrance to any public way.

C. Parking stalls and aisle layout must conform to the following standards:

<table>
<thead>
<tr>
<th>Parking Stall Angle</th>
<th>Skew Width</th>
<th>Stall Width</th>
<th>Depth</th>
<th>Aisle Width</th>
</tr>
</thead>
<tbody>
<tr>
<td>90°</td>
<td>8'-6&quot;</td>
<td>9'-0&quot;</td>
<td>18'-0&quot;</td>
<td>24'-0&quot; two way</td>
</tr>
<tr>
<td>60°</td>
<td>8'-6&quot;</td>
<td>10'-6&quot;</td>
<td>18'-0&quot;</td>
<td>16'-0&quot; one way only</td>
</tr>
<tr>
<td>45°</td>
<td>8'-6&quot;</td>
<td>12'-9&quot;</td>
<td>17'-6&quot;</td>
<td>12'-0&quot; one way only</td>
</tr>
<tr>
<td>30°</td>
<td>8'-6&quot;</td>
<td>17'-0&quot;</td>
<td>17'-0&quot;</td>
<td>12'-0&quot; one way only</td>
</tr>
</tbody>
</table>

D. In lots utilizing diagonal parking, the direction of proper traffic flow must be indicated by signs, pavement markings (required for all paved parking lots only) or other permanent indications and maintained as necessary.

E. Parking areas for non-residential uses must be designed to permit each motor vehicle to proceed to and from the parking space provided for it without requiring the moving of any other motor vehicles. Double stack parking may be permitted for resident parking in conjunction with residential uses if both spaces in the stack are assigned to the occupants of the same dwelling unit.

F. Provisions must be made to restrict the “overhang” of parked vehicles when it might restrict traffic flow on adjacent through roads, restrict pedestrian or bicycle movement on adjacent walkways, or damage landscape materials.

8 Pedestrian Circulation

The site plan must provide for a system of pedestrian ways within the development appropriate to the type and scale of development. This system must connect the major building entrances/exits with parking areas and with existing sidewalks, if they exist or are planned in the vicinity of the project.
9 Stormwater Management

Adequate provisions must be made for the collection and disposal of all stormwater that runs off proposed streets, parking areas, roofs, and other surfaces, through a stormwater drainage system and maintenance plan, which must not have adverse impacts on abutting or downstream properties and include:

A. To the extent possible, the plan must retain stormwater on the site using the natural features of the site.

B. Unless the discharge is directly to the ocean or major river segment, stormwater runoff systems must detain or retain water such that the rate of flow from the site after development does not exceed the predevelopment rate.

C. The applicant must demonstrate that on- and off-site downstream channel or system capacity is sufficient to carry the flow without adverse effects, including but not limited to flooding and erosion of shoreline areas, or that he/she will be responsible for whatever improvements are needed to provide the required increase in capacity and/or mitigation.

D. All natural drainage ways must be preserved at their natural gradients and must not be filled or converted to a closed system unless approved as part of the site plan review.

E. The design of the stormwater drainage system must provide for the disposal of stormwater without damage to streets, adjacent properties, downstream properties, soils, and vegetation.

F. The design of the storm drainage systems must be fully cognizant of upstream runoff that must pass over or through the site to be developed and provide for this movement.

G. The biological and chemical properties of the receiving waters must not be degraded by the stormwater runoff from the development site. The use of oil and grease traps in manholes, the use of on-site vegetated waterways and vegetated buffer strips along waterways and drainage swales, and the reduction in use of deicing salts and fertilizers may be required, especially where the development stormwater discharges into a gravel aquifer area or other water supply source, or a great pond.

10 Erosion Control

All building, site, and roadway designs and layouts must harmonize with existing topography and conserve desirable natural surroundings to the fullest extent practical such that filling; excavation and earth moving activity must be kept to a minimum. Parking lots on sloped sites must be terraced to avoid undue cut and fill, and/or the need for retaining walls. Natural vegetation must be preserved and protected wherever possible.

Soil erosion and sedimentation of watercourses and water bodies shall be minimized by an active program meeting the requirements of the Maine

11 Water Supply

The development must be provided with a system of water supply that provides each use with an adequate supply of water.

If the project is to be served by a public water supply, the applicant must secure and submit a written statement from the supplier that the proposed water supply system conforms to its design and construction standards, will not result in an undue burden on the source or distribution system, and will be installed in a manner adequate to provide needed domestic and fire protection flows.

12 Sewage Disposals

The development must be provided with a method of disposing of sewage that is in compliance with the State of Maine Subsurface Wastewater Disposal Rules.

When two or more lots or buildings in different ownership share the use of a common subsurface disposal system, the system must be owned and maintained in common by an owners association. Covenants in the deeds for each lot must require mandatory membership in the association and provide for adequate funding of the association to assure proper maintenance of the system.

13 Utilities

The development must be provided with electrical, telephone, and telecommunication service adequate to meet the anticipated use of the project. New utility lines and facilities must be screened from view to the extent feasible. If the service in the street or on adjoining lots is underground, the new service must be placed underground.

14 Natural Features

The landscape must be preserved in its natural state insofar as practical by minimizing tree removal, disturbance and compaction of soil, and by retaining existing vegetation insofar as practical during construction. Extensive grading and filling must be avoided as far as possible.

15 Groundwater Protections

The proposed site development and use must not adversely impact either the quality or quantity of groundwater available to abutting properties or to public water supply systems. Applicants whose projects involve on-site water supply or sewage disposal
systems with a capacity of 2,000 gallons per day or greater must demonstrate that the groundwater at the property line will comply, following development, with the standards for safe drinking water as established by the State of Maine.

16 Water Quality Protections

All aspects of the project must be designed so that:

A. No person shall locate, store, discharge, or permit the discharge of any treated, untreated, or inadequately treated liquid, gaseous, or solid materials of such nature, quantity, obnoxiousness, toxicity, or temperature that may run off, seep, percolate, or wash into surface or groundwater so as to contaminate, pollute, or harm such waters or cause nuisances, such as objectionable shore deposits, floating or submerged debris, oil or scum, color, odor, taste, or unsightliness or be harmful to human, animal, plant, or aquatic life.

B. All storage facilities for fuel, chemicals, chemical or industrial wastes, and biodegradable raw materials, must meet the standards of the Maine Department of Environmental Protection and the State of Maine Fire Marshall’s Office.

C. If the project is located within the watershed of a ‘body of water most at risk from development’ as identified by the Maine Department of Environmental Protection (DEP), the project must comply with the standards of the DEP with respect to the export of total suspended solids and/or phosphorous.

17 Hazardous, Special and Radioactive Materials

The handling, storage, and use of all materials identified by the standards of all federal or state agencies as hazardous, special or radioactive must be done in accordance with the standards of these agencies. No flammable or explosive liquids, solids or gases shall be stored in bulk above ground unless they are located at least 75 feet from any lot line, or 40 feet in the case of underground storage. All materials must be stored in a manner and location which is in compliance with appropriate rules and regulations of the Maine Department of Public Safety and other appropriate federal, state, and local regulations.

18 Solid Waste Disposals

The proposed development must provide for adequate disposal of solid wastes. All solid waste must be disposed of at a licensed disposal facility having adequate capacity to accept the project’s waste.

19 Historic and Archaeological Resources

If any portion of the site has been identified by appropriate state or federal agencies as containing historic or archaeological resources, the development must include
applicable measures for protecting these resources, including but not limited to, modification of the proposed design of the site, timing of construction, and limiting the extent of excavation.

20 Floodplain Management

If any portion of the site is located within a flood hazard area as identified by the Federal Emergency Management Agency’s Flood Insurance Rate Maps, or Flood Hazard Boundary Maps, or the flood of record, or in the absence of these, by soil types identified as recent flood plain soils, the Code Enforcement Officer shall certify that all use and development of that portion of the site will be consistent with any Town of Prospect Floodplain Management Ordinance in affect at that time, or if no such ordinance is in effect, with the latest Model Floodplain Ordinance issued by regulation of the Maine Department of Agriculture, Conservation and Forestry.

21 Noise Limitations

A. Sound shall be measured by a meter set on the A-weighted response scale, slow response. The meter shall meet the American National Standards Institute (ANSI 1.4-1961) "Specification for General Purpose Sound Level Meters". Sound levels shall be measured at least 4 feet above ground at the property boundary. Sound data shall be as specific to the permitted activity as technically possible.

B. Sound shall not exceed forty-two(42) dBA when measured at any occupiable structure existing on the date of application of the commercial or industrial use, unless the occupiable structure is owned by the owner/operator of the development or another person who has waived this requirement by a written agreement with the applicant or owner/operator.

C. Sound at the property line shall not exceed 55 dBA from 7 a.m. to 6 p.m., and shall not exceed 45 dBA from 6 p.m. to 7 a.m. unless the occupiable structure is owned by the owner/operator of the development or another person who has waived this requirement by a written agreement with the applicant or owner/operator.

D. On sites abutting a residential use, development construction shall be staged so that exterior activities are conducted between the hours of 7 a.m. and 8 p.m.

E. The Planning Board may require additional measures for sound suppression as reasonably necessary to protect against undue noise pollution.

22 Exterior Lighting

The proposed development must have adequate exterior lighting to provide for its safe use during nighttime hours, if such use is contemplated. 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 unnecessarily light the night sky. Direct or indirect illumination must not exceed 0.5 foot-candles at the lot line or upon abutting residential properties. All exterior lighting, except security lighting, must be turned off between 11 P.M. and 6 A.M. unless located on the site of a commercial or industrial use which is open for business during that period.

ARTICLE IX - POST-APPROVAL ACTIVITIES

1 Limitation of Approval

Substantial construction of the improvements covered by any site plan approval must be commenced within 12 months of the date upon which the approval was granted, and substantially completed within 24 months of the date upon which the approval was granted. If construction has not been substantially commenced or substantially completed within the specified periods, the approval shall be null and void. The applicant may request an extension of the applicable deadline prior to the expiration of the period. Such request must be in writing and must be made to the Planning Board. The Planning Board may grant up to two six-month extensions to the periods if the approved plan conforms to the ordinances in effect at the time the extension is granted and any and all federal and state approvals and permits are current.

2 Incorporation of Approved Plan

All construction activities must conform to the approved plan, including any conditions of approval and minor changes approved by the Code Enforcement Officer to address field conditions. Any changes approved by the Code Enforcement Officer shall be in writing and made part of the project file.

3 Submission of As-Built Plans

Any project involving the construction of more than 20,000 square feet of gross floor area or 50,000 square feet of impervious surface, must provide the Code Enforcement Officer with a set of construction plans showing the building(s) and site improvements as actually constructed on the site. These “as-built” plans must be submitted within 30 days of the issuance of a certificate of occupancy for the project or occupancy of the building. The as-built plans shall be made part of the project file.
4 Minor Changes to Approved Plans

Minor changes in approved plans necessary to address field conditions may be approved by the Code Enforcement Officer provided that any such change does not affect compliance with the standards or alter the essential nature of the proposal or any approved project element. The Code Enforcement Officer must endorse any such change in writing on the approved plan. Any changes approved by the Code Enforcement Officer shall be in writing and made part of the project file.

5 Amendments to Approved Plans

Approvals of site plans are dependent upon and limited to the proposals and plans contained in the application and supporting documents submitted and affirmed to by the applicant. Any variation from the plans, proposals, and supporting documents, except minor changes that do not affect approval standards, shall be presented to the Planning Board for review and approval.

ARTICLE X - ENFORCEMENTS AND VIOLATIONS

1 Nuisances

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

2 Code Enforcement Officer

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

B. The Code Enforcement Officer shall conduct on-site inspections as necessary to insure compliance with all applicable approvals and conditions attached to permit approvals, as well as any other applicable ordinances or laws. The Code Enforcement Officer shall have the authority to investigate all complaints of alleged violations of this Ordinance.

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

D. Legal Actions

When the above action does not result in the correction or abatement of the violation or nuisance condition, the Select Board, upon notice from the Code Enforcement Officer, may, in their discretion, institute any and all actions and proceedings, either legal or equitable, including seeking injunctions of violations and the imposition of fines, that may be appropriate or necessary to enforce the provisions of this Ordinance in the name of the Town of Prospect. The Select Board, 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.

E. Fines

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

ARTICLE XI - APPEAL OF PLANNING BOARD ACTIONS

1 Administrative Appeal

Any person aggrieved by an action from determinations of the Planning pursuant to this Ordinance may file an application for appeal. Decisions made by the Code Enforcement Officer in the administration or enforcement of this Ordinance may not be appealed to the Board of Appeals.

A. All appeals shall be in writing and submitted within 30 days of the official written decision of the Planning Board. The appellant shall file this appeal with the Chair of the Board of Appeals, who shall issue a dated receipt within 7 days, and notify the appellant in writing that the application is either complete or incomplete. The Chair shall specify what additional material is needed, if any, to make the application complete.

B. A fee to accompany applications for appeal shall be determined by the Town of Prospect Board of Selectmen.

C. The Board of Appeals shall, upon complete written application of an aggrieved party, and after public notice, hear appeals within 30 days of
such application. Such hearing shall be held in accordance with 30-A M.R.S.A. § 2691, except that review shall be limited to the record before the Planning Board, and no new evidence or testimony shall be accepted. The Appeals Board shall cause notice of the date, time and place of public hearing with the general nature of the question involved to be given in writing to the applicant of the appeal. Notice shall be published in a newspaper of general circulation in the Town of Prospect, Maine at least two times. The date of the first such publication shall be at least 14 days prior to the hearing. The Board shall also cause notice of the hearing be given to the Selectman, the Planning Board, the Code Enforcement Officer.

D. Following such hearing the Board of Appeals may reverse the decision of the Planning Board only upon a finding in fact that the decision of the Planning Board is clearly contrary to specific provisions of this Ordinance. The Board of Appeals shall render a decision in writing to the applicant, Planning Board Chair, Code Enforcement Officer, and the Selectmen within 30 days of the appeal hearing.

2 Appeals to Superior Court

Any aggrieved party, having proper standing, may appeal any decision of the Appeals Board under this Ordinance to the Superior Court of Waldo County, within thirty days of a written decision in accordance with Maine State Law.

ARTICLE XII - AMENDMENTS TO THE ORDINANCE

1 Initiation of Amendment

An amendment to this ordinance may be initiated by:

A. The Planning Board (provided that a majority of the Board has so voted), or
B. Request of the Selectmen to the Planning Board, or
C. Written petition to the Selectmen bearing signatures of registered voters of the Town of Prospect, Maine numbering at least 10% of the number who voted in the last gubernatorial election.

2 Adoption of Amendment

All proposed amendments to this ordinance shall be referred to the Planning Board for their recommendation. The Planning Board may hold a public hearing on any proposed amendment. Within 30 days of receiving a proposed amendment or within 30 days of the public hearing, if one is held, the Planning Board shall make known their recommendation to the Selectmen and the Town. After receiving the recommendation of the Planning Board, the amendment shall be voted on by the voters of the Town of Prospect, Maine at a Town Meeting, a simple majority vote being required for adoption.
ARTICLE XIII - SEVERABILITY

Should any article or provision of the ordinance be declared by the courts of the State of Maine or the courts of the United States to be invalid, such decisions shall not invalidate any other article or provision of the ordinance.

This ordinance shall in no way impair or remove the necessity of compliance with any other rule, regulation, bylaw, permit or provision of law. Where this ordinance provides a greater restriction upon the use of the land, buildings or structures, the provisions of this ordinance shall control.

ARTICLE XIV - AVAILABILITY

A certified copy of this ordinance shall be filed with the Town 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 the availability of this ordinance shall be posted.

ARTICLE XV - DEFINITIONS

1 Construction of Language

In general, all words and terms used in this Ordinance shall have customary dictionary meanings. More specifically, certain words and terms shall be described below.

2 Relationship to Other Town Ordinances

Where there is a conflict between a definition contained in this Ordinance and a definition contained in any other Town ordinances, the definition provided herein shall apply for purposes of the Ordinance.

3 Definitions

Abutting Property: Any lot which is physically contiguous with the subject lot even if only at a point and any lot which is located directly across a street or right-of-way from the subject lot such that the extension of the side lot lines of the subject lot would touch or enclose the abutting property.

Accessory Building: A detached, subordinate building, the use of which is clearly incidental and related to that of the principal building or use of the land, and which is located on the same lot as that of the principal building or use.

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

Aggrieved Party: An owner of land whose property is directly or indirectly affected by the granting or denial of an approval under this ordinance; a person whose land abuts land for which approval 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 approval.

Arterial: A controlled access road or a street or road with traffic signals at important intersections and/or stop signs on side streets or which is functionally classified by the Maine Department of Transportation as an arterial.

Building: Any permanent structure, having one or more floors and a roof, which is used for the housing or enclosure of persons, animals or property. When any portion thereof is separated by a division wall without opening, then each such portion shall be deemed a separate building.

Building Footprint: The area covered by a building measured from the exterior surface of the exterior walls at grade level exclusive of cantilevered portions of the building. Where the building is elevated above grade level on posts or similar devices, the building footprint is the area the building would cover if it were located at ground level.

Change From One Category of Nonresidential Use to Another Category of Nonresidential Use: A change in the type of occupancy of a nonresidential building or structure, or a portion thereof, such that the basic type of use is changed, such as from retail to office or storage to a restaurant, but not including a change in the occupants.

Collector Street: A street that collects traffic from local streets and connects with arterials or a street or road functionally classified as a collector by the Maine Department of Transportation.

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.

Enlargement or Expansion of Structure: An increase of the building area or volume and/or increase in the height of the structure beyond its present highest point. Alterations of existing buildings which are required in order to meet the requirements of the Americans with Disabilities Act (ADA) and/or the State Fire Code are not considered to be enlargements or expansions of a structure and are not required to meet otherwise applicable setback requirements, provided the alterations are the minimum necessary to satisfy the ADA and/or State Fire Code.
Enlargement or Expansion of Use: Any intensification of use in time, volume, or function, whether or not resulting from an increase in the footprint, height, floor area, land area or cubic volume occupied by a particular use. Increases, which are required in order to meet the requirements of the Americans with Disabilities Act and/or the State Fire Code, are not considered to be enlargements or expansions of use.

Fisheries, Significant fisheries: Areas identified by a governmental agency such as the Maine Department of Inland Fisheries and Wildlife, Atlantic Salmon Authority, or Maine Department of Marine Resources as having significant value as fisheries.

Floor Area: The sum of the horizontal areas of the floor(s) of a structure enclosed by exterior walls.

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

Historic or Archeological Resources: Areas identified by a governmental agency such as the Maine Historic Preservation Commission as having significant value as an historic or archaeological resource.

Home Occupation: This term shall include those occupations carried on in a dwelling unit or structure accessory to the dwelling unit which are:
   a. primarily conducted within such unit or structure,
   b. clearly incidental and secondary to the use of the dwelling for residential purposes and do not change the character thereof, and
   c. carried on exclusively by a member or members of the household residing in the dwelling unit, except, however, three additional employees, not residents of the dwelling unit nor members of the household, are additionally included.

The term shall also apply to those occupations which do not satisfy one or more of the three limits mentioned above, but which exceed those limits only for a continuous period of not more than 90 days and such that this excess specifically results from the seasonal nature of the occupation.

The traffic generated by such occupation shall not exceed 50 vehicle trips per day or create a traffic hazard. Any waste or hazardous waste shall be disposed of in accordance with DEP regulations. Should the Planning Board determine that the operation no longer fits the definition of a home occupation, it shall be subject to site plan review.

Impervious Surface: The area covered by buildings and associated constructed facilities, areas which have been or will be covered by a low-permeability material, such as asphalt or concrete, and areas such as gravel roads and unpaved parking areas,
which have been or will be compacted through design or use to reduce their permeability. Common impervious surfaces include, but are not limited to, rooftops, walkways, patios, driveways, parking lots or storage areas, concrete or asphalt paving, gravel roads, packed earthen materials, and oiled, macadam, or other surfaces which similarly impede the natural infiltration of stormwater.

Industrial Use: Development or use of premises for assembling, fabricating, finishing, manufacturing, distilling, packaging, or processing. These include but are not limited to assembly plants, fuel depots, laboratories, power plants, pumping stations, repair shops, sawmills, wood processing, and the extraction or processing of minerals. Industrial Development shall not include Timber Harvesting except to the extent it includes construction or use of structures or impervious surfaces that otherwise qualify it as a Minor or Major Development pursuant to this Ordinance.

Local Street: A public street or road that is not identified as an arterial or collector. A local street includes a proposed street shown on an approved and recorded subdivision.

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

Multi-Family Dwelling: A building containing three or more dwelling units, such buildings being designed for residential use and occupancy by three or more families living independently of one another, with the number of families not exceeding the number of dwelling units. The term also includes commercial space as the principal use.

Natural Areas and Natural Communities, Unique Natural Areas and Natural Communities: Areas identified by a governmental agency such as the Maine Department of Conservation Natural Areas Program as having significant value as a natural area.

Occupiable Structure: A structure existing as of the date of an application under this Ordinance that is intended for or capable of being used as a residence, school, hospital, house of worship, public library or other use that is customarily frequented by the public.

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

Principal Use: A use other than one that is wholly incidental or accessory to another use on the same premises.
Recharge Area: Area composed of permeable, porous material through which precipitation and surface water infiltrate and directly replenish groundwater in aquifers.

Setback, Front: An open area extending the entire width of a lot from lot sideline to lot sideline and extending in depth at a right angle from the street right-of-way to such depth as specified. Such area shall be unoccupied and unobstructed by any building from the ground upward.

Setback, Rear: An open area extending the entire width of a lot from lot sideline to lot sideline and extending at a right angle from the rear property line of such lot to such depth as specified. Such area shall be unoccupied and unobstructed by any building from the ground upward.

Setback, Side: An open area extending along each sideline of a lot between the front setback and the rear setback on such lot and extending at a right angle from the sidelines of such lot to such depth as specified. Such area shall be unoccupied and unobstructed by any building from the ground upward.

Structure: Anything constructed or erected, which requires location on the ground or attached to something having a location on the ground, but not including a tent or vehicle.

Substantial Enlargement or Expansion of Use: An enlargement or expansion where the proposed intensification or increase to a structure, development or use is more than 15% greater than the existing or previously approved structure, development or use.

Substantially Commenced, Substantially Completed: Construction shall be considered to be substantially commenced when any work beyond the state of excavation, including but not limited to, the pouring of a slab or footings, the installation of piles, the construction of columns, or the placement of a manufactured home on a foundation has begun. Construction shall be considered to be substantially completed when it has been completed to the point where normal functioning, use, or occupancy can occur without concern for the general health, safety, and welfare of the occupant and the general public. At a minimum it shall include the completion of no less than 70% of the costs of the proposed improvements within a development and shall include permanent stabilization and/or re-vegetation of areas of the site that were disturbed during construction.

Timber harvesting: The cutting and removal of timber for the primary purpose of selling or processing forest products, including the construction and maintenance of roads used primarily for timber harvesting and other activities conducted to facilitate timber harvesting.

Use: The purpose for which land or a building is arranged, designed, or intended, or for which either land or a building is or may be occupied or maintained.
Vegetation: All live trees, shrubs, ground cover, and other plants.

Wildlife Habitat, Significant Wildlife Habitat: Areas identified by a governmental agency such as the Maine Department of Inland Fisheries and Wildlife as having significant value as habitat for animals.
Town of Prospect
Subdivision Ordinance

Enacted 3/20/89

Amended 3/30/2013
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ARTICLE I PURPOSES

The purposes of this ordinance are to assure the comfort, convenience, safety, health and welfare of the people, of the Town of Prospect, to protect the environment and to promote the development of an economically sound and stable community. To this end, in approving subdivisions within the Town of Prospect, Maine, the Planning Board shall consider the following criteria and before granting approval shall make findings of fact that the provisions of this ordinance have been met and that the proposed subdivision will meet the guidelines of Title 30A- M.R.S.A. 4401 et seq. Repealed Title 30, M.R.S.A § 4956, subsection 3.

The subdivision:

1.1 Will not result in undue water or air pollution. In making this determination, the Board shall at least consider the elevation of the land above sea level and its relation to the floodplains; the nature of soils and subsoils and their ability to adequately support waste disposal; the slope of the land and its effect on effluents.

1.2 Has sufficient water available for the reasonably foreseeable needs of the subdivision.

1.3 Will not cause an unreasonable burden on an existing water supply, if one is to be utilized.

1.4 Will not cause unreasonable soil erosion or reduction in the capacity of the land to hold water so that a dangerous or unhealthy condition may result.

1.5 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.

1.6 Will provide for adequate solid and sewage waste disposal.

1.7 Will not cause an unreasonable burden on the ability of a municipality to dispose of solid waste and sewage if municipal services are to be utilized.

1.8 Will not have an undue adverse effect on the scenic or natural beauty of the area, aesthetics, historic sites or rare and irreplaceable natural areas or any public rights for physical or visual access to the shoreline.

1.9 Is in conformance with a duly adopted subdivision regulation or ordinance, comprehensive plan, development plan or land use plan, if any.

1.10 The sub-divider has adequate financial and technical capacity to meet the above state standards.

1.11 Whenever situated in whole or in part, within 250 feet of any pond, lake, river or tidal waters, will not adversely affect the quality of the body of water or unreasonably affect the shoreline of that body of water.

1.12 Will not, alone or in conjunction with existing activities, adversely affect the quality or quantity of ground water.

1.13 All principal structures within the subdivision shall be constructed with their lowest floor, including the basement, at least one foot above the 100-year flood elevation.
ARTICLE II AUTHORITY AND ADMINISTRATION

2.1 Authority
   A. These standards have been prepared in accordance with the provisions of Title 30A M.R.S.A. 4401 et seq. Repealed Title 30 M.R.S.A., § 4956, subsection 2.
   B. These standards shall be known and may be cited as “Subdivision Ordinance of the Town of Prospect, Maine”.

2.2 Administration
   A. The planning Board of the Town of Prospect, hereinafter called the Board, shall administer these standards.
   B. The provisions of these standards shall pertain to all land proposed for subdivision, as defined in Title 30A M.R.S.A. 4401 ET SEQ, Title 30 M.R.S.A., § 4956, subsection 1, within the boundaries of the Town of Prospect.
ARTICLE III DEFINITIONS

In general, words and terms used in these regulations shall have their customary dictionary meanings. More specifically, certain words and terms used herein are defined as follows:

**Complete Application:** An application shall be considered complete upon submission of the required fee and all information required by these regulations for a final plan, or by a vote by the Board to waive the submission of required information. The Board shall issue a receipt to the applicant upon its determination that an application is complete.

**Comprehensive Plan or Policy Statement:** Any part or element of the overall plan or policy for development of the municipality as defined in Title 30A M.R.S.A. 4326. Repealed Title 30 M.R.S.A., Section 4961.

**Contiguous Lots:** Lots which adjoin at any line or point, or are separated at any point by a body of water less than fifteen feet wide.

