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Town of Vassalboro  
Addressing Standards  
Ordinance

**Section 1. Purpose**

The purpose of this ordinance is to enhance the easy and rapid location of properties for the delivery of public safety and emergency services, postal delivery and business delivery.

**Section 2. Authority**

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

**Section 3. Administration**

These standards shall be administered by the *Municipal Addressing Coordinator* who shall approve new road names and numbers to all properties, both on existing and proposed roads except as otherwise provided herein. The *Municipal Addressing Coordinator* shall be responsible for maintaining the following official records for these standards:

- a. A Vassalboro map for official use showing road names and numbers.
- b. An alphabetical list of all property owners as identified by current assessment records, by last name, showing the assigned numbers.
- c. An alphabetical list of all roads with property owners listed in order of their assigned numbers.

**Section 4. Naming System**

All roads in Vassalboro that serve two or more addresses shall be named regardless of whether the ownership is public or private. A road name approved by the town shall not constitute or imply acceptance of the road as a public way. The following criteria shall govern the naming system:

- a. Similar names - no two roads shall be given the same name
- b. Each road shall have the same name throughout its entire length within the Town.
- c. All new road names will be approved by the *Municipal Addressing Coordinator* except as otherwise provided herein.

## Section 5. Numbering System

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

a. All number origins shall begin from the westerly point of the former Old Federal Roads or Route 201 as appropriate or from the southerly point where roads enter into the communities of Augusta, Windsor or China. For dead end roads, numbering shall originate at the intersection of the adjacent road and terminate at the dead end.

b. The number assigned to each structure shall be that of the numbered interval falling closest to the front door or driveway of said structure.

c. Every structure with more than one principle use or occupancy shall have a separate number for each use or occupancy. (i.e., duplexes will have two separate numbers; apartments will have one road number with an apartment number, such as 235 Maple Street, Apt 2.)

d. Mobile Home lot numbers shall be assigned by the Park Owners.

## Section 6. Compliance

All owners of structures shall display and maintain in a conspicuous place on said structure, the assigned numbers in the following manner:

a. Number on the Structure or Residence. Where the residence or structure is within 50 (fifty) feet of the edge of the road right-of-way, the assigned number shall be displayed on the front of the residence or structure in the vicinity of the front door or entry.

b. Number at the Street Line. Where the residence or structure is over 50 (fifty) feet from the edge of the road right-of-way, the assigned number shall be displayed on a post, fence, wall, mail box, or on some structure at the property line adjacent to the walk or access drive to the residence or structure.

c. Size and Color of Number. Minimum 3" reflective numbers shall be displayed and shall be located as to be visible from the road.

d. Every person whose duty is to display the assigned number shall remove any different number which might be mistaken for, or confused with, the number assigned in conformance with this ordinance.

e. Interior location. All residents and other occupants are requested to post the assigned number and road name adjacent to their telephone for emergency reference.

## **Section 7. New Developments and Subdivisions**

All new developments and subdivisions shall be named and numbered in accordance with the provisions of these standards and as follows:

a. New Developments. Whenever any residence or other structure is constructed or developed, it shall be the duty of the new owner to procure an assigned number from the *Municipal Addressing Coordinator* or his/her designee. This shall be done at the time of the issuance of the building permit.

b. New Subdivisions. Any prospective subdivider shall show a proposed road name and lot numbering system on the pre-application submission to the Planning Board. Approval by the Planning Board shall constitute the assignment of road names and numbers to the lots in the subdivision. On the final plan showing proposed roads, the applicant shall mark on the plan, lines or dots, in the center of the streets every 50 (fifty) feet so as to aid in assignment of numbers to structures subsequently constructed.

## **Section 8. Effective Date**

This ordinance shall become effective as of June 7, 1996. It shall be the duty of the town to notify by mail each owner and the Post Office of the new address in a timely manner after the assignment of numbers. It shall be the duty of each property owner to comply with these standards within 30 (thirty) days of notification. On new structures, numbering will be installed prior to final inspection, or when the structure is first used or occupied, whichever comes first.

## **Section 9. Assigned Road Names**

The attached list dated June 7, 1996 shall be the adopted names of Roads in the Town of Vassalboro.

## **Section 10. Municipal Addressing Coordinator**

The Municipal Addressing Coordinator shall be appointed by the Board of Selectmen.

1	BOAT LAUNCH ROAD	3 MILE POND BOAT LAUNCH
2	ALFRED ROAD	FIRE ROAD 24
3	ASHBY ROAD	NORTH OF OAK GROVE OFF ROUTE 201
4	AUSTIN ROAD	OFF FIRE ROAD 33
5	BARROWS ROAD	CONNECTS WEBBER POND TO OLD FEDERAL ROAD
6	BEECH ROAD	FIRE ROAD 4
7	BIRCH POINT ROAD	PART OF FIRE ROAD 9
8	BOG ROAD	
9	BRANN ROAD	
10	BURLEIGH ROAD	OLD FEDERAL ROAD #1
11	BURNS ROAD	OFF CHURCH HILL ROAD
12	CAMP MEETING ROAD	FIRE ROAD 22
13	CANAL STREET	
14	CARLL LANE	
15	CARTER ROAD	FIRE ROAD 16
16	CEMETERY STREET	
17	CHURCH HILL ROAD	
18	COLE ROAD	FIRE ROAD 8
19	COOK MOUNTAIN ROAD	
20	CROSS HILL ROAD	
21	CROWELL HILL ROAD	
22	CUSHNOC ROAD	OLD FEDERAL ROAD #4
23	DAM ROAD	WEBBER POND DAM ROAD
24	DAM ROAD	FIRE ROAD 17
25	DANIELLE AVENUE	RIVA RIDGE SUBDIVISION
26	DOLLIS AVENUE	RIVA RIDGE SUBDIVISION
27	DOW ROAD	OLD POND ROAD NEAR DRIVING RANGE
28	DUNHAM ROAD	OLD FEDERAL ROAD #2
29	EAST POINT ROAD	FIRE ROAD 6
30	EVANS ROAD	OFF GRAY ROAD
31	FAIRWAY ROAD	FIRE ROAD 23
32	FORTIN ROAD	
33	GRAVEL PIT ROAD	OFF NELSON ROAD
34	GRAY ROAD	
35	GREEN VALLEY ROAD	FIRE ROAD 6A
36	GRENIER ROAD	FIRE ROAD 21
37	HANNAFORD HILL ROAD	
38	HOLMAN DAY ROAD	OLD FEDERAL ROAD #3
39	HORSESHOE ROAD	
40	HUNT ROAD	
41	HUSSEY HILL ROAD	
42	JONES ROAD	FIRE ROAD 2
43	LALIBERTY ROAD	FIRE ROAD 12
44	LANG STREET	
45	LANTZ ROAD	FIRE ROAD 13
46	LEGION PARK ROAD	
47	LEWIS ROAD	OFF 201
48	LOMBARD DAM ROAD	
49	LOON COVE ROAD	FIRE ROAD 32
50	LORD ROAD	FIRE ROAD 11

51	MAIN STREET	ROUTE 32
52	MAPLE STREET	
53	MASSE MILL ROAD	OFF ROUTE 32 E. VASSALBORO
54	MCQUARRIE ROAD	FIRE ROAD 15
55	MILL HILL ROAD	
56	MUDGETT HILL ROAD	
57	NELSON ROAD	
58	NORTH BELFAST AVENUE	ROUTE 3
59	OAK GROVE ROAD	
60	OLD STAGE ROAD	OFF OLD FEDERAL ROAD
61	OXLEY ROAD	OFF NELSON ROAD
62	PARK LANE	FIRE ROAD 34
63	PLEASANT COVE ROAD	FIRE ROAD 9
64	PLEASANT POINT ROAD	PART OF FIRE ROAD 9
65	POMERLEAU ROAD	OFF CROSS HILL ROAD
66	PREBLE HILL ROAD	
67	PRIEST HILL ROAD	
68	QUAKER LANE	
69	REDMAN ROAD	FIRE ROAD 5
70	REYNOLDS ROAD	
71	RIVA RIDGE ROAD	
72	RIVERSIDE DRIVE	ROUTE 201
73	ROWE DRIVE	OFF ROUTE 32
74	SANDY POINT ROAD	PART OF FIRE ROAD 33
75	SEAWARD MILLS ROAD	
76	SHERWOOD LANE	
77	SHOREY ROAD	FIRE ROAD 1
78	SOUTH COURT STREET	
79	ST. BRIDGET'S LANE	HORSESHOE NEAR CHURCH
80	STANLEY HILL ROAD	
81	STATION HILL ROAD	
82	STONE ROAD	
83	STRONG ROAD	FIRE ROAD 19
84	TABER HILL ROAD	
85	TARDIFF ROAD	FIRE ROAD 14
86	THREE MILE POND ROAD	
87	TILTON LANE	FIRE ROAD 10
88	TOWN FARM ROAD	
89	WALKER ROAD	
90	WEBBER POND ROAD	
91	WHITEHOUSE ROAD	OLD ROUTE 3
92	WYMAN ROAD	

**TOWN OF VASSALBORO  
ADULT-ONLY BUSINESSES ORDINANCE**

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## **TOWN OF VASSALBORO ADULT-ONLY BUSINESSES ORDINANCE**

### **Section I. Findings**

The Citizens of the Town of Vassalboro believe that sexually oriented businesses, because of their very nature, have negative secondary effects on surrounding areas. They have observed that in many communities throughout this country the presence of sexually oriented businesses is consistently and strongly associated with perceived decreases in value of both residential and commercial properties and the facilitation of illicit and undesirable activities. This evidence is relevant to issues facing the Town. It is recognized that sexually oriented businesses can adversely affect the character and quality of life of a town and can be incompatible with surrounding uses, particularly when the sexually oriented businesses are located in proximity to residences, day care centers, Schools, houses of worship, public parks or recreational areas. An ordinance is a proper and reasonable means of controlling the negative secondary effects of sexually oriented businesses.

### **Section II. Purpose**

The regulations of this Ordinance are not directed at the content of speech but are directed at the negative secondary effects of sexually oriented businesses. The purpose of this Ordinance is to regulate the place and manner of operation of sexually oriented businesses. It is intended to regulate and to annually license sexually oriented businesses, and to prevent their location in proximity to residences, day care centers, Schools, houses of worship, public parks or recreational areas. Regulation of these uses is necessary to insure that the negative secondary effects will not contribute to the blighting or downgrading of the surrounding areas of the Town at large. The purpose of this Ordinance is not to prohibit sexually oriented businesses from operating in the Town, but to regulate their location and manner of operation, while providing a reasonable opportunity for such businesses to exist.

### **Section III. Definitions**

The following terms as used in this Ordinance and for the purpose of the Ordinance have the meanings to them below:

- A. "Adult amusement store" means an establishment having as a substantial or significant portion of its sales or stock in trade, erotic material, or an establishment with a portion of the premises devoted to the sale or display of such material, or an establishment that holds itself out to the public as a purveyor of such materials based on its signage, advertising, displays, actual sales, presence of video preview or coin-operated booths, the exclusion of minors from the establishment's premises, or any other factors showing that the establishment's purpose is to purvey such material.
- B. "Adult motion picture theater," means an enclosed building used regularly and routinely for presenting motion picture or video material having as a dominant theme material distinguished or characterized by an emphasis on erotic material for observation by patrons therein.
- C. "Adult entertainment cabaret," means a public or private establishment which features entertainers who by reason of their appearance or conduct perform in a manner which is designed primarily to appeal to the prurient interests of the patron.

- D. "Adult spa," means an establishment or place primarily in the business of providing services of an erotic nature.
- E. "Sexually oriented business," means Adult amusement stores, Adult movie theaters, Adult entertainment cabarets, or Adult spas, as defined herein, or any business where erotic materials and activities are displayed, depicted, described or simulated as a regular and substantial part of its operation.
- F. "Residence," means any structure, which is principally used as a dwelling including, without limitation, a single family or multi-family house, an apartment, a condominium, or a mobile home.
- G. "Specified criminal activity," means a criminal conviction for any of the following offenses: prostitution or promotion of prostitution; dissemination of obscenity; sale, distribution, or display of harmful material to a minor; sexual performance by a child; or any similar sex-related offenses to those described above under the Maine Criminal Code or statutes of other states, the United States or any other nation or province, and for which:
- (1) less than two (2) years have elapsed since the date of conviction or the date of release from confinement or probation imposed for the conviction, whichever is the later date, if the conviction is for an offense punishable by a maximum term of imprisonment of less than one year;
  - (2) less than five (5) years have elapsed since the date of conviction or the date of release from confinement or probation imposed for the conviction, whichever is the later date, if the conviction is for an offense punishable by a maximum term of imprisonment of one year or more;
  - (3) less than (5) years have elapsed since the date of the last conviction or the date of release from confinement or probation imposed for the last conviction, whichever is the later date, if the convictions are for two or more offenses or combination of offenses occurring within any twenty-four (24) hour period, and all such offenses are punishable by maximum term of imprisonment of less than one year.