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

**Driveway:** A vehicular access-way serving two dwelling units or less.

**Dwelling Unit:** A room or suite of rooms used as a habitation which is separate from other such rooms or suites of rooms, and which contains independent living, cooking, sleeping, bathing and sanitary facilities: includes single family houses, and the units in a duplex, apartment house, multifamily dwellings, and residential condominiums.

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

**High Intensity Soil Survey:** A map prepared by a Certified Soil Scientist, identifying the soil types down to 1/10 acre or less at a scale equivalent to the subdivision plan submitted. The soils shall be identified in accordance with the National Cooperative Soil Survey. The map shall show the location of all test pits or auger samples used to identify the soils, and shall be accompanied by a log of each sample identify the soils, and shall be accompanied by a log of each sample point identifying the depth to seasonal high water table or bedrock at that point. Single soil test pits and their evaluation for suitability for subsurface wastewater disposal systems shall not be considered to constitute high intensity soil surveys.

**100 Year Flood:** The highest level of flood that, on the average, is likely to occur once every 100 years (that has a one percent change of occurring in any year).

**Independent Consulting Services:** These services include but are not limited to, legal, engineering, administrative, wildlife assessment/management, and traffic analysis.
Lot: For the purposes of this ordinance, all lots shall be at least 2 acres in size and lots of 40 or more acres shall be counted as lots regardless of whether they are wholly or partly within any shore land area as defined in Title 38, Section 435 or wholly outside of such shore land area.

Normal High Water Mark of Coastal Waters: The elevations at which vegetation changes from predominately salt tolerant to predominantly non-salt tolerant. By way of illustration, salt tolerant vegetation includes, but is not limited to: salt marsh grass, salt meadow hay, black arrow grass, seaside lavender, silverweed, salt marsh bulrush, seaside plantain, orach, salt marsh sedge, salt marsh aster. In places where vegetation is not present, the high water mark shall be the identifiable debris line left by non-storm tidal action. On a sand dune, the high water mark shall be the mean seaward limit of salt tolerant vegetation.

Normal High Water Mark of Inland Waters: That line on the shores of banks on non-tidal waters which is apparent because of the different character of the contiguous soil or the vegetation due to the prolonged action of the water, relative to vegetation, it is that line where the vegetation changes from predominately aquatic to predominately terrestrial (by way of illustration, aquatic vegetation includes but is not limited to the following plants and plant groups: water lily, pond lily, pickerelweed, cattail, wild rice, sedges, rushes and marsh grasses and terrestrial vegetation includes but is not limited to the following plants and plant groups: upland grasses, aster, lady slipper, wintergreen, partridge berry, sarsaparilla, pines, cedars, oaks, ashes, alders, elms, and maples.) In places where the shore or bank is of such character that the high water mark cannot be easily determined, (rockslides, ledges, rapidly eroding or slumping banks) the normal high water mark shall be estimated from places where it can be determined by the above method.

Industrial Park or Development: A subdivision in an area zoned exclusively for industrial uses, or a subdivision planned for industrial uses and developed and managed as a unit, usually with provisions for common services for the users.

Net Residential Acreage: the total acreage available for the subdivision, as shown on the proposed subdivision plan, minus the area for streets or access and the areas which are unsuitable for development as outlined in Section 11.3.

Net Residential Density: The average number of dwelling units per net residential acre.

Official Submittal Date: The date upon which the Board issues a receipt indicating a complete application has been submitted.

Person: Includes a firm, association, organization, partnership, trust, company, or corporation, as well as an individual.

Planning Board: The Planning Board of the Town of Prospect, created under Title 30 M.R.S.A., §4964.
Preliminary Subdivision Plan: The preliminary drawings indicating the proposed layout of the subdivision to be submitted to the Board for its consideration.

Recording Plan: A copy of the final plan which is recorded at the Registry of Deeds and which need not show information not relevant to the transfer of an interest in the property, such as sewer and water line locations and sizes, culverts, and building lines.

Resubdivision: The division of an existing subdivision or any change in the plan for an approved subdivision which affects the lot lines, including land transactions by the sub-divider not indicated on the approved plan.

Solar Collector: A device or combination of devices, structure, or part of a device or structure that transforms direct solar energy into thermal, chemical, or electrical energy and that contributes to a building’s energy supply.

Solar Energy System: A complete design or assembly consisting of a solar energy collector, an energy storage facility (when used), and components for the distribution of transformed energy.

Street: Public and private ways such as alleys, avenues, boulevards, highways, roads, and other rights-of-way, as well as areas on subdivision plans designated as rights-of-way.

  a. Industrial or Commercial Street: Streets servicing industrial or commercial uses.
  b. Minor Street: A street servicing less than fifteen lots or dwelling units.
  c. Private Right of Way: A vehicular access way serving no more than eight dwelling units, which is not intended to be dedicated as a public way.

Subdivision: The division of a tract or parcel of land into three or more lots within any five-year period, which period begins after September 22, 1971, whether accomplished by sale, lease, development, buildings, or otherwise, provided that a division accomplished by devise, condemnation, order of court, gift to a person related to the donor by blood marriage or adoption, unless the intent of such gift is to avoid the objectives of these regulations, or by transfer of any interest in land to the owner of land abutting thereon, shall not be considered to create a lot or lots for the purposes of these regulations.

In determining whether a tract or parcel of land is divided into three or more lots, the first dividing of such tract or parcel, unless otherwise exempted herein, shall be considered to create the first two lots and the next dividing of either of said first two lots, by whomever accomplished, unless otherwise exempted herein, shall be considered to create the third lot, unless both such dividing’s are accomplished by a subdivider who shall have retained one of
such lots for his own use as a single family residence for a period of at least five years prior to such second dividing. Lots of forty or more acres shall be counted as lots.

For the purposes of this ordinance, a tract or parcel of land is defined as all contiguous land in the same ownership, provided that lands located on opposite sides of a public or private road shall be considered each a separate tract or parcel of land unless such road was established by the owner of land on both sides thereof.

Subdivision, Major: Any subdivision containing more than four lots or dwelling units, or any subdivision containing a proposed street.

Subdivision, Minor: Any subdivision containing four lots or dwelling units or less and in which no street is proposed to be constructed.

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

4.1 Purpose. The purpose of this Article is to establish an orderly, equitable and expeditious procedure for reviewing subdivisions.

4.2 Agenda. In order to avoid unnecessary delays in processing applications for subdivision review, the Board shall prepare an agenda for each regularly scheduled meeting. Applicants shall request to be placed on the Board’s agenda at least one week in advance of a regularly scheduled meeting by contacting the Chairman. Applicants who attend a meeting but who are not on the Board’s agenda may be heard but only after all agenda items have been completed, and then only if a majority of the Board so votes.
ARTICLE V PREAPPLICATION

5.1 Procedure.

A. Applicant presentation and submission of sketch plans.
B. Question and answer period. Board makes specific suggestions to be incorporated by
the applicant into subsequent submissions.
C. Scheduling of on-site inspection.

5.2 Submission. The Pre-application Sketch Plan shall show, in simple sketch form, the
proposed layout of streets, lots, buildings and other features in relation to existing conditions.
The Sketch Plan, which may be a free-hand penciled sketch, should be supplemented with
general information to describe or outline the existing conditions of the site and the proposed
development. It is recommended that the sketch plan be superimposed on or accompanied by
a copy of the Assessor’s Map(s) on which the land is located. The Sketch Plan shall be
accompanied by a copy of a portion of the U.S.G.S. topographic map of the area showing the
outline of the proposed subdivision, unless the proposed subdivision is less than ten acres in
size.

5.3 Contour Interval and On-Site Inspection. Within thirty days, the Board shall determine and
inform the applicant in writing of the required contour interval on the Preliminary Plan, or Final
Plan in the case of a Minor Sub division, and hold an on-site inspection of the property. The
applicant shall place “flagging” at the center line of any proposed streets, and at the
approximate intersections of the street centerlines and lot corners, prior to the on-site
inspection.

5.4 Rights not Vested. The submittal or review of the pre-application sketch plan shall not be
considered the initiation of the review process for the purposes of bringing the plan under the
protection of Title 1, M.R.S.A., §302.
ARTICLE VI MINOR SUBDIVISIONS

6.1 General. The Board may require, where it deems it necessary for the protection of public health, safety, and welfare, that a Minor Subdivision comply with all or any of the submission requirements for a Major Subdivision.

6.2 Procedure.

A. Within six months after the on-site inspection by the Board, the subdivider shall submit an application for approval of a Final Plan at least seven days prior to a scheduled meeting of the Board. Failure to do so shall require resubmission of the sketch plan to the board. The final plan shall approximate the layout shown on the sketch plan, plus any recommendations made by the board.

B. All applications for Final Plan approval for Minor Subdivision shall be accompanied by an application fee of $80.00 payable by check to the municipality. If a public hearing is deemed necessary by the Board, an additional fee shall be required to cover the additional costs of advertising and postal notification.

C. Upon receipt of an application for Final Plan approval of a minor subdivision, the Board shall notify in writing all owners of abutting property that an application for subdivision approval has been submitted.

D. The subdivider, or his duly authorized representative, shall attend the meeting of the Board to discuss the Final Plan.

E. Upon determination that a complete application has been submitted for review, the Board shall issue a dated receipt to the subdivider. The Board shall determine whether to hold a public hearing on the Final Plan application.

F. If the Board decides to hold a public hearing, it shall hold the hearing within thirty days of receipt of a complete application, and shall publish notice of the date, time, and place of the hearing in a newspaper of general circulation in the municipality at least two times, the date of the first publication to be at least seven days prior to the hearing.

G. Within thirty days of a public hearing, or within sixty days of receipt of a complete application, if no hearing is held, or within another time limit as may be otherwise mutually agreed to by the Board and the subdivider, the Board shall make findings of fact on the application, and approve, approve with conditions, or deny the Final Plan. The Board shall specify in writing its findings of facts and reasons for any conditions or denial.
6.3 Submissions.

A. The subdivision plan for a Minor Subdivision shall consist of two reproducible, stable based transparent originals, on to be recorded at the Registry of Deeds, the other to be filed at the Municipal Office and three copies of one or more maps or drawings drawn to a scale of not more than one hundred feet to the inch. Plans for subdivisions containing more than one hundred acres may be drawn at a scale of not more than two hundred feet to the inch provided all necessary detail can easily be read. Plans shall be no larger than 24 by 36 inches in size, and shall have a margin of two inches outside of the border lines on the left side for binding and an inch margin outside the border along the remaining sides. Space shall be provided for endorsement by the Board. Three copies of all information accompanying the plan shall be submitted.

The application for approval of a Minor Subdivision shall include the following information:

1. Proposed name of the subdivision, or identifying title, and the name of the municipality in which it is located, plus the Assessor’s Map and Lot numbers.
2. Verification of right, title, or interest in the property.
3. A field survey of the boundary lines of the tract, giving complete descriptive data by bearings and distances, made and certified by a licensed land surveyor. The corners of the tract shall be located on the ground and marked by monuments. The plan shall indicate the type of monument to be set or found at each lot corner.
4. A copy of the deed from which the survey was based. A copy of all deed restrictions, easements, rights-of-way, or other encumbrances currently affecting the property.
5. A copy of any deed restrictions intended to cover all or part of the lots in the subdivisions.
6. Indication of the type of sewage disposal to be used in the subdivision.
   a) When sewage disposal is to be accomplished by subsurface wastewater disposal systems, test pit analyses, prepared by a Licensed Site Evaluator shall be provided. A map showing the location of all test pits dug on the site shall be submitted.
7. Indication of the type of water supply system(s) to be used in the subdivision.
   a) When water is to be supplied by private wells, evidence of adequate ground water supply and quality shall be submitted by a well driller or a hydro geologist familiar with the area.
8. The date the Plan was prepared, north point, graphic map scale, names and addresses of the record owner, subdivider, and individual or company who prepared the plan and the names of adjoining property owners. If the sub
divider is not the owner of the property, evidence of the subdivider's right, title or interest to the property.

9. A copy of the portion of the county Soil Survey covering the subdivision. When the medium intensity soil survey shows soils which are generally unsuitable for the uses proposed, the Board may require the submittal of a high intensity soil survey or a report by a Registered Soil Scientist or Registered Professional Engineer experienced in geotechnics, indicating the suitability of soil conditions for those uses.

10. The number of acres within the proposed subdivision, location of property lines, existing buildings, watercourses, vegetative cover type, and other essential existing physical features. The location of any trees larger than 24 inches in diameter at breast height shall be shown on the plan. On wooded sites, the plan shall indicate the area where clearing for lawns and structures shall be permitted.

11. Contour lines at the interval specified by the Planning Board, showing elevations in relation to Mean Sea Level.

12. If any portion of the subdivision is in a flood-prone area, the boundaries of any flood hazard areas are the 100-year flood elevation shall be delineated on the plan.

13. A hydrogeologic assessment prepared by a Certified Geologist or Registered Professional Engineer, experienced in hydrogeology, when the subdivision is not served by public sewer and:
   a. Any part of the subdivision is located over a sand and gravel aquifer, as shown on a map entitled "Hydrogeologic Data for Significant Sand and Gravel Aquifers", by the Maine Geological Survey, 1985, Map No. 28 and/or 29; or
   b. The subdivision has an average density of less than 100,000 square feet per dwelling unit; or
   c. The subdivision contains lots less than 100,000 sq. ft. in total area.

14. An estimate of the amount and type of vehicular traffic to be generated on a daily basis and at peak hours.

15. For subdivisions involving 40 or more parking spaces or projected to generate more than 400 vehicle trips per day, a traffic impact analysis, prepared by a Registered Professional Engineer with experience in traffic engineering, shall be submitted. The analysis shall indicate the expected average daily vehicular trips, peak-hour volumes, access conditions at the site, distribution of traffic, types of vehicles expected, effect upon the level of service of the street giving access to the site and neighboring streets which may be affected, and recommended improvements to maintain the desired level of service on the affected streets. Trip generation rates used shall be the mean value reported in Table 3 of Development and Application of Trip Generation Rates, Keller Co, Inc., published by the Federal Highway Administration, January 1985.
ARTICLE VII PRELIMINARY PLAN FOR MAJOR SUBDIVISION

/.1 Procedure.

A. Within six months after the on-site inspection by the Board, the subdivider shall submit an application for approval of a Preliminary Plan at least seven days prior to a scheduled meeting of the Board. Failure to do so shall require resubmission of the Sketch Plan to the Board. The Preliminary Plan shall approximate the layout shown on the Sketch Plan, plus any recommendations made by the Board.

B. All applications of Preliminary Plan approval for a Major Subdivision shall be accompanied by an application fee of $25.00 per lot or dwelling unit, payable by check to the municipality. In addition, the applicant shall pay a fee of $40.00 per lot or dwelling unit to be deposited in a special account designated for that subdivision application, to be used by the Planning Board for hiring independent consulting services to review the application. If the balance in this special account shall be drawn down by 75%, the Board shall notify the applicant, and require that an additional $20.00 per lot or dwelling unit be deposited by the applicant. The Board shall continue to notify the applicant and require an additional $20.00 per lot or dwelling unit be deposited as necessary whenever the balance of the account is drawn down by 75% of the original deposit. Any balance in the account remaining after a decision on the final plan application by the Board shall be returned to the applicant. If a public hearing is deemed necessary by the Board, an additional fee shall be required to cover the costs of advertising and postal notification.

C. The subdivider, or his duly authorized representative, shall attend the meeting of the Board to discuss the Preliminary plan.

D. Upon receipt of an application for Preliminary Plan approval of a major subdivision, the Board shall notify in writing all owners of abutting property that an application for subdivision approval has been submitted.

E. Within thirty days of receipt of a Preliminary Plan application form and fee, the Board shall notify the applicant in writing whether or not the application is complete, and what, if any, additional submissions are required for a complete application.

F. Upon determination that a complete application has been submitted for review, the Board shall issue a dated receipt to the subdivider. The Board shall determine whether to hold a public hearing on the Preliminary Plan application. If the Board decides to hold a public hearing, it shall hold the hearing within thirty days of receipt of a complete application, and shall publish notice of the date, time, and place of the hearing in a newspaper of general circulation in the municipality at least two times, the date of the first publication to be at least seven days prior to the hearing.
G. The Board shall, within thirty days of a public hearing, or within sixty days of receipt of a complete application, if no hearing is held, or within another time limit as may be otherwise mutually agreed to by the Board and the subdivider, make findings of fact on the application, and approve, approve with conditions, or deny the Preliminary Plan. The Board shall specify in writing its findings of facts and reasons for any conditions or denial.

H. When granting approval to a Preliminary Plan, the Board shall state the conditions of such approval, if any with respect to:
   1. The specific changes which it will require in the Final Plan;
   2. The character and extent of the required improvements for which waivers may have been requested and which in the Board’s opinion may be waived without jeopardy to the public health, safety, and general welfare; and
   3. The amount of all performance guarantees which it will require as prerequisite to the approval of the Final Plan.

I. Approval of the Preliminary Plan shall not constitute approval of the Final Plan or intent to approve the Final Plan, but rather it shall be deemed an expression of approval of the design of the Preliminary Plan as a guide to the preparation of the Final Plan. The Final Plan shall be submitted for approval of the Board upon fulfillment of the requirements of this ordinance and the conditions of preliminary approval, if any. Prior to the approval of the Final Plan, The Board may require additional changes as a result of the further study of the subdivision or as a result of new information received.

7.2 Submissions.

A. Location Map. The Preliminary Plan shall be accompanied by a Location Map adequate to show the relationship of the proposed subdivision to the adjacent properties, and to allow the Board to locate the subdivision within the municipality. The Location Map shall show:
   1. Existing subdivisions in the proximity of the proposed subdivision.
   2. Locations and names of existing and proposed streets.
   4. An outline of the proposed subdivision and any remaining portion of the owner’s property if the Preliminary Plan submitted covers only a portion of the owner’s entire contiguous holding.

B. Preliminary Plan. The Preliminary Plan shall be submitted in three copies of one or more maps or drawings which may be printed or reproduced on paper, with all dimensions shown in feet or decimals of a foot. The Preliminary Plan shall be drawn to a scale of not more than one hundred feet to the inch. The Board may allow plans for subdivisions containing more than one hundred acres to be drawn at a scale of not more than two hundred feet to the inch provided all necessary detail can easily be read. In addition, one copy of the Plan(s) reduced to a size of 8 1/2 by 11 inches or 11 by 17 inches, and all accompanying information shall be mailed to each board member no less than seven days prior to the meeting. The following information shall either be shown on the Preliminary Plan or accompany the application for preliminary approval:
1. Proposed name of the subdivision and the name of the municipality in which it is located, plus the Tax Assessor's Map and Lot numbers.

2. Verification of right, title, or interest in the property.

3. An actual field survey of the boundary lines of the tract, giving complete descriptive data by bearings and distances, made and certified by a licensed land surveyor. The corners of the tract shall be located on the ground and marked by monuments.

4. A copy of the deed from which the survey was based. A copy of all covenants or deed restrictions, easements, rights-of-way, or other encumbrances currently affecting the property.

5. A copy of any covenants or deed restrictions intended to cover all or part of the lots in the subdivision.

6. Contour lines at the interval specified by the Planning Board, showing elevations in relation to Mean Sea Level.

7. The number of acres within the proposed subdivision, location of property lines, existing buildings, watercourses, vegetative cover type, and other essential existing physical features. The location of any trees larger than 24 inches in diameter at breast height shall be shown on the plan.

8. Indication of the type of sewage disposal to be used in the subdivision.
   a. When sewage disposal is to be accomplished by subsurface sewage disposal systems, test pit analyses, prepared by a Licensed Site evaluator shall be provided. A map showing the location of all test pits dug on the site shall be submitted.

9. Indication of the type of water supply system(s) to be used in the subdivision.

10. The date the Plan was prepared, magnetic north point, graphic map scale, names and addresses of the record owner, subdivider, and individual or company who prepared the plan. If the subdivider is not the owner of the property, evidence of the subdivider's right, title or interest to the property.

11. The names and addresses of owners of record of adjacent property, including any property directly across an existing public street from the subdivision.

12. The location of any zoning boundaries affecting the subdivision; including but not limited to any State Mandated Shore land Zone.

13. The location and size of existing and proposed sewers, water mains, culverts, and drainage ways on or adjacent to the property to be subdivided.

14. The location, names, and present widths of existing and proposed streets, highways easements, building lines, parks and other open spaces on or adjacent to the subdivision.

15. The width and location of any streets or public improvements shown upon the Official Map and the Comprehensive Plan, if any, within the subdivision.

16. The proposed lot lines with approximate dimensions and lot areas.

17. All parcels of land proposed to be dedicated to public use and the conditions of such dedication.
18. The location of any open space to be preserved and a description of proposed improvements and its management.

19. A copy of that portion of the county Soil Survey covering the subdivision. When the medium intensity soil survey shows soils which are generally unsuitable for the uses proposed, the Board may require the submittal of a high intensity soil survey or a report by a Registered Soil Scientist or Registered Professional Engineer experience in geotechnics, indicating the suitability of soil conditions for those uses.

20. If any portion of the subdivision is in a flood-prone area, the boundaries of any flood hazard areas and the 100-year flood elevation shall be delineated on the plan.

21. A hydro geologic assessment, prepared in accordance with Section 11.12.A by a Certified Geologist or Registered Professional Engineer, experienced in hydrogeology, when the subdivision is not served by public sewer and
   a. Any part of the subdivision is located over a sand and gravel aquifer, as shown on a map entitle “Hydro geologic Data for Significant Sand and Gravel Aquifers”, by the Maine Geological Survey, Map No. 28 and/or 29; or
   b. The subdivision has an average density of less than 100,000 square feet per dwelling unit.
   c. The subdivision contains lots less than 100,000 sq. ft. in total area.

22. An estimate of the amount and type of vehicular traffic to be generated on a daily basis and at peak hours.

23. For subdivisions involving 40 or more parking spaces or projected to generate more than 400 vehicle trips per day, a traffic impact analysis, prepared by a Registered Professional Engineer with experience in traffic engineering, shall be submitted. The analysis shall indicated the expected average daily vehicular trips, peak-hour volumes, access conditions at the site, distribution of traffic, types of vehicles expected, effect upon the level of service of the street giving access to the site and neighboring streets which may be affected, and recommended improvements to maintains the desired rates used shall be the mean value reported in Table 3 of Development and Application of Trip Generation Rates, Keller Co, Inc., published by the Federal Highway Administration, January 1985.

24. The location of any salt and/or sand storage area(s).
ARTICLE VIII FINAL PLAN FOR MAJOR SUBDIVISION

8.1 Procedure.

A. The subdivider shall, within six months after the approval of the Preliminary Plan, file with the Board an application for approval of the Final Plan at least seven days prior to a scheduled meeting of the Board. If the application for the Final Plan is not submitted within six months after Preliminary Plan approval, the Board may refuse without prejudice to act on the Final Plan, and require resubmission of the Preliminary Plan. The Final Plan shall approximate the layout shown on the Preliminary Plan, plus any recommendations made by the Board.

B. All applications for Final Plan approval for Major Subdivision shall be accompanied by an application fee of $20.00 per lot or dwelling unit payable by check to the municipality. If a public hearing is deemed necessary by the Board, an additional fee shall be required to cover the costs of advertising and postal notification.

C. Prior to submittal of the Final Plan application, the following approvals shall be obtained in writing, where appropriate:
   1. Maine Department of Environmental Protection, under the Site Location of Development Act, Alteration of Coastal Wetlands Act, Greater Ponds Act, Fresh Water Wetlands Act, Alteration of Streams and Rivers Act, or if a Wastewater Discharge License is needed.
   2. Maine Department of Human Services, if the subdivider proposes to provide a central water supply system.
   3. Maine Department of Human Services, if a centralized or shared subsurface sewage disposal system(s) is to be utilized.
   4. Maine Department of Environmental Protection, for any salt and/or sand storage within the Subdivision.

D. The subdivider, or his duly authorized representative, shall attend the meeting of the Board to discuss the Final Plan.

E. Upon determination that a complete application has been submitted for review, the Board shall issue a dated receipt to the subdivider. The Board shall determine whether to hold a public hearing on the Final Plan application.

F. A public hearing may be held by the Board within thirty days after the issuance of a receipt for the submittal of a complete application. This hearing shall be advertised in a newspaper of local circulation at least two times, the date of the first publication to be at least seven days before the hearing and the notice of the hearing shall be posted in at least three prominent places at least seven days prior to the hearing. When a subdivision is located within 500 feet of a municipal boundary, and a public hearing is to be held, the Board shall notify the Clerk and the Planning Board of the adjacent municipality involved, at least ten days prior to the hearing.
G. The Board shall notify the Road Commissioner, School Superintendent, Police Chief, and Fire Chief of the proposed subdivisions, the number of dwelling units proposed the length of roadways, and the size and construction characteristics of any multi-family, commercial or industrial buildings. The Board shall request that these officials comment upon the adequacy of their department's existing capital facilities to service the proposed subdivision.

H. Before the Board grants approval of the Final Plan, the subdivider shall meet the performance guarantee requirements contained in Article XIII.

I. If the subdivision is located in more than one municipality, the Board shall have a joint meeting with the Planning Board of the adjacent municipality to discuss the Plan.

J. The Board, within thirty days from the public hearing or within sixty days of receiving a complete application, if no hearing is held, shall make findings of fact, and conclusions relative to the standards contained in Title 30A M.R.S.A 4401 et seq (Repealed Title 30, M.R.S.A. §44956, subsection 3) and in this ordinance. If the Board finds that all standards of the Statute and this ordinance have been met, they shall approve the Final Plan. If the Board finds that any of the standards of the Statute or this ordinance have not been met, the Board shall either deny the application or approve the application with conditions to ensure all of the standards will be met by the subdivision. The reasons for any conditions shall be stated in the records of the Board.

8.2 Submissions. The Final Plan shall consist of one or more maps or drawings drawn to a scale of not more than one hundred feet to the inch. Plans for subdivisions containing more than one hundred acres may be drawn at a scale of not more than two hundred feet to the inch provided all necessary detail can easily be read. Plans shall be no larger than 24 by 36 inches in size, and shall have a margin of two inches outside of the border line on the left side for binding and a one inch margin outside the border along the remaining sides. Space shall be reserved on the plan for endorsement by the Board. Two reproducible, stable based transparent originals, one to be recorded at the Registry of Deeds, the other to be filed at the Municipal Offices, and three copies of the plan shall be submitted. The subdivider may, instead submit one reproducible stable based transparent original of the Final Plan and one Recording Plan with three copies of the Final Plan. In addition, one copy of the Final Plan, reduced to a size of 8 1/2 by 11 inches or 11 by 17 inches, and all accompanying information shall be mailed to each Board member no less than seven days prior to the meeting.

The application for approval of the Final Plan shall include the following information.

A. Proposed name of the subdivision and the name of the municipality in which it is located, plus the Assessor's Map and Lot numbers.