#### **Section IV. License Required**

A person or persons wishing to operate a sexually oriented business shall obtain an annual license (a) prior to opening the person's establishment, and (b) prior to expiration of the current annual license. A license issued under this Ordinance does not eliminate the requirements of any other Ordinance in Vassalboro including the Site Review Ordinance.

#### **Section V. Application; Investigation and Issuance of License**

1. Application. An applicant for sexually oriented business license shall:

- A. Complete and file an application prescribed by the Planning Board;
- B. Deposit a license fee and a processing fee in advance with the Town Clerk or the Code Officer. The amount of which fees are to be set by the Board of Selectmen and amended from time to time.

- C. Submit the completed application to the Planning Board through the Code Enforcement Officer, together with attested copies of the articles of incorporation and bylaws, if the applicant is a corporation, evidence of partnership, if a partnership, or articles of association and bylaws, if the applicant is an association, as well as a list of all officers and directors;
  - D. File a sworn affidavit, which states the names of all owners, officers, managers or partners of the applicant, and their places of residence at the time of the application and for the immediately preceding three (3) years;
  - E. File the release authorized by 16 M.R.S.A, Section 620(6) (Criminal History Record, Information Act) with the application, for the applicant and each officer, owner, manager or partner of the applicant;
  - F. Submit evidence of right, title or interest in the premises in which the sexually oriented business will be sited, along with the written consent of the owner of the premises for such use if applicant is not the owner;
  - G. State the date of initiation of the sexually oriented business and the nature of the business with a description of the nature of all products and services offered to customers.
  - H. Submit evidence of compliance with Section X of this Ordinance and evidence that there is no basis for denial of a license to applicant under the standards listed in Section VI of this Ordinance.
2. Investigation of applicant, officers. Upon receipt of an application or notice of a change of the owners, officers, managers or partners of the applicant:
- A. The Code Officer, upon receipt of a completed application, shall immediately send a copy of the complete application to the Town Manager, and the Planning Board. The Code Officer shall also immediately consult with the Chairman of the Planning Board and arrange for public notice of a public hearing on the application in a newspaper of general circulation and by mail to owners of lots within 1000 feet of the proposed location of the structure, at least 10 days prior to the public hearing before the Planning Board. The costs of publication, certified mail postage, and other expenses related to the hearing shall be paid from the processing fee. After receipt of required reports from the Town officials, the Code Officer shall forward the application and other documents to the Planning Board for public hearing and final decision. The hearing shall be held within thirty (30) days after receipt of a complete application by the Code Officer and a decision shall be made within fifteen (15) business days thereafter.
  - B. The Code Enforcement Officer; within fifteen days of receipt of the application, shall inspect the location or proposed location and construction drawings to determine whether the applicant's proposed plan satisfies the setback and construction requirements of this ordinance and then report findings in writing to the Planning Board. The Code Enforcement Officer shall enforce the provisions of all the applicable Town Ordinances and State Laws as indicated in accordance with 30-A M.R.S.A. 4452.

- C. The Code Enforcement Officer with the help of the Town Police Chief, shall investigate the applicant, including the criminal history record information required under Section V (1) (E), and then report findings in writing to the Planning Board, and
  - D. The Code Enforcement Officer, within fifteen days of receipt of the application, shall verify that the proposed premises of the establishment will comply with Section X and with all other applicable State and Town laws and land use codes of the Town and then report findings in writing to the Planning Board. The Code Officer will also verify whether or not other permitting under local Ordinances and state laws is required in addition to verification for compliance.
3. Issuance of license. The Planning Board, after notice and public hearing, shall determine whether the application and documents submitted comply with all of the requirements of this Ordinance. The license shall be issued upon determination by the Planning Board, based upon the record, including evidence and testimony at the public hearing, that the applicant meets the requirements of this Ordinance. The license may not be transferred or assigned.

#### **Section VI. Standards of Denial**

An application for a sexually oriented business license shall be denied in the following circumstances:

- A. The applicant is a corporation or other legal entity that is not authorized to do business in the State of Maine;
- B. The applicant is an individual who is less than 18 years of age;
- C. The applicant has submitted an incomplete application, knowingly made an incorrect statement of a material nature, or failed to supply additional information required that is reasonably necessary to determine whether the license can be issued;
- D. The applicant, if an individual, or any person having an ownership or management interest, if a corporation or other legal entity, has been denied a sexually oriented business license for knowingly making an incorrect statement of a material nature within the immediately preceding five years;
- E. The applicant, if an individual, or any person having an ownership or management interest, if a corporation or other legal entity, has had a license granted pursuant to this Ordinance or a similar ordinance provision in any other municipality revoked for any reason during the immediately preceding five years;
- F. The applicant, if an individual, or any person having an ownership or management interest, if a corporation or other legal entity, has committed any Specified Criminal Activity as defined herein;
- G. The site on which the sexually oriented business is proposed is a prohibited site under Section X, or
- H. The application in any other way fails to meet the requirements of this Ordinance.

**Section VII. Standards for Suspension; Revocation**

A sexually oriented business license may be suspended or revoked by the Planning Board after notice and hearing upon a finding that the licensee has violated any provision of this Ordinance. Providing false or erroneous information in an application shall be a reason for revoking or suspending a permit.

**Section VIII. Age Restriction**

No sexually oriented business may permit any person under the age of 18 years into the premises in which the sexually oriented business is located.

**Section IX. Prominent Display of License; Price Charges and Names of Owners or Officers**

A sexually oriented business licensee must display the sexually oriented business license at all times in an open and conspicuous place in the sexually oriented business for which the license has been issued. Sexually oriented business licenses must also display at all times in an open and conspicuous place in the sexually oriented business a complete list of the names of owners and officers of the sexually oriented business and a complete list of fees, prices charged for all food, beverages, goods, wares, merchandise or services offered by the business unless the price is conspicuously displayed on the individual product.

**Section X. Prohibited Sites; Site Requirements**

1. A sexually oriented business may not be sited within 500 feet of the closest part of the structure of a business which caters to the general public or 1,000 feet of the closest part of the structure of any of the following:
  - A. A church, synagogue or other house of religious worship;
  - B. A public or private elementary or secondary school;
  - C. A day care facility;
  - D. A public park or public recreational facility;
  - E. Any residence on adjacent property, excepting the owner or proprietor;

The distance cited in this section shall be measured between the closest edge of the structure of the sexually oriented business and the closest edge of the structure of the use listed (A) through (E) above.

2. A sexually oriented business will be required to construct a visual barrier around the sides of the business as required by the Planning Board
3. It shall be unlawful for any person to cause or permit the operation, establishment, substantial enlargement, or transfer of ownership or control of a sexually oriented business within one thousand (1,000) feet of another sexually oriented business.
4. It shall be unlawful for any person to cause or permit the operation or establishment of more than one sexually oriented business in the same building, structure, or portion thereof.

## **Section XI. Signs and Exterior Layout of Sexually Oriented Businesses**

1. Sexually Oriented Businesses shall have an 8.5 inch by 11 inch sign at each entrance stating “Under 18 not admitted” or similar wording accepted by the Planning Board.
2. Sexually Oriented Businesses may have an 8.5 inch by 11 inch sign at entrances listing business hours, and appropriately posted signs, with letters no larger than 3 inches high, stating “Entrance”, “Parking”, “No Loitering” or other wording approved by the Planning Board.
3. Sexually Oriented Businesses shall have only one exterior identification sign.
  - A. The sign shall contain only the name of the establishment and “XXX” or the type of business as defined in Section III above.
  - B. The sign may not contain any other symbols or illustrations.
  - C. The sign must meet the approval of the Planning Board, who may require changes if they believe the proposed sign would be offensive to a significant number of Vassalboro residents.
  - D. The exterior dimension of the sign shall not exceed 30 square feet.
  - E. The sign may be two sided.
  - F. The sign may be unlit, internally lit, or lit with spotlights.
  - G. The lights may not blink.
  - H. The bottom of the sign may not be more than 10 feet above grade.
  - I. The top of the sign may not be more than 15 feet above grade.
4. No signs or symbols, except as permitted in Section XI, paragraphs 1 through 3 above, shall be visible from the exterior of the establishment.
5. Exterior lights shall be used for necessary illumination; they shall not blink nor be so bright as to unduly disturb neighbors or passersby, as determined by the Planning Board.

## **Section XII. Prohibited Activities**

- A. All acts of public indecency, as defined in 17-A M.R.S.A., Section 854, are prohibited in sexually oriented businesses.
- B. All other acts prohibited by applicable ordinances or laws.
- C. No alcoholic beverages allowed on the premises.
- D. The sexually oriented business hours of operation will be allowed anytime during the hours of 8:00 am – Midnight seven days a week.

### **Section XIII. Enforcement**

A violation of this Ordinance is a civil violation and the civil penalties and remedies under Section XV shall apply. The owner of the premises on or in which the sexually oriented business is located, who is not the licensee of the sexually oriented business, is jointly and severally liable with the licensee for any violation of Sections X to XIII. The Ordinance shall be enforced by the Code Enforcement Officer, the Planning Board, and any law enforcement officials having jurisdiction within the Town of Vassalboro. If court action is required to enforce this Ordinance, the Town shall be awarded its enforcement costs, including its reasonable attorney's fees.

### **Section XIV. Penalties**

Violation of this Ordinance shall result in a monetary penalty beginning on the date a notice of violation from the Code Officer is mailed to the Applicant at the address contained in Town records. If the violation is not remedied within ten days of notice being sent, the Code Officer shall send a second notice. Fees are to be set by the Board of Selectmen and amended from time to time. Remedying a violation does not prohibit the Planning Board from suspending the license as provided in Section VII. "Standards for Suspension, Revocation."

### **Section XV. Severability**

If any section, phrase, sentence or portion of this Ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision, and such holding shall not affect the validity of the remaining portions thereof.

### **Section XVI. Conflict with Other Ordinances**

Whenever a provision of this Ordinance conflicts with or is inconsistent with another provision of this Ordinance or of any other Ordinance, regulation or statute, the more restrictive provision shall apply.

### **Section XVII. Appeals**

An appeal from any final licensing, denial, suspension or revocation decision of the Planning Board may be taken by an aggrieved party to the Vassalboro Appeals Board within 30 days of the decision. The decision of the Vassalboro Appeals Board may be taken to Superior Court in accordance with the provisions of Rule 80B of the Maine Rules of Civil Procedure. Service of Process shall be served on the Town Clerk. The Town shall file its responsive pleadings and record of proceedings with the Court not later than ten (10) business days after service of the summons and complaint. Additionally, the Town shall submit its responsive brief within fourteen (14) days after receipt of the plaintiff's brief, and shall move for an expedited hearing. All enforcement action, if any, shall be stayed during the pendency of the Rule 80B appeal.

### **Section XVIII. Effective Date**

This Ordinance shall become effective immediately after approval by the voters of the Town of Vassalboro.

**ANIMAL CONTROL ORDINANCE  
VASSALBORO, MAINE**

As a general rule, municipalities may legislate where there is a local concern or interest. This is so, even if the State has acted in the same area, provided the municipal ordinance imposes higher standards and does not conflict with the statutes. It is intended that this “ANIMAL Control Ordinance” meet the following requirements.

**1. ANIMALS TO BE LICENSED**

No animal “required to be licensed” shall be kept within the limits of the Town of Vassalboro unless such animal shall have been licensed by its owner in accordance with the statutes of the State of Maine.

For the purpose of this Chapter “Owner” shall mean any person or persons, firm, association or corporation owning, keeping or harboring an animal.

**2. ANIMALS RUNNING AT LARGE.**

No owner of any animal, shall permit such animal to run at large within the town of Vassalboro.

For the purposes of this Chapter “Run At Large” shall mean off the premises of the owner and not under the control of any person by leash, cord, chain, voice control or otherwise.

**3. BARKING DOGS**

No owner shall keep or harbor any animal within the legal limits of the Town of Vassalboro, which by loud, frequent, or habitual barking, howling, yelping, or other loud or unusual noises shall disturb the peace of any person or persons anytime day or night.

Upon written complaint by the person disturbed, signed and sworn to, any constable, duly qualified law enforcement official or animal control officer may investigate and may give written notice to the owner or keeper of such animal that such annoyance or disturbance must cease. The warning shall be made part of the complaint. Thereafter, upon continuance of such annoyance or disturbance, such owner shall be guilty of a civil violation and upon conviction thereof shall be punished by a fine of \$50.00 for the first offense. Each additional conviction after the first conviction shall be punished by a fine of \$50.00. All fines so assessed and attorney fees shall be recovered for the use of the Town of Vassalboro through District Court.

**4. IMPOUNDMENT**

Any police officer “or Animal Control Officer” of the Town of Vassalboro on complaint shall apprehend any animal kept in violation of the licensing provision of Section 1, animals running at large, or disturbing the peace by barking in violation of Section 3 and impound such animal in a suitable place.

The person in control of impounding upon receiving any animal shall make a complete registry, entering the breed, color and sex of such animal and whether licensed or unlicensed. If licensed he shall enter the name and address of the owner and the number of the license tag.