B. An actual field survey of the boundary lines of the tract, giving complete descriptive data by bearings and distances, made and certified by a licensed land surveyor. The corners of the tract shall be located on the ground and marked by monuments. The plan shall indicate the type of monument set or found at each lot corner.
C. The number of acres within the proposed subdivision, location of property lines, existing buildings, watercourses, and other essential existing physical features.

D. Indication of the type of sewage disposal to be used in the subdivision.

E. Indication of the type of water supply system(s) to be used in the subdivision.
   1. When water is to be supplied by private wells, evidence of adequate ground water supply and quality shall be submitted by a well driller or hydologist familiar with the area.

F. The date the Plan was prepared, magnetic and true north point, graphic map scale, names and addresses of the record owner, subdivider, and individual or company who prepared the plan.

G. The location of any zoning boundaries affecting the subdivision, including but not limited to any State Mandated Shoreland Zone.

H. The location and size of existing and proposed sewers, water mains, culverts, and drainage ways on or adjacent to the property to be subdivided.

I. The location, names, and present widths of existing and proposed streets, highways, easements, building lines, parks and other open spaces on or adjacent to the subdivisions. The plan shall contain sufficient data to allow the location, bearing and length of every street line, lot line, and boundary line to be readily determined and be reproduced upon the ground. These lines shall be tied to reference points previously established. The length of all straight lines, the deflection angles radii, length of curves and central angles of curves, tangent distances and tangent bearings for each street shall be included.

J. A soil erosion and sedimentation control plan, prepared in accordance with the standards contained in the latest revised edition of the Environmental Quality Handbook published by the U.S. Soil Conservation Service.

K. A plan for the disposal of surface drainage waters prepared by a Registered Professional Engineer, in accordance with the latest revised edition of Technical Release 55, Urban Hydrology for Small Watersheds, published by the U.S. Soil Conservation Service.

L. The width and location of any streets or public improvements shown upon the Official Map and the Comprehensive Plan, if any, within the subdivision.

M. All parcels of land proposed to be dedicated to public use and the conditions of such dedication. Written offers of cession to the municipality of all public open spaces shown on the Plan, and copies of agreements or other documents showing the manner in which open spaces to be retained by the developer or lot owners are to be maintained shall be submitted. If open space or other land is to be offered to the municipality, written evidence that the Municipal Officers are satisfied with the legal sufficiency of the written offer of cession shall be included.

N. A list of construction items with cost estimates that will be completed by the developer prior to the sale of lots. A separate list of construction and maintenance items, with both capital and annual operating cost estimates that must be financed by the municipality, or quasi-municipal districts. These lists shall include but not be limited to:
   - Schools, including busing
   - Street maintenance and snow removal
   - Police and fire protection
   - Solid waste disposal
   - Recreation facilities
Storm water drainage
Wastewater treatment
Water supply
The developer shall provide an estimate of the net increase in taxable assessed valuation at the completion of the construction of the subdivision.

O. If any portion of the subdivision is in a flood-prone area, the boundaries of any flood hazard areas and the 100-year flood elevation shall be delineated on the plan.

P. Location of any salt and/or sand storage area(s).

8.3 Final Approval and Filing.

A. No plan shall be approved by the Board as long as the subdivider is in violation of the provisions on a previously approved Plan.

B. Upon findings of fact and determination that all standards in Title 30A M.R.S.A. 4401 et seq (repealed Title 30, M.R.S.A., §4956, subsection 3), and this ordinance have been met, and upon voting to approve the subdivision, the Board shall sign the Final Plan. The Board shall specify in writing its findings of facts and reasons for any conditions or denial. One copy of the signed plan shall be retained by the Board as part of its permanent records. Once copy of the signed plan shall be forwarded to the Tax Assessor. One copy of the signed plan shall be forwarded to the Code Enforcement Officer. Any subdivision not recorded in the Registry of Deeds within ninety days of the date upon which the plan is approved and signed by the Board shall become null and void.

C. At the time the Board grants Final Plan approval, it may permit the Plan to be divided into two or more sections subject to any conditions the Board deems necessary in order to insure the orderly development of the Plan. If any municipal or quasi-municipal department head notified of the proposed subdivision informs the Board that their department or district does not have adequate capital facilities to service the subdivision, the Board shall require the Plan to be divided into two or more sections subject to any conditions the Board deems necessary in order to allow the orderly planning, financing and provision of public services to the subdivision. If the superintendent of schools indicates that there is less than 20% excess classroom capacity existing in the school(s) which will serve the subdivision, considering previously approved but not built subdivisions, the Board shall require the Plan to be divided into sections to prevent classroom overcrowding.

D. No changes, erasures, modifications, or revisions shall be made in any Final Plan after approval has been given by the Board and endorsed in writing on the Plan, unless the revised Final Plan is first submitted and the Board approves any modifications, except in accordance with Article IX. The Board shall make findings that the revised plan meets the standards of Title 30A M.R.S.A. 4401 et seq (repealed Title 30, M.R.S.A., §4956, subsection 3), and this ordinance. In the event that a Plan is recorded without complying with this requirement, it shall be recorded without complying with this requirement, it shall be considered null and void, and the Board shall institute proceedings to have the Plan stricken from the records of the Registry of Deeds.
E. The approval by the Board of a subdivision plan shall not be deemed to constitute or be evidence of any acceptance by the municipality of any street, easement, or other open space shown on such plan. When a park, playground, or other recreation area shall have been shown on the plan to be dedicated to the municipality, approval of the Plan shall not constitute an acceptance by the municipality of such areas. The board shall require the Plan to contain appropriate notes to this effect. The Board may also require the filing of a written agreement between the applicant and the Municipal Officers covering future deed and title, dedication, and provision for the cost of grading, development, equipment, and maintenance of any such dedicated area.

F. Failure to commence substantial construction of the subdivision within five years of the date of approval and signing of the Plan shall render the Plan null and void. Upon determining that a subdivision’s approval has expired under this paragraph, the Board shall have a notice placed in the Registry of Deeds to that effect.

G. No plan shall be approved by the Board that includes a winter road maintenance salt and/or sand storage area unless such an area has the prior, separate, and explicit approval of the Board and the Maine Department of Environmental Protection.
ARTICLE IX REVISIONS TO APPROVED PLANS

9.1 Procedure. An applicant for a revision to a previously approved plan shall, at least seven days prior to a scheduled meeting of the Board, request to be placed on the Board's agenda. If the revision involves the creation of additional lots or dwelling units, the procedures for preliminary plan approval shall be followed. If the revision involves only modifications of the approved plan, without the creation of additional lots or dwelling units, the procedures for final plan approval shall be followed.

9.2 Submissions. The applicant shall submit a copy of the approved plan, as well as three copies of the proposed revisions. The application shall also include enough supporting information to allow the Board to make a determination that the proposed revisions meet the standards of the ordinance.

9.3 Scope of Review. The Board's scope of review shall be limited to those portions of the plan which are proposed to be changed.
ARTICLE X ENFORCEMENT

10.1 Inspection of Required Improvements.

A. At least five days prior to commencing each major phase of construction of required improvements, the subdivider or builder shall:
   1. Notify the Code Enforcement Officer in writing of the time when he proposes to commence construction of such improvements, so that the Municipal Officers can cause inspection to be made to assure that all municipal specifications and requirements shall be met during the construction of required improvements, and to assure the satisfactory completion of improvements and utilities required by the Board.
   2. Deposit with the Municipal Officers a check for the amount of 2% of the estimated costs of the required improvements to pay for the costs of inspection.

B. If the inspecting official finds upon inspection of the improvements that any of the required improvements have not been constructed in accordance with the plans and specifications filed by the subdivider, he shall so report in writing to the Municipal Officers, Planning Board, and the subdivider or builder. The Municipal Officers shall take any steps necessary to preserve the municipality's rights.

C. If at any time before or during the construction of the required improvements, it appears to be necessary or desirable to modify the required improvements, the inspecting official is authorized to approve minor modifications due to unforeseen circumstances such as encountering hidden outcrops of bedrock, natural springs, etc. The inspecting official shall issue any approval under this section in writing and shall transmit a copy of the approval to the Board. Revised plans shall be filed with the Town. For major modifications, such as relocation of rights-of-way, property boundaries, changes of grade by more than 1%, etc., the subdivider shall obtain permission to modify the plans from the Board.

D. At the close of each summer construction season the Town shall, at the expense of the subdivider, have the site inspected by a qualified individual. By December 1 of each year during which construction was done on the site, the inspector shall submit a report to the Board based on that inspection, addressing whether storm water and erosion control measures (both temporary and permanent) are in place, are properly installed, and appear adequate to do the job they were designed for. The report shall also include a discussion and recommendations on any problems which were encountered.

E. Prior to the sale of any lot, the subdivider shall provide the Board with a letter from a registered Land Surveyor, stating that all monumentation shown on the plan has been installed.
F. Upon completion of street construction and prior to a vote by the Municipal Officers to submit a proposed town way to a town meeting, a written certification signed by a professional engineer registered in the state of Maine shall be submitted to the Municipal Officers at the expense of the applicant, certifying that the proposed town way meets or exceeds the design and construction requirements of this ordinance. If there are any underground utilities, the servicing utility shall certify in writing that they have been installed in a manner acceptable to the utility.

G. The subdivider or builder shall be required to maintain all improvements and provide for snow removal on streets and sidewalks until acceptance of the improvements by the municipality.

10.2 Violations and Enforcement.

A. No plan of a division of land within the municipality which would constitute a subdivision shall be recorded in the Registry of Deeds until a Final Plan has been approved by the Board in accordance with this ordinance.

B. No person, firm, corporation or other legal entity may convey, offer or agree to convey any land in a subdivision which has not been approved by the Board and recorded in the Registry of Deeds.

C. No person, firm, corporation or other legal entity may convey, offer or agree to convey any land in an approved subdivision which is not shown on the Final Plan as a separate lot.

D. Any person, firm, corporation or other legal entity who conveys, offers or agrees to convey any land in a subdivision which has not been approved as required by this ordinance shall be punished by a fine of not less than $100, and not more than $2500 for each such conveyance, offering or agreement. The Municipality may institute proceeding to enjoin the violation of this section, and may collect attorney’s fees and court costs if it is the prevailing party.

E. No public utility, water district, sanitary district or any utility company of any kind shall serve any lot in a subdivision for which a Final Plan has not been approved by the Board.

F. Development of a subdivision without Board approval shall be a violation of law. Development includes grading or construction of roads, grading of land or lots, or construction of building which require a Final Plan approved as provided in this ordinance and recorded in the Registry of Deeds.

G. No lot in a subdivision may be sold, leased, or otherwise conveyed before the street upon which the lot fronts is completed in accordance with this ordinance up to and including the entire frontage of the lot. No unit in a multi-family development shall be occupied before the street upon which the unit is accessed is completed in accordance with this ordinance.
ARTICLE XI GENERAL STANDARDS

In reviewing applications for a subdivision, the Board shall consider the following general standards and make findings that each has been met prior to the approval of a Final Plan. In all instances the burden of proof shall be upon the applicant.

11.1 Conformance with Comprehensive Plan. All proposed subdivisions shall be in conformity with the Comprehensive Plan or policy statement of the municipality and with the provisions of all pertinent state and local codes and ordinances.

11.2 Retention of Open Spaces and Natural or Historic Features.
   A. The plan shall, by notes on the final plan and deed restrictions, limit the clearing of trees to those areas designated on the plan.
   B. The Board shall require the reservation of between five and ten percent of the area of the subdivision as open space in order to provide for the recreational needs of the occupants of the subdivision or to maintain the scenic or natural beauty of the area. In determining the need for open space the Board shall consider the proximity of the subdivision to neighboring dedicated open space or recreation facilities; the needs identified in the municipal comprehensive plan or recreation plan for open space or recreation facilities in the neighborhood surrounding the subdivision; the type of development and the demographic characteristics of potential residents in the subdivision; and the density or lot sizes of the development. The developer may instead make a payment in-lieu-of dedication into a municipal open space or recreation land acquisition fund.
   C. Land reserved for open space purposes shall be of a character, configuration and location suitable for the particular use intended. A site intended to be used for active recreation purposes, such as a playground or a playfield, should be relatively level and dry, have a total frontage on one or more streets of at least 200 feet, and have no major dimensions of less than 200 feet. Sites selected primarily for scenic or passive recreation purposes shall have such access as the Board may deem suitable and no less than twenty-five feet of road frontage. The configuration of such sites shall be deemed adequate by the Board with regard to scenic attributes to be preserved, together with sufficient areas for trails, lookouts, etc. where necessary and appropriate.
   D. Reserved land acceptable to the Board and subdivider may be dedicated to the municipality as a condition of approval.
   E. Where land within the subdivision is not suitable or is insufficient in amount, or where the applicant prefers, a payment-in-lieu of dedication shall be calculated at the market value of the developed land at the time of the subdivision, as determined by the municipal tax assessor, and deposited into a municipal land acquisition or improvement fund.
F. The Board may require that the development plans include a landscape plan that will show the preservation of any existing trees larger than 24 inches diameter breast height, the replacement of trees and historic or environmentally significant areas. Cutting of trees on the northerly borders of lots should be avoided as far as possible, to retrain a natural wind buffer.

G. If the proposed subdivision contains any identified historical or archeological sites, or any areas identified in the Comprehensive Plan or by the Maine Critical Areas Program as rare and irreplaceable natural areas, these areas shall be included in the open space, and suitably protected by appropriate covenants and management plans.

H. Any public rights of access to the shoreline of a water body shall be maintained by means of easements or rights-of-way, or should be included in the open space, with provisions made for continued public access.

11.3 Land Not Suitable for Development. The following lands shall not be included in the calculations of lot area for the purpose of meeting the requirements of the Minimum Lot Size Law or Town of Prospect Minimum Lot Size Ordinance.

A. Land which is situated below the normal high water mark of any water of body.
B. Land which is located within the 100 year frequency flood plain as identified by the Federal Emergency Management Agency or the Department of Housing and Urban Development, Flood Insurance Administration, unless the subdivider shows proof through the submittal of materials prepared by a Registered Land Surveyor which show that the property in question lies at least two feet above the 100 year flood level. The elevation of filled or made land shall not be considered.
C. Land which is part of a right-of-way, or easement, including utility easements.
D. Land which has a water table within ten inches of the surface for at least three months of the year as identified by the County Soil Survey. The Board may use such lands in the lot area calculations if municipal sewage collection and treatment is provided and if the lot(s) are to be deed restricted to prohibit buildings with basements or require basement floor elevations one foot above the seasonal water table.
E. Land that has been created by filling or draining a pond or wetland.

11.4 Blocks. Where street lengths exceed 1,000 feet between intersections with other streets, the Board may require an utility/pedestrian easement, at least 20 feet in width, to provide for underground utility crossings and/or a pedestrian pathway of at least five feet in width constructed in accordance with design standards in Section 12.2.1 Maintenance obligations of the easement shall be included in the written description of the easement.
11.5 Lots.

A. All lots shall meet the minimum requirements of the Zoning Ordinance for the zoning district in which they are located. The lot configuration should be designed to maximize access to solar energy or building sites with suitable or orientation. They shall be at least 2 acres in size.

B. Lot configuration and area shall be designed to provide for adequate off-street parking and service facilities based upon the type of development contemplated. Wherever possible, parking areas shall be laid out to coincide with building locations to maximize solar energy gain.

C. Lots with multiple frontages shall be avoided wherever possible. When lots do have frontage on two or more roads, the plan, and deed restrictions shall indicate vehicular access shall be located only on the less traveled way.

D. Wherever possible, side lot lines shall be perpendicular to the street.

E. The subdivision of tracts into parcels with more than twice the required minimum lot size shall be laid out in such a manner as either to provide for or preclude future re-subdivision. Where public utilities could be extended to the subdivision in the foreseeable future, the subdivision shall be designed to accommodate the extensions of utilities.

F. If a lot on one side of a stream, tidal water, road or other similar barrier fails to meet the minimum requirements for lot size, it may not be combined with a lot on the other side of the stream, tidal water, or road to meet the minimum lot size.

G. The ratio of lot length to width shall not be more than three to one. Flag lots and other odd shaped lots in which narrow strips are joined to other parcels in order to meet minimum lot size requirements are prohibited.

H. Lots shall be numbered in such a manner as to facilitate mail delivery. Even numbers shall be assigned to lots on one side of the street, and odd numbers on the opposite side. Where the proposed subdivision contains the extension of an existing street or street approved by the Board, but not yet constructed, the lot numbers shall correspond with the existing lot numbers. The lot numbering shall be reviewed by the Postmaster and his comments considered by the Board.

I. Where a major subdivision abuts or contains an existing or proposed arterial street, no residential lot may have vehicular access directly onto the arterial street. This requirement shall be noted on the Plan and in the deed of any lot with frontage on the arterial street.

11.6 Utilities

A. Utilities shall be installed underground except as otherwise approved by the Board.

B. Underground utilities shall be installed prior to the installation of the final gravel base of the road.

C. The size, type and location of street lights, electric and gas lines, telephone, and other utilities shall be shown on the plan and approved by the Board.
11.7 Required Improvements. The following improvements are required for all subdivisions unless waived by the Board in accordance with provisions of this ordinance.

A. Monuments.
   1. Stone monuments shall be set at all street intersections and points of curvature, but no further than 750 feet apart along street lines without curves or intersections.
   2. Stone monuments shall be set at all corners and angle points of the subdivision boundaries where the interior angle of the subdivision boundaries is 135° or less.
   3. Stone monuments shall be a minimum of four inches square at the top and four feet in length, and set in the ground at final grade level. After they are set, drill holes, ½ inch deep shall locate the point or points described above.
   4. All other subdivision boundary corners and angle points, as well as all lot boundary corners and angle points shall be marked by suitable monumentation.

B. Water Supply.
   1. When a public water supply system does not exist, the Board shall allow the use of individual wells or a private community water system.
      a. Dug wells shall be permitted only if it is demonstrated to be not economically feasible to develop other ground water sources, and shall be constructed so as to prevent infiltration of surface water into the well. Unless otherwise permitted by the Board, the sub-divider shall prohibit dug wells by deed restrictions and a note on the plan.
      b. If a central water supply system is provided by the sub-divider, the location and protection of the source, and the design, construction and operation of the system and shall conform to the standards of the Maine Rules Relating to Drinking Water (10-144AC.M.R. 231).
      c. The sub-divider shall construct ponds and dry hydrants to provide for adequate water storage for fire-fighting purposes. An easement shall be granted to the municipality granting access to and maintenance of the dry hydrants where necessary. The Board may waive the requirement for fire ponds only upon submittal of evidence that the soil types in the subdivision will not permit their construction.
      d. Where soil types preclude the construction of fire ponds, the sub-divider shall, at the request of the Board, investigate other technically feasible means of maintaining water storage for fire-fighting purposes. Such alternatives shall conform to good engineering standards and practices.
C. Sewage Disposal.
   1. Private Systems.
      a. The developer shall submit evidence of soil suitability for subsurface sewage disposal prepared by a Maine Licensed Site Evaluator in full compliance with the requirements of the State of Maine Subsurface Wastewater Disposal Rules. In addition, on lots in which the limiting factor has been identified as being with 24 inches of the surface, a second site with suitable soils shall be shown as a reserve area for future replacement of the disposal area. The reserve area shall be shown on the plan and restricted so as not to be built upon.
      b. In no instance shall a disposal area be permitted on soils or on a lot which requires a New System Variance from the Subsurface Wastewater Disposal Rules.

D. Surface Drainage.
The storm water management plan submitted in accordance with Section 12.4 shall be installed.

11.8 Land Features.

A. Topsoil shall be considered part of the subdivision and shall not be removed from the site except for surplus topsoil from roads, parking areas, and building excavations.

B. Except for normal thinning, landscaping, and cutting trees to provide access to direct sunlight, existing vegetation shall be left intact to prevent soil erosion and to minimize storm water runoff.

C. To prevent soil erosion in shoreline areas, tree cutting in the strip extending one hundred feet inland from the normal high water mark of any water body shall be limited in accordance with the following:
   1. No more than 30% of the total length of the strip on each lot shall be cleared.
   2. The removal of trees shall be limited to single clear-cut openings greater than thirty feet wide. Adjacent openings shall be separated by a distance of at least 70 feet.
   3. In the remaining 70% length of the strip, no trees larger than four inches diameter at breast height shall be cut, and sufficient cover to preserve natural beauty and control erosion shall remain.

11.9 Dedication and Maintenance of Common Open Space and Services.

1. All common land, facilities and property shall be owned jointly or in common by the owners of the dwelling units by means of a home-owners association, by an association which has as its principal purpose the conservation or preservation of land in essentially its natural condition, or by the municipality.

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

3. The common open space shall be shown on the Final Plan with appropriate notation on the plan to indicate that:
   a. It shall not be used for future building lots; and
   b. A part or all of the common open space may be dedicated for acceptance by the municipality.
4. The by-laws of the proposed homeowners association shall specify maintenance responsibilities and shall be submitted to the Board prior to Final Plan approval.

5. Covenants for mandatory membership in the homeowners association setting forth the owners' rights, interests, and privileges in the association and the common property, shall be reviewed by the Board and included in the deed for each lot or dwelling.

6. The homeowners association shall have the responsibility of maintaining the common property or facilities.

7. The association shall levy annual charges against all owners of dwelling units to defray the expenses connected with the maintenance of common property and tax assessments.

8. The developer or sub-divider shall maintain control of the common property, and be responsible for its maintenance until development sufficient to support the association has taken place.

11.10 Construction in Flood Hazard Areas.

When any part of a subdivision is located in a special flood hazard area as identified by the Federal Emergency Management Agency, the plan shall indicate that all principal structures on lots in the subdivision shall be constructed with their lowest floor, including the basement, at least one foot above the 100-year flood elevation. Such a restriction shall be included in the deed to any lot which is included or partially included in the flood hazard area.

11.11 Impact on Ground Water.

A. When a hydro geologic assessment is submitted, the assessment shall contain at least the following information:

1. A map showing the basic soils types.
2. The depth to the water table at representative points throughout the subdivision.
3. Drainage conditions throughout the subdivision.
4. Data on the existing ground water quality, either from test wells in the subdivision or from existing wells on neighboring properties.
5. An analysis and evaluation of the impacts of the subdivision on ground water resources. In the case of residential developments, the evaluation shall, at minimum, project nitrate-nitrogen concentrations. For subdivisions within the watershed of a lake, projections of phosphate impacts shall also be calculated.
6. The location of any subsurface wastewater disposal systems and drinking water wells within the subdivision and within 200 feet of the subdivision boundaries.

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

C. Projections of ground water quality shall be based on the assumption of drought conditions (assuming 60% of annual average recharge from precipitation).

D. No subdivision shall increase any contaminant concentration in the ground water to more than one half of the Primary Drinking Water Standards. No subdivision shall increase any contaminant concentration in the ground water to more than the Secondary Drinking Water Standards.

E. If existing ground water quality already exceeds the primary standards, and the subdivision is to be served by on-site ground water supplies, the applicant shall demonstrate how water quality will be improved or treated.
F. If existing ground water quality already exceeds the secondary standards, the subdivision shall not cause the concentration of the parameters in question to exceed 150% of the ambient concentration.

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

11.12 Access Control and Traffic Impacts

A. General. Provision shall be made for vehicular access to the subdivision and circulation within the subdivision in such a manner as to safeguard against hazards to traffic and pedestrians in existing streets and within the subdivision, to avoid traffic congestion on any street and to provide safe and convenient circulation on public streets and within the subdivision. More specifically, access and circulation shall also conform to the following standards and the design criteria below.

1. The vehicular access to the subdivision shall be arranged to avoid traffic use of existing local residential streets.

2. Where a lot has frontage on two or more streets, the access to the lot shall be provided to the lot across the frontage and to the street where there is lesser potential for traffic congestion and for hazards to traffic and pedestrians.

3. The street giving access to the subdivision and neighboring streets which can be expected to carry traffic to and from the subdivision shall have traffic carrying capacity and be suitably improved to accommodate the amount and types of traffic generated by the proposed subdivision. No subdivision shall increase the volume: capacity ratio of any street above 0.8 nor reduce the street’s Level of Service to “D” or below.

4. Where necessary to safeguard against hazards to traffic and pedestrians and/or to avoid traffic congestion, provision shall be made for turning lanes, traffic directional island, frontage roads, and traffic controls within public streets.

5. Access ways shall be of a design and have sufficient capacity to avoid queuing of entering vehicles on any street.

6. Where topographic and other conditions allow, provision shall be made for circulation access connections to adjoining lots of similar existing or potential use:
   a. When such access connection will facilitate fire protection services as approved by the Fire Chief; or
   b. When such access will enable the public to travel between two existing or potential uses, generally open to the public, without need to travel upon a street.

B. Subdivision Access Design for Subdivisions entering onto Arterial Streets.

When the access to a subdivision is a street, the street design and construction standards of Article XII shall be met. Where there is a conflict between the standards in this section and the standards of Article XII, the stricter or more stringent shall apply.
1. General. Access design shall be based on the estimated volume using the access classification defined below.
   a. Low Volume Access: Less than 25 vehicle trips per day.
   b. Medium Volume Access: Any access that is not a low volume or high volume access.
   c. High Volume Access: Peak hour volume of 400 vehicles or greater.

2. Sight Distances. Accesses shall be designed in profile and grading and located to provide the required sight distance measured in each direction. Sight distances shall be measured from the driver’s seat of a vehicle standing on that portion of the exit with the front of the vehicle a minimum of 10 feet behind the curb line or edge of shoulder, with the height of the eye 3-1/2 feet, to the top of an object 4-1/2 feet above the pavement. The required sight distances are listed below for various posted speed limits.
   a. Two Lane Roads. A sight distance of ten feet for each mile per hour of posted speed limit shall be maintained or provided.
   b. Four Lane Roads. The sight distances provided below are based on passenger cars exiting from accesses onto four lane roads and are designed to enable exiting vehicles.
      1) Upon turning left or right to accelerate to the operating speed of the street without causing approaching vehicles to reduce speed by more than 10 miles per hours, and
      2) Upon turning left, to clear the near half of the street without conflicting with vehicles approaching from the left.

<table>
<thead>
<tr>
<th>Operating Speed (mph)</th>
<th>Safe Sight Distance Left (ft.)</th>
<th>Safe Sight Distance Right (ft.)</th>
</tr>
</thead>
<tbody>
<tr>
<td>20</td>
<td>130</td>
<td>130</td>
</tr>
<tr>
<td>30</td>
<td>220</td>
<td>260</td>
</tr>
<tr>
<td>40</td>
<td>380</td>
<td>440</td>
</tr>
<tr>
<td>50</td>
<td>620</td>
<td>700</td>
</tr>
</tbody>
</table>

3. Vertical Alignment. Accesses shall be flat enough to prevent the dragging of any vehicle undercarriage. Low volume accesses shall slope upward or downward from the gutter line on a straight slope of 2 percent or less for at least 25 feet followed by a slope of no greater than 10 percent for the next 50 feet. The maximum grade over the entire length shall not exceed 15 percent. Medium and high volume accesses should slope upward or downward from the gutter line on a straight slope of 2 percent or less for at least 25 feet. Following this landing area, the steepest grade on the access shall not exceed 8 percent.

4. Low Volume Accesses.
   a. Skew Angle. Low volume accesses shall be two-way operation and shall intersect the road at an angle as nearly 90 degrees as site conditions permit, but in no case less than 60 degrees.
   b. Curb Radius. The curb radius shall be between 5 feet and 15 feet, with a preferred radius of 10 feet.
   c. Access Width. The width of the access shall be between 12 feet and 16 feet, with a preferred width of 16 feet.
   d. Curb-Cut Width. Curb-cut width shall be between 22 feet and 46 feet, with a preferred width of 36 feet.
5. Medium Volume Accesses.
   a. Skew Angle. Medium Volume Accesses shall be either one-way or two-way operation and shall intersect the road at an angle as nearly 90 degrees as site conditions permit, but in no case less than 60 degrees.
   b. Curb Radius. Curb radii will vary depending if the access is one-way or two-way operation. On a two-way access the curb radii shall be between 25 feet and 40 feet, with a preferred radius of 30 feet. On one way accesses, the curb radii shall be 30 feet for right turns into and out of the site, with a 5 foot radius on the opposite curb.
   c. Width. On a two-way access the width shall be between 24 and 26 feet, with a preferred width of 26 feet, however where truck traffic is anticipated, the width may be no more than 30 feet. On a one-way access the width shall be between 16 feet and 20 with a preferred width of 16 feet.
   d. Curb-Cut Width. On a two-way access the curb-cut width shall be between 74 feet and 110 feet with a preferred width of 86 feet. On a one-way access the curb-cut width shall be between 46 feet and 70 feet with a preferred width of 51 feet.

6. High Volume Accesses.
   a. Skew Angle. High Volume Accesses shall intersect the road at an angle as nearly 90 degrees as site conditions permit, but in no case less than 60 degrees.
   b. Curb Radius. Without channelization islands for right-turn movements into and out of the site, the curb radii shall be between 30 feet and 50 feet. With channelization islands, the curb radii shall be between 75 feet and 100 feet.
   c. Curb Cut Width. Without channelization, curb-cut width shall be between 106 feet and 162 feet with a preferred width of 154 feet. With channelization, the curb-cut width shall be between 196 feet and 262 feet with a preferred width of 254 feet.
   d. Entering and exiting accesses shall be separated by a raised median which shall be between 6 feet and 10 feet in width. Medians separating traffic flows shall be no less than 25 feet in length, with a preferred length of 100 feet.
   e. Width. Access widths shall be between 20 feet and 26 feet on each side of the median, with a preferred width of 24 feet. Right turn only lanes established by a channelization island shall be between 16 feet and 20 feet, with a preferred width of 20 feet.
   f. Appropriate traffic control signage shall be erected at the intersection of the access and the street and on medians and channelization islands.

7. Special Case Accesses. Special Case Accesses are one-way or two-way drives serving medium or high volume uses with partial access (right turn only) permitted. These accesses are appropriate on roadway segments where there is a raised median and no median breaks are provided opposite the proposed access. These accesses are usually located along the approaches to major signalized intersections where a raised median may be provided to protect left-turning vehicles and separate opposing traffic flows.
   a. Perpendicular driveways.
      1. Curb Radii. Curb radii shall be between 30 feet and 50 feet, with a preferred radius of 50 feet.
      2. Access width. Access width shall be between 26 feet and 30 feet with a preferred width of 30 feet. On two-way accesses, a triangular channelization island shall be provided at the intersection with the street. On each side of the island the one-way drive shall be between 15 feet and 24 feet with a preferred width of 20 feet.
3. Curb-Cut Width. The total curb-cut width shall be between 86 feet and 130 feet with a preferred width of 130 feet.

4. Channelization Island. The channelization island on two-way accesses shall be raised and curbed. Corner radii shall be 2 feet.

b. Skewed Accesses.

1. Skew Angle. The skew angle shall be between 45 degrees and 60 degrees, with a preferred angle of 45 degrees.

2. Curb Radii. Curb radii shall be between 30 feet and 50 feet on the obtuse side of the intersection, with a preferred radius of 30 feet. Curb radii shall be between 5 feet and 10 feet on the acute side of the intersection with a preferred radius of 5 feet.

3. Access Width. The width of the access shall be between 15 feet and 24 feet with a preferred width of 20 feet. Where entering and exiting accesses meet, the width shall be between 24 feet and 30 feet, with a preferred width of 30 feet.

4. Curb-Cut Width. The curb-cut width for each access shall be between 35 feet and 75 feet with a preferred width of 42 feet.

C. Access Location and Spacing.

1. Minimum Corner Clearance. Corner clearance shall be measured from the point of tangency (PT) for the corner to the point of tangency for the access. In general the maximum corner clearance should be provided as practical based on site constraints. Minimum corner clearances are listed below based upon access or minor street volume and intersection type.

<table>
<thead>
<tr>
<th>Access Type</th>
<th>Minimum Corner Clearance (feet)</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Intersection Signalized</td>
</tr>
<tr>
<td>Low Volume</td>
<td>150</td>
</tr>
<tr>
<td>Medium Volume</td>
<td>150</td>
</tr>
<tr>
<td>High Volume</td>
<td>500</td>
</tr>
<tr>
<td>Special Case</td>
<td></td>
</tr>
<tr>
<td>Right turn in</td>
<td>50</td>
</tr>
<tr>
<td>Right turn out</td>
<td>100</td>
</tr>
<tr>
<td>Right turn in or out only</td>
<td>100</td>
</tr>
</tbody>
</table>

Where the minimum standard for a full access drive cannot be met, only a special case access shall be permitted. If based on the above criteria, full access to the site cannot be provided on either the major or minor streets, the site shall be restricted to partial access. Alternately, construction of a shared access drive with an adjacent parcel is recommended.

2. Accessing Spacing. Accesses and street intersections shall be separated from adjacent accesses, streets and property lines as indicated in the table below, in order to allow major through routes to effectively serve their primary function of conducting through traffic. This distance shall be measured from the access point of tangency to the access point of tangency to a projection of the property line at the edge of the roadway for access spacing to the property line.
### MINIMUM ACCESS SPACING

<table>
<thead>
<tr>
<th>Access Type</th>
<th>Low (feet)</th>
<th>Medium (feet)</th>
<th>w/o RT* (feet)</th>
<th>w/RT** (feet)</th>
<th>Case (feet)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Low Volume</td>
<td>5</td>
<td>***</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Medium Volume</td>
<td>10</td>
<td>-</td>
<td>75</td>
<td></td>
<td></td>
</tr>
<tr>
<td>High Volume (W/o RT)*</td>
<td>75</td>
<td>-</td>
<td>75</td>
<td>150</td>
<td></td>
</tr>
<tr>
<td>High Volume (W/RT)**</td>
<td>75</td>
<td>-</td>
<td>75</td>
<td>250</td>
<td>500</td>
</tr>
<tr>
<td>Special Case</td>
<td>10</td>
<td>-</td>
<td>75</td>
<td>75</td>
<td>75</td>
</tr>
</tbody>
</table>

1. Dpi measured from point of tangency of access to projection of property line on roadway edge.
2. For two more accesses serving a single parcel, or from a proposed access from an existing access.
3. Dsp measured from point of tangency of access to point of tangency of adjacent access.

* High volume access without right turn channelization.

** High volume access with right turn channelization.

*** Low volume accesses are not permitted in combination with other access types on a single lot.

**** Right-turn-in-only upstream of right-turn-out-only. Right-turn-out followed by right-turn-in not allowed.

D. Number of Accesses. The maximum number of accesses onto a single street is controlled by the available site frontage and the table above. In addition, the following criteria shall limit the number of accesses independent of frontage length.

1. No low volume traffic generator shall have more than one two-way access onto a single roadway.
2. No medium or high volume traffic generator shall have more than two two-way accesses or three accesses in total onto a single roadway.

E. Construction Materials/Paving
1. All accesses entering a curbed street shall be curbed with materials matching the street curbing. Sloped curbing is required around all raised channelization islands or medians.

2. All accesses shall be paved with bituminous concrete pavement within the street right-of-way. All commercial accesses regardless of access volume shall be pave with bituminous concrete pavement within 30 feet of the street right-of-way.
ARTICLE XII STREET AND STORM DRAINAGE DESIGN AND CONSTRUCTION STANDARDS

12.1 General Requirements.

A. The Board shall not approve any subdivision plan unless proposed streets and storm water management systems are designed in accordance with any local ordinance or the specifications contained in this ordinance. Approval of the Final Plan by the Board shall not be deemed to constitute or be evidence of acceptance by the municipality of any street or easement.

B. Subdividers shall submit to the Board, as part of the Final Plan, detailed construction drawings showing a plan view, profile, and typical cross-section of the proposed streets and existing streets within 300 feet of any proposed intersections. The plans shall include the following information:
   1. Date, scale, and magnetic or true north point.
   2. Intersections of the proposed street with existing streets.
   3. Roadway and right-of-way limits including edge of pavement, edge of shoulder, sidewalks, and curbs.
   4. Kind, size, location, material, profile and cross-section of all existing and proposed drainage structures and their location with respect to the existing natural waterways and proposed drainage ways.
   5. Complete curve data shall be indicated for all horizontal and vertical curves.
   6. Turning radii at all intersections.
   7. Centerline gradients.
   8. Locations of all existing and proposed overhead and underground utilities, to include but not be limited to water, sewer, electricity, telephone, lighting, and cable televisions.

C. Upon receipt of plans for a proposed public street the Board shall forward one copy to the Municipal Officers, the Road Commissioner, and the Municipal Engineer for review and comment. Plans for streets which are not proposed to be accepted by the municipality shall be sent to the Municipal Engineer for review and comment.

D. Where the subdivider proposes improvements within existing public streets, the proposed design and construction details shall be approved in writing by the road Commissioner or the Maine Department of Transportation, as appropriate.

E. Where the subdivision streets are to remain private roads, the following words shall appear on the recorded plan. “All roads in this subdivision shall remain private roads to be maintained by the developer or the lot owners and shall not be accepted or maintained by the Town”.

12.2 Street Design Standards.

A. These design standards shall be met by all streets within subdivisions, and shall control the roadway, shoulders, curbs, sidewalks, drainage systems, culverts, and other appurtenances.

B. Streets shall be designed to discourage through traffic on minor streets within a residential subdivision.

C. Reserve strips controlling access to streets shall be prohibited except where their control is definitely placed with the municipality.

D. Adjacent to areas zoned and designed for commercial use, or where a change of zoning to a zone which permits commercial uses is contemplated by the municipality, the street right-of-way and/or pavement width shall be increased on each side by half of the amount necessary to bring the road into conformance with the standards for commercial streets in the ordinance.
E. Where a subdivision borders an existing narrow street (not meeting the width requirements of the standards for streets in this ordinance), or when the comprehensive Plan indicates plans for realignment or widening of a road that would require use of some of the land in the subdivision, the plan shall indicate reserved areas for widening or realigning the road marked “Reserved for Road Realignment (Widening) Purposes”. Land reserved for such purposes may not be included in computing lot area or setback requirements of the Zoning Ordinance. When such widening or realignment is indicated on the Official Map, the reserve area shall not be included in any lot, but shall be reserved to be deeded to the municipality or State.

F. Any subdivision expected to generate average daily traffic of 200 trips per day or more, shall have at least two street connections with existing public streets, streets shown on an Official Map, or streets on an approved subdivision plan for which performance guarantees have been filed and accepted. Any street with an average daily traffic of 200 trips per day or more shall have at least two street connections leading to existing public streets, streets shown on an Official Map, or streets on an approved subdivision plan for which performance guarantees have been filed and accepted.

G. The following design standards apply according to street classification:

<table>
<thead>
<tr>
<th>Type of Street</th>
<th>Arterial</th>
<th>Collector</th>
<th>Minor</th>
<th>Private Right of Way</th>
<th>Industrial/Commercial</th>
</tr>
</thead>
<tbody>
<tr>
<td>Minimum Right-of Way Width</td>
<td>80’</td>
<td>50’</td>
<td>50’</td>
<td>50’</td>
<td>60’</td>
</tr>
<tr>
<td>Minimum Pavement Width</td>
<td>44’</td>
<td>24’</td>
<td>20’</td>
<td>18’</td>
<td>30’</td>
</tr>
<tr>
<td>Sidewalk Width</td>
<td>8’</td>
<td>5’</td>
<td>5’</td>
<td>N/A</td>
<td>8’</td>
</tr>
<tr>
<td>Minimum Grade</td>
<td>.5%</td>
<td>.5%</td>
<td>.5%</td>
<td>N/A</td>
<td>.5%</td>
</tr>
<tr>
<td>Maximum Grade*</td>
<td>5%</td>
<td>6%</td>
<td>8%</td>
<td>10%</td>
<td>5%</td>
</tr>
<tr>
<td>Minimum Centerline Radius</td>
<td>500’</td>
<td>230’</td>
<td>150’</td>
<td>N/A</td>
<td>400’</td>
</tr>
<tr>
<td>Minimum Tangent between Curves of reverse alignment</td>
<td>200’</td>
<td>100’</td>
<td>50’</td>
<td>N/A</td>
<td>200’</td>
</tr>
<tr>
<td>Roadway Crown</td>
<td>¼”/ft.</td>
<td>¼”/ft.</td>
<td>⅛”/ft.</td>
<td>N/A</td>
<td>¼”/ft.</td>
</tr>
<tr>
<td>Minimum angle of street Intersections**</td>
<td>90°</td>
<td>90°</td>
<td>75°</td>
<td>75°</td>
<td></td>
</tr>
<tr>
<td>Maximum grade within 75 ft. of intersection</td>
<td>2%</td>
<td>2%</td>
<td>2%</td>
<td>N/A</td>
<td>2%</td>
</tr>
<tr>
<td>Minimum curb radii at Intersections</td>
<td>30’</td>
<td>20’</td>
<td>15’</td>
<td>N/A</td>
<td>30’***</td>
</tr>
<tr>
<td>Minimum r/o/w radii at Intersections</td>
<td>20’</td>
<td>10’</td>
<td>10’</td>
<td>10’</td>
<td>20’</td>
</tr>
<tr>
<td>Minimum width of shoulders (each side)</td>
<td>5’</td>
<td>3’</td>
<td>3’</td>
<td>3’</td>
<td>9’</td>
</tr>
</tbody>
</table>

*Maximum grade may be exceeded for a length of 100 feet or less.

** Street intersection angles shall be as close to 90° as feasible but no less than the listed angle.

***Should be based on turning radii of expected commercial vehicles, but no less than 30 feet.
H. The centerline of the roadway shall be the centerline of the right-of-way.

I. Dead End Streets. In addition to the design standards above, dead-end streets shall be constructed to provide a cul-de-sac turn-around with the following requirements for radii:
Property line: 65ft.; outer edge of pavement: 50ft.; inner edge of pavement: 30ft. Where the cul-de-sac is in a wooded area prior to development, a stand of trees shall be maintained within the center of the cul-de-sac. The Board may require the reservation of a twenty foot easement in line with the street to provide continuation of pedestrian traffic or utilities to the next street. The Board may also require the reservation of a fifty foot easement in line with the street to provided continuation of the road where future subdivision is possible.

J. Grades, Intersections, and Sight Distances.

1. Grades of all streets shall conform in general to the terrain, so that cut and fill are minimized while maintain the grade standards above.

2. All Changes in grade shall be connected by vertical curves in order to provide the following minimum stopping sight distances based on the street design speed.

<table>
<thead>
<tr>
<th>Design Speed (mph)</th>
<th>20</th>
<th>25</th>
<th>30</th>
<th>35</th>
</tr>
</thead>
<tbody>
<tr>
<td>Stopping Sight Distance (ft.)</td>
<td>125</td>
<td>150</td>
<td>200</td>
<td>250</td>
</tr>
</tbody>
</table>

Stopping sight distance shall be calculated with a height of eye at 3.5 feet and the height of object at 0.5 feet.

3. Where new street intersections or driveway curb-cuts are proposed, sight distances, as measured along the road onto which traffic will be turning, shall be based upon the posted speed limit and conform to the table below. Sight distances shall be measured from the driver’s seat of a vehicle standing on that portion of the exit with the front of the vehicle a minimum of 10 feet behind the curb line or edge of shoulder, with the height of the eye 3-1/2 feet, to the top of an object 4-1/2 feet above the pavement.

<table>
<thead>
<tr>
<th>Posted Speed Limit (mph)</th>
<th>25</th>
<th>30</th>
<th>35</th>
<th>40</th>
<th>45</th>
<th>50</th>
<th>55</th>
</tr>
</thead>
<tbody>
<tr>
<td>Sight Distance (ft.)</td>
<td>250</td>
<td>300</td>
<td>350</td>
<td>400</td>
<td>450</td>
<td>500</td>
<td>550</td>
</tr>
</tbody>
</table>

Where necessary, corner lots shall be cleared of all growth and sight obstructions, including ground excavation, to achieve the required visibility.

4. Cross (four-cornered) street intersections shall be avoided insofar as possible, except as shown on the Comprehensive Plan or at other important traffic intersections. A minimum distance of two hundred feet shall be maintained between centerlines of side streets.

K. Sidewalks. Sidewalks shall be installed within all subdivisions within the urban compact area. Where installed, sidewalks shall meet these minimum requirements.

1. Bituminous Sidewalks.
   a. The crushed aggregate base course shall be no less than eight inches thick.
   b. The hot bituminous pavement surface course shall be no less than two inches after compaction.
2. Portland Cement Concrete Sidewalks.
   a. The sand base shall be no less than six inches thick.
   b. The Portland Cement concrete shall be reinforced with six inch square, number 10 wire mesh and shall be no less than four inches thick.

L. Granite curbing shall be installed on a thoroughly compacted gravel base of six inches minimum thickness. Bituminous curbing shall be installed on the base course of the pavement. The specified pavement width above shall be measured between the curbs.

12.3 Street Construction Standards.

A. Minimum thickness of material after compaction.

<table>
<thead>
<tr>
<th>Street Materials</th>
<th>Minimum Requirements</th>
</tr>
</thead>
<tbody>
<tr>
<td>Industrial/ Private</td>
<td>Arterial Collector Minor Right-of-Way Commercial</td>
</tr>
<tr>
<td>Crushed Aggregate Base Course (Max. sized stone 4&quot;)</td>
<td>18&quot; 18&quot; 18&quot; 12&quot; 18&quot;</td>
</tr>
<tr>
<td>Crushed Aggregate Base Course</td>
<td>4&quot; 3&quot; 3&quot; 3&quot; 4&quot;</td>
</tr>
<tr>
<td>Hot Bituminous Pavement</td>
<td></td>
</tr>
<tr>
<td>Total Thickness</td>
<td>3 ¾&quot; 2 ¾&quot; 2 ½&quot; 2&quot; 3&quot;</td>
</tr>
<tr>
<td>Surface Course</td>
<td>1 ½&quot; 1&quot; 1&quot; 1¾&quot; 1¼&quot;</td>
</tr>
<tr>
<td>Base Course</td>
<td>1 ¾&quot; 1¾&quot; 1½&quot; 1¾&quot;</td>
</tr>
</tbody>
</table>

B. Preparation.

1. Before any clearing has started on the right-of-way, the center line and side lines of the new road shall be staked or flagged at fifty foot intervals.

2. Before grading is started, the entire right-of-way shall be cleared of all stumps, roots, brush, and other objectionable material. All ledge, large boulders, and tree stumps shall be removed from the right-of-way.

3. All organic materials shall be removed to a depth of two feet below the subgrade of the roadway. Rocks and boulders shall also be removed to a depth of two feet below the subgrade of the roadway. On soils which have been identified by the Town Engineer as not suitable for roadways, the subsoil shall be removed from the street site to a depth of two feet below the subgrade and replaced with material meeting the specifications for gravel aggregate sub-base below.

4. Except in a ledge cut, side slopes shall be no steeper than a slope of three feet horizontal to one foot vertical, and shall be graded, loamed, limed, fertilized, and seeded according to the specifications of the erosion and sedimentation control plan. Where a cut results in exposed ledge a side slope no steeper than four feet vertical to one foot horizontal is permitted.
5. All underground utilities shall be installed prior to paving to avoid cuts in the pavement. Building sewers and water service connections shall be installed to the edge of the right-of-way prior to paving.

C. Bases and Pavement.
   1. Bases.
      a. The Aggregate Sub-base Course shall be sand and gravel of hard durable particles free from vegetative matter, lumps or balls of clay and other deleterious substances. The gradation of the part that passes a 3 inch square mesh sieve shall meet the following grading requirements:

<table>
<thead>
<tr>
<th>Sieve Designation</th>
<th>Percentage by Weight Passing Square Mesh Sieve</th>
</tr>
</thead>
<tbody>
<tr>
<td>¼ inch</td>
<td>25-70%</td>
</tr>
<tr>
<td>No. 40</td>
<td>0-30%</td>
</tr>
<tr>
<td>No. 200</td>
<td>0-7%</td>
</tr>
</tbody>
</table>

Aggregate for the sub base shall contain no particles of rock exceeding four inches in any dimension.

b. The Aggregate Base Course shall be sand or gravel of hard durable particles free from vegetative matter, lumps or balls of clay and other deleterious substances. The gradation of the part that passes a 3 inch square mesh sieve shall meet the following grading requirements:

<table>
<thead>
<tr>
<th>Sieve Designation</th>
<th>Percentage by Weight Passing Square Mesh Sieve</th>
</tr>
</thead>
<tbody>
<tr>
<td>½ inch</td>
<td>45-70%</td>
</tr>
<tr>
<td>¼ inch</td>
<td>30-55%</td>
</tr>
<tr>
<td>No. 40</td>
<td>0-20%</td>
</tr>
<tr>
<td>No. 200</td>
<td>0-5%</td>
</tr>
</tbody>
</table>

Aggregate for the base shall contain no particles of rock exceeding two inches in any dimension.

2. Pavement Joints. Where pavement joins an existing pavement, the existing pavement shall be cut along a smooth line and form a neat, even, vertical joint.

3. Curbs and Gutters. Curbs and gutters shall be installed within the urban compact area, or with any areas designated in the Capital Improvements Plan or Comprehensive Plan as areas of compact development.

4. Pavements.
   a. Minimum standards for the base layer of pavement shall be the M.D.O.T. specifications for plant mix grade B with an aggregate size no more than 1 inch maximum.
   b. Minimum standards for the surface layer of pavement shall meet the M.D.O.T. specifications for plant mix grade C with an aggregate size no more than ¾ inch maximum.
12.4 Storm Water Management Design Standards.

A. Adequate provision shall be made for disposal of all storm water generated within the subdivision, and any drained ground water through a management system of swales, culverts, under drains, and storm drains. The storm water management system shall be designed to conduct storm water flows to existing watercourses or storm drains.

1. Where a subdivision is traversed by a stream, river, or surface water drainage way, or where the Board feels that surface water runoff to be created by the subdivision should be controlled there shall be provided easements or drainage rights-of-way with swales, culverts, catch basins or other means of channeling surface water within the subdivision and over other properties. This storm water management system shall be designed by a Registered Professional Engineer.

2. Drainage easements for existing water-courses or proposed drainage ways shall be provided at least thirty feet wide, conforming substantially with the lines of existing natural drainage.

3. All components of the storm water management system shall be designed to limit peak discharge to predevelopment levels for every storm between the 2-year and the 25-year, 24-hour duration, frequencies, based on rainfall data for Portland, Maine. When the subdivision discharges directly to a major water body, peak discharge may be increased from predevelopment levels provided downstream drainage structures are suitably sized.

4. The minimum pipe size for any storm drainage pipe shall be twelve inches. Maximum trench width at the pipe crown shall be the outside diameter of the pipe plus two feet. Pipe shall be bedded in a fine granular material, containing no stones larger than 3 inches, lumps of clay, or organic matter, reaching a minimum of six inches below the bottom of the pipe extending to six inches above the top of the pipe.

B. The storm water management system shall be designed to accommodate upstream drainage, taking into account existing conditions and approved or planned developments not yet built and shall include a surplus design capacity factor of 25% for potential increases in upstream runoff.

C. Downstream drainage requirements shall be studied to determine the effect of the proposed subdivision. The storm drainage shall not overload existing or future planned storm drainage systems downstream from the subdivision. The subdivider shall be responsible for financing any improvements to existing drainage systems required to handle the increased storm flows.

D. Catch basins shall be installed where necessary and located at the curb line.

E. Outlets shall be stabilized against soil erosion by stone riprap or other suitable materials to reduce storm water velocity. Wherever the storm drainage system is not within the right-of-way of a public street, perpetual easements shall be provided to the Town allowing maintenance and improvement of the system.

F. Where soils require a subsurface drainage system, the drains shall be installed and maintained separately from the storm water drainage system.
12.5 Storm Drainage Construction Standards.

A. Materials.

1. Reinforced Concrete Pipe. Reinforced Concrete Pipe shall meet the requirements of ASTM Designation C-76 (AASHTO M 170). Pipe classes shall be required to meet the soil and traffic loads with a safety factor of 1.2 on the .01 inch crack strength with a Class B bedding. Joints shall be of the rubber gasket type meeting ASTM Designation C 443-70 or of an approved performance plastic jointing material such as “Ramnek”. Perforated Concrete Pipe shall conform to the requirements of AASHTO M 175 for the appropriate diameters.

2. Asbestos Cement Pipe. Asbestos Cement Pipe shall meet the requirements of ASTM Designation C-428 (AASHTO M 189). Pipe classes shall be required to meet the soil and traffic loads with a safety factor of 1.5 on the crushing strength. Joints shall be of the rubber gasket type meeting ASTM Designation D-1869-63, or of an approved preformed plastic sleeve type.

3. Corrugated Metal Pipe. Corrugated Metal Pipe shall be bituminous coated meeting the requirements of AASHTO Designation M 190 Type C for iron or steel pipe or AASHTO Designation M 196 for aluminum alloy pipe for sectional dimensions and type of bituminous coating. Pipe gauge shall be as required to meet the soil and traffic loads with a deflection of not more than 5%.

4. ABS Pipe. ABS (Acrylonitrile-butadiene-styrene) composite pipe and fittings shall conform to the requirements of AASHTO M 264 and AASHTO M 265. Perforated pipe shall conform to the requirements of AASHTO M 36, Type III.