**5. NOTICE OF IMPOUNDMENT**

If the owner or keeper of such impounded animal is known or can be ascertained with reasonable diligence, then the person in control of impounding shall notify such owner or keeper as soon as possible, and in any case not later than 3 days of the receipt of such animal. If the owner of such animal is not known and cannot be ascertained with reasonable diligence, then the person who has control of impounding shall deliver such animals to a suitable place.

**6. RELEASE FROM IMPOUNDMENT**

The owner or keeper of any impounded animal may obtain the release of such animal by appearing before the person in control of impounding within 7 days of receiving notice of such impounding and satisfy the following requirements:

- (a) Compliance with all licensing requirements of the State of Maine and Town of Vassalboro.
- (b) Payment to the Town Treasurer of impoundment fee of \$25.00.

## **7. DISPOSITION OF ANIMAL**

Upon the expiration of the 7 day period and such animal has not been reclaimed by its owner or keeper, the animal may be humanely destroyed or placed in the custody of some person deemed to be a responsible and suitable owner, who will agree to comply with the provisions of this ordinance. The person having control of impounding shall keep a record of the disposition made of each animal placed in his control. Such record shall include the manner of disposing of such animal and, if such animal is transferred to another person, the name and address of the transferee. In addition, the transferee shall sign a statement giving his name, address and the date of delivery or receipt of the animal.

## **8. PENALTIES:**

Any person who fails to comply with the provisions of the Ordinance shall be punished by a fine of not less than \$75.00, nor more than \$400.00 plus reasonable attorney's fees and costs incurred by the Town of Vassalboro, Maine, recoverable in a civil action in Maine District Court. The Town of Vassalboro or any appropriate officer may institute proceedings to enjoin violations of this Ordinance. Any fines imposed under this Ordinance shall revert to the Town of Vassalboro.

## **9. This animal control ordinance as revised and approved replaces any other animal control ordinance, which may be in force at the present time.**

Enacted: March 1970

Amended: November 2, 2004

**Town of Vassalboro**

**Automobile Graveyard and Junkyard Ordinance**

*Amended June 2008*

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# **Town of Vassalboro**

## **Automobile Graveyard Ordinance**

Ordinance to Regulate Automobile Graveyards, Automobile Hobbyists, Junkyards and Automobile Recycling Businesses

### **Section 1. Purpose**

Junkyards, automobile graveyards and automobile recycling businesses pose potential risks to the environment, particularly to groundwater and surface water quality if gasoline, oil or other fluids are not managed and disposed of properly. Proper location and operation of these facilities are critical to ensure protection of groundwater and surface water quality, other natural resources and the health and welfare of Vassalboro residents. These facilities may create nuisance conditions potentially affecting abutting landowners and others if not located and operated properly. For these reasons, it is declared that these facilities are appropriately subject to certain environmental and operational standards.

It is recognized that some individuals within town enjoy restoring or collecting vehicles as a hobby. Language within the Ordinance allows a limited number of unregistered and uninspected vehicles for an automobile hobbyist subject to proper operating standards to insure protection of the environment and neighboring properties .

### **Section 2. Authority**

This ordinance has been prepared in accordance with the provisions of Title 30-A M.R.S.A., §3001 and § 3751 et seq., except that requirements for automobile hobbyists are more stringent than State Law.

### **Section 3. Applicability**

This ordinance shall apply to all automobile graveyards, automobile hobbyists, junkyards, and automobile recycling businesses as defined in this Ordinance. It shall also apply to any parcel that meets the definitions contained herein regardless of the intent of the owner of said parcel to operate an automobile graveyard, junkyard, or automobile recycling business. A permit from the Planning Board to operate a business that sells used items does not affect the need for a license.

### **Section 4. Administration**

1. Administration - This ordinance shall be administered by the municipal officers and their designees.
2. Permit Required - A person may not establish, operate or maintain an automobile graveyard, automobile recycling business or junkyard without first obtaining a permit from the Municipal Officers. An automobile hobbyist, as defined in Section 11 of this Ordinance shall also obtain a permit from Municipal Officers.

A permit shall not be issued unless the provisions of this ordinance are met. The municipal officers or their designees shall annually inspect these facilities to ensure compliance of the provisions of this Ordinance and State Law.

3. Permit Renewal - Permits shall be renewed every year except that automobile recycling business permits shall be renewed every five years. Permits shall be renewed on October 1.
4. Public Hearing Required - Upon receipt of an application for a new junkyard, automobile graveyard, automobile hobbyist, or automobile recycling business, the municipal officers shall hold a hearing in accordance with 30-A M.R.S.A. § 3754. A public hearing shall also be held annually for the re-licensing of these facilities.
5. Nontransferable Permit: A permit issued under this ordinance may not be transferred to another individual. In the event of a sale of a parcel issued a permit under this ordinance, the new owner must apply for a new permit.
6. Permit Fee - The fee shall be determined by Title 30-A, M.R.S.A., § 3456, except that a fee of an automobile hobbyist shall be ½ that of an automobile graveyard.
7. Automobile Recyclers and Dealers - A permit, other than a limited-term permit as described in this section, may not be granted for an automobile graveyard or automobile recycler that is not in compliance with all applicable provisions of the automobile dealer or recycler licensing provisions of Title 29-A, chapter 9. Municipal officers may award a limited-term permit conditioned upon an automobile graveyard's or automobile recycling business's demonstrating compliance with the provisions of Title 29-A, chapter 9 within 90 calendar days of the issuance of the municipal limited-term permit. An automobile hobbyist permit shall not be granted for automobile recyclers or dealers as defined in this Ordinance.
8. Relationship to State Stormwater Requirements - Municipal Officers shall reject an application for an automobile graveyard or automobile recycling business if the applicant has not demonstrated that a notice of intent has been filed with the Department of Environmental Protection to comply with the general permit conditions for storm water discharges or the Department of Environmental Protection has determined that a stormwater discharge permit is not required.

## **Section 5. Permit Application Requirements**

### **A. Application Requirements for Automobile Graveyards, Junkyards, and Automobile Recycling Businesses.**

1. The property owner's name and address and the name and address of the person or entity that will operate the site.
2. A demonstration that the facility for which a permit is being pursued is a viable business entity and the facility is actively engaged in the business of salvaging, recycling, dismantling, processing, repairing, or rebuilding junk or vehicles for the purpose of sale or trade.
3. The number of vehicles stored, crushed, and shredded at the facility in the past year.

4. A written plan for the containment of fluids, containment and disposal of batteries and mercury switches and storage or disposal of tires
5. Evidence that a log is being maintained of all motor vehicles handled that includes the date each vehicle was acquired, a copy of the vehicle's title or bill of sale, and the date or dates upon which all fluids, refrigerants, batteries, and mercury switches were removed.
6. Evidence that applicant has applied for a DEP stormwater permit or one is not needed.
7. A site plan drawn to a scale not to exceed 1" = 100', on which is shown:
  - a. The boundary lines of the property and the location of screening;
  - b. The location of any sand and gravel aquifer recharge area, as mapped by the Maine Geological Survey, or a licensed geologist;
  - c. The location of any residences, public areas including but not limited to buildings, parks, playgrounds, bathing beaches, churches, cemeteries or schools within 500 feet of the area where vehicles will be stored or dismantled;
  - d. The location of any waterbodies on the property or within 300 feet of the property lines;
  - e. The boundaries of the 100-year flood plain, if applicable;
  - f. The location of all roads within 1000 feet of the site; and
  - g. The location of any wells within 500 feet of the site
  - h. The location within the property boundary lines where vehicular fluids are drained, and vehicles dismantled, and stored

Site plan requirements, once approved, may be waived by the CEO in subsequent license renewals if after reviewing plans with the applicant, the CEO determines that no significant changes have occurred since the last license renewal

- B. Application Requirements for Automobile Hobbyists - An application for the licensing of an automobile hobbyist shall include the following information:
1. The property owner's name and address
  2. The nature of the hobby (personal/family use, re-sale, antique collector, classic vehicles, street rods, ect.)
  3. The number of unregistered and uninspected vehicles on the applicant's property
  4. The year, make, and model of each vehicle
  5. A plan for the containment of vehicular fluids, batteries, and mercury switches, if applicable.

## Section 6 Operating Standards

The following operating standards are required of all permitted automobile graveyards, junkyards, or automobile recycling businesses as of the adoption date of this ordinance:

1. Screening Required - The site must be screened from ordinary view of abutting properties and passing motorists at all times by natural objects, plantings, or well constructed and maintained fences at least 6 feet in height; and placed a minimum of 100 feet from any highway. The height of the screen shall be adequate to

screen from view all materials located within the yard. At no time can the materials located inside the fence be placed in a manner that they can be seen from outside the fence.

2. Setbacks - No vehicle, motor or transmission or appliance containing fluids shall be stored or dismantled within:
  - A. 500 feet of any public area including but not limited to buildings, parks, playgrounds, bathing beaches, churches, cemeteries or schools. This prohibition does not apply to public areas created after an automobile graveyard, junkyard or automobile recycling business has already received a permit under this Ordinance.
  - B. 300 feet of any water body or inland wetland.
  - C. 500 feet of any public or private well or water supply, except that facilities currently licensed prior to the effective date of this ordinance that do not meet this setback may continue to operate, provided that there is no evidence of contamination of abutting water supplies or significant encroachment of pollutants toward abutting water supplies. This setback does not include the private well that serves only the automobile graveyard or recycling business and the owner or operator's abutting residence. This setback does not apply to wells installed after an automobile graveyard, junkyard or automobile recycling business has already received a permit under this Ordinance.
  - D. 20 feet from any lot line unless the operator has notarized written permission from the abutting property owner.
3. No vehicles, motors or transmissions or appliances containing fluids shall be stored or dismantled over a sand and gravel aquifer or aquifer recharge area as mapped by the Maine Geological Survey, or a licensed geologist.
4. No vehicles or motor or transmission shall be stored within the 100-year flood plain.
5. The dismantling of all vehicles must be performed in accordance with the following operating standards:
  - A. Within 180 days of acquisition, batteries, mercury switches and all fluids including but not limited to the engine lubricant, transmission, brake, power steering, hydraulic, engine coolant, refrigerants, gasoline, diesel fuel, and oil shall be removed from parts of vehicles and vehicles that are incapable of being driven under their own motor power. Fluids shall be drained into watertight, covered containers and shall be recycled, stored and disposed of according to all applicable Federal and State laws, rules, and regulations regarding disposal of waste oil and hazardous materials.
  - B. Proof of where the fluids are being taken must be provided at the time of application.
  - C. No discharge of any fluids from any motor vehicle or appliances shall be permitted into or onto the ground
  - D. A log must be maintained of all motor vehicles handled that includes the date each vehicle was acquired, a copy of the vehicle's title or bill of sale, and the date or dates upon which all fluids, refrigerants, batteries, and mercury switches were removed.

- E. All fluids refrigerants, batteries, and mercury switches must be removed from motor vehicles, appliances, and other items before crushing or shredding.
  - F. Motor vehicles, appliances, and other items acquired by and on the premises of a junkyard or automobile graveyard prior to October 1, 2005 must have all fluids, refrigerants, batteries, and mercury switches removed by the enactment of this Ordinance as required in 30-A M.R.S.A. § 3754-A and § 3755-A. For those automobile graveyards or recycling businesses that are unable to meet this deadline, a schedule for compliance must be made that is satisfactory to the Municipal Officers.
  - G. Junkyards and automobile graveyards owners must demonstrate at the time of licensing that the facility for which they seek a permit is a viable business entity and the facility is actively engaged in the business of salvaging, recycling, dismantling, processing, repairing, or rebuilding junk or vehicles for the purpose of sale or trade.
6. Automobile Hobbyist Operating Standards – The following operating standards are required of all persons licensed as an automobile hobbyist.
- A. Screening as indicated in paragraph 1 of this section may be required under the discretion of Municipal Officers for those sites that are determined to be detrimental to existing properties within the neighborhood or public and private development within the neighborhood.
  - B. Dismantling requirements as indicated under operating standards 5 A, B, and C of this section shall be required for all vehicles or vehicle parts stored on the premises more than 180 days and are incapable of being driven under their own motor power.

## **Section 7 Enforcement**

- 1. Enforcement - This ordinance shall be enforced by the municipal officers or their authorized agents in accordance with state law. The municipal officers or their authorized agents shall annually inspect, or cause to be inspected, the site to ensure that the provisions of this ordinance and state law are complied with.
- 2. Penalties - Any violation of this ordinance shall also be deemed a nuisance within the meaning of 17 M.R.S.A. § 2802 and the violator shall be subject to the penalties set forth in 30-A M.R.S.A. § 4452 and any other remedy available at law.
- 3. Suspension and Revocation of Permit - The municipal officers may suspend or revoke a license upon just cause, notice, and hearing for any violation of this ordinance.
- 4. Removal of All Materials After Permit Denial or Revocation. The owner or operator of a junkyard, automobile graveyard or automobile recycling business for which a permit has been denied or revoked shall, not later than 90 days after all appeals have been denied, begin the removal of all vehicles, vehicle parts and materials associated with the operation of that junkyard, automobile graveyard or automobile recycling business. The property must be free of all scrapped or junked vehicles and materials not later than 180 days after denial of all appeals.