6. Manholes. Manholes shall be of precast concrete truncated cone section construction meeting the requirements of ASTM Designation C 478 or precast concrete manhole block construction meeting the requirements of ASTM Designation C 139, radial type. Bases may be cast in place 3,000 psi 28 day strength concrete or may be of precast concrete, placed on a compacted foundation of uniform density. Metal frames and traps shall be set in a full mortar bed and with tops shall conform to the requirements of AASHTO M 103 for carbon steel casting, AASHTO M 105, Class 30 for gray iron castings or AASHTO M 183 (ASTM A 283, Grade B or better) for structural steel.

7. Catch Basins. Catch Basins shall be of precast concrete truncated cone section construction meeting the requirements of ASTM Designation C 478 or precast concrete manhole block construction meeting the requirements of ASTM Designation C 139, radial type. Castings shall be square cast iron sized for the particular inlet condition with the gratings perpendicular to the curb line. Bases may be cast in place 3,000 psi 28 day strength concrete or may be of precast concrete, placed on a compacted foundation of uniform density. Metal frames and traps shall be set in a full mortar bed and with tops shall conform to the requirements of AASHTO M 103 for carbon steel castings, AASHTO M 105, Class 30 for gray iron castings or AASHTO M 183 (ASTMA 283, Grade B or better) for structural steel.
B. Darin inlet alignment shall be straight in both horizontal and vertical alignment unless specific approval of a curvilinear drain is obtained in writing from the Board, after consultation with the Municipal Engineer.

C. Manholes shall be provided at all changes in vertical or horizontal alignment and at all junctions. On straight runs, manholes shall be placed at a maximum of 400 foot intervals.

D. Upon completion each catch basin or manhole shall be cleaned of all accumulation of silt, debris or foreign matter and shall be kept clean until final acceptance.

12.6 Additional Improvements and Requirements.

A. Erosion Control. The procedures outlines in the erosion and sedimentation control plan shall be implemented during the site preparation, construction, and clean-up stages.

B. Cleanup. Following street construction, the developer or contractor shall conduct a thorough clean-up of stumps and other debris from the entire street right-of-way. If onsite disposal of the stumps and debris is proposed, the site shall be indicated on the Plan, and be suitably covered with fill and topsoil, limed, fertilized, and seeded.

C. Street Names, Signs and lighting. Streets which join and acre in alignment with streets of abutting or neighboring properties shall bear the same name. Name of new streets shall not duplicate, nor bear phonetic resemblance to the names of existing streets with the Municipality, and shall be subject to the approval of the Board. No street name shall be the common given name of a person. The developer shall reimburse the Municipality for the costs of installing street name, traffic safety and control signs. Street lighting shall be installed as approved by the Board.

12.7 Certification of Construction. “As built” plans be submitted to the Municipal Officers. Upon completion of street construction and prior to a vote by the Municipal Officers to submit a proposed public way to the legislative body, a written certification signed by a professional engineer registered in the State of Maine shall be submitted to the Municipal Officers at the expense of the applicant, certifying that the proposed way meets or exceeds the design and construction requirements of this ordinance.
ARTICLE XIII PERFORMANCE GUARANTEES

13.1 Types of Guarantees. With submittal of the application for Final Plan approval, the sub divider shall provide one of the following performance guarantees for an amount adequate to cover the total construction costs of all required improvements, taking into account the time-span of the construction schedule and the inflation rate for construction costs:

A. Either a certified check payable to the Town or a savings account or certificate of deposit naming the Town as owner, for the establishment of an escrow account;
B. A performance bond payable to the Town issued by a surety company, approved by the Municipal Officers, or Town Manager;
C. An irrevocable letter of credit (see Appendix B for sample) from a financial institution establishing funding for the construction of the subdivision, from which the Town may draw if construction is inadequate, approved by the Municipal Officers, or Town Manager; or
D. An offer of conditional approval limiting the number of units build or lots sold until all required improvements have been constructed.

The conditions and amount of performance guarantee shall be determined by the Board with the advice of the Town Engineer, Road Commissioner, Municipal Officers, and/or Town Attorney.

13.2 Contents of Guarantee. The performance guarantee shall contain a construction schedule, cost estimates for each major phase of construction 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.

13.3 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 sub divider, 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 sub divider unless the municipality has found it necessary to draw on the account, in which case the interest earned shall be proportionately divided between the amount returned to the sub divider and the amount withdrawn to complete the required improvements.

13.4 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 sub divider, and the procedures for collection by the municipality. The bond documents shall specifically reference the sub division for which approval is sought.

13.5 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 and may not be used for any other project or loan.
13.6 Conditional Agreement. The Board, at its discretion may provide for the subdivider to enter into a binding agreement with the municipality in lieu of the other financial performance guarantees. Such an agreement shall provide for approval of the Final Plan on the condition that no more than four lots may be sold or built upon until either:

A. It is certified by the Board, or its agent, that all of the required improvements have been installed in accordance with these regulations and the regulations of the appropriate utilities, or
B. A performance guarantee, acceptable to the municipality, is submitted in an amount necessary to cover the completion of the required improvements at an amount adjusted for inflation and prorated for the portions of the required improvements already installed.

Notice of the agreement and any conditions shall be on the Final Plan which is recorded at the Registry of Deeds. Release from the agreement shall follow the procedures for release of the performance guarantees contained in Section 13.8.

13.7 Phasing of Development. The Board may approve plans to develop 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 be given only upon satisfactory completion of all requirements pertaining to previous phases.

13.8 Release of Guarantee. Prior to the release of any part of the performance guarantee, the Board shall determine to its satisfaction, in part upon the report of the Town Engineer 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.

13.9 Default. If, upon inspection, the Town Engineer finds that any of the required improvements have not been constructed in accordance with the plans and specifications filed as part of the application, he shall so report in writing to the Code Enforcement Officer, the Municipal Officers, the Board, and the subdivider or builder. The Municipal Officers shall take any steps necessary to preserve the Town’s rights.

13.10 Improvements Guaranteed. Performance guarantees shall be tendered for all improvements required by Section 11.7 of these regulations and for the construction of the streets.
ARTICLE XIV WAIVERS

14.1 Where the Board makes written findings of fact that there are special circumstances of a particular lot proposed to be subdivided, it may waive portions of the submission requirements or the standards, unless otherwise indicated in the ordinance, to permit a more practical and economical development, provided the public health, safety, and welfare are protected, and provided the waivers do not have the effect of nullifying the intent and purpose of the Official Map, the Comprehensive Plan, the Zoning Ordinance, this ordinance, or other Town ordinances and provided the criteria of the State Subdivision Law are met.

14.2 Where the Board makes written findings of fact that due to special circumstances of a particular lot proposed to be subdivided, the provision of certain required improvements is not requisite to provide for the public health, safety or welfare, or are inappropriate because of inadequate or lacking connecting facilities adjacent to or in proximity of the proposed subdivision, it may waive the requirement for such improvements, subject to appropriate conditions.

14.3 In granting waivers to any of this ordinance in accordance with Sections 14.1 and 14.2, the Board shall require such conditions as will assure the objectives of this ordinance is met.

14.4 Waivers to be shown on Final Plan. When the Board grants a waiver to any of the standards of this ordinance, the Final Plan shall indicate the waivers granted and the date on which they were granted.
ARTICLE XV APPEALS

15.1 An aggrieved party may appeal any decision of the Board under these regulations to Waldo County Superior Court, within thirty days.
ARTICLE XVII AMENDMENTS

Amended March 30, 2013 To bring statutes cited concurrent.
ARTICLE XVI VALIDITY

Effective Date, Conflict of Ordinances

16.1 Should any section or provision of this Ordinance be declared by the courts to be invalid, such decision shall not invalidate any other section or provision of this Ordinance, and to this end, the provisions of this Ordinance are hereby declared to be severable.

16.2 Effective Date: 3/20/89

16.3 This Ordinance shall not repeal, annul, or in any way impair or remove the necessity of compliance with any other rule, regulation, by-law, permit or provision of law. Where this Ordinance imposes a higher standard for the promotion and protection of health, safety or welfare, the provisions of this Ordinance shall prevail.
Section 1 — Definitions

Foreclosed Tax Lien — A tax lien mortgage that has automatically foreclosed pursuant to 36 M.R.S.A. §§ 942 and 943.

Just Value for the Current Year Taxes not Assessed — The amount of taxes that would have been assessed to the property had it not been owned by the Town on April 1 of the year in which it is sold by the Town.

Mail — Regular, first class mail posted at any U.S. Post Office, postage prepaid.

Quitclaim Deed — A signed legal instrument releasing the Town's right, title or interest in real estate acquired by virtue of a foreclosed tax lien or liens, given to a person without providing a guarantee or warranty of title to such property.

Tax-Acquired Property — Real estate as defined by 36 M.R.S.A. § 551 that has been acquired by the Town by virtue of a foreclosed tax lien.

Section 2 — Purpose

The purpose of this ordinance is to establish the procedure whereby tax-acquired property shall be managed, administered and disposed of by the Town of Prospect ("the Town").

Section 3 — Management of Tax-Acquired Property

A. Insurance. Following statutory foreclosure of a tax lien mortgage, the Selectmen shall obtain casualty insurance covering any tax-acquired structure in a dollar amount not less than all outstanding taxes, liens, costs and other attendant expenses. The Selectmen shall obtain general liability insurance covering any tax-acquired structure at least 60 days after (a) the occupant vacates the property; or (b) the Town takes any possession of the property, whichever occurs sooner.

B. Disposition. The Selectmen shall determine whether a tax-acquired property is to be retained for municipal use or disposed of in accordance with the provisions of this ordinance. Should the Selectmen determine that tax-acquired property shall be retained for use by the Town, the Selectmen shall consider filing a court action to secure clear title to the property.

Section 4 - Sale of Tax-acquired Property

A. Bidding required. Within 120 days after acquisition of tax-acquired property by the Town, the Selectmen shall solicit public bids for the sale of the tax-acquired property and shall receive, open and read aloud submitted bids at a public meeting. Except that the Municipal Officers shall use the special sale process required by 36 M.R.S. § 943-C for qualifying homestead property if they choose to sell it to anyone other than the former owner(s).
B. Owner's right of redemption. Before advertising any tax-acquired property for sale by public bid, the Town Clerk shall send notification of such impending public sale to the person most recently assessed for municipal property tax on the tax-acquired property, or to the current record owner of the tax-acquired property. The Clerk shall keep a record of this notice but shall not be required to confirm that it was actually received. The notification shall contain the same information required for the public notice under paragraph C of this Section and shall additionally notify the recipient that the recipient may, at any time prior to the date and time of opening of bids by the Selectmen, redeem title to the property by paying in full, at any time prior to the date and time of opening of bids by the Selectmen, the total of all outstanding taxes, just value for the current year's taxes not assessed, plus all accrued interest and costs.

If such payment is received prior to the opening of bids, the Selectmen shall issue a quitclaim deed to the payer. Any failure of the Town to effectively notify the prior owner of the sale shall not invalidate the subsequent sale; however, the Selectmen may postpone the sale as reasonably necessary to effectuate notice.

C. Posting and publication of notice. The Selectmen shall cause a public notice of the impending sale of tax-acquired property to be posted at the town office and to be advertised for two successive weeks in a newspaper of local circulation within the county, the last notice to be published at least seven days prior to the advertised date for receipt of bids.

D. Required submittal by bidders. The Selectmen shall require the following for proper submission:

i. A bid sheet shall be submitted containing the tax map and lot and street address of the property being bid upon and the bid price in U.S. currency.

ii. A certified cashier's check or postal money order, in an amount not less than 10% of the bid price, shall be included as a deposit on the bid. Failure to submit a deposit shall cause the bid to be automatically rejected.

E. Delivery of bids. The Selectmen shall require that those bid items cited in paragraph D of this section be sealed in a single plain envelope marked only "Tax-Acquired Property Bid" on the exterior and either be hand-delivered to the Town office or, if mailed, be enclosed within a second envelope addressed to the Town of Prospect mailing address. All bids must be received at the town office no later than 10:00 a.m. on the date that bids shall be opened and read.

F. Right to reject bids; re-offering of property. The Selectmen shall retain the right to accept or reject any and all bids submitted, and shall cause the same disclaimer to be noted in any public notice soliciting bids in accordance with this Ordinance. Should the Selectmen reject all bids, or in
the absence of any bids, the property may be offered again for public sale without notice to that person cited in paragraph B of this Section.

G. Notification of successful bidder. The Selectmen shall notify, via mail, any successful bidder within 48 hours of the vote awarding the bid.

H. Disposition of deposits. The Selectmen shall, as a credit to payment, retain the submitted bid price deposit of any successful bidder, and shall return all other submitted deposits.

I. Time limit for payment. The Selectmen shall require payment in full from any successful bidder within 30 calendar days following the date when bids are opened and read. Should the bidder fail to pay the full balance, the Town shall retain the bid price deposit and title to the property.

J. Extension of time for payment. The Selectmen may, subject to a show of good faith on the part of the bidder, extend the time limit on a one-time-only basis for up to 20 days, within which full payment must be received.

K. Form of deed. The Selectmen shall issue only a quitclaim deed to convey title to tax-acquired property. All tax-acquired property shall be sold "as is, where is" and no purchaser shall be entitled to an inspection or to any other representations or conditions prior to closing.

L. Removal of occupants. The successful bidder shall be responsible for the removal of any and all occupants of purchased tax-acquired property and disposition of any personal property remaining within the purchased property and shall, in writing, forever indemnify and save harmless the Town of Prospect from any and all claims arising out of the sale of the tax-acquired property brought by the occupants of the purchased property or their heirs or assigns. Prior to delivery of the deed, the purchaser shall submit in writing the following signed statement:

I hereby promise to forever indemnify and hold harmless the Town of Prospect from any and all claims arising out of the Town's sale and my purchase of the above described property brought by the occupants of the purchased property or their heirs or assigns.

ADOPTED BY THE TOWN OF PROSPECT & BOARD OF SELECTMEN

Dated: April 8th, 2017
Municipal Officers of Prospect:

[Signatures]

Attested By: Jill Riley
Prospect Town Clerk
TOWN OF PROSPECT WIND ENERGY FACILITY ORDINANCE

TRUE COPY

ATTEST: [Handwritten signatures]
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TOWN OF PROSPECT WIND ENERGY FACILITY ORDINANCE

1.0 Title

This Ordinance shall be known as the Town of Prospect Wind Energy Facility (WEF) Ordinance.

2.0 Purpose

The purpose of this Ordinance is to regulate Wind Energy Facilities to protect and safeguard the health, safety, and general welfare of the citizens of Prospect by establishing reasonable and uniform regulations.

3.0 Authority

This Ordinance is adopted pursuant to the enabling provisions of Article VIII, Part 2, Section 1 of the Maine Constitution (Municipal Home Rule), the provisions of Title 30-A M.R.S.A. Section 3001 (Home Rule), and the provisions of the Planning and Land Use Regulation Act, Title 30-A M.R.S.A. Section 4312, etc. seq. (Comprehensive Planning and Land Use Regulation, or "Growth Management Act").

4.0 Conflicts with Other Ordinances, Laws and Regulations

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 from any jurisdiction, the more restrictive provision shall control.

5.0 Validity and Severability

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

6.0 Effective Date

6.1 This Ordinance shall become effective upon the date of its passage.

6.2 If this Ordinance is enacted within 90 days after the expiration of an ordinance entitled "Moratorium on Wind Power Development for the Municipality of Prospect" (Moratorium) adopted April 4th, 2010, the effective date of this Ordinance will be retroactive to the expiration date of the Moratorium. [If the Ordinance and the required public hearings, public notices, etc. cannot be completed within the moratorium timeframe, the Ordinance should be made retroactive to the date the moratorium expires.]

7.0 Applicability

This Ordinance applies to any wind turbine that is the subject of a permit or license application pending before, or filed with the Town of Prospect, after the effective date of the Ordinance.
8.0 Definitions

Aerodynamic Sound - a noise that is caused by the flow of air over and past the blades of a WEF.

Ambient Sound - Ambient sound encompasses all sound present in a given environment, being usually a composite of sounds from many sources near and far. It includes intermittent noise events, such as, from aircraft flying over, dogs barking, wind gusts, mobile farm or construction machinery, and the occasional vehicle traveling along a nearby road. The ambient also includes insect and other nearby sounds from birds and animals or people. The nearby and transient events are part of the ambient sound environment but are not to be considered part of the long-term background sound.

American National Standards Institute (ANSI) - Standardized acoustical instrumentation and sound measurement protocol shall meet all the requirements of the following ANSI Standards:
- ANSI SI.43 Integrating Averaging Sound Level Meters: Type-1 (or IEC 61672-1)
- ANSI SI.11 Specification for Octave and One-third Octave-Band Filters (or IEC 61260) ANSI
- SI.40 Verification Procedures for Sound Calibrators
- ANSI SI.12.9 Part 3 Procedures for Measurement of Environmental Sound ANSI
- S1.18 Measurement of Outdoor Sound Pressure Level
- IEC 61400-11 WEF systems -Part 1J: Acoustic noise measurements

Anemometer - a device for measuring the speed and direction of the wind.

Applicant - the legal entity, which includes an individual or business entity that seeks to secure a Permit or Operating License under this Ordinance.

A-Weighted Sound Level (dBA) - A measure of over-all sound pressure level designed to reflect the response of the human ear, which does not respond equally to all frequencies. It is used to describe sound in a manner representative of the human ear's response. It reduces the effects of the low with respect to the frequencies centered around 1000 Hz. The resultant sound level is said to be "A-weighted" and the units are "dBA." Sound level meters have an A-weighting network for measuring A-weighted sound levels (dBA) meeting the characteristics and weighting specified in ANSI Specifications for Integrating Averaging Sound Level Meters, SI.43-1997 for Type 1 instruments, and be capable of accurate readings (corrections for internal noise and microphone response permitted) at 20 dBA or lower. In this document dBA means LAeq unless specified otherwise.

Background Sound (L90) - refers to the sound level present at least 90% of the time. Background sounds are those heard during lulls in the ambient sound environment. That is, when transient sounds from flora, fauna, and wind are not present. Background sound levels vary during different times of the day and night. Because WEFs operate 24/7 the background sound levels of interest are those during the quieter periods which are often the evening and night. Sounds from the WEF of interest, near-by birds and animals or people must be excluded from the background sound test data. Nearby electrical noise from streetlights, transformers and cycling AC units and pumps etc., must also be excluded from the background sound test data.

Background sound level (dBA and dBC (as L90)) is the sound level present 90% of the time during a period of observation that is representative of the quiet time for the soundscape under evaluation and with duration of ten (10) continuous minutes. Several contiguous ten (10) minute tests may be performed in one hour to determine the statistical stability of the sound environment.
Measurement periods such as at dusk when bird and insect activity is high or the early morning hours when the 'dawn chorus' is present are not acceptable measurement times. Longer term sound level averaging tests, such as 24 hours or multiple days are not at all appropriate since the purpose is to define the quiet time background sound level. It is defined by the LA90 and LC90 descriptors. It may be considered as the quietest one (1) minute during a ten (10) minute test. LA90 results are valid only when LA10 results are no more than 10 dB above LA90 for the same period. LC10 less LC90 are not to exceed 10 dB to be valid.

The background noise environment consists of a multitude of distant sources of sound. When a new nearby source is introduced the new background noise level would be increased. The addition of a new source with a noise level 10 dB below the existing background would increase the new background 0.4 dB. If the new source has the same noise level as the existing background then the new background is increased 3.0 dB. Lastly, if the new source is 3.3 dB above the existing background then the new background would have increased 5 dB. For example, to meet the requirement of LA90 + 5 dB = 31 dBA if the existing quiet nighttime background sound level is 26 dBA, the maximum wind turbine noise emission contribution independent of the background cannot exceed 29.3 dBA Leq at a dwelling. When adding decibels, a 26 dBA background combined with 29.3 dBA from the turbines (without background) results in 31 dBA.

Further, background L90 sound levels documenting the pre-construction baseline conditions should be determined when the ten (10) minute maximum wind speed is less than 2 m/s (4.5 mph) near ground level/microphone location 1.5 m height.

**Blade Passage Frequency (BPF)** - the frequency at which the blades of a turbine pass a particular point during each revolution (e.g. lowest point or highest point in rotation) in terms of events per second. A three bladed turbine rotating at 28 rpm would have a BPF of 1.4 Hz. [E.g. ((3 blades times 28rpm)/60 seconds per minute = 1.4 Hz BPF)]

**Blade Reflection** - the intermittent reflection of the sun off the surface of the blades of a Wind Turbine.

**C-Weighted Sound Level (dBC)** - Similar in concept to the A-Weighted sound Level (dBA) but C-weighting does not de-emphasize the frequencies below 1k Hz as A-weighting does. It is used for measurements that must include the contribution of low frequencies in a single number representing the entire frequency spectrum. Sound level meters have a C-weighting network for measuring C weighted sound levels (dBC) meeting the characteristics and weighting specified in ANSI S1.43-1997 Specifications for Integrating Averaging Sound Level Meters for Type 1 instruments. In this document dBC means LCeq unless specified otherwise.

**Community Owned Wind** - a WEF planned with wide community participation that meets any one of the following criteria: 1) a municipality owning 51% or more of the project, 2) the majority of the direct financial benefits of the project accruing to all of the residents of the municipality, exclusive of any tax considerations. Community Owned Wind may include or incorporate consumer-owned transmission and distribution utilities, rural electric cooperatives, municipal electric districts, or other electrical generation and transmission models established by State law to facilitate and encourage local electrical generation. Community Owned Wind does not include partial or minority municipal ownership of WEFs without the municipality or municipalities being the managing partner, and does not include WEFs located in Prospect having majority ownership or control by private individuals.
private businesses, or non-profit organizations not under direct control of the municipality or municipalities.

**Decibel (dB)** - A dimensionless unit which denotes the ratio between two quantities that are proportional to power, energy or intensity. One of these quantities is a designated reference by which all other quantities of identical units are divided. The sound pressure level (Lp) in decibels is equal to 10 times the logarithm (to the base 10) of the ratio between the pressure squared divided by the reference pressure squared. The reference pressure used in acoustics is 20 Micro Pascal’s.

**DEP Certification** - a certification issued by the Department of Environmental Protection pursuant to Title 35-A M.R.S.A. §3456 for a Wind Energy Facility (WEF) that is subject to this Ordinance.

**Emission** - Sound energy that is emitted by a noise source (WEF) is transmitted to a receiver (dwelling) where it is immitted (see "immission").

**Enforcing Authority** - the Code Enforcement Officer (CEO) designated by the Town of Prospect. The CEO is responsible for enforcing the standards of this Ordinance after a permit is granted to a WEF.

**Frequency** - The number of oscillations or cycles per unit of time. Acoustical frequency is usually expressed in units of Hertz (Hz) where one Hz is equal to one cycle per second.

**Good Utility Practice** - any of the practices, methods and acts with respect to the safe operation of the Wind Turbine or WEF engaged in or approved by a significant portion of the electric utility industry and, in particular, those portions of the industry with experience in the construction, operation, and maintenance of wind turbines during the relevant period; or any of the practices, methods and acts which, in the exercise of reasonable judgment in light of the facts known at the time the decision was made, could have been expected to accomplish the desired result at a reasonable cost consistent with good business practices, reliability and safety.

**Height** - the total distance measured from the grade of the property as existed prior to the construction of the wind energy system, facility, tower, turbine, or related facility at the base to its highest point. (See Turbine Height definition below)

**Hertz (Hz)** - Frequency of sound expressed by cycles per second.

**Ice Throw** - accumulated ice buildup on the blades of a Wind Turbine that is or can be thrown during normal spinning or rotation.

**Immission** - Noise immitted at a receiver (dwelling) is transmitted from noise source (WEF) that emitted sound energy (see "emission").

**Immission spectra imbalance** - The spectra are not in balance when the C-weighted sound level is more than 20 dB greater than the A-weighted sound level. For the purposes of this requirement, the A-weighted sound level is defined as the long-term background sound level (LA90) +5 dBA. The C-weighted sound level is defined as the LCEq measured during the operation of the wind turbine operated so as to result in its highest sound output. A Complaint Test provided later in this document is based on the immission spectra imbalance criteria.

**Infra-Sound** - sound with energy in the frequency range of 0-20 Hz is considered to be infra-sound. It is normally considered to not be audible for most people unless in relatively high amplitude. However, there is a wide range between the most sensitive and least sensitive people to perception of
sound and perception is not limited to stimulus of the auditory senses. The most significant exterior noise induced dwelling vibration occurs in the frequency range between 5 Hz and 50 Hz. Moreover, levels below the threshold of audibility can still cause measurable resonances inside dwelling interiors. Conditions that support or magnify resonance may also exist in human body cavities and organs under certain conditions. Although no specific test for infrasound is provided in this document, the test for immission spectra imbalance will limit low frequency sound and thus, indirectly limit infrasound. See low-frequency noise (LFN) for more information.

**Low Frequency Noise (LFN)** - refers to sounds with energy in the lower frequency range of 20 to 200 Hz. LFN is deemed to be excessive when the difference between a C-weighted sound level and an A-weighted sound level is greater than 20 decibels at any measurement point outside a residence or other occupied structure.

**Measurement Point (MP)** - location where sound measurements are taken such that no significant obstruction blocks sound from the site. The Measurement Point should be located so as to not be near large objects such as buildings and in the line-of-sight to the nearest turbines. Proximity to large buildings or other structures should be twice the largest dimension of the structure, if possible. Measurement Points should be at quiet locations remote from street lights, transformers, street traffic, flowing water and other local noise sources.

**Measurement Wind Speed** - For measurements conducted to establish the background noise levels (LA90 10 min, LC90 10 min. and etc.) the maximum wind speed, sampled within 5m of the microphone and at its height, shall be less than 2 m/s (4.5 mph) for valid background measurements. For valid WEF noise measurements conducted to establish the post-construction sound level the maximum wind speed, sampled within 5m of the microphone and at its height, shall be less than 4m/s (9mph). The wind speed at the WEF blade height shall be at or above the nominal rated wind speed and operating in its highest sound output mode. For purposes of enforcement, the wind speed and direction at the WEF blade height shall be selected to reproduce the conditions leading to the enforcement action while also restricting maximum wind speeds at the microphone to less than 4 m/s (9 mph).

For purposes of models used to predict the sound levels and sound pressure levels of the WEF to be submitted with the Application, the wind speed shall be the speed that will result in the worst-case LAeq and LCeq sound levels at the nearest non-participating properties to the WEF. If there may be more than one set of nearby sensitive receptors, models for each such condition shall be evaluated and the results shall be included in the Application.

**Mechanical Noise** - sound produced as a byproduct of the operation of the mechanical components of a WEF(s) such as the gearbox, generator and transformers.

**Meteorological Tower (MET Tower)** - a meteorological tower used for the measurement of wind speed.

**Mitigation Waiver** - a legally enforceable, written agreement between the Applicant and a Non-participating Landowner in which the landowner waives certain setback, noise or other protections afforded in the Ordinance.

**Nacelle** - the frame and housing at the top of the tower that encloses the gearbox and generator.

**Nameplate Capacity** - the electrical power rating of an individual wind turbine as certified by the manufacturer and normally expressed in watts, kilowatts (kW), or megawatts (MW).
Noise - any unwanted sound. Not all noise needs to be excessively loud to represent an annoyance or interference.

Non-participating Landowner - any landowner other than a Participating Landowner. Notification Area - the entire land base within two (2) miles, measured horizontally from the Project Boundary. All landowners with any part of their property within the notification area, or residents living within the notification area must be notified as specified in the Ordinance.

Occupied Building - any structure that is, or is likely to be, occupied by persons or livestock. This includes, but is not limited to dwellings, places of business, places of worship, schools, and barns.

Operational License - a license or a license renewal issued by the Planning Board to operate a WEF in accordance with this Ordinance.

Owner/operator - the person or entity with legal ownership of the WEF, including successors and assigns, that has the authority and responsibility to operate the WEF on a day-to-day basis. An Owner/operator must have the legal authority to represent and bind.

Participating Landowner - one or more persons that hold title in fee to the property on which the WEF is proposed to be located pursuant to an agreement with the development Owner/operator.

Permitting Authority - the Planning Board, designated as responsible for conducting the review of WEF applications.

Person - an individual, corporation, partnership, firm, organization or other legal entity.

Project Boundary - the external property boundaries of parcels owned by or leased by the WEF developers. It is represented on a plot plan view by a continuous line encompassing all WEF(s) and related equipment associated with the WEF project.

Property Line - the recognized and mapped property parcel boundary line.

Qualified Independent Acoustical Consultant - Qualifications for persons conducting baseline and other measurements and reviews related to the application for a WEF or for enforcement actions against an operating WEF include, at a minimum, demonstration of competence in the specialty of community noise testing. An example is a person with Full Membership in the Institute of Noise Control Engineers (INCE). There are scientists and engineers in other professional fields that have been called upon by their local community for help in the development of a WEF Noise Ordinance. Many of these scientists and engineers have recently spent hundreds of hours learning many important aspects of noise related to the introduction of WEF into their communities. Then with field measurement experience with background data and wind turbine noise emission, they have become qualified independent acoustical consultants for WEF siting. Certifications such as Professional Engineer (p.E.) do not test for competence in acoustical principles and measurement and are thus not, without further qualification, appropriate for work under this document. The Independent Qualified Acoustical Consultant can have no financial or other connection to a WEF developer or related company.

Scenic or Special Resource - a scenic resource of state or national significance, as defined in Title 35-A M.R.S.A. §3451 (9). any site registered in the National Registry of Historic Places, or a scenic or special resource of local significance identified as such.
Sensitive Receptor - places or structures intended for human habitation, whether inhabited or not, public parks, state and federal wildlife areas, the manicured areas of recreational establishments designed for public use, including but not limited to golf courses, campgrounds and other non-agricultural state or federal licensed businesses. These areas are more likely to be sensitive to the exposure of the noise, shadow or flicker, etc. generated by a WEF or WEF Facilities. These areas include, but are not limited to: schools, daycare centers, elder care facilities, hospitals, places of seated assemblage, non-agricultural businesses and residences.

Setback - the minimal allowable horizontal distance as measured from the Project Boundary to a defined point (e.g. a property line or a road).

Setback Area - the entire land base that falls within a specified setback.

Setback Distance - the larger of one mile or 13 times the Turbine Height, measured horizontally from the Project Boundary to the nearest property line.

Shadow Flicker - alternating changes in light intensity caused by the movement of wind turbine blades casting shadows on the ground or a stationary object.

Shadow Flicker Receptor - any Occupied Building on a Non-participating Landowner's property plus an additional 100 foot boundary surrounding the exterior of the Occupied Building, the entire outdoor public area surrounding schools, churches and public buildings, and public roads with a posted speed limit greater than 25 mph.

Sight Line Representation - a line depicted in profile extending from an observer's eye to the lowest point of a viewed tower.

Sound - A fluctuation of air pressure which is propagated as a wave through air.

Sound Power - The total sound energy radiated by a source per unit time. The unit of measurement is the watt. Abbreviated as Lw. This information is determined for the WEF manufacturer under laboratory conditions specified by IEC 61400-11 and provided to the local developer for use in computer model construction. There is known measurement error in this test procedure that must be disclosed and accounted for in the computer models. Even with the measurement error correction it cannot be assumed that the reported Lw values represent the highest sound output for all operating conditions. They reflect the operating conditions required to meet the IEC 61400-11 requirements. The lowest frequency is 50 Hz for acoustic power (Lw) requirement (at present) in IEC 61400-11. This Ordinance requires wind turbine certified acoustic power (Lw) levels at rated load for the total frequency range from 6.3 Hz to 10k Hz in one-third octave frequency bands tabulated to the nearest 1 dB. The frequency range of 6.3 Hz to 10k Hz shall be used throughout this Ordinance for all sound level modeling, measuring and reporting.

Sound Pressure - The instantaneous difference between the actual pressure produced by a sound wave and the average or barometric pressure at a given point in space.

Sound Pressure Level (SPL) - 20 times the logarithm, to the base 10, of the ratio of the pressure of the sound measured to the reference pressure, which is 20 micro newtons per square meter. In equation form, sound pressure level in units of decibels is expressed as SPL (dB) = 20 log p/pr.

Spectrum - The description of a sound wave's resolution into its components of frequency and amplitude. The WEF manufacturer is required to supply a one-third octave band frequency spectrum of the wind turbine sound emission at 90% of rated power.
Statistical Noise Levels - Sounds that vary in level over time, such as road traffic noise and most community noise, are commonly described in terms of the statistical exceedance levels $L_{NA}$, where $L_{NA}$ is the A-weighted sound level exceeded for $N\%$ of a given measurement period. For example, $L_{10}$ is the noise level exceeded for 10% of the time. Of particular relevance, are: $L_{A10}$ and $L_{C10}$ the noise level exceeded for 10% of the ten (10) minute interval. This is commonly referred to as the average maximum noise level. $L_{A90}$ and $L_{C90}$ are the A-weighted and C-weighted sound levels exceeded for 90% of the ten (10) minute sample period. The $L_{90}$ noise level is defined by ANSI as the long-term background sound level (i.e. the sounds one hears in the absence of the noise source under consideration and without short term or near-by sounds from other sources), or simply the "background level." $L_{eq}$ is the A or C-weighted equivalent noise level (the "average" noise level). It is defined as the steady sound level that contains the same amount of acoustical energy as the corresponding time-varying sound.

Structure - the total footprint of all of the physical attributes of the entire WEF as defined in Title 38 M.R.S.A. § 482.

Tonal sound or tonality - Tonal audibility. A sound for which the sound pressure is a simple sinusoidal function of the time, and characterized by its singleness of pitch. Tonal sound can be simple or complex.

Tower - the freestanding structure on which the wind measuring or energy conversion system is mounted.

Turbine Height - the distance measured from the surface of the tower foundation to the highest point of any turbine rotor blade measured at the highest arc of the blade.

Wind Energy Facilities (WEF) - equipment that converts and then transfers energy from the wind into usable forms of electrical energy, and includes all related and supporting items including but not limited to all buildings, structures, electrical equipment, substations, transmission lines, access roads, parking lots, areas to be stripped or graded, and areas to be landscaped or screened.

Wind Turbine - a wind energy conversion system that converts wind energy into electricity through the use of a WEF, and includes the nacelle, rotor, tower and pad transformer if any.

9.0 Classification of Wind Energy Facilities and Meteorological Towers

For the purpose of clarification, all WEFs are classified according to the following definitions: 9.1

Wind Turbine Classifications:

9.1.1 **Type 1 - Small Wind Turbine** means a single wind turbine with a nameplate capacity less than 10 kW, and a turbine height less than 100 feet. This ordinance does not apply to these.

9.1.2 **Type 2 - Intermediate Wind Turbine** means a single wind turbine with a nameplate capacity less than 100 kW, and a turbine height less than 150 feet, and not requiring a Site Location of Development permit from the Maine Department of Environmental Protection (DEP) pursuant to Title 35-A M.R.S.A. §3456. This ordinance does not apply to these.
9.1.3 **Type 3 - Large Wind Turbine** means up to three wind turbines with a nameplate capacity less than 1 Mw, and a turbine height less than 300'. A Location of Development permit from the Maine Department of Environmental Protection (DEP) pursuant to Title 35-A M.R.S.A. §3451, Title 35-A M.R.S.A. § 3456 and Title 38 M.R.S.A § 482 is normally required unless the Wind Turbine: 1) does not sell or convert electricity for off site use including net metering; and, 2) does not qualify as a Structure with a total land area in excess of 3 acres for the entire WEF.

For the purposes of this Ordinance, included in the Type 3 - Large Wind Turbine shall be any turbine(s) of nameplate capacity equal to or greater than 100 kW and a turbine height greater than 150 feet if the energy generated is for sale or use by a Person other than the generator.

9.1.4 **Type 4 - Industrial Wind Turbine** means one or more wind turbines each with a nameplate capacity of greater than or equal to 1 Mw, or a turbine height greater than or equal to 300'; or more than three Type 3 Wind Turbines. A Location of Development permit from the Maine Department of Environmental Protection (DEP) pursuant to Title 35-A M.R.S.A. §3451, Title 35-A M.R.S.A. § 3456 and Title 38 M.R.S.A § 482 is normally required unless the Wind Turbine: 1) does not sell or convert electricity for off site use including net metering; and, 2) does not qualify as a Structure with a total land area in excess of 3 acres for the entire WEF.

9.2 **Meteorological Towers (MET Towers)**

MET towers shall be permitted under the Prospect Site Plan Review Ordinance or the Personal Wireless Service Facilities Siting Ordinance, whichever best applies and at the discretion of the Planning Board, with no height limitations, other than those imposed under State or Federal law. A permit for a temporary MET tower shall be valid for a maximum of one year after which a single extension of up to one year may be granted. The site shall be restored to its original condition within 30 days following removal of the tower.

10.0 **Permit and Operational License Requirement**

10.1 **Permit Requirement**

10.1.1 A permit is required for each WEF built in the Town of Prospect after the effective date of this Ordinance. However, single phase WEFs of under 150 feet and less than 100 kW name plate capacity are not regulated under this Ordinance.

10.1.2 The Planning Board will aggregate, to the fullest and most practical extent possible, and pursuant to Section 25.0, all Wind Turbines held under common or related ownership into a single WEF. Separate corporate legal structures under common or joint ownership or under common or joint control will be deemed to be a single project for purposes of permit and licensing notwithstanding separate corporate legal ownership.

10.1.3 Receipt of a permit under this Ordinance does not relieve the Owner/operator from the responsibility to obtain any other such permits or approvals as required under the Town of Prospect Site Plan Review Ordinance or pursuant to other State or Federal jurisdiction.
10.2 Operational License

An Operational License is required for the operation of all WEF. Applications for a WEF Operational License shall be submitted to the Planning Board.

10.2.1 Where an Applicant is applying for a new or amended WEF Permit, the application for WEF Operating License, or amended license, shall be submitted to the Planning Board in conjunction with the Permit application, and shall include the application form and the separate fee specified in Section 10.2.10.

10.2.2 Where an Applicant is applying for a WEF Operational License renewal, a new License as the result of transfer of ownership or operation, or reinstatement or modification of an Operational License, the Applicant shall submit an application form, a copy of the existing WEF Permit and the fee specified in Section 10.2.10.

10.2.3 An Operational License shall be valid for five years.

10.2.4 The granting of an Operational License is conditional upon the following criteria:

10.2.4.1 Demonstration by the Applicant of compliance with performance standards of the Ordinance.

10.2.4.2 For the initial Operational License, the Wind Turbine Project must successfully pass an inspection for structural and operational integrity conducted by a Maine licensed professional engineer chosen by the Permitting Authority. The inspection shall be conducted after construction is completed but before operations begin. Success will be demonstrated by submission of a copy of the engineer’s inspection report to the Planning Board. If the report specifies that repairs, maintenance or changes to safety procedures are necessary, the owner shall provide the Enforcing Authority with proof that the repairs have been completed, a written schedule for any recommended maintenance, and documentation of any updated safety procedures.

10.2.4.3 For a renewal of an Operational License, where there is no change of Ownership or operator, the inspection procedure and criteria specified in Section 10.2.4.2 shall be completed six months prior to the expiration of the current Operational License.

10.2.5 Applications for Operational License renewals where there is no change of ownership or operator shall be submitted to the Planning Board 6 months prior to their expiration.

10.2.6 An Operational License shall automatically terminate upon transfer of ownership or operation of the WEF. The proposed new owner or operator shall be required to obtain a new Operational License, which must be in place prior to the transfer of ownership or operation of the WEF. The application for renewal of the Operational License in the case of transfer of ownership or operation shall include the following items:

10.2.6.1 The Applicant’s name, address and phone number, and the name, address and phone number of the Owner/operator, if different

10.2.6.2 An emergency directory for the Owner/operator sufficient to allow the Town to contact the Owner/operator at any time

10.2.6.3 Evidence of the Applicant’s technical and financial ability to operate the WEF in accordance with this Ordinance, the Site Permit, and the Operational License
10.2.6.4 For any Project Parcel that is not owned by the Applicant, a copy of an agreement(s) between the owner of the Project Parcel and the Applicant

10.2.6.5 An updated safety plan in accordance the requirements of Section 14.2.

10.2.6.6 An updated fire prevention and emergency response plan in accordance with the requirements of Section 15.6.1;

10.2.6.7 An updated emergency shutdown plan in accordance with the requirements of Section 21.4;

10.2.6.8 An updated decommissioning and site restoration plan in accordance with the requirements of Section 22.0;

10.2.6.9 Updated liability insurance information in accordance with the requirements of Section 14.4;

10.2.6.10 Updated Real Estate Property Value Assurance Plan in accordance with the requirements of Section 23.0;

10.2.6.11 A signed statement from the Applicant that the Applicant agrees to assume full responsibility for complying with the provisions of this Ordinance and the Site Permit, including agreeing to continue or complete any duties and obligations of the former Operational License holder under this Ordinance or former Operational License, including, but not limited to, the requirement for post-construction sound measurements, post-construction stray voltage testing, wind turbine inspections, and submission to inspections.

10.2.7 An Operational License shall automatically terminate upon any amendment to a permit.

10.2.8 Failure to comply with the provisions of this Ordinance may result in the suspension or revocation of the Operational License pursuant to Section 21.0.

10.2.9 An Operational License shall be deemed abandoned if the WEF's operation has ceased for twelve consecutive months. An Operational License expires immediately upon abandonment.

10.2.10 Fees.

10.2.10.1 The application fee for an Operational License is $1,000.00 per tower.

10.2.10.2 The annual fee for an existing Operational License is $500.00 per tower.

11.0 Permitting Authority

11.1 The Town of Prospect Planning Board is authorized to review all WEF applications and may approve, reject or conditionally approve such applications in accordance with the standards of the Ordinance.

11.2 The Maine Department of Environmental Protection (DEP) may be required to review WEF applications. The Planning Board shall consider, at a minimum and to the extent applicable, pertinent findings in the DEP certification when making its determination.

11.3 The following types of permits require final approval by a vote of the residents of the Town of Prospect:
11.3.1 Any WEF to be built on property owned by the Town
11.3.2 Any WEF partially or totally owned by the Town.

12.0 Standards for Setbacks, Noise, Shadow Flicker, and Mitigation Waivers

This section addresses the interrelated standards of setbacks, noise, shadow flicker and mitigation waivers and applies to all WEFs.

Setbacks provide a number of important Ordinance functions, including but not limited to: 1) working in conjunction with noise standards as a primary means of mitigating potential and unforeseen noise complaints; 2) providing for public safety in the event of a catastrophic turbine failure or ice throw; 3) mitigating the effects of shadow flicker from larger turbines.

In general, the taller the turbine, and the greater the number of turbines in a WEF, the greater the setback needed to mitigate noise, debris hazards, and shadow flicker. However, setbacks for noise must also be implemented in conjunction with specific wind turbine noise limits (see Section 12.2). Although larger wind turbines appear to generate the highest proportion of published noise complaints, poorly designed smaller turbines can also cause serious noise.

12.1 Setback Standards

12.1.1 Setback to Non-participating Landowner Property Lines - Setbacks to property lines are a minimum buffer of one mile from the Project Boundary. This is assuming a 1.5 MW industrial wind turbine, which has a Turbine Height of approximately 400 feet. However, larger wind turbines are louder, so a varying setback basis is required. A one mile setback is approximately equal to 13 times the turbine height for a 400 foot turbine. Therefore, the Setback Distance is defined as the larger of one mile or 13 times the Turbine Height, measured horizontally from the Project Boundary to the nearest property line.

Given the abundant evidence that wind turbines sited too close to humans has deleterious effects on them, and given that the most effective means of preventing negative health effects is proper setbacks, WEFs must be located no closer than the Setback Distance from non-participating property lines. Property owners may waive this setback with a written Mitigation Waiver. (See Section 12.4).

12.1.2 Setback to Public Roads - Wind Turbines will be set back from any public road a distance no less than 4 times the turbine height, measured horizontally. Setbacks for public roads are based on an approximation of an 1800-foot debris field for ice throw. Four times the turbine height for a 440 foot Wind Turbine is equal to 1760 feet.

12.2 Noise Standards

For all wind turbines, the primary guiding principle is that their operation must not be disruptive at any time of day or night. Current sound limitations in the state of Maine regulating noise from WEF reflect sound limits applicable to urban residential and urban mixed neighborhoods instead of the deep quiet of rural areas such as Prospect to which this Ordinance pertains.
12.2.1 Principles Governing Sound Measurements

12.2.1.1 Section 26.0 applies in addition to relevant paragraphs of Section 27.0. Procedures in Section 26.0 and Section 28.0 are mandatory and additional to the relevant application procedures.

12.2.1.2 Sound measurements must be made to all non-participating property lines within and up to two (2) miles measured horizontally from the Project Boundary.

12.2.1.3 All sound measurements will be filtered for both dBA and dBC.

12.2.1.4 All sound measurements before construction, and after will be made by a Professional Engineer who is a Full Member of the Institute of Noise Control Engineering (INCE).

12.2.1.5 This engineer must be an independent contractor to the Town of Prospect, and have no ties to wind developers or related conflicts of interest.

12.2.2 Noise limits at Non-participating Property Lines

No WEF turbine shall be located so as to cause an exceedance of the pre-construction/operation background sound levels by more than 5 dBA or dBC. The background sound levels shall be the L90 dB sound levels sound descriptor (both A and C weighting) measured during a pre-construction noise study during the quietest time of evening or night. Measurements shall be for ten (10) minutes or more. L90 results are valid when L10 results are no more than 15 dB above L90 for the same time period. Noise sensitive sites are to be selected based on the WEF’s predicted sound emissions (in dBA, dBC and 1/3 octaves to blade passage frequency), which are to be provided by the Applicant.

12.2.2.1 Audible noise levels (dBA) due to wind turbine operation will not exceed the pre-construction ambient noise level by more than 5 dBA as measured at any property line. Property owners may waive this noise restriction with a written Mitigation Waiver. (See Section 12.4.)

12.2.2.2 Low frequency noise levels (dBC) due to wind turbine operation as measured inside or at any Property Line will not exceed:

1. 20 decibels (measured as dBC) above the pre-development ambient noise level (measured as dBA).
2. A maximum not-to-exceed level of 80 dBC

Property owners may waive this noise restriction with a written Mitigation Waiver. (See Section 12.4.)

12.2.2.3 Noise measurement standards and procedures are described in Section 26.0.

12.2.3 Violations and Enforcement

12.2.3.1 Sound Regulations Compliance. A WEF shall be considered in violation of the conditional use permit unless the applicant demonstrates that the project complies with all sound level limits using the procedures specified in this ordinance. Sound levels in excess of the limits established in this ordinance shall be grounds for the Town of Prospect to order immediate shut down of all non-compliant Wind Turbine units.
12.2.3.2 A serious noise violation is defined as three (3) verified noise complaints attributed to the operation of a Wind Turbine within a period of one month or less with a measurable noise level greater than 10 dBA above pre-construction ambient noise levels or 50 dBC inside or at an Occupied Building. For serious violations the Owner/operator will respond within five (5) days of the complaint. Testing, if necessary, will be paid for by the Owner/operator and hired independently by the Town, and will commence within ten working days of the complaint. Testing will be conducted for a minimum of a one-month period according to the measurement standards and procedures in Appendix A. The Owner/operator is responsible for mitigating the problem within ten (10) days from a final determination of any cause attributed to the operation of the Wind Turbine. Failure to mitigate the problem will result in the Wind Turbine being declared unsafe and emergency shutdown procedures will be implemented per Section 21.4.

12.2.3.3 Noise violations not determined to be an emergency pursuant to Sections 12.2.3.1 and 21.4, or not determined to be a serious violation pursuant to Section 12.2.3.2, shall be managed pursuant to Section 21.6. Testing, if necessary, will be paid for by the Owner/operator and hired independently by the Town. Testing will be conducted for an appropriate period of time and conducted according to the measurement standards and procedures set forth in Appendix A. The Owner/operator is responsible for mitigating the problem within 30 days from a final determination of any cause attributed to the operation of the WEF. Mitigation involving significant construction or physical modification may have up to 90 days to be completed pursuant to Section 15.4.1.

12.3 Shadow Flicker and Blade Reflection

12.3.1 WEFs shall be designed and sited so that shadow flicker and/or blade reflection will not fall on a receptor as defined in Section 8.0. Exceptions to this standard may be made based on the following condition only if the flicker or reflection does not exceed 10 hours per year for any given receptor. Property owners may waive the Shadow Flicker and Blade Reflection restriction with a written Mitigation Waiver. (See Section 12.4.)

12.3.2 Violations and Enforcement

12.3.2.1 A serious shadow flicker or blade reflection violation is defined as: 1) three (3) days of significant nuisance shadow flicker or blade reflection, in anyone month falling on a receptor that, if annualized, will be estimated to be more than 10 hours per year, or 2) any complaint of shadow flicker or blade reflection from vehicles on Route 220. The predictive annualized calculation shall assume clear weather, but take into account seasonal tracking of the sun. For serious violations the Owner/operator will respond within five (5) days of the complaint. The Owner/operator is responsible for mitigating the problem within ten (10) days from a final determination of any cause attributed to the operation of the WEF. Failure to mitigate the problem will result in the WEF being declared unsafe and emergency shutdown procedures will be implemented per Section 21.4.
12.3.2.2 Shadow flicker and blade reflection not determined to be a serious violation pursuant to Section 12.3.2.1, shall be managed pursuant to Section 21.6. Field verification and modeling, if necessary, will be paid for by the Owner/operator and hired independently by the Town. The Owner/operator is responsible for mitigating the problem within 30 days from a final determination of any cause attributed to the operation of the WEF. Mitigation involving significant construction or physical modification may have up to 90 days to be completed pursuant to Section 15.4.1.

12.4 Mitigation Waivers

Non-participating Landowners may modify or waive certain specified protections in this Ordinance using a written, legally enforceable Mitigation Waiver negotiated between the Applicant and the Non-participating Landowner. Copies of executed Mitigation Waivers must be included with the application. The Mitigation Waiver must be recorded in the Register of Deeds office appropriate for the affected property. The deed must advise all subsequent owners of the burdened property.

12.4.1 The requirements permitted in Mitigation Waivers are:

- 12.4.1.1 Property line setbacks - Section 12.1.1.
- 12.4.1.2 Audible noise levels - Section 12.2.2.1.
- 12.4.1.3 Low frequency noise levels - Section 12.2.2.2.
- 12.4.1.4 Shadow Flicker and Blade Reflection - Section 12.3.1.
- 12.4.1.5 No Mitigation Waivers on other requirements set forth in this Ordinance are permitted.

12.4.2 The Mitigation Waiver must contain a separate paragraph for each specific requirement being modified or waived. Each paragraph must specify:

- 12.4.2.1 The requirement as set forth in this ordinance.
- 12.4.2.2 The modified requirement to which the affected property owner is now agreeing.

13.0 General Standards

All WEFs shall comply with the appropriate Standards of this Ordinance. No WEF shall cause unreasonable health or safety conditions.

13.1 Building Codes. All components of the WEF shall conform to local, state and national building codes.

13.2 Electrical Components and Interconnections. All electrical components of the Wind Turbine and WEF shall conform to relevant and applicable local, state, and national codes.

13.3 Controls and Brakes. Each Wind Turbine shall be equipped with a redundant braking system that includes both aerodynamic over-speed controls (including variable pitch, tip, and other similar systems) and mechanical brakes. Mechanical brakes shall operate in fail-safe mode. Stall regulation shall not be considered a sufficient braking system for over-speed protection.

13.4 Blade Clearance. The minimum distance between the ground and all blades of a Wind Turbine shall be 100 feet as measured at the lowest arc of the blades.

13.5 Signal Interference. WEFs will be designed and sited to prevent the disruption or loss of radio, telephone, television, or similar signals. (See Section 15.7.)
13.6 **Guy Wires, Blade Feathering and Bird Sensing Radar.** Monopole towers with no guy wires are preferred to minimize bat and migratory bird fatalities, and bird fatalities in general. To further minimize such fatalities, Wind Turbines will be equipped with bird sensing radar, and the Wind turbine blades will be feathered. Bird flight diverters must be installed on any tower with guy wires.

14.0 **Appearance and Safety Standards**

14.1 **Appearance and Visibility Standards**

14.1.1 Wind Turbines shall be a non-obtrusive color such as white, off-white or gray, or as may otherwise be required by another governmental agency with jurisdiction over the WEF.

14.1.2 The design of the buildings and related structures shall, to the extent possible, use materials, colors, textures, screening and landscaping that will blend the site to the natural setting and existing environment.

14.1.3 Wind Turbines shall not be artificially lighted, except to the extent consistent with Federal Aviation Administration recommendations or other applicable authority that regulates air safety or as is otherwise required by another governmental agency with jurisdiction over the WEF. Additional lighting standards must be met for Wind Turbines (see Section 15.2.7).

14.1.4 Wind Turbines shall not be used to support signs and shall not display advertising except for reasonable and incidental identification of the turbine manufacturer, facility owner and operator, emergency contact information, and for any appropriate warnings.

14.1.5 Each Wind Turbine shall be located to reasonably maximize the effectiveness of existing vegetation, structures and topographic features to screen views of the Wind Turbine(s) from Occupied Buildings of Non-participating Land Owners, Scenic Resources and public roads.

14.1.6 When existing features do not screen views of a Wind Turbine from Occupied Buildings of Non-participating Landowners, Scenic Resources and public roads, screening shall be provided, where feasible and effective, through the planting of trees and/ or shrubs. Generally, such plantings should be of native varieties. In order to maximize the screening effect and minimize wind turbulence near the Wind Turbine, plantings should be situated as near as possible to the Occupied Buildings, Scenic Resources and/or public roads.