An alternative schedule for removal of junk or vehicles may be employed if specifically approved by the municipal officers or county commissioners

5. Right of Entry – Municipal Officers or their designees may, to determine compliance with this Ordinance and any laws, license or permit approvals, decisions, or conditions:
  1. Enter any automobile graveyard, junkyard, or automobile recycling business and inspect all outside areas, equipment, and activities at reasonable hours
  2. Enter any building on the property with the consent of the owner and occupant, or agent at reasonable hours

## **Section 8. Effective Date and Amendment**

This ordinance shall become effective 90 days after adoption, and may be amended by vote of the legislative body.

## **Section 9. Severability and Conflict**

In the event that any provision of this ordinance is ruled to be invalid by a Court of competent jurisdiction, the remaining provisions shall continue in full force and effect. In the event that any provision of this ordinance conflicts with State statute, the stricter provision shall govern.

## **10. Appeals**

A decision, or determination made by the Municipal Officers or the Code Enforcement Officer regarding the interpretation of the requirements or conditions of this Ordinance or failure to act on applicable provision of this Ordinance may be taken to the Board of Appeals by an aggrieved person. Such an appeal shall be made by filling a written statement to the Board of Appeals within 30 days of the decision appealed from. The written statement should state what relief is requested and why it should be granted. Upon receipt of the appeals request, the Board of Appeals shall hold a public hearing within 35 days.

## **Section 11. Definitions**

1. **Automobile Dealer** – A person engaged in the business of buying, selling, exchanging, negotiating, or advertising a sale of vehicles as determined by the any of the following:
  - a. Buying vehicles for the purpose of resale,
  - b. Selling more than 5 vehicles in any 12 month period, or
  - c. Advertises in any form 3 or more vehicles for sale or displays three or more vehicles for sale within any thirty day period.

2. **Automobile graveyard.** "Automobile graveyard" means a lot used to store three or more unserviceable, unregistered, or uninspected vehicles as defined in Title 29-A, section 101, subsection 42, or parts of such vehicles. "Automobile graveyard" includes an area used for automobile dismantling, salvage and recycling operations. "Automobile graveyard" does not include the following establishments as defined in MRSA 30-A, §3752.
1. An area used for the temporary storage of vehicles or vehicle parts of an establishment or place of business that is primarily engaged in doing vehicle repair work to make repairs to render a motor vehicle serviceable.
  2. An area licensed by the Town as an Automobile Hobbyist as defined in this Ordinance, subject to conditions of this Ordinance.
  3. An area used for the parking or storing of vehicles by a municipality, state, or federal agency
  4. An area used for the storage of operational farm tractors and related farm equipment, log skidders, logging tractors, or other equipment exempted from registration under Title 29-A, chapter 5.
  5. An area used for the parking or storing of vehicles by a used or new vehicle dealer, equipment dealer, trailer dealer, or vehicle auction business, as defined in Title 29, section 851.
  6. An area used for the temporary storage of vehicles by an establishment or place of business that is primarily engaged in business as an insurance salvage pool.
3. **Automobile Hobbyist.** – A person owning three to five unregistered and uninspected vehicles in any given year located on one lot. A hobbyist restores, displays, or collects vehicles that are or will be useable within a reasonable time period, except those vehicles that are primarily used for parts and are subjected to dismantling requirements as indicated in Section 6-5 of this Ordinance. This includes antique and classic vehicles, street rods, or vehicles for personal use and resale. A person who uses their lot primarily for storage of these vehicles does not meet the definition of an automobile hobbyist. An automobile hobbyist must demonstrate at the time of licensing that he or she is actively engaged in restoring, displaying, using, or reselling vehicles that are being licensed. An automobile hobbyist shall not meet the definitions of an automobile dealer or recycler as defined in this section. An automobile hobbyist shall not be primarily engaged in the business of selling vehicles or parts, and any income generated from this venture shall be secondary to another employment.
4. **Automobile Recycler** – A person engaged in the business of purchasing or acquiring vehicles for the purpose of:
- A. Reselling the vehicles or its component parts,
  - B. Rebuilding or repairing the vehicles for the purpose of sale or trade,
  - C. Selling the vehicles basic parts,
  - D. Displaying or storing the vehicle or its parts, or
  - E. Acting as a scrap processor

This definition is exclusive of an automobile hobbyist who may be permitted to own up to five unregistered and uninspected vehicles per year and whose primary purpose may be rebuilding and repairing the vehicles for sale or personal use.

5. **Automobile recycling business.** "Automobile recycling business" means a lot which includes the business premises of a dealer or recycler licensed under Title 29-A, sections 851 to 1112, who purchases or acquires salvage vehicles for the purpose of reselling the vehicles or component parts of the vehicles or rebuilding or repairing salvage vehicles for the purpose of resale or for selling the basic materials in the salvage vehicles. An automobile recycling business does not include:
  - A. Financial institutions as defined in Title 9-B, section 131, subsections 17 and 17-A;
  - B. Insurance companies licensed to do business in the state; or
  - C. New vehicle dealers as defined in Title 29-A, section 851, licensed to do business in the State.
  - D. That portion of a business premises that is used for the temporary storage of vehicles by an establishment or place of business as an insurance salvage pool.
6. **Highway.** "Highway" means any public way.
7. **Junkyard.** "Junkyard" means a lot used to store, dismantle, or otherwise handle:
  - A. Discarded, worn-out or junked plumbing, heating supplies, electronic or industrial equipment, household appliances and furniture;
  - B. Discarded, scrap and junked lumber; or
  - C. Old or scrap copper, brass, rope, rags, batteries, paper trash, rubber debris, waste and all scrap iron, steel, and other scrap ferrous or nonferrous material.
8. **Lot** – A property within the town of Vassalboro as defined under the tax map and lot system. For the purposes of this Ordinance, abutting lots under a single ownership are considered as one lot.
8. **Temporary Storage** In order for a vehicle's storage to be considered temporary, it must be removed from the site within 180 calendar days of its receipt.

**Town of Vassalboro  
Conservation Commission Ordinance**

Adopted May 1988  
Amended June 2008

**The Vassalboro Conservation Commission Ordinance**

As recommended by the Town's Strategic Plan adopted June 2006, the Vassalboro Conservation Commission is hereby established.

**I. Authority**

This ordinance has been prepared in accordance with the provisions of Home Rule Authority, MRSA, Title 30-A § 3001 and § 3261.

**II. Effective Date**

The effective date of this Ordinance is June 30, 2008. A certified copy of this Ordinance and any amendments thereto shall be filed with the Town Clerk and shall be made available to the public upon request according to requirements of State Law.

**III. Conflict with other Ordinances**

Nothing in ordinance shall be construed to conflict with or usurp any duties, powers, of functions of the Recreation Committee or any other Town Ordinance.

**IV. Purpose**

The purpose of the Commission as recommended by the Town's Strategic Plan is to protect the environmental health of the community and to play a role in implementing the natural resource strategies and goals of the Strategic Plan which include

1. To protect and manage the quality of the Town's water resources including rivers, streams, ponds and aquifers.
2. To protect the Town's critical natural resources including wetlands, wildlife and fishery habitats, shoreland, scenic vistas, and unique natural areas.
3. To safeguard the town's agricultural and forest resources from development that threatens those resources.

**V. Appointment of Commissioners**

The Municipal Officers may appoint 3 but not more than 7 conservation commissioners serving without pay. Members shall initially be appointed for terms of 1, 2, and 3 years, such that the terms of approximately 1/3 of the members will expire each year. Their successors shall be appointed for terms of 3 years each. Members shall serve until the appointment of a new successor. Members may serve for more than one term.

**VI. Duties of the Commission**

The Commission shall

1. Keep records of its meetings and activities, and shall make an annual report to be included in the annual report of the Town

2. Foster an open dialogue with local, state, and regional conservation groups that promote land trusts and land preservation programs. Activities that foster interest in preservation programs should be offered to willing landowners.
3. Work with local and regional watershed groups and DEP on water quality projects that promote improvements and protection to water quality of rivers, lakes, streams and groundwater within the Town.
4. Cooperate with local farmers and foresters and other regional, state, and federal organizations to seek ways to promote the economic health and vitality of agriculture and forestry.
5. Develop and update an index of all open areas whether publicly or privately owned, including but not limited to open marsh, swamps, wetlands, conserved lands, scenic areas, and natural undeveloped land with special qualities worth protecting.
6. Develop a town trails plan. Promote the use of existing trails and seek opportunities for new trails.
7. Monitor the environmental health and vitality of the Town's natural resources and seek ways to maintain their vitality

## **VII. Power of Commission**

The Commission may:

1. Form subcommittees of town citizens and local and regional conservation groups on a voluntary basis as necessary to assist with the duties of the Commission
2. Recommend to the Municipal Officers and Planning Board programs for the better protection, development, or use of identified open areas including the acquisition of conservation easements, ordinance revisions or enactment, or develop prepared plans.
3. Recommend land acquisitions in the municipality's name for any purpose set forth in this ordinance subject to the approval of the municipal legislative body.
4. Advertise, prepare, print, and distribute books, maps, charts, plans, and pamphlets which it considers necessary subjected to Town approval of necessary funds.

## CURFEW ORDINANCE

WHEREAS, there has been an increase in juvenile violence and crime, and an increased presence of juvenile activity in the Town of Vassalboro; and

WHEREAS, persons under the age of eighteen are particularly susceptible, because of their lack of maturity and experience, to participation in unlawful activities and gang related activities, and to victimization by older perpetrators of crime; and

WHEREAS, the Town of Vassalboro is obligated to provide for: the protection of minors from each other and from other persons, the protection of the health, safety, and welfare of the general public, and the reduction of juvenile crime, violence, and related activity in the Town; and

WHEREAS, a curfew for those under the age of eighteen will aid in the achievement of these goals, and will be in the interest of the public health, safety, and welfare;

NOW, THEREFORE, BE IT ENACTED BY THE TOWN OF VASSALBORO:

### Section 1. Title

This ordinance shall be known and may be cited as the Curfew Ordinance of the Town of Vassalboro, Maine, dated November 3, 1998.

### Section 2. Definitions

- a. Curfew Hours means the hours from 10:01 p.m. until 6:00 a.m. of the following day.
- b. Emergency means unforeseen circumstances, or the resulting situation, calling for immediate action. This includes, but is not limited to, fire, natural disaster, or vehicular accident, as well as any situation requiring action to avert serious injury or the loss of life.
- c. Guardian means a person or a public or private agency who, either pursuant to court order or acceptance of testamentary appointment, is the legal guardian of the minor. This definition also include a person to whom parental powers have been delegated under 18-A M.R.S.A. § 5-104.
- d. Minor means any person who is seventeen years of age or younger.
- e. Parent means a person who is the natural parent, adoptive parent, or stepparent of the minor.
- f. Public place means a place located in the town of Vassalboro to which the public, or a substantial group of the public, has access, including, but not limited to, streets,

highways, sidewalks, parking lots, vacant lots, parks, and the common areas in and about apartment building, office buildings, hospitals, schools, shops, and places of entertainment such as movie theaters.

Remain means to linger or stay, as well as to refuse to leave when requested to do so by a police officer, or the owner or other person in control of a public place. This term also encompasses activities that may be mobile, such as walking, driving, and riding about in a public place.

### Section 3. Offenses

It shall be unlawful for a minor to remain in a public place during curfew hours. For purposed of this Ordinance, the following times of day and ages shall apply:

AGE	CURFEW HOURS
17 AND YOUNGER	10:01 PM TO 6:00 AM
15 AND YOUNGER	9:01 PM TO 6:00 AM

It shall be unlawful for a parent or guardian of a minor to knowingly permit, or to allow by exercising insufficient control, the minor to remain in a public place during curfew hours.

### Section 4. Defenses

It is a defense to prosecution under Section 3 of this ordinance that the minor was:

- a. accompanied by the minor's parent or guardian;
- b. involved in an emergency or on an errand necessitated by an emergency;
- c. engaged in an employment activity, or on the way to or from an employment activity, without any detour or stop except as necessary to drop off or pick up a co-employee;
- d. in motor vehicle involved in interstate travel;
- e. on an errand directed by a parent or guardian, without any detour or stop;
- f. on the sidewalk abutting the minor's home;
- g. attending a school, religious, or governmental activity, which is supervised by adults, or traveling to or from such a school, religious, or governmental activity without detour or stop;
- h. attending a recreational activity sponsored by the Town of Vassalboro, a civic organization, or a similar entity, which is supervised by adults, or traveling to or from such an activity without detour or stop;

- i. exercising rights protected by the First Amendment of the United States Constitution:
- j. married, or otherwise legally emancipated.

#### Section 5. Enforcement

Before taking any action to enforce this ordinance, a police officer shall ask the apparent offender's age. The officer may ask for proof of the apparent offender's age, and shall be justified in taking action to ascertain the apparent offender's age in the absence of identification, such as taking the apparent offender into custody while contacting his or her parent or guardian, or accompanying the apparent offender to his or her residence for the purpose of obtaining identification.

If the apparent offender is a minor, or cannot produce identification proving otherwise immediately, the officer shall ask the reason for the apparent offender's being in a public place. The officer shall not take any action to enforce this section unless the officer reasonably believes that an offense has occurred and, based on any response as well as other circumstances, no defense provided in Section 4 is applicable. If the officer does have such a reasonable belief, the officer may take the minor into custody for the purposes of contacting the minor's parent or guardian, to come to take control of the minor. The police officer shall summons the minor and the minor's parent to the District court for violation of this ordinance. During this period, the officer may require the minor or the minor's parent or guardian or both to remain in the officer's presence for a period of up to two hours, so long as the officer complies with all requirements of law, including, without limitation, 17-A M.R.S.A. §17.

#### Section 6. Penalties

a. The penalty for a minor who violates this ordinance shall be:

1. for the first offense, five hours of community service and a fine of up to \$50.00; and
2. for each subsequent offense, ten hours of community service and a fine of up to \$100.00.

b. The penalty for a parent or guardian who violates this ordinance shall be:

1. for the first offense, a fine of \$50.00; and for each subsequent offense, a fine of \$100.00.

#### Section 7. Severability

If any provision of this ordinance is determined to be invalid by a court of competent jurisdiction, such determination shall not render invalid the remaining provisions.

**Town of Vassalboro**

**Enforcement and Appeals Ordinance**

CERTIFIED BY

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TOWN CLERK

**ADOPTED JUNE 2009**  
**AMENDED JUNE 2010**



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# **TOWN OF VASSALBORO ENFORCEMENT AND APPEALS ORDINANCE**

## **A. PRELIMINARY MATTERS**

### **SECTION 1 - PURPOSE**

In order to better promote the health, safety and general welfare of the residents of the Town of Vassalboro and the overall protection of its environment, the purpose of this Ordinance is to:

- (1)** Streamline the procedures for enforcement of the Town's Ordinances and any other laws or rules administered and enforced primarily at the local level and set forth in 30-A M.R.S.A. §4452(5), (6) and (7), as amended from time to time;
- (2)** Set forth in one ordinance the establishment, organization, procedure and jurisdiction of the Board of Appeals for the Town;
- (3)** Limit the issuance of permits to those who are, at the time, in compliance with all Town ordinances and state laws pertaining to land use; and
- (4)** Limit those undertaking work related to the permits including contractors, developers, and other personnel or businesses that will gain monetary benefit to those who are at the time, in compliance with all Town ordinances and state laws pertaining to land use

### **SECTION 2 – AUTHORITY**

This Ordinance is adopted pursuant to the Home Rule provisions of the Maine Constitution and its enabling legislation, Me. Const. Art. VIII, Pt. 2, §1; 30-A M.R.S.A. §3001; and 30-A M.R.S.A. §2691.

### **SECTION 3 - APPLICABILITY**

The provisions of this Ordinance shall apply to the following land use ordinances of the Town: Subdivision, Site Review, Building Permit, Shoreland Zoning, Automobile Graveyard and Junkyard, Road Construction, Aquifer Protection, Floodplain Management, and any other ordinance enforced or administered by the Code Enforcement Officer. This Ordinance shall also apply to the state laws administered by the Local Plumbing Inspector including Maine Subsurface Wastewater Disposal Rules and the Maine Internal Plumbing Code and any state laws pertaining to land use that may be enforced at the local level as indicated in 30-A M.R.S.A. §4452(5), (6) and (7), as amended from time to time; .

### **SECTION 4 – EFFECTIVE DATE**

This Ordinance shall become effective immediately after approval by the voters of the Town of Vassalboro.

## **SECTION 5 – CONFLICT WITH OTHER ORDINANCES**

In the event any provisions of this Ordinance conflict with any other provisions of this Ordinance, or in the event any provisions of this Ordinance conflict with the provisions of any other Ordinance, the provisions with the stricter standards shall apply.

## **SECTION 6 – VALIDITY AND SEVERABILITY**

Should any section or provision of this Ordinance be declared invalid, such invalidity shall not void or make invalid any other section or provision of this Ordinance.

### **B. ENFORCEMENT**

#### **SECTION 1 – ENFORCEMENT AUTHORITY**

The Code Enforcement Officer shall enforce the provisions of all the applicable Town Ordinances and state laws as indicated in Section A(3) of this ordinance in accordance with 30-A M.R.S.A. §4452, as amended from time to time. The Local Plumbing Inspector shall enforce the provisions of the Maine Subsurface Wastewater Disposal Rules and Maine Internal Plumbing Code in accordance with 30-A M.R.S.A. §4452, as amended from time to time.

#### **SECTION 2 – ENFORCEMENT PENALTIES**

Any person who violates a provision of any applicable Town ordinance or state law, including but not limited to the landowner, his agent(s), lessees(s) and/or contractor(s), shall be subject to the penalties set forth in 30-A M.R.S.A. §4452(3) as amended from time to time.

#### **SECTION 3 – NOTICE OF VIOLATION**

The appropriate enforcement authority as indicated in Section B(1) shall notify any person(s) and/or entity(ies) whom or which he determines has violated the applicable Town Ordinances, and any other laws or rules administered and enforced primarily by the Town, of said violation.

- a. The notice shall state the nature of the violation, and shall specify the necessary corrective action to be taken, which may include discontinuance of the illegal activity, removal of any illegal buildings or structures, and abatement of any nuisance conditions. The notice shall also state the time period in which the correction must be made.
- b. A copy of this notice shall be maintained as a permanent Town record.
- c. If the above action does not result in a resolution of the violation(s) that is satisfactory, the appropriate enforcement authority may seek approval from the municipal officers to commence legal action against the violator(s) pursuant to 30-A M.R.S.A. §4452, as amended from time to time.

## **SECTION 4 – ENFORCEMENT IN FLOOD ZONES**

In addition to any other action provided above, the Code Enforcement Officer shall, upon determining that a violation of any State or local law, regulation or ordinance intended to discourage or otherwise restrict development or occupancy in flood-prone areas exist, shall submit a declaration to the Administrator of the Federal Insurance Administration requesting a denial of flood insurance. The declaration shall contain the following:

- a. the name and address of the property owner and a legal description of the property sufficient to confirm its identity or location;
- b. a declaration that the property is in violation of a cited State or local law, regulation or ordinance as set forth above;
- c. a statement that the public body making the declaration has authority to do so and a citation to that authority;
- d. evidence that the property owner has been provided notice of the violation and the prospective denial of insurance; and
- e. a statement that the declaration is being submitted pursuant to Section 1316 of the National Flood Insurance Act of 1968, as amended (42 U.S.C. §4023 (as amended)).

## **SECTION 5 – PROHIBITION OF ALL PERMITTING**

A permit shall not be issued under the following conditions:

- a. The applicant for the permit is currently in violation of any ordinance or state law related to land use within the Town of Vassalboro.
- b. The landowner for whom a permit application has been submitted is currently in violation of any ordinance or state law related to land use within the Town of Vassalboro
- c. The applicant for the permit has engaged in activities requiring a permit under state laws or local ordinances without having obtained a permit with respect to any land within the Town of Vassalboro
- d. The landowner for whom a permit application has been submitted has engaged in activities requiring a permit under state laws or local ordinances without having obtained a permit with respect to any land within the Town of Vassalboro
- e. The applicant or landowner will be using a contractor, developer, or any business or person gaining monetary benefit to undertake work related to the issuance of the permit and the contractor, developer, business or person is currently in violation of any ordinance or state law related to land use in the Town of Vassalboro. The only

exception to the above permitting prohibition shall be for a subsurface wastewater disposal system permit if the original system has failed.

## **C. APPEALS**

### **SECTION 1 – JURISDICTION**

The Board of Appeals (sometimes referred to as the Board), previously established pursuant to 30-A M.R.S.A. §2691, shall have jurisdiction to hear appeals by any person with standing, affected directly or indirectly, from any decision, order, regulation or failure to act of the Code Enforcement Officer, Plumbing Inspector or Planning Board arising under the following ordinances and/or state laws: Building Permit, Road Construction, Automobile Graveyard and Junkyard, Floodplain Management, and Aquifer Protection, Shoreland Zoning and any other ordinance enforced or administered by the Code Enforcement Officer or Planning Board, the Maine Internal Plumbing Code, the Maine Subsurface Wastewater Disposal Rules, the special amusement permit statute (28-A M.R.S.A. §1054) and any other state law administered or enforced by the Code Enforcement Officer.

All appeals to the Site Review or Subdivision Ordinance shall be made to Superior Court within thirty days of the decision.

### **SECTION 2 – ADMINISTRATIVE APPEALS**

a. Timing and fees

Written notice of appeals to the Board must be received by the Code Enforcement Officer, at the Town office, within thirty (30) days of the date of the determination being appealed, along with the appropriate appeal fee as set by the municipal officers each year.

b. Appeals Relevant to the Shoreland Zoning Ordinance

All appeals of the Shoreland Zoning Ordinance shall follow provisions of that Ordinance.

c. Notice of Appeal

The notice of appeal must include the following:

- (1) a written statement clearly describing the basis for the appeal; the specific or conclusions of law being appealed, if any; and, if the appellant claims that the decision violates any ordinance, regulation or statute, the specific ordinance, regulation or statute which the appellant claims has been violated.
- (2) a sketch plan drawn to scale showing lot lines, location of existing buildings and other structures, and other pertinent features on the lot that are relevant to the appeal.

d. Record of Appeal Transmitted to Board

Upon being notified of an appeal, the Code Enforcement Officer shall transmit the notice of appeal and all papers and other exhibits constituting the record of the proceeding on the original application to the Board of Appeals.

e. Hearing Required

The Board of Appeals shall schedule and hold a hearing on the appeal within thirty-five (35) days of its receipt of the notice of appeal and record.

f. Public Notice of Hearing

The Board of Appeals shall notify the Code Enforcement Officer of the date on which the hearing is scheduled. The Code Enforcement Officer shall then give written notice by regular mail to all owners of property abutting the property subject to the appeal, to the party making the appeal, and to the Town official(s) the decision of which is being appealed (Code Enforcement Officer, Plumbing Inspector or Planning Board).

Public notice of the hearing shall also be given in a newspaper of general circulation in the Town. The notice shall contain the date and time of the hearing, and shall provide a brief description of the decision being appealed, the location of the property involved in the appeal, and the name of the person taking the appeal.

g. Hearing Procedure

(1) Hearings shall be conducted in accordance with 30-A M.R.S.A. §2691(3).

(2) The appellant's case shall be presented first. Parties opposing the appeal shall then present their cases in the order determined by the chairperson of the Board of Appeals.

(3) If needed to control the hearing, the Board may require questions to be asked through the chairperson.

(4) Any party may be represented by an agent and/or an attorney.

(5) Hearings may not be continued except for good cause shown.

(6) The record may be kept open at the conclusion of the hearing to receive additional documentary evidence until a date established by the Board.

h. Decision by the Board of Appeals

(1) A majority of the Board shall constitute a quorum to conduct a hearing of an appeal.

(2) Only those issues on which an appeal has been taken shall be heard, and the appellant shall have the burden of proof on said issues.

(3) All decisions become a part of the record and must include (1) a statement of findings and conclusions upon all the material issues of fact, law or discretion presented by the appeal, (2) the reasons or basis for the findings and conclusions, and (3) the appropriate order, relief or denial of relief.

(4) Notice of any decision must be mailed or hand delivered to the appellant, his representative or agent, the Planning Board, Code Enforcement Officer, Plumbing Inspector, or other Town office, as appropriate, and the municipal officers, within seven (7) days of the Board's decision.

i. Reconsideration

In accordance with 30-A M.R.S.A. §2691(3)(F), the Board may reconsider any decision reached within forty-five (45) days of the decision. A demonstration must be made by the applicant that substantial new evidence has been brought before the Board or an error or mistake of law or misunderstanding of fact has been made. A request to the Board to reconsider a decision must be filed within ten (10) days of the decision that is to be 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. The Board may conduct additional hearings and receive additional evidence and testimony. All parties notified of the original appeal must be notified of the request for reconsideration.

j. Review of Board of Appeals Decision

Any party to the proceedings before the Board of Appeals may take an appeal to the Superior Court within forty-five (45) days of the date of the vote on the original decision, in accordance with 30-A M.R.S.A. §2691(3)(G); except that, as provided in 30-A M.R.S.A. §2691(3)(F), appeal of a reconsidered decision must be made within fifteen (15) days after the vote on the decision on reconsideration.

**FLOODPLAIN MANAGEMENT ORDINANCE**

**FOR THE**

**TOWN OF VASSALBORO, MAINE**

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ENACTED: \_\_\_\_\_  
Date

EFFECTIVE: \_\_\_\_\_  
Date

CERTIFIED BY: \_\_\_\_\_  
Signature

CERTIFIED BY: \_\_\_\_\_  
Print Name

\_\_\_\_\_  
Title

Affix Seal

60.3(c)  
Prepared by SPO/slb  
1/5/2010

## **Town of Vassalboro**

# **FLOODPLAIN MANAGEMENT ORDINANCE**

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## **ARTICLE I - PURPOSE AND ESTABLISHMENT**

Certain areas of the Town of Vassalboro, Maine are subject to periodic flooding, causing serious damages to properties within these areas. Relief is available in the form of flood insurance as authorized by the National Flood Insurance Act of 1968.