14.2 **Safety Standards**

14.2.1 **Design.** The design of the Wind Turbines and WEF shall conform to applicable industry standards, including those of the American National Standards Institute, (ANSI) and shall comply with standards promulgated by Underwriters Laboratories, Det Norske Veritas, Germanischer Lloyd Wind Energies or other similar certifying organizations appropriate for the turbines' size and classification.

14.2.2 **Access.** All ground-mounted electrical and control equipment and all access doors to a Wind Turbine shall be labeled and secured to prevent unauthorized access. A Wind Tower shall not be climbable up to fifteen (15) feet above ground surface.

14.2.3 **Warnings.** A clearly visible warning sign concerning voltage must be placed at the base of all pad-mounted transformers and substations.
14.3 Inspections

Wind Turbines shall be inspected after construction is completed but before becoming operational, and at least every year thereafter, for structural and operational integrity by a Maine licensed professional engineer chosen by the Permitting Authority, and the Owner/operator shall submit a copy of the inspection report to the Enforcing Authority. If such report recommends that repairs or maintenance are to be conducted, the owner shall provide the Enforcing Authority a written schedule for the repairs or maintenance. Failure to complete the repairs or maintenance in accordance with the schedule shall be deemed a violation of this Ordinance.

14.4 Liability Insurance

The Applicant shall maintain a current general liability policy for the WEF that covers bodily injury and property damage in an amount commensurate with the scope and scale of the Turbine or Project. The Applicant or its designee shall provide certificates of insurance to the Planning Board, and provide a copy of each annual renewal to the Planning Board. (See Section 27.2.35.)

15.0 Financial, Environmental and Operational Standards 15.1

Financial Performance Standards

The Applicant must demonstrate that the WEF is financially viable and that the Owner/operator has the financial ability to complete the project.

15.2 Environmental Impact Standards

15.2.1 Prospect Intent to Build Ordinance. Proposed WEFs shall meet the applicable standards of the Prospect Intent to Build Ordinance.

15.2.2 Environmentally Sensitive Area. The plan for the WEF shall reflect the natural capabilities of the site to support development. Environmentally sensitive areas, including but not limited to wetlands, steep slopes, watersheds, floodplains, significant wildlife habitats, fisheries, habitat for rare or endangered plants and animals, unique natural communities and natural areas, sand and gravel aquifers will be maintained and preserved to the maximum extent. The Applicant shall demonstrate appropriate measures for protecting these resources, including both during construction and post construction.

Given that areas within the Town of Prospect are wildlife management areas and that protected bird species and migratory birds are regularly observed within the boundaries of the Town, the applicant must comply with the "Guidelines for Wind Project Ecological Study" by the Maine Department of Environmental Protection and Maine Department of Inland Fisheries and Wildlife.

15.2.3 Wildlife Protection

15.2.3.1 The Applicant shall demonstrate that the WEF shall not have a significant adverse effect on area wildlife and wildlife habitat. Such analysis shall include but not be limited to adverse effects to birds, bats, game animals, and habitat fragmentation. In addition, the Applicant must demonstrate that the WEF will have no significant adverse effect on rare, threatened or endangered wildlife. The wildlife and habitat analysis must include appropriate pre-construction field studies and at least three sets of corresponding post-
construction field studies conducted at periodic intervals within 3 years after the Wind Turbines become operational. These studies will be conducted by a qualified wildlife biologist hired by the Town of Prospect and paid for by the Applicant.

15.2.3.2 If the post-construction field studies demonstrate significant adverse effect to birds, bats, game animals or habitat fragmentation, the Town, the Owner/operator and the Maine Department of Inland Fisheries and Wildlife (MDIFW) shall develop an appropriate mitigation plan. The Owner/operator will be responsible for the full cost of implementing the mitigation plan under the supervision of MDIFW.

15.2.4 Raptor Habitat. To the extent practicable, the creation of artificial habitat for raptors or raptor prey shall be minimized. In making its determination under this subsection the Planning Board shall consider comments and recommendations, if any, provided by the Maine Department of Inland Fisheries and Wildlife.

15.2.5 Erosion Control. The WEF shall be designed, constructed and maintained in accordance with accepted erosion and sedimentation control methods. The acceptability of the proposed methods will be judged utilizing the "Maine Erosion Control Handbook for Construction: Best Management Practices", March 2003. Whenever sedimentation is caused by stripping vegetation or grading it shall be the responsibility of the Owner/operator to remove it from all adjoining surfaces, drainage systems and watercourses and to repair any damage at the Owner/operator's expense as quickly as possible.

15.2.6 Groundwater Protection. The WEF shall not adversely affect the quality or quantity of groundwater. The Applicant shall have to demonstrate to the Planning Board's satisfaction that there are no unusual risks to the groundwater, including underground rivers, created by the project. The Board may require as a condition of permit approval, that spill prevention and control measures be installed, and that all activities involving potentially permeable pollutants, including at delivery and transfer points, be conducted under cover and over an impervious surface surrounded by dikes. If a Wind Turbine foundation is proposed in a bedrock area, a baseline of all wells, springs and certified public water sources within a two-mile radius of the foundation shall be established. If degradation or contamination occurs, permanent remedies shall be the responsibility of the Owner/operator.

15.2.7 Light Pollution. The WEF shall be designed to minimize the amount of nighttime light pollution. The Applicant shall provide a plan showing lighting on and around all Wind Turbines and associated facilities. Lighting on Wind Turbines shall be illuminated to Federal Aviation Administration (FAA) minimal standards using only red rather than white lights, if possible. The minimum number of Wind Turbines will be illuminated, per FAA rules. Lighting shall be shielded from ground view to FAA maximum standards.

15.2.8 Relation to DEP Certification and Permitting. If DEP has issued a Site Location of Development Act permit for a WEF there is a rebuttable presumption that the development meets the requirements of Sections 15.2.2 and 15.2.3. If a DEP Site Location of Development permit is required, the Planning Board shall require the permit to be issued before the application is deemed complete and may take the recommendations under advisement to determine compliance with Sections 15.2.2 and 15.2.3.

15.3 Scenic or Special Resource Standards
15.3.1 Except as otherwise provided in this subsection, if a WEF is proposed for a location in, or is visible from, a Scenic or Special Resource, the Applicant shall provide the Planning Board with a visual impact assessment that addresses the evaluation criteria in subsection 15.3.3. There is a rebuttable presumption that a visual impact assessment is not required for those portions of a WEF that are located more than 3 miles, measured horizontally, from a Scenic or Special Resource. The Planning Board may require a visual impact assessment for portions of the WEF located more than 3 miles and up to 8 miles from a Scenic Resource if it finds that a visual impact assessment is needed to determine if there is the potential for significant adverse effects on the Scenic or Special Resource. Any interested Person must submit information intended to rebut the presumption to the Planning Board within 30 days of acceptance of the application as complete. The Planning Board shall determine if the presumption is rebutted based on a preponderance of evidence in the record.

15.3.2 The Planning Board shall determine, based on consideration of the evaluation criteria in subsection 15.3.3, whether the WEF significantly compromises views from or of a designated Scenic or Special Resource such that the proposed facility has an unreasonable adverse effect on the scenic character or existing uses related to scenic character of that Scenic or Special Resource.

15.3.3 In making its determination pursuant to subsection 15.3.2, and in determining whether an Applicant for a WEF located more than 3 miles from a Scenic Resource must provide a visual impact assessment in accordance the Prospect Site Plan Review Ordinance, the Planning Board shall consider:

15.3.3.1 The significance of the potentially affected Scenic or Special Resource;
15.3.3.2 The existing character of the surrounding area;
15.3.3.3 The expectations of the typical viewer;
15.3.3.4 The WEF Project’s purpose and the context of the proposed activity;
15.3.3.5 The extent, nature and duration of potentially affected public uses of the Scenic or Special Resource and the potential effect on the public’s continued use and enjoyment of the Scenic or Special Resource; and
15.3.3.6 The scope and scale of the potential effect of views of the WEF on the Scenic or Special Resource, including but not limited to issues related to the number and extent of Wind Turbines visible from the Scenic or Special Resource, the distance from the Scenic or Special Resource and the effect of prominent features of the WEF Project on the landscape.

15.4 Construction/Design Standards

15.4.1 General Construction Standards. All Wind Turbines shall be constructed in compliance with Good Utility Practice for Wind Turbines. In the event that, after inspection by a qualified expert in Good Utility Practice, the Town concludes that any of the Wind Turbines were not constructed in compliance with Good Utility Practice or constitutes a danger to persons or property, then upon notice being provided, the Owner/operator shall have 90 days to bring the non-compliant Wind Turbine(s) into compliance with such standards. If 90 days is insufficient time to cure the non-compliance, the Owner/operator shall present a plan to the Town describing the reason for the delay and the time frame for the cure to be put in place.
15.4.2 **Electrical Design Standard.** On-site power and transmission lines shall be placed underground to a depth consistent with Good Utility Practice. Wind Turbines shall be engineered according to Good Utility Practice to prevent transient ground currents and stray voltage. The Applicant shall demonstrate that there will be no significant adverse effect upon the environment or individuals from transient ground currents and stray voltage.

15.4.3 **Transmission Line Standards.** The Applicant must, in conjunction with the Maine Public Utility Commission (PUC), prepare a written report documenting all anticipated changes, modifications or upgrades to the public utility grid within the Town of Prospect due to the WEF. The written report must include necessary approvals from the PUC, proof of leases or required right of ways for transmission lines, and any alternatives to the final plan considered. The report must document the residual capacity remaining in the local utility grid that is available for use by other local electrical generating projects.

15.4.4 **Geological Stability.** Wind Turbines shall not be constructed on areas of geological instability. The Applicant shall demonstrate that this standard is met.

15.5 **Operational Performance Standards.**

15.5.1 **General Performance Standards.** All Wind Turbines shall be operated and maintained consistent with Good Utility Practice for comparable facilities.

15.5.2 **Repairs and Maintenance.** The Owner/operator shall be required to repair and replace the WEF and associated equipment consistent with Good Utility Practice as needed to keep the Wind Turbine and Associated Facilities in good repair and operating condition.

15.6 **Public Safety and Health Standards.**

15.6.1 **Fire Protection.** The Applicant shall prepare a plan in consultation with the Town of Prospect fire department as part of the permitting process. The plan shall address all activities at the WEF from the start of construction through the end of power generation and the final removal and restoration of the site, and shall describe a response plan to address all identified potential fire, rescue and hazardous materials scenarios. The owner/operator shall ensure that the WEF complies with the following control and prevention measures and assumes responsibility for all associated incremental costs:

15.6.1.1 Use of fireproof or fire resistant building materials and buffers or fire retardant landscaping around WEFs as appropriate.

15.6.1.2 Incorporation of a self-contained fire protection system to address nacelle fires including but not limited to redundant fire quenching systems in the nacelle.

15.6.1.3 Maintenance of firebreak areas as appropriate cleared of vegetation and maintained as a fire/fuel break as long as the Wind Turbine is in operation.

15.6.1.4 Provision for any additional fire fighting or rescue personnel, services, training, materials, or vehicles as may be required to address any emergency related to the WEF that is beyond the current capabilities and duties of the local fire department.
15.6.2 Hazardous Wastes. The Owner/operator shall be responsible for compliance with all ordinances, state regulations and laws applicable to the generation, storage, cleanup, and disposal of hazardous wastes generated during any phase of the project's life. The Town of Prospect may require that a plan be submitted by the Applicant demonstrating the ability and intent to meet such compliance.

15.6.3 Blasting. Owner/operator shall not undertake any blasting in connection with the construction of the WEF unless Applicant has notified the Town and submitted a blasting plan consistent with applicable laws and regulations. The plan must be reviewed and approved by the Planning Board before any blasting may take place. No blasting shall be undertaken without 48 hour notification to all residents within a two mile radius, measured horizontally, from the blasting area. All blasting operations will cover the blasting area with mattresses to prevent debris from falling on nearby properties.

15.7 Communications and Electromagnetic Interference Standards

15.7.1 WEFs shall be sited and operated so that they do not interfere with emergency (fire, police/sheriff, ambulance) radio two-way communications (base stations, mobile, and handheld radios, including digital) and/or paging, television, telephone (including cellular and digital), microwave, satellite (dish), navigational, internet or radio reception to neighboring areas. The Owner/operator of the project shall be responsible for the full cost of any remediation necessary to provide equivalent alternate service or correct any problems, including relocation or removal of the Wind Turbine, and any and all related transmission lines, transformers, and other components related to the interference.

15.7.2 The Owner/operator of the WEF shall respond within one day to any request for communications interference investigation by any emergency agency (fire, police/sheriff, ambulance). Testing will commence within two days of the request. The Owner/operator is responsible for mitigating within two days from the determination of interference attributed to the operation of the Wind Turbine.

15.7.3 The Owner/operator of the WEF shall respond within five business days to any request for communications interference investigation by a property owner or resident within a three-mile radius, measured horizontally, of the WEF. Testing will commence within five business days of the request. The Owner/operator is responsible for mitigating within ten business days from the determination of interference attributed to the operation of the Wind Turbine.

15.8 Ground Transportation Standards

15.8.1 The Applicant shall identify all public ways to be used within the Town of Prospect to transport equipment and parts for construction, operation or maintenance of the Wind Turbines.

15.8.2 A qualified third party engineer, hired by the Planning Board and paid for by the Applicant, shall document road conditions prior to construction. The engineer shall document road conditions again thirty (30) days after construction is complete or as weather permits.

15.8.3 The Town of Prospect may bond the road(s) in compliance with state regulations.
15.8.4 Any road damage caused by the Applicant or its contractors shall be promptly repaired at the Owner/operators expense.

15.8.5 The Applicant shall demonstrate that it has appropriate financial insurance to ensure the prompt repair of damaged roads.

15.9 Plan and Risk Assessment for Road and Property Use

15.9.1 An Application for a WEF Site Permit shall include a road and property use and risk assessment plan containing the following information and meeting the following requirements.

15.9.1.1 A description and map of all public ways, and other property, in the Town to be used or affected in connection with the construction of the WEF, including a description of how and when such ways and property will be used or affected.

15.9.1.2 A description of the type and length of vehicles and type, weight and length of loads to be conveyed on all public ways in the Town.

15.9.1.3 A complete assessment of the proposed use of public ways in the Town in connection with the construction of the WEF, including: the adequacy of turning radii; the ability of the public ways to sustain loads without damage; the need to remove or modify (permanently or temporarily) signs, trees, utilities, or anything else; any reasonably foreseeable damage to public ways or other property, public or private; any reasonably foreseeable costs that the Town may incur in connection with the use of property in the Town, including but not limited to costs relating to traffic control, public safety, or damage to public ways, or to other public or private property.

15.9.1.4 A traffic control and safety plan relating to the use of public ways in the Town in connection with the construction of the WEF.

15.9.1.5 Any additional relevant information that the Planning Board may request relating to the use of public ways or other effects on public and private property that may occur in connection with the construction and operation of the WEF.

15.9.2 The Planning Board will evaluate the risk assessment plan with assistance from such consultants that it deems appropriate, including without limitation a third-party engineer chosen by the Planning Board, the cost to be solely borne by the Applicant. The Planning Board may document the condition of public ways and other property to be used in connection with the construction of the WEF in such manner as it deems appropriate. The Planning Board may require changes to the risk assessment plan that it deems to be appropriate to protect public safety, to protect public and private property, and to address anticipated costs to the Town associated with construction of the WEF.

15.9.3 If the Applicant requires the temporary closure of any public way, the Planning Board may require the Applicant to enter into an agreement relating to the use of the public way.

15.9.4 The Applicant shall be responsible for paying for any damage to any public way. If the risk assessment anticipates damage to any public way, the Planning Board may require the Applicant to provide a surety in an amount that the Planning Board determines appropriate to secure any obligation under the agreement, including but not limited to any
obligation relating to alterations or modifications to public ways made in connection with the Applicant's activities

15.10 Reporting Requirements:

15.10.1 Extraordinary Events. The Owner/operator shall notify the Town of any extraordinary event within 24 hours of that event. "Extraordinary events" shall include but not be limited to tower collapse, catastrophic turbine failure, fires, leakage of hazardous materials, unauthorized entry to the tower base, thrown blade or hub, any injury to a Facility worker or other person that requires emergency medical treatment, or other event that impacts the public health and safety of the Town or its residents.

Additionally, the Owner/Operator will provide the Town and its residents with a hotline phone number for reporting of any such extraordinary events to a manned facility on call 24 hours a day, 365 days a year.

15.10.2 Change of Owner/operator. The Owner/operator will notify the Town of Prospect of a pending change of ownership in writing 30 days before the effective change. The new owner will apply for a transfer of permits to be reviewed by the Town of Prospect and will assume all the obligations of the selling Owner/operator.

15.10.3 Reports from annual safety inspections shall be submitted, pursuant to Section 14.3.

15.10.4 Annual proof of liability insurance shall be submitted pursuant to Section 14.4.

16.0 Application Submission Requirements and Procedural Time Frames

16.1 Pre-application Meeting

A pre-application meeting with the Planning Board shall be scheduled at a regularly scheduled public Planning Board meeting. At the meeting the Applicant will review the type and scope of the project and the Planning Board will review Ordinance Standards and submission requirements. The Planning Board will establish an application file at this time.

16.2 Site Inspection

The Planning Board reserves the right to establish a time for a site inspection at any time during the application process. Planning Board and Applicant shall set a mutually agreeable time for the Planning Board to inspect the site. Site visits will normally be postponed if there is more than one foot of snow on the ground. The site inspection will be treated as a public meeting of the Planning Board with appropriate notices given to the community. While the Planning Board may set additional requirements for the site inspection at the pre-application meeting, the Applicant shall, at minimum, flag the location of the proposed WEF and relevant property boundaries. The Applicant or a representative will accompany the Planning Board to describe the project and answer any questions.

16.3 First Public Hearing

The Planning Board shall schedule a public hearing to be held within 90 days of the pre-application meeting process for the WEF.

16.4 Notice to Abutters and residents within the Notification Area
In addition to any required public notices for the site inspection and first public hearing, the Planning Board will prepare a notice to property owners and residents within the Notification Area. The notice will briefly describe the proposed WEF and notify the recipient of the dates, times and places of the site inspection and first public hearing. The notice will be sent by certified mail with mailing costs paid for by the Applicant. The town will give residents no less than 14 days' notice of such a meeting.

16.5 Determine Submission Requirements

Within 60 days of the pre-application meeting the Planning Board shall inform the Applicant in writing of the submission requirements for the application. The submission requirements for WEFs are listed in Section 28.0. If the Applicant wishes to have any of the submission requirements waived, the Applicant must make the request in writing to the Planning Board. The Planning Board will notify property owners and residents within the Notification Area. The notice will be sent by certified mail with mailing costs paid for by the Applicant. The Planning Board will send the notice at least 14 days prior to the Planning Board meeting at which the Applicant's request will be considered.

16.6 Application Submission

The Applicant has up to 180 days after the determination of submission requirements to submit a completed application with the required fees to the Town clerk. The application shall be deemed abandoned unless the application has been received within 180 days of the determination of submission requirements. The Town Clerk will forward the application to the Planning Board.

16.7 Completeness Review

The Planning Board will notify the Applicant within 90 days from the date of submission whether the application is complete. Specific studies may be required for a consideration of completeness including but not limited to noise studies, DEP certification and permitting, and environmental impact studies. If the application is deemed to be incomplete the Planning Board shall indicate the additional information needed. The application shall be deemed abandoned unless the Applicant provides the information requested, demonstrates that additional time is needed to complete required studies, or submits in writing the reason for any delay within 30 days from the date of notice indicating the application is incomplete.

16.8 Second Public Hearing

The Planning Board will schedule a second public hearing to be held within 60 days of the determination of completeness of the Application for the WEF.

16.9 Notice to Town of Prospect

In addition to any required public notices for the second public hearing, the Planning Board will prepare a notice to all residents and property owners in the Town of Prospect and to property owners and residents within the Notification Area. The notice will briefly describe the proposed WEF and notify the recipient of the date, time and place of the second public hearing. The notice will be sent by certified mail with mailing costs paid for by the Applicant. The town will give residents no less than 14 days' notice of such a meeting.

16.10 Final Planning Board Determination
A decision to approve or reject the application, or to approve the application with conditions, will be made by the Planning Board within 60 days from the date of the second public hearing.

16.11 Final Town Approval

Final Town approval is required if the WEF is located on Town property or if the WEF is wholly or partially owned by the Town.

17.0 Professional Services

In reviewing an application for compliance with this Ordinance, the Permitting Authority may retain professional services as necessary to assist with its review, including but not limited to those of an attorney, engineer, biologist, or land use planner. Within fourteen (14) days of filing an application the Applicant shall deposit in a joint escrow account with the Town the sum of $25,000 as partial payment for the appropriate Town expenses in hiring consultants and experts, as the Permitting Authority shall, at its discretion, deem necessary. If at any time the balance of the fund falls below $5,000, the Applicant upon notice shall submit an additional $25,000 so that the Town's full and actual expenses of examining and verifying the data presented by the Applicant can be paid in full by the Applicant. If at any time the balance of this fund falls below $5,000 for a period of 30 days after notification the application shall be considered to have been withdrawn. The balance of the escrow account shall be returned to the Owner/operator after all expenses have been paid, and after a permit is granted or the Applicant has withdrawn.

18.0 Application Changes

18.1 Throughout the permit process, the Applicant shall promptly notify the Permitting Authority of any changes to the information contained in the permit application.

18.2 Material changes may not be made to a WEF after an application is determined to be complete, without initiating a new application process. Material changes include, but are not limited to, increasing the number of Wind Turbines, increasing the nameplate capacity of the Wind Turbines, increasing Turbine Height, changes to the location of Wind Turbines, or material changes to Associated Facilities. Non-material changes require a permit modification as determined by the Permitting Authority. The Permitting Authority shall have sole discretion for determining what is a material or non-material change.

19.0 Cumulative Effect of Multiple Permits

The Town of Prospect reserves the right to process no more than one application at any one time, or the deadline for submission and review may be modified correspondingly to reflect the increased workload of multiple permits.

20.0 Appeals

20.1 The Board of Appeals shall have the power to hear and decide administrative appeals, on an appellate basis, where it is alleged by an aggrieved party that there is an error in any order, requirement, decision, or determination made by, or failure to act by, the Reviewing Authority.
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.

20.2 The Board of Appeals may reverse the decision of the Permitting Authority only upon finding that the decision was contrary to specific provisions of the Ordinance or contrary to the facts presented to the Permitting Authority. The Board of Appeals may only review the record of the proceedings before the Permitting Authority. The Board of Appeals shall not receive or consider any evidence that was not presented to the Permitting Authority, but the Board of Appeals may receive and consider written or oral arguments. If the Board of Appeals determines that the record of the Permitting Authority's proceedings is inadequate, the Board of Appeals may remand the matter to the Permitting Authority for additional fact finding.

20.3 For the purposes of hearing appeals, at a minimum, all property owners and residents within the Notification Area shall be deemed to have interested party standing. The Appeals Board may grant other individuals interested party standing as special circumstances warrant. All interested parties must be sent notice by certified mail with mailing costs paid for by the Applicant. The Appeals Board will give interested parties a reasonable and appropriate amount of time to present information and rebuttals.

20.4 A final Town vote as outlined in Section 16.11 shall not be subject to Appeals Board review.

21.0 Complaints/ Violations/ Enforcement

21.1 General Standard. It shall be unlawful for any person, firm or corporation to violate or fail to comply with or take any action that is contrary to the terms of this Ordinance, or any permit or Operational License issued under this Ordinance, or cause another to violate or fail to comply or take any action which is contrary to the terms of this Ordinance or any permit or Operational License issued under this Ordinance.

21.2 Enforcing Authority. The CEO will serve as the Enforcing Authority for WEFs. The Enforcing Authority will:

21.2.1 Have the authority to conduct investigations, resolve complaints, ensure compliance with and enforce standards, and levy penalties if required.

21.2.2 Appoint qualified representatives to investigate complaints. The reasonable costs and fees for the qualified representative will be paid by the Owner/operator and may include engineers, consultants, and other professionals.

21.2.3 Recommend to the Planning Board amendments to this Ordinance deemed necessary to address health or safety concerns not currently addressed in this Ordinance.

21.2.4 Have access to Town legal counsel as required.

21.3 Enforcement. Standards in this Ordinance will be enforced through a series of enforcement options including but not limited to: 1) Emergency shutdown; 2) 5 day response to serious violations with a 10 day mitigation period; 3) 30 day complaint resolution with a 30 day mitigation period; 4) financial penalties; and 5) other remedies.

21.4 Emergencies and Emergency Shutdown.
The Owner/operator shall be required to immediately cease operations for the duration of any Emergency. Emergency shall mean a proven condition or situation caused by the WEF that presents an imminent physical threat of danger to life or significant threat to property. A WEF that is found to present an imminent physical threat of danger to life or significant threat of damage to property shall be immediately shut down and repaired or otherwise made safe and certified by a professional engineer in good standing prior to resumption of operation. The Town shall have the right to access all Wind Turbines to verify conditions and/or repair progress with reasonable notice to the Wind Turbine owner/operator. Within 24 hours of an occurrence of a tower collapse, turbine failure, property damage or contamination, fires, thrown blade or hub, collector or feeder line failure, injured Wind Turbine worker or private person, the Owner/operator shall notify the Town of the occurrence and proposed remedial action.

21.5 Serious Violations of Standards

The Owner/operator of the WEF shall respond within five business days to any complaint or complaints deemed by the Enforcing Authority to have merit. Testing, paid for by the Owner/operator, will commence within ten working days of the complaint. Except as noted for interference with emergency communications, the Owner/operator is responsible for mitigating the problem within ten business days from the final determination of any cause attributed to the operation of the WEF. Pursuant to Section 15.7.2, interference with emergency communications must be responded to in one day and mitigated within 2 days.

21.6 Other Violations

If the Enforcing Authority determines that a violation of the Ordinance or the permit has occurred, and the violation is determined neither to be an emergency pursuant to Section 21.4, nor a serious violation pursuant to Section 21.5, the Enforcing Authority shall provide written notice to the Owner/operator alleged to be in violation of this Ordinance or permit. The Enforcing Authority and the involved parties shall engage in good faith negotiations to resolve the alleged violation. Such negotiations shall be conducted within thirty (30) days of the written notice of violation. The Owner/operator shall pay for any necessary testing if the Owner/operator is subsequently determined to be in non-compliance. The Owner/operator is responsible for mitigating the problem within 30 days from the final determination of any cause attributed to the operation of the WEF. Mitigation involving significant construction or physical modification may have up to 90 days to be completed pursuant to Section 15.4.1.

21.7 Penalties

Any Person or Applicant who fails to comply with any provision of this Ordinance by failing to reach agreement with the Enforcing Authority, or after the expiration of the mitigation periods defined in Section 21.5 and Section 21.6, shall be fined at least five hundred dollars ($500) but no more than one thousand dollars ($1000) for each turbine. A separate offense shall be deemed to be committed on each day during which a violation occurs or continues to occur.