Therefore, the Town of Vassalboro, Maine has chosen to become a participating community in the National Flood Insurance Program, and agrees to comply with the requirements of the National Flood Insurance Act of 1968 (P.L. 90-488, as amended) as delineated in this Floodplain Management Ordinance.

It is the intent of the Town of Vassalboro, Maine to require the recognition and evaluation of flood hazards in all official actions relating to land use in the floodplain areas having special flood hazards.

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

The National Flood Insurance Program, established in the aforesaid Act, provides that areas of the Town of Vassalboro having a special flood hazard be identified by the Federal Emergency Management Agency and that floodplain management measures be applied in such flood hazard areas. This Ordinance establishes a Flood Hazard Development Permit system and review procedure for development activities in the designated flood hazard areas of the Town of Vassalboro, Maine.

The areas of special flood hazard, Zones A and AE for the Town of Vassalboro, Kennebec County Maine, identified by the Federal Emergency Management Agency in a report entitled "Flood Insurance Study – Kennebec County" dated \_\_\_\_\_, 2010 with accompanying "Flood Insurance Rate Map" dated \_\_\_\_\_, 2010 with panels:

168, 355, 360, 365, 370, 380, 390, 527, 531, 532, 555

derived from the county wide digital flood insurance rate map entitled "Digital Flood Insurance Rate Map, Kennebec County," are hereby adopted by reference and declared to be a part of this Ordinance.

## **ARTICLE II - PERMIT REQUIRED**

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

## **ARTICLE III - APPLICATION FOR PERMIT**

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

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

- B. An address and a map indicating the location of the construction site;
- C. A site plan showing location of existing and/or proposed development, including but not limited to structures, sewage disposal facilities, water supply facilities, areas to be cut and filled, and lot dimensions;
- D. A statement of the intended use of the structure and/or development;
- E. A statement of the cost of the development including all materials and labor;
- F. A statement as to the type of sewage system proposed;
- G. Specification of dimensions of the proposed structure and/or development;

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

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

1. base flood at the proposed site of all new or substantially improved structures, which is determined:
  - a. in Zones AE, from data contained in the "Flood Insurance Study – Kennebec County, Maine" as described in Article I; or,
  - b. in Zone A:
    - (1) from any base flood elevation data from federal, state, or other technical sources (such as FEMA's Quick-2 model, FEMA 265/July 1995), including information obtained pursuant to Article VI.K. and VIII.D.;
    - (2) from the contour elevation extrapolated from a best fit analysis of the floodplain boundary when overlaid onto a USGS Quadrangle Map or other topographic map prepared by a Professional Land Surveyor or registered professional engineer, if the floodplain boundary has a significant correlation to the elevation contour line(s); or, in the absence of all other data,
    - (3) to be the elevation of the ground at the intersection of the floodplain boundary and a line perpendicular to the shoreline which passes along the ground through the site of the proposed building.
2. highest and lowest grades at the site adjacent to the walls of the proposed building;
3. lowest floor, including basement; and whether or not such structures contain a basement; and,
4. level, in the case of non-residential structures only, to which the structure will be floodproofed;

- I. A description of an elevation reference point established on the site of all developments for which elevation standards apply as required in Article VI;
- J. A written certification by a Professional Land Surveyor, registered professional engineer or architect, that the base flood elevation and grade elevations shown on the application are accurate;
- K. The following certifications as required in Article VI by a registered professional engineer or architect:
  - 1. a Floodproofing Certificate (FEMA Form 81-65, 03/09, as amended), to verify that the floodproofing methods for any non-residential structures will meet the floodproofing criteria of Article III.H.4.; Article VI.G.; and other applicable standards in Article VI;
  - 2. a Hydraulic Openings Certificate to verify that engineered hydraulic openings in foundation walls will meet the standards of Article VI.L.2.a.;
  - 3. a certified statement that bridges will meet the standards of Article VI.M.;
  - 4. a certified statement that containment walls will meet the standards of Article VI.N.;
- L. A description of the extent to which any water course will be altered or relocated as a result of the proposed development; and,
- M. A statement of construction plans describing in detail how each applicable development standard in Article VI will be met.

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

A non-refundable application fee as established annually by the Board of Selectmen for all minor development and for all new construction or substantial improvements shall be paid to the Town Clerk or Code Enforcement Officer and a copy of a receipt for the same shall accompany the application.

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

#### **ARTICLE V - REVIEW STANDARDS FOR FLOOD HAZARD DEVELOPMENT PERMIT APPLICATIONS**

The Code Enforcement Officer shall:

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

- B. Utilize, in the review of all Flood Hazard Development Permit applications:
1. the base flood and floodway data contained in the "Flood Insurance Study – Kennebec County, Maine," as described in Article I;
  2. in special flood hazard areas where base flood elevation and floodway data are not provided, the Code Enforcement Officer shall obtain, review and reasonably utilize any base flood elevation and floodway data from federal, state, or other technical sources, including information obtained pursuant to Article III.H.1.b.; Article VI.K.; and Article VIII.D., in order to administer Article VI of this Ordinance; and,
  3. when the community establishes a base flood elevation in a Zone A by methods outlined in Article III.H.1.b., the community shall submit that data to the Maine Floodplain Management Program in the State Planning Office.
- C. Make interpretations of the location of boundaries of special flood hazard areas shown on the maps described in Article I of this Ordinance;
- D. In the review of Flood Hazard Development Permit applications, determine that all necessary permits have been obtained from those federal, state, and local government agencies from which prior approval is required by federal or state law, including but not limited to Section 404 of the Federal Water Pollution Control Act Amendments of 1972, 33 U.S.C. 1344;
- E. Notify adjacent municipalities, the Department of Environmental Protection, and the Maine Floodplain Management Program in the State Planning Office prior to any alteration or relocation of a water course and submit copies of such notifications to the Federal Emergency Management Agency;
- F. If the application satisfies the requirements of this Ordinance, approve the issuance of one of the following Flood Hazard Development Permits based on the type of development:
1. A two part Flood Hazard Development Permit for elevated structures. Part I shall authorize the applicant to build a structure to and including the first horizontal floor only above the base flood level. At that time the applicant shall provide the Code Enforcement Officer with an Elevation Certificate completed by a Professional Land Surveyor, registered professional engineer or architect based on the Part I permit construction , “as built”, for verifying compliance with the elevation requirements of Article VI, paragraphs F, G, or H. Following review of the Elevation Certificate data, which shall take place within 72 hours of receipt of the application, the Code Enforcement Officer shall issue Part II of the Flood Hazard Development Permit. Part II shall authorize the applicant to complete the construction project; or,
  2. A Flood Hazard Development Permit for Floodproofing of Non-Residential Structures that are new construction or substantially improved non-residential structures that are not being elevated but that meet the floodproofing standards of Article VI.G.1.a.,b., and c. The application for this permit shall include a Floodproofing Certificate signed by a registered professional engineer or architect; or,
  3. A Flood Hazard Development Permit for Minor Development for all development that is not new construction or a substantial improvement, such as repairs, maintenance, renovations, or additions, whose value is less than 50% of the market value of the structure. Minor development

also includes, but is not limited to: accessory structures as provided for in Article VI.J., mining, dredging, filling, grading, paving, excavation, drilling operations, storage of equipment or materials, deposition or extraction of materials, public or private sewage disposal systems or water supply facilities that do not involve structures; and non-structural projects such as bridges, dams, towers, fencing, pipelines, wharves and piers.

**G. A permit shall not be issued if:**

1. The applicant for the permit is currently in violation of any land use ordinance or state law related to land use within the Town of Vassalboro.
2. The landowner for whom a permit application has been submitted is currently in violation of any land use ordinance or state law related to land use within the Town of Vassalboro
3. The applicant for the permit has engaged in activities requiring a permit under state laws or local ordinances without having obtained a permit with respect to any land within the Town of Vassalboro
4. The landowner for whom a permit application has been submitted has engaged in activities requiring a permit under state laws or local ordinances without having obtained a permit with respect to any land within the Town of Vassalboro
5. The applicant or landowner will be using a contractor, developer, or any business or person gaining monetary benefit to undertake work related to the issuance of the permit and the contractor, developer, business or person is currently in violation of any ordinance or state law related to land use in the Town of Vassalboro.

**H In addition to any other action provided above, the Code Enforcement Officer shall, upon determining that a violation of any State or local law, regulation or ordinance intended to discourage or otherwise restrict development or occupancy in flood-prone areas exist, shall submit a declaration to the Administrator of the Federal Insurance Administration requesting a denial of flood insurance. The declaration shall contain the following:**

1. The name and address of the property owner and a legal description of the property sufficient to confirm its identity or location;
2. A declaration that the property is in violation of a cited State or local law, regulation or ordinance as set forth above;
3. A statement that the public body making the declaration has authority to do so and a citation to that authority;
4. Evidence that the property owner has been provided notice of the violation and the prospective denial of insurance; and

5. A statement that the declaration is being submitted pursuant to Section 1316 of the National Flood Insurance Act of 1968, as amended (42 U.S.C. §4023 (as amended))).

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

## **ARTICLE VI - DEVELOPMENT STANDARDS**

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

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

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

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

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

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

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

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

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

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

1. Zones AE, shall have the lowest floor (including basement) elevated to at least one foot above the base flood elevation, or together with attendant utility and sanitary facilities shall:
  - a. be floodproofed to at least one foot above the base flood elevation so that below that elevation the structure is watertight with walls substantially impermeable to the passage of water;
  - b. have structural components capable of resisting hydrostatic and hydrodynamic loads and the effects of buoyancy; and,
  - c. be certified by a registered professional engineer or architect that the floodproofing design and methods of construction are in accordance with accepted standards of practice for meeting the provisions of this section. Such certification shall be provided with the application for a Flood Hazard Development Permit, as required by Article III.K. and shall include a record of the elevation above mean sea level to which the structure is floodproofed.
2. Zone A shall have the lowest floor (including basement) elevated to at least one foot above the base flood elevation utilizing information obtained pursuant to Article III.H.1.b.; Article V.B; or Article VIII.D., or
  - a. together with attendant utility and sanitary facilities meet the floodproofing standards of Article VI.G.1.

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

1. Zones AE, shall:
  - a. be elevated such that the lowest floor (including basement) of the manufactured home is at least one foot above the base flood elevation;
  - b. be on a permanent foundation, which may be poured masonry slab or foundation walls, with hydraulic openings, or may be reinforced piers or block supports, any of which support the manufactured home so that no weight is supported by its wheels and axles; and,
  - c. be securely anchored to an adequately anchored foundation system to resist flotation, collapse, or lateral movement. Methods of anchoring may include, but are not limited to:

- (1) over-the-top ties anchored to the ground at the four corners of the manufactured home, plus two additional ties per side at intermediate points (manufactured homes less than 50 feet long require one additional tie per side); or by,
- (2) frame ties at each corner of the home, plus five additional ties along each side at intermediate points (manufactured homes less than 50 feet long require four additional ties per side).
- (3) all components of the anchoring system described in Article VI.H.1.c.(1)&(2) shall be capable of carrying a force of 4800 pounds.

2. Zone A shall:

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

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

1. Zones A and AE, shall either:

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

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

1. be 500 square feet or less and have a value less than \$3000;
2. have unfinished interiors and not be used for human habitation;
3. have hydraulic openings, as specified in Article VI.L.2., in at least two different walls of the accessory structure;
4. be located outside the floodway;

5. when possible be constructed and placed on the building site so as to offer the minimum resistance to the flow of floodwaters and be placed further from the source of flooding than is the primary structure; and,
6. have only ground fault interrupt electrical outlets. The electric service disconnect shall be located above the base flood elevation and when possible outside the Special Flood Hazard Area.

**K. Floodways -**

1. In Zones AE riverine areas, encroachments, including fill, new construction, substantial improvement, and other development shall not be permitted within a regulatory floodway which is designated on the community's Digital Flood Insurance Rate Map, Kennebec County unless a technical evaluation certified by a registered professional engineer is provided demonstrating that such encroachments will not result in any increase in flood levels within the community during the occurrence of the base flood discharge.
2. In Zones AE and A riverine areas for which no regulatory floodway is designated, encroachments, including fill, new construction, substantial improvement, and other development shall not be permitted in the floodway as determined in Article VI.K.3. unless a technical evaluation certified by a registered professional engineer is provided demonstrating that the cumulative effect of the proposed development, when combined with all other existing development and anticipated development:
  - a. will not increase the water surface elevation of the base flood more than one foot at any point within the community; and,
  - b. is consistent with the technical criteria contained in Chapter 5 entitled "Hydraulic Analyses," *Flood Insurance Study - Guidelines and Specifications for Study Contractors*, (FEMA 37/ January 1995, as amended).
3. In Zones AE and A riverine areas for which no regulatory floodway is designated, the regulatory floodway is determined to be the channel of the river or other water course and the adjacent land areas to a distance of one-half the width of the floodplain as measured from the normal high water mark to the upland limit of the floodplain.

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

1. Enclosed areas are not "basements" as defined in Article XIII;
2. Enclosed areas shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of flood water. Designs for meeting this requirement must either:

- a. be engineered and certified by a registered professional engineer or architect; or,
- b. meet or exceed the following minimum criteria:
  - (1) a minimum of two openings having a total net area of not less than one square inch for every square foot of the enclosed area;
  - (2) the bottom of all openings shall be below the base flood elevation and no higher than one foot above the lowest grade; and,
  - (3) openings may be equipped with screens, louvers, valves, or other coverings or devices provided that they permit the entry and exit of flood waters automatically without any external influence or control such as human intervention, including the use of electrical and other non-automatic mechanical means;

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

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

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

- 1. when possible, the lowest horizontal member (excluding the pilings, or columns) is elevated to at least one foot above the base flood elevation; and
- 2. a registered professional engineer shall certify that:
  - a. the structural design and methods of construction shall meet the elevation requirements of this section and the floodway standards of Article VI.K.; and
  - b. the foundation and superstructure attached thereto are designed to resist flotation, collapse and lateral movement due to the effects of wind and water loads acting simultaneously on all structural components. Water loading values used shall be those associated with the base flood.

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

- 1. Zones AE and A shall:
  - a. have the containment wall elevated to at least one foot above the base flood elevation;
  - b. have structural components capable of resisting hydrostatic and hydrodynamic loads and the effects of buoyancy; and,
  - c. be certified by a registered professional engineer or architect that the design and methods of construction are in accordance with accepted standards of practice for meeting the provisions

of this section. Such certification shall be provided with the application for a Flood Hazard Development Permit, as required by Article III.K.

- O. **Wharves, Piers and Docks** - New construction or substantial improvement of wharves, piers, and docks are permitted in Zones AE and A, in and over water and seaward of the mean high tide if the following requirements are met:
1. wharves, piers, and docks shall comply with all applicable local, state, and federal regulations; and
  2. for commercial wharves, piers, and docks, a registered professional engineer shall develop or review the structural design, specifications, and plans for the construction.

## **ARTICLE VII - CERTIFICATE OF COMPLIANCE**

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

- A. For New Construction or Substantial Improvement of any elevated structure the applicant shall submit to the Code Enforcement Officer, an Elevation Certificate completed by a Professional Land Surveyor, registered professional engineer, or architect, for compliance with Article VI, paragraphs F, G, or H.
- B. The applicant shall submit written notification to the Code Enforcement Officer that the development is complete and complies with the provisions of this ordinance.
- C. Within 10 working days, the Code Enforcement Officer shall:
1. review the Elevation Certificate and the applicant's written notification; and,
  2. upon determination that the development conforms with the provisions of this ordinance, shall issue a Certificate of Compliance.

## **ARTICLE VIII - REVIEW OF SUBDIVISION AND DEVELOPMENT PROPOSALS**

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

- A. All such proposals are consistent with the need to minimize flood damage.
- B. All public utilities and facilities, such as sewer, gas, electrical and water systems are located and constructed to minimize or eliminate flood damages.
- C. Adequate drainage is provided so as to reduce exposure to flood hazards.

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

## **ARTICLE IX - APPEALS AND VARIANCES**

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

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

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

- d. that the hardship is not the result of action taken by the applicant or a prior owner.
- C. Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief, and the Board of Appeals may impose such conditions to a variance as it deems necessary.
- D. Variances may be issued for new construction, substantial improvements, or other development for the conduct of a functionally dependent use provided that:
  - 1. other criteria of Article IX and Article VI.K. are met; and,
  - 2. the structure or other development is protected by methods that minimize flood damages during the base flood and create no additional threats to public safety.
- E. Variances may be issued for the repair, reconstruction, rehabilitation, or restoration of Historic Structures upon the determination that:
  - 1. the development meets the criteria of Article IX, paragraphs A. through D. above; and,
  - 2. the proposed repair, reconstruction, rehabilitation, or restoration will not preclude the structure's continued designation as a Historic Structure and the variance is the minimum necessary to preserve the historic character and design of the structure.
- F. Any applicant who meets the criteria of Article IX, paragraphs A. through E. shall be notified by the Board of Appeals in writing over the signature of the Chairman of the Board of Appeals that:
  - 1. the issuance of a variance to construct a structure below the base flood level will result in greatly increased premium rates for flood insurance up to amounts as high as \$25 per \$100 of insurance coverage;
  - 2. such construction below the base flood level increases risks to life and property; and,
  - 3. the applicant agrees in writing that the applicant is fully aware of all the risks inherent in the use of land subject to flooding, assumes those risks and agrees to indemnify and defend the municipality against any claims filed against it that are related to the applicant's decision to use land located in a floodplain and that the applicant individually releases the municipality from any claims the applicant may have against the municipality that are related to the use of land located in a floodplain.
- G. Appeal Procedure for Administrative and Variance Appeals
  - 1. An administrative or variance appeal may be taken to the Board of Appeals by an aggrieved party within thirty days after receipt of a written decision of the Code Enforcement Officer or Planning Board.
  - 2. Upon being notified of an appeal, the Code Enforcement Officer or Planning Board, as appropriate, shall transmit to the Board of Appeals all of the papers constituting the record of the decision appealed from.

3. The Board of Appeals shall hold a public hearing on the appeal within thirty-five days of its receipt of an appeal request.
4. The person filing the appeal shall have the burden of proof.
5. The Board of Appeals shall decide all appeals within thirty-five days after the close of the hearing, and shall issue a written decision on all appeals.
6. The Board of Appeals shall submit to the Code Enforcement Officer a report of all variance actions, including justification for the granting of the variance and an authorization for the Code Enforcement Officer to issue a Flood Hazard Development Permit, which includes any conditions to be attached to said permit.
7. Any aggrieved party who participated as a party during the proceedings before the Board of Appeals may take an appeal to Superior Court in accordance with State laws within forty-five days from the date of any decision of the Board of Appeals.

## **ARTICLE X - ENFORCEMENT AND PENALTIES**

- A. It shall be the duty of the Code Enforcement Officer to enforce the provisions of this Ordinance pursuant to Title 30-A MRSA § 4452.
- B. The penalties contained in Title 30-A MRSA § 4452 shall apply to any violation of this Ordinance.
- C. In addition to any other actions, the Code Enforcement Officer, upon determination that a violation exists, may submit a declaration to the Administrator of the Federal Insurance Administration requesting a denial of flood insurance. The valid declaration shall consist of;
  1. the name of the property owner and address or legal description of the property sufficient to confirm its identity or location;
  2. a clear and unequivocal declaration that the property is in violation of a cited State or local law, regulation, or ordinance;
  3. a clear statement that the public body making the declaration has authority to do so and a citation to that authority;
  4. evidence that the property owner has been provided notice of the violation and the prospective denial of insurance; and,
  5. a clear statement that the declaration is being submitted pursuant to Section 1316 of the National Flood Insurance Act of 1968, as amended.

## **ARTICLE XI - VALIDITY AND SEVERABILITY**

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

## **ARTICLE XII - CONFLICT WITH OTHER ORDINANCES**

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

## **ARTICLE XIII - DEFINITIONS**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

**Elevation Certificate** - An official form (FEMA Form 81-31, 03/09, as amended) that:

- a. is used to verify compliance with the floodplain management regulations of the National Flood Insurance Program; and,
- b. is required for purchasing flood insurance.

**Flood or Flooding** - means:

- a. A general and temporary condition of partial or complete inundation of normally dry land areas from:
  - 1. The overflow of inland or tidal waters.
  - 2. The unusual and rapid accumulation or runoff of surface waters from any source.
- b. The collapse or subsidence of land along the shore of a lake or other body of water as a result of erosion or undermining caused by waves or currents of water exceeding anticipated cyclical levels or suddenly caused by an unusually high water level in a natural body of water, accompanied by a severe storm, or by an unanticipated force of nature, such as flash flood or an abnormal tidal surge, or by some similarly unusual and unforeseeable event which results in flooding as defined in paragraph a.1. of this definition.

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

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

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

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

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

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

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

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

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

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

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

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

- a. Listed individually in the National Register of Historic Places (a listing maintained by the Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;
- b. Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary of the Interior to qualify as a registered historic district;
- c. Individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of the Interior; or
- d. Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either:
  1. By an approved state program as determined by the Secretary of the Interior, or
  2. Directly by the Secretary of the Interior in states without approved programs.

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

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

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

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

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

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

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

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

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

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

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

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

**Regulatory Floodway -**

- a. means the channel of a river or other water course and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one foot, and
- b. when not designated on the community's Digital Flood Insurance Rate Map, it is considered to be the channel of a river or other water course and the adjacent land areas to a distance of one-half the width of the floodplain, as measured from the normal high water mark to the upland limit of the floodplain.

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

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

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

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

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

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

- a. Any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions; or
- b. Any alteration of a Historic Structure, provided that the alteration will not preclude the structure's continued designation as a historic structure, and a variance is obtained from the community's Board of Appeals.

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

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

#### **ARTICLE XIV - ABROGATION**

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

60.3 (c) Rev. 4/09  
Prepared by SPO/slb  
1/5/2010

**ORDINANCE PROHIBITING RETAIL MARIJUANA ESTABLISHMENTS  
AND RETAIL MARIJUANA SOCIAL CLUBS IN THE TOWN OF VASSALBORO**

**Section 1.** Authority.

This ordinance is enacted pursuant to the Marijuana Legalization Act, 7 M.R.S.A. c. 417; and Municipal Home Rule Authority, Me. Const., art. VIII, pt. 2; and 30-A M.R.S.A. § 3001.

**Section 2.** Definitions.

For purposes of this ordinance, retail marijuana establishments, including retail marijuana stores, retail marijuana cultivation facilities, retail marijuana products manufacturing facilities and retail marijuana testing facilities, and retail marijuana social clubs are defined as set forth in 7 M.R.S.A. § 2442.

**Section 3.** Prohibition on Retail Marijuana Establishments and Retail Marijuana Social Clubs.

Retail marijuana establishments, including retail marijuana stores, retail marijuana cultivation facilities, retail marijuana products manufacturing facilities, and retail marijuana testing facilities, and retail marijuana social clubs, are expressly prohibited in this municipality.

No person or organization shall develop or operate a business that engages in retail or wholesale sales of a retail marijuana product, as defined by 7 M.R.S.A. § 2442.

Nothing in this ordinance is intended to prohibit any lawful use, possession or conduct pursuant to the Maine Medical Use of Marijuana Act, 22 M.R.S.A. c. 558-C.

**Section 4.** Effective date; duration.

This ordinance shall take effect immediately upon enactment by the municipal legislative body unless otherwise provided and shall remain in effect until it is amended or repealed.

**Section 5.** Penalties.

This ordinance shall be enforced by the municipal officers or their designee. Violations of this ordinance shall be subject to the enforcement and penalty provisions of 30-A M.R.S.A. § 4452.

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This ordinance was enacted by 143 registered voters of the Town of Vassalboro by a show of hands vote at a Special Town Meeting held January 9, 2017 at 7:00 p.m. at the Vassalboro Community School. This voter count exceeded the existing quorum requirement of a minimum of 125 voters.

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# **TOWN OF VASSALBORO**

## **ORDINANCE TO REGULATE USE OF EXPLODING TARGETS**

**PURPOSE:** To promote the public safety and welfare of the Inhabitants of the Town of Vassalboro by regulating the use of exploding targets within the Town.

### **DEFINITIONS:**

**1. Exploding Target:** Any device which explodes upon impact by a projectile fired from a firearm such as, but not limited to, binary exploding targets (made of separately packaged “fuel” and “oxidizer” that must be mixed to make the explosive device “live” (such as the targets marketed under the name of Tannerite, Star and Sure-shot).

**2. Detonate:** To explode with violence and/or noise.

**ACTIONS PROHIBITED:** It shall be unlawful for any person within the limits of the Town of Vassalboro to detonate an exploding target (as defined above), or for the owner of the property on which the exploding target is located to allow any person to detonate an exploding target (as defined above), within 500 yards of a dwelling or any other occupied building or structure without having first received the prior written consent of the owner or occupants of such dwelling or occupied building or structure.

It shall also be unlawful for any person, under any circumstances, to detonate an exploding target containing more than one pound of explosive mixture.

### **PENALTY:**

1. A civil penalty in the amount of \$500.00 shall be imposed for a first violation of the prohibition set forth in this ordinance, and a civil penalty in the amount of \$1,000.00 shall be imposed for any subsequent violation of the prohibition set forth in this ordinance.

2. Each detonation of an exploding target may be considered a separate violation even if the detonations are all part of one target session. In the event a session includes a person’s first violation, the civil penalty for any subsequent violation in that session shall also be in the amount of \$500.00.

3. In the event an action in District Court is authorized to enforce this ordinance, and the Town is the prevailing party, the violator shall also be responsible for the attorney fees and costs incurred by the Town in bringing such action.