21.8 Other Remedies

If the Owner/operator has not corrected the violation within the time frames contained in Section 21.5 or Section 21.6, the Enforcing Authority shall order the WEF to cease operation until the WEF can prove compliance with the standards of this Ordinance. At the discretion of the Enforcing Authority, penalties and fines may continue to accrue during this period. If after 6
months of being ordered to cease operations the Owner/operator has not demonstrated good faith and significant effort in resolving the issue, the Enforcing Authority shall initiate the decommissioning procedure pursuant to Section 22.0.

21.9 Identifying Violations and Registering Complaints

21.9.1 Pursuant to Section 15.10.1, the Owner/operator will report to the Town all extraordinary events within 24 hours of their occurrence.

21.9.2 For Wind Turbines the Town will maintain, at the Owner/operator's expense, a system for recording and investigating all complaints related to the WEF. The system must be able to receive complaints 24 hours a day, 365 days a year. A permanent record of all complaints, investigations and outcomes will be maintained. The Owner/operator will designate a representative and method to receive and respond to complaints from the Town 24 hours a day, 365 days a year. Complaints for WEFs will be referred to the Enforcing Authority in a timely manner.

22.0 Decommissioning Standards

22.1 The Owner/operator shall, at its expense, complete decommissioning of the WEF within: 1) twelve (12) months after the end of the useful life of the WEF, or: 2) as specified in the materials provided at the time of application or; 3) pursuant to remedies described in Section 21.8. The WEF will be presumed to be at the end of its useful life if no electricity is generated for a continuous period of twelve (12) months.

22.2 Decommissioning shall include removal of wind turbines and foundations to a depth of 36 inches. All buildings, cabling, electrical components, roads, and any other associated facilities shall be removed unless, at the end of the Wind Turbine or WEF's useful life, as determined in accordance with Section 22.1, the Applicant provides written evidence of plans for continued beneficial use of these components of the WEF, and this evidence is approved by the Planning Board.

22.3 Except as otherwise provided by Section 22.2, disturbed earth shall be graded and re-seeded, unless the Participating Landowner of the affected land requests otherwise in writing.

22.4 An independent and certified Professional Engineer shall be retained to estimate the total cost of decommissioning without regard to salvage value of the equipment ("Decommissioning Costs"), and the cost of decommissioning including the salvage value of the equipment ("Net Decommissioning Costs"). Said estimates shall be submitted to the Town of Prospect after the first year of operation and every other year thereafter.

22.5 The Owner/operator shall post and maintain decommissioning funds in an amount equal to Net Decommissioning Costs; provided that at no point shall decommissioning funds be less than one hundred percent (100%) of Decommissioning Costs. The decommissioning funds shall be posted and maintained with a bonding company or Federal or State-chartered lending institution chosen by the Owner/operator and Participating Landowners posting the financial security, provided that the bonding company or lending institution is authorized to conduct such business within the State and is approved by the Town of Prospect. No work can begin on the WEF before the decommissioning bond is issued and approved.
22.6 Decommissioning funds may be in the form of a performance bond, surety bond, letter of credit, or other form of financial assurance as may be acceptable to the Town of Prospect.

22.7 If the Owner/operator fails to complete decommissioning within the period prescribed by Section 22.1, then the Participating Landowner shall have an additional six (6) months to complete decommissioning.

22.8 If neither the Owner/operator, nor the Participating Landowner completes decommissioning within the periods prescribed by Sections 22.1 and 22.7 the Wind Turbine or WEF shall be deemed to be in violation of this Ordinance and the Town of Prospect may take such measures as necessary, including court action, to ensure the completion of decommissioning. The entry into and submission of evidence of a Participating Landowner agreement to the Town of Prospect shall constitute agreement and consent of the Parties to the agreement, their respective heirs, successors and assigns that the Town of Prospect may take such action as necessary to implement the decommissioning plan.

22.9 The escrow agent shall release the decommissioning funds when the Owner/operator has demonstrated and the Enforcement Authority concurs that the decommissioning has been satisfactorily completed, or upon written approval of the Town in order to implement the decommissioning plan.

23.0 Real Estate Property Value Assurance Plan

The WEF Owner/operator must provide the Real Estate Property Value Assurance Plan (REPVAP) to all Non-Participating landowners who: 1) own property within one mile, measured horizontally, from the Project Boundary, and 2) have not signed any mitigation waivers. This is a legally binding contract with the Owner/operator and its successors and the landowners. Each one of these contracts must be submitted with the application.

The elements of the Real Estate Property Value Assurance Plan are as follows:

23.1 Establishing the Current Value of the Home

23.1.1 Three certified appraisers will be selected from a list of appraisers licensed in the State of Maine and conducting business in the general project area.

23.1.2 Each agent shall perform a Comparative Market Analysis (CMA) of the property - in its current state - which will compare the property size and improvements to no less than three similar properties that are listed for sale, using generally accepted CMA methods.

23.1.3 The two highest property valuations determined from each CMA will then be averaged to determine the "baseline" property value for REPVAP purposes only. The CMAs will be performed at the Applicant’s expense. The property owner hereby agrees to permit access to the property as required to perform the CMA inspection. Furthermore, the property owner hereby agrees to provide full disclosure of known defects of the property as may be required under Maine State Law.

23.1.4 The agents preparing the CMAs will provide a written copy of their report to both the property owner and the Applicant. Both the Applicant and the land owner reserve the right to reject CMA results only in the instance of a clear mistake by the agent.
23.2 Establishing the Future Value of the Home if Listed for Sale.

23.2.1 If at any time during the three year period after a permit to erect the WEF, the property owner lists the property for sale, then an "updated" Comparative Analysis will be prepared, again at the Applicant's expense, using the same procedure outlined above. The updated CMA will explicitly take into account any changes in local market conditions for comparable properties unaffected by the wind project, as well as any improvements to the home and/or lot.

23.2.2 In the event that the property has been listed for at least 12 months and sells for less than the market value determined by the updated CMA average, the Applicant will pay the difference in value within 30 days after closing of the sale of the property. The 12 month listing requirement may be waived by Applicant if requested by the property owner at the Applicant's sole discretion.

23.3 Other stipulations

23.3.1 The property owner hereby grants the Applicant the right to purchase the property at the greater amount of the updated CMA average market value or the highest bona fide offer.

23.3.2 If the property does not sell within an 18 month period, the Applicant will have to purchase the property at the updated CMA average market value.

23.4 Subject to the Applicant's right to waive any or all these exclusions, the plan outlined herein does not cover a sale or transfer of the property under any of the following conditions.

23.4.1 If the property owner does not have clear and marketable title.

23.4.2 If the property has not been listed for sale for at least 12 months as a continuous period.

23.4.3 If the property is gifted or assigned to another person.

23.4.4 If the property is not listed for sale in accordance with Section 23.4.2 at some point.

23.4.5 If the property is not reasonably maintained in its current condition, reasonable wear and tear excepted.

23.5 Additional Conditions:

23.5.1 A property owner can participate voluntarily in this plan, under the terms and conditions established herein, but the benefit is not assignable to new or subsequent property owners.

23.5.2 If the Applicant sells or transfers ownership of the WEF, it must assign, transfer, pledge, or otherwise dispose of its obligations and interests under this agreement in a form acceptable to the contracting landowners, unless released in writing by contracting landowners. If no agreement can be reached, then the Applicant shall, before sale of the WEF, place into an escrow account, in favor of the landowner(s) the full value of the property, to be accessed by the landowner(s) if no sale is finalized within the time allocated in Section 23.4.2
23.5.3 In the event any landowner experiences health problems directly attributable to the operation of the WEF, such that the home is rendered uninhabitable, and unsellable, the listing period will be waived, and the Applicant will be responsible for all medical expenses incurred, including but not limited to doctor visits, hospital visits and stays, medical procedures, medication and cost of lodging away from the home, up until such time as the Applicant purchases the affected property at its full value before the approval and operation of the WEF reduced the property's worth.

25.0 Ethical Standards

25.1 Transparency, Public Participation and Highest Ethical Standards

All public deliberations and decisions regarding WEFs and Community Owned Wind shall be conducted in an open, transparent manner that encourages the broadest public participation and adherence to the highest ethical standards.

25.2 Public Access

All deliberations concerning WEFs and Community Owned Wind, whether in writing or conducted verbally, by the Planning Board, Selectmen, Appeals Board, and any subcommittees or working groups of the aforementioned bodies shall fully comply with the letter and spirit of State law regarding Freedom of Access pursuant to Title 1; Chapter 13; Subchapter 1. Specifically, all deliberations regarding WEFs between members of the Planning Board, Selectmen, Appeals Boards and any subcommittees and working groups shall be conducted at public meetings, which have been duly posted. Exceptions will be made only for: 1) appropriately recorded and executed executive sessions, and 2) communicating the minimal information necessary to set up and facilitate public meetings. Detailed minutes of deliberations and decisions concerning WEFs and Community Owned Wind will be recorded and posted. Copies of all correspondence and e-mails will be made available to the public with the exception of those publicly identified and disclosed as being subject to "attorney-client privilege" by the Town attorney or deemed confidential by under Maine Law. All documents, correspondence and e-mails generated by consultants on behalf of the Planning Board, the Selectmen, Appeals Board, their subcommittees and working groups shall be part of the public record.

25.3 Conflicts of Interest

The process to develop, permit and administer WEFs or Community Owned Wind shall be governed by a strict ethical code for conflicts of interest. No elected or appointed Town official or Town employee, their immediate family members, or their employees, who has a conflict of interest shall be involved in the planning process or decision-making process for WEFs. Conflicts of interest include but are not limited to:
1. having a lease as a Participating Landowner for a Wind Turbine or a lease for a transmission right-of-way,
2. having an identified financial arrangement with a wind development company including a signed Mitigation Waiver with financial remuneration,
3. serving as a paid representative of a wind development company, or a written or verbal promise for future employment or contracts from a wind development company;
4. being directly or indirectly affiliated or related to an Applicant with a pending application for a WEF, and,
5. knowing there is a substantial opportunity to accept bids, receive remuneration, or employment valued at greater than $10,000 on behalf of a wind development company or as a subcontractor or employee of the Community Owned Wind.

Individuals with a conflict of interest must identify the conflict of interest and recuse themselves from all direct and indirect planning and decision making regarding WEFs or Community Owned Wind, with the exception of voting and debating as a private citizen at any public meetings and public hearings.

25.4 Code of Ethics for Wind Companies and Municipal Employees

25.4.1 Wind companies will not hire municipal employees or their relatives, give gifts of more than $10 during a one-year period, or provide any other form of compensation that is contingent on any action before a municipal agency.

25.4.2 Wind companies will not solicit, use, or knowingly receive confidential information acquired by a municipal officer in the course of his or her official duties.

25.4.3 Wind companies will establish and maintain a public Website to disclose the names of all municipal officers or their relatives who have a financial stake in WEF development.

25.4.4 Wind companies will submit, in writing to the municipal clerk for public inspection, and additionally will publish in the local newspaper, the nature and scope of the municipal officer’s financial interest.

25.4.5 All wind easements and leases will be in writing and filed with the County Clerk for public inspection.
Appendix

A. Noise Measurement Standards and Procedures

1. A qualified independent acoustical consultant who is a Full Member of the Institute of Noise Control Engineering (INCE) shall conduct all noise studies. The acoustical consultant shall be hired by and report to the Permitting Authority. The Applicant will pay for the studies.

2. The WEF Applicant/Licensee shall provide all technical information and wind farm data required by the qualified independent acoustical consultant before, during, and/or after any acoustical studies required by this document and for acoustical measurements.

3. Sound level meters and calibration equipment must comply with the latest version of the American National Standards Institute "American Standard Specifications for General Purpose Sound Level Meters" (ANSI Standard S1.4) and shall have been calibrated at a recognized laboratory within one month prior to the initiation of the study.

4. Except as specifically noted otherwise, measurements shall be conducted in compliance with ANSI Standard S 12.18-1994 "Outdoor Measurements of Sound Pressure".

5. Along with information about the make, model, and name plate capacity of all turbine potentially used in the proposed WEF, the Applicant will also supply their sound power levels (Lw) for each 1/3 octave band from 6.3 Hz to 10 kHz.

6. A sound propagation model predicting the sound levels emitted into the community computed using at minimum 1/1 octave band sound power levels to compute the LCeq and LAeq levels to generate LAeq and LCeq contours in 5 dB increments overlaying an aerial view and property survey map from the WEF property out to a distance to include all residential property lines within two (2) miles measured horizontally from the Project Boundary.

7. Prior to permit application approval, a pre-construction ambient noise level study shall be conducted at each property line within 2 miles measured horizontally from the Project Boundary.

8. The tests shall be conducted using both an A-weighting scale (dBA) and low frequency C-weighting scale (dBC).

9. Predictions shall be made at all property lines within and outward for two (2) miles measured horizontally from the Project Boundary for the wind speed, direction and operating mode that would result in the worst case WEF nighttime sound emissions.

10. Tests shall be reflective of seasonal changes to vegetation and atmospheric conditions. At a minimum one set of tests should be performed during each of the four (4) calendar seasons of the year.

11. All measuring points shall be located in consultation with the property owners and such that no significant obstruction blocks noise and vibration to the site.

12. Outdoor noise level measurements must be taken at 6 feet above the ground and at least 15 feet from any reflective surface.

13. Duration of measurements shall be a minimum of ten continuous minutes for each criteria at each location.

14. Measurements must be made when the wind levels are less than 4.5 mph and with appropriate wind screening for the recording device.
15. When conducting their pre-construction noise prediction analysis, the Applicant shall make specific reference to: 1) the unique aspects of the mountainous contours and terrain of the area and its effect on noise predictability and; 2) line source noise predictions (emanating from a line of Wind Turbines) in addition to the traditional single point source predictions.

16. Measurements should be obtained during representative weather conditions when the Wind Turbine noise is most noticeable, including periods of temperature inversion most commonly occurring at night.

17. Measurements shall be taken at each of the following three time periods:
   A. Day (10 a.m. - 2 p.m.)
   B. Evening (7 p.m. - 11 p.m.)
   C. Night (12 midnight - 4 a.m.)

18. Each measurement shall be replicated during the same time period over three different days within the same season for a total of 9 measurements per location per season (e.g., three daytime measurements in the winter, three evening measurements in the winter, and three night time measurements in the winter). The lowest of the three measurements per time period, per season, will be used to determine the pre-construction ambient noise for that time period and season.

19. For each measurement the following minimum criteria will be recorded:
   A. L\text{max}, L_{\text{eq}}, L_{\text{IO}} and L_{90} in dBA
   B. L\text{max}, L_{\text{eq}}, L_{\text{IO}} and L_{90} in dBC
   C. A narrative description of any intermittent noises registered during each measurement
   D. Wind speed and direction at time of measurement
   E. Description of weather conditions at time of measurement
   F. Description of topography and contours relative to proposed or actual Wind Turbines

20. A comparison of the expected sound levels from the proposed WEF with the sound level limits of this regulation shall be submitted. Per Maine TA Bulletin #4, a written report comparing the expected sound levels with the pre-development ambient sound levels will help determine compliance with the standard.

21. A 5 dBA and/or a 5 dBC penalty shall be applied for short duration repetitive noise or repetitive impulse noise. This is a characteristic "thumping" or "whooshing" sometimes exhibited by larger Wind Turbines. Per Maine TA Bulletin #4 intermittent noise is a more serious nuisance than constant noise.

22. A 5 dBA penalty shall be applied for tonal noise. This is a single or limited frequency noise (vs. broad band noise) associated with mechanical noise artifacts (i.e. high pitched whining, screeching, buzzing). Per Maine TA Bulletin #4, noise over a narrow frequency is more serious nuisance than broad band noise.

23. For sites being measured with existing Wind Turbines two sets of measurements are required: 1) one set with the Wind Turbine(s) off and; 2) one set with the Wind Turbine(s) running.
24. For noise complaints after the Wind Turbines are operational, the measurement points, season, time, and duration of measurements shall be selected in consultation with the affected property owner. If requested by the property owner, continuous measurements may be taken for longer periods of time to capture intermittent nuisance noise patterns.

25. Within twelve months of the date when the project is fully operational, and within four weeks of the anniversary date of the pre-construction background noise measurements, repeat the existing sound environment measurements taken before the project approval. Post-construction sound level measurements shall be taken both with all WEF’s running and with all WEF’s off.

26. The post-construction measurements will be reported to the Town of Prospect (available for public review) using the same format as used for the preconstruction sound studies. Post-construction noise studies shall be conducted by a firm chosen and hired by the Town of Prospect. Costs of these studies are to be paid by the licensee.

27. Any noise level falling between two (2) whole decibels shall be deemed the higher of the two.

28. When testing for WEF noise compliance, all measurements at the test location must be the pre-turbine background noise measurement location nearest to the home of the complainant in line with the WEF and nearer to it. The time of day for the testing and the wind farm operating conditions plus wind speed and direction must replicate the conditions that generated the complaint. Procedures of ANSI S12.9-Part 3 apply. The effect of instrumentation limits for wind and other factors must be recognized and followed.

B. WEF Submission Standards and Fees

1. Fees and Bonds.
   1.1. Application Fee: $5000.00.
   1.2. Professional Fees Escrow: one half of one percent of the estimated cost of the project, minimum balance of $25,000.00 at all times.
   1.3. Decommissioning Bond: See Section 22.0.
   1.4. Road Damage Bond: See Section 15.9.4.

2. Submission standards.
   All information in this application, unless specified, will become part of the public record. Information submitted by the Applicant must be continuously updated throughout the application process as changes are made or new information becomes available.

   The Applicant shall include a written application, which shall include:
   2.1. Applicant’s name and contact information.
   2.2. Legal Owner/operator and contact information.
   2.3. Description of the legal structure of the WEF including a corporate organizational chart, ownership and equity structure, and all investors.
   2.4. Description of the proposed WEF that includes the number of Wind Turbines, the nameplate capacity of each Wind Turbine, Turbine Height and manufacturer’s specifications.
for each Wind Turbine, the aggregate generating capacity of the entire project, and a
description of associated facilities.

2.5. Location map of the project showing the location of the each Wind Turbine, associated facilities, all
property under partial or total control of the Applicant including easements and those under lease
with Participating Landowners, roads, municipal boundaries, proximity to all Scenic or Special
Resource features in the Town of Prospect and major geographical features.

2.6. Detailed site plan showing the location of each Wind Turbine and Associated Facility and any of the
following features located within 1.5 times the required setback: property boundaries, required
setbacks, topographic contour lines (maximum 20-foot interval), buildings (identify use), roads,
driveways, right-of-ways, overhead utility lines, Scenic or Special Resources, tree cover, wetlands,
streams, water bodies, areas proposed to be cleared of vegetation or re-graded, and areas proposed
to be significantly excavated or blasted.

2.7. Copies of all Participating Landowner agreements and easement agreements. Dollar amounts
may not remain confidential.

2.8. Copies of any deeds or purchase agreements for land owned or under option by the Owner/
operator.

2.9. Receipt showing payment of application fees and escrow for professional and public hearing
fees.

2.10. A copy of the most current business plan for the WEF.

2.11. A copy of all collected and available relevant wind data for the WEF. This information is
a critical indicator of the long-term financial viability of the project.


2.13. Reference list of all previous WEFs with which the Owner/operator has been affiliated.

2.14. Proof of compliance with all required setbacks. The Applicant shall work with the
Permitting Authority to complete a pre-construction noise study per Appendix A.. This study
must be completed before the permit can be approved.

2.15. A detailed noise prediction model for worst-case noise scenarios based on wind speed and wind
direction for the WEFs. The study shall be projected onto a contour map for a minimum of two miles
from each Wind Turbine. Worst-case scenarios for each property line within the 2-mile radius,
measured horizontally from the Project Boundary, shall be reported in table form. The model will
address the unique mountainous terrain of the area. Noise predictions will include both single source
and line source origination. All underlying assumptions and algorithms in the model will be
documented.

2.16. As part of the review process, the Applicant will, per Maine TA Bulletin #4, provide written
demonstration that the noise standards in this Ordinance will be met.

2.17. The Wind Turbine manufacturer's noise emission specifications for each Wind Turbine model.

2.18. A shadow flicker and blade reflection model for the proposed WEF. The model will provide a
worst-case scenario (100%) seasonal representation for each Occupied Building.
within two miles of any Wind Turbine. The model will calculate maximum hours of shadow flicker and blade reflection in table form for each Occupied Building.


2.20. Written demonstration that the Wind Turbine Plan is consistent with the Prospect Site Plan Review Ordinance.

2.21. Documentation showing compliance with Section 15.2.2, both during construction and post construction.

2.22. Documentation showing compliance with Section 15.2.3 and with Section 15.2.4.

2.23. Documentation showing compliance with Section 15.2.5. Documentation must include a construction site erosion plan and storm water runoff control plan that minimizes potential adverse impacts on streams and wetlands.

2.24. Documentation showing compliance with Section 15.2.6.

2.25. Documentation showing compliance with Section 15.2.7.

2.26. Written evidence that the Environmental Coordinator of the Maine Department of Inland Fisheries and Wildlife and the Maine Natural Areas Program have both been notified of the pending application and the location and Turbine Height of all proposed Wind Turbines.

2.27. A Location of Development permit from the Maine Department of Environmental Protection (DEP) pursuant to Title 35-A M.R.S.A. §3451, Title 35-A M.R.S.A. § 3456 and Title 38 M.R.S.A § 482 is required unless the Wind Turbine: 1) does not sell or convert electricity for offsite use including net metering; and, 2) does not qualify as a Structure with a total land area in excess of 3 acres for the entire WEF.

2.28. A visual impact assessment pursuant to Section 15.3.

2.29. Photographs of existing conditions of each Wind Turbine and associated facility site.

2.30. Sight line, photographic, and elevation information shall be provided from: 1) each Occupied Building within the Setback; 2) from any Scenic or Special Resource location and other locations as the Permitting Authority deems necessary.

2.30.1 A Sight Line Representation shall be drawn that shows the lowest point to the Wind Turbine visible from each location. Each sight line shall be depicted in profile, drawn at one-inch equals 40 feet. The profiles shall show all intervening trees and physical structures.

2.30.2 Each Sight Line shall be illustrated by one four-inch by six-inch color photograph of the current view.

2.30.3 Each of the existing condition photographs shall have the proposed Wind Turbines superimposed on it to accurately simulate the WEF when built.

2.30.4 Elevations of the tops of any structures on the subject property relative to the elevation of the Wind Turbine(s)
2.30.5 The height and elevation relative to the Wind Turbine(s) of trees, both existing and proposed, that is to provide visual buffering. In the case of trees to be planted, the proposed height at the time of planting as well as the projected mature height is to be provided.

2.31. Demonstrate compliance with Section 13.3. Provide a written description of emergency and normal shutdown operations.

2.32. Demonstrate compliance with Section 14.1. Submit required permits from the Federal Aviation Administration.

2.33. Demonstrates compliance with Section 14.2.

2.34. Submit contract with Maine licensed professional engineer to conduct post construction structural and operational inspection and written agreement by Applicant to submit proof of successful inspection as a condition of permitting before operating WEF.

2.35. Proof of Liability Insurance in the amount of five million dollars ($5,000,000.00) per occurrence.

2.36. Time-line showing all aspects of the construction.

2.37. Photographs and detailed drawings of each Wind Turbine, including foundation design. Details must be provided of all significant excavation and blasting.

2.38. Demonstrate compliance with Section 15.4.3. A map shall be provided showing all transmission lines and rights-of-way that will need to be built or upgraded to accommodate the WEF. Applicant shall submit copies of signed letters of intent to grant easements, long term leases or other property rights from involved landowners and any governmental unit responsible for access, approval or construction of electric transmission and distribution lines, whether part of the WEF or part of the local electrical distribution grid. The Applicant shall submit an affidavit stating that no property will need to be taken by eminent domain to facilitate transmission lines necessary to support the project.

2.39. A geological report from a registered geotechnical engineer demonstrating that the soils can support the Wind Turbines and the underlying ground is geologically stable. The report shall include a slope stability analysis and any underlying fault zones.

2.40. A written summary of all routine operation and maintenance procedures for the WEF.

2.41. Demonstrate compliance with Section 15.6. Provide an estimate of required new equipment and training to be provided.

2.42. Document all potential hazardous wastes that will be used on the WEF, including but not limited to any chemicals used to clean the Wind Turbine blades, and how these wastes will be transported, handled, stored, cleaned up if spilled, and disposed of during any phase of the project's life.

2.43. A communication/electromagnetic interference study prepared by a registered professional engineer showing that the proposed WEF will comply with Section 15.7. The Owner/operator will sign an affidavit stating that the Owner/operator shall be responsible for the full cost remediation to remain in compliance with this Section.
2.44. Demonstrate compliance with Section 15.8. Before and after photographs or videos of the roadways, in a format approved by the Permitting Authority, shall be submitted as part of the documentation process.

2.45. A road and property use and risk assessment plan in compliance with Section 15.9.

2.46. An affidavit agreeing to comply with all provisions in Section 15.10.

2.47. An affidavit agreeing to comply with all provisions in Section 21.0.

2.48. A decommissioning plan in compliance with Section 22.0.

2.49. Copies of executed contracts as per Section 23.0.

2.50. An Tax Valuation Agreement must be submitted, if required under Section 24.1.

2.51. If the WEF crosses multiple municipal jurisdictions the Applicant shall demonstrate compliance with Section 24.4.

2.52. Copies of all written agreements and disclosure of all verbal promises, for contracts, subcontracts, employment, consulting fees, gifts or other remuneration in excess of $10 (cash or in-kind) to residents or businesses in Prospect, either previously made or contingent on permitting of this project.

2.53. An Affidavit agreeing to comply with all provisions of Section 25.5.

2.54. Applicant shall deliver a letter by certified mail to the owner of any property that the Applicant proposes to be restricted by the permit. The letter will state that the Applicant has filed an application, list future development that will be restricted, and to what extent it will be restricted, on abutting properties by virtue of the permit being granted. Examples of restrictions include, but are not limited to, building Occupied Buildings within the setback area without a Mitigation Waiver, building structures (i.e. Wind Turbines or cell towers that the WEF would interfere with), zones in which future telecommunication installations can expect interference from the WEF. Applicant must provide fair compensation to any nonparticipating landowners within the setback areas for restricting future development of their property.

2.55. Proof that the Applicant has notified the following agencies via certified mail and received any necessary permits or permissions for the project:

2.56. Federal Aviation Administration.

2.57. U.S. Department of Defense facilities located within 50 miles from the proposed WEF.

2.58. Other relevant studies, reports, certifications and approvals as may be reasonably requested by the Permitting Authority to ensure compliance with this Ordinance.

2.59. Signed affidavit from the Owner/operator that Applicant has read the Town of Prospect Wind Turbine Ordinance and agrees to abide by its provisions, as may be amended from time to time.