**ENFORCEMENT:** The Code Enforcement Officer, or any law enforcement officer, may enforce this Ordinance. The municipal officers may also authorize the Code Enforcement Officer, or other municipal official, to institute any and all actions and proceedings, either legal or equitable (including injunctions) in District Court to enforce the provisions of this ordinance; and to take whatever other actions are necessary to collect any judgment.

**EFFECTIVE DATE:** This Ordinance shall be effective immediately upon adoption by the legislative body of the Town of Vassalboro, Maine.

# **THE TOWN OF VASSALBORO PROPERTY ASSESSED CLEAN ENERGY (PACE) ORDINANCE**

## **Version 2 – Administration by the Efficiency Maine Trust**

### **PREAMBLE**

WHEREAS, the 124th Maine Legislature has enacted Public Law 2009, Chapter 591, “An Act to Increase the Affordability of Clean Energy for Homeowners and Businesses,” also known as “the Property Assessed Clean Energy Act” or “the PACE Act”; and

WHEREAS, that Act authorizes a municipality that has adopted a Property Assessed Clean Energy (“PACE”) Ordinance to establish a PACE program so that owners of qualifying property can access financing for energy saving improvements to their properties located in the Town, financed by funds awarded to the Efficiency Maine Trust under the Federal Energy Efficiency and Conservation Block Grant (EECBG) Program and by other funds available for this purpose, and to enter into a contract with the Trust to administer functions of its PACE program; and

WHEREAS, the Municipality wishes to establish a PACE program; and

NOW THEREFORE, the Municipality hereby enacts the following Ordinance:

### **ARTICLE I - PURPOSE AND ENABLING LEGISLATION**

#### **§ XX-1 Purpose**

By and through this Chapter, the Town of Vassalboro declares as its public purpose the establishment of a municipal program to enable its citizens to participate in a Property Assessed Clean Energy (“PACE”) program so that owners of qualifying property can access financing for energy saving improvements to their properties located in the Town. The Town declares its purpose and the provisions of this Ordinance to be in conformity with federal and State laws.

#### **§ XX-2 Enabling Legislation**

The Town enacts this Ordinance pursuant to Public Law 2009, Chapter 591 of the 124th Maine State Legislature -- “An Act to Increase the Affordability of Clean Energy for Homeowners and Businesses,” also known as “the Property Assessed Clean Energy Act” or “the PACE Act” (codified at 35-A M.R.S.A. § 10151, *et seq.*).

### **ARTICLE II - TITLE AND DEFINITIONS**

#### **§ XX-3 Title**

This Ordinance shall be known and may be cited as “the Town of Vassalboro Property Assessed Clean Energy (PACE) Ordinance” (the “Ordinance”).

#### **§ XX-4 Definitions**

Except as specifically defined below, words and phrases used in this Ordinance shall have their customary meanings; as used in this Ordinance, the following words and phrases shall have the meanings indicated:

**1. Energy saving improvement.** “Energy saving improvement” means an improvement to qualifying property that is new and permanently affixed to qualifying property and that:

A. Will result in increased energy efficiency and substantially reduced energy use and:

(1) Meets or exceeds applicable United States Environmental Protection Agency and United States Department of Energy Star program or similar energy efficiency standards established or approved by the Trust; or

(2) Involves air sealing, insulating, and other energy efficiency improvements of residential, commercial or industrial property in a manner approved by the Trust; or

B. Involves a renewable energy installation or an electric thermal storage system that meets or exceeds standards established or approved by the Trust.

**2. Municipality.** “Municipality” shall mean the Town of Vassalboro.

**3. PACE agreement.** “Pace agreement” means an agreement between the owner of qualifying property and the Trust that authorizes the creation of a PACE mortgage on qualifying property and that is approved in writing by all owners of the qualifying property at the time of the agreement, other than mortgage holders.

**4. PACE assessment.** “PACE assessment” means an assessment made against qualifying property to repay a PACE loan.

**5. PACE district.** “Pace district” means the area within which the Municipality establishes a PACE program hereunder, which is all that area within the Municipality’s boundaries.

**6. PACE loan.** “PACE loan” means a loan, secured by a PACE mortgage, made to the owner(s) of a qualifying property pursuant to a PACE program to fund energy saving improvements.

**7. PACE mortgage.** “PACE mortgage” means a mortgage securing a loan made pursuant to a PACE program to fund energy saving improvements on qualifying property.

**8. PACE program.** “PACE program” means a program established under State statute by the Trust or a municipality under which property owners can finance energy savings improvements on qualifying property.

**9. Qualifying property.** “Qualifying property” means real property located in the PACE district of the Municipality.

**10. Renewable energy installation.** “Renewable energy installation” means a fixture, product, system, device or interacting group of devices installed behind the meter at a qualifying property, or on contiguous property under common ownership, that produces energy or heat from renewable sources, including, but not limited to, photovoltaic systems, solar thermal systems,

biomass systems, landfill gas to energy systems, geothermal systems, wind systems, wood pellet systems and any other systems eligible for funding under federal Qualified Energy Conservation Bonds or federal Clean Renewable Energy Bonds.

**11. Trust.** “Trust” means the Efficiency Maine Trust established in 35-A M.R.S.A. § 10103 and/or its agent(s), if any.

### **ARTICLE III - PACE PROGRAM**

**1. Establishment; funding.** The Municipality hereby establishes a PACE program allowing owners of qualifying property located in the PACE district who so choose to access financing for energy saving improvements to their property through PACE loans administered by the Trust or its agent. PACE loan funds are available from the Trust in municipalities that 1) adopt a PACE Ordinance, 2) adopt and implement a local public outreach and education plan, 3) enter into a PACE administration contract with the Trust to establish the terms and conditions of the Trust’s administration of the municipality’s PACE program, and 4) agree to assist and cooperate with the Trust in its administration of the municipality’s PACE program.

**2. Amendment to PACE program.** In addition, the Municipality may from time to time amend this Ordinance to use any other funding sources made available to it or appropriated by it for the express purpose of its PACE program, and the Municipality shall be responsible for administration of loans made from those other funding sources.

### **ARTICLE IV – CONFORMITY WITH THE REQUIREMENTS OF THE TRUST**

**1. Standards adopted; Rules promulgated; model documents.** If the Trust adopts standards, promulgates rules, or establishes model documents subsequent to the Municipality’s adoption of this Ordinance and those standards, rules or model documents substantially conflict with this Ordinance, the Municipality shall take necessary steps to conform this Ordinance and its PACE program to those standards, rules, or model documents.

### **ARTICLE VI – PROGRAM ADMINISTRATION; MUNICIPAL LIABILITY**

#### **1. Program Administration**

**A. PACE Administration Contract.** Pursuant to 35-A M.R.S.A. §10154(2)(A)(2) and (B), the Municipality will enter into a PACE administration contract with the Trust to administer the functions of the PACE program for the Municipality. The PACE administration contract with the Trust will establish the administration of the PACE program including, without limitation, that:

- i. the Trust will enter into PACE agreements with owners of qualifying property in the Municipality’s PACE district;
- ii. the Trust, or its agent, will create and record a Notice of the PACE agreement in the appropriate County Registry of Deeds to create a PACE mortgage;
- iii. the Trust, or its agent, will disburse the PACE loan to the property owner;

- iv. the Trust, or its agent, will send PACE assessment statements with payment deadlines to the property owner;
- v. the Trust, or its agent, will be responsible for collection of the PACE assessments;
- vi. the Trust, or its agent, will record any lien, if needed, due to nonpayment of the assessment;
- vii. the Municipality, or the Trust or its agent on behalf of the Municipality, promptly shall record the discharges of PACE mortgages upon full payment of the PACE loan.

**B. Adoption of Education and Outreach Program.** In conjunction with adopting this Ordinance, the Municipality shall adopt and implement an education and outreach program so that citizens of the Municipality are made aware of home energy saving opportunities, including the opportunity to finance energy saving improvements with a PACE loan.

**C. Assistance and Cooperation.** The Municipality will assist and cooperate with the Trust in its administration of the Municipality's PACE program.

**D. Assessments Not a Tax.** PACE assessments do not constitute a tax but may be assessed and collected by the Trust in any manner determined by the Trust and consistent with applicable law.

## **2. Liability of Municipal Officials; Liability of Municipality**

**A.** Notwithstanding any other provision of law to the contrary, municipal officers and municipal officials, including, without limitation, tax assessors and tax collectors, are not personally liable to the Trust or to any other person for claims, of whatever kind or nature, under or related to a PACE program, including, without limitation, claims for or related to uncollected PACE assessments.

**B.** Other than the fulfillment of its obligations specified in a PACE administration contract with the Trust entered into under Article VI, §1(A) above, a municipality has no liability to a property owner for or related to energy savings improvements financed under a PACE program.

## **ARTICLE VII – EFFECTIVE DATE**

This Ordinance shall become effective immediately after approval by the voters of the Town of Vassalboro.

**TOWN OF VASSALBORO, MAINE**  
**ROAD CONSTRUCTION ORDINANCE**

**SECTION I. Statement of Purpose**

The purpose of this ordinance is to promote the health, safety, and public welfare of the resident of Vassalboro through establishing minimum construction standards for roads, streets, and other public and private ways.

**SECTION II. Authority, Administration, and Effective Date**

- A. AUTHORITY:** This ordinance is enacted pursuant to and consistent with Article VIII-A of the State of Maine constitution, and with Title 30, M.R.S.A., Section 2151-A.
- B. ADMINISTRATION:** This ordinance shall be administered by the Planning Board with assistance from the Road commissioner or an engineer employed by the town.
- C. EFFECTIVE DATE:** The effective date of this ordinance is June 3, 1989, which was the date of adoption by the town meeting.

**SECTION III. Applicability**

- A. NEW CONSTRUCTION:** This ordinance shall apply to the construction of all new roads or streets within the town whenever such roads or streets are proposed to be accepted by the town. New and/or existing private ways which service lots in a subdivision approved after the effective date of this ordinance shall also meet the standards of this ordinance.
- B. ALTERATIONS:** Alterations, widening, and improvements shall be consistent with Section IV: "Street Design Standards," of this ordinance. The Town of Vassalboro shall be exempt from the provisions of this ordinance when the town undertakes alterations, widening and improvements.
- C. HIGHER DESIGN AND CONSTRUCTION STANDARD:** Nothing in this ordinance shall be construed to prevent the design and construction of streets which meet higher standards, use improved methods, or higher quality materials.

**SECTION IV. Application Procedure**

- Prior to the construction of any new road or street or the reconstruction or lengthening of an existing road or street, an application shall be submitted to the Board with the following information.

**A. SUBMISSION REQUIREMENTS**

1. The name(s) of the applicant(s);
2. The name(s) of the owner(s) of record of the land upon which the proposed street is to be located;
3. A statement of any legal encumbrances on the land upon which the proposed street is to be located;
4. The anticipated starting and completion dates of each major phase of street construction;

5. A statement indicating the nature and volume of traffic expressed in average daily traffic (ADT) expected to use the proposed street.

## **B. PLANS**

The plans and illustrations submitted as part of the application shall be prepared by a registered land surveyor or professional engineer to include the following information.

1. The scale of the plan. (All streets and roadway plan and profile drawings shall be drawn to a scale of 1" = 50' horizontal and 1" = 10' vertical.);
2. The direction of magnetic north;
3. A plan profile and typical cross section views of all proposed streets;
4. The starting and ending point with relation to established roads, streets or ways and any planned or anticipated future extensions of the streets. (All terminal points and the center line alignment shall be identified by survey stationing.);
5. The roadway and roadway limits with relation to existing buildings and established landmarks;
6. Dimensions, both lineal and angular, necessary for locating boundaries, and necessary for locating subdivisions, lots, easements, and building lines;
7. The lots, if any, as laid out and numbered on said street, showing the names of all owners of abutting property;
8. All natural waterways and watercourses in or on land contiguous to the said streets and ways;
9. The kind, size, location, profile and cross section of all existing and proposed drainage ways and structures and their relationship to existing natural waterways;
10. The soil erosion and sedimentation control plan showing interim and final control provisions;
11. Curve data for all horizontal and vertical curves shall be the center line radius, arc length, beginning of curve and end of curve points;
12. All center line gradients shall be shown and expressed as a percent;
13. All curve and property line radii of intersections;
14. The limits and location of any proposed sidewalks and curbing;
15. The location of all existing and proposed overhead and underground utilities, to include, but not limited to, the following: [NOTE—When a location, in the case of any underground utility, is an approximate location, it shall be noted on the plan as such.]
  - a. storm drains;
  - b. telephone line poles or underground vaults;
  - c. electrical power line poles or underground vaults;
  - d. street lights;
  - e. public water supply lines;
  - f. sanitary sewers;
  - g. street lights.
16. The name(s) of each proposed new road or street.

## **C. REVIEW AND COMMENT**

Upon receipt of plans for a proposed public street, the Planning Board shall forward one copy to the municipal officers, fire chief, and road commissioner for review and comment. Plans for streets which are not proposed to be accepted by the municipality shall also be sent to the municipal officers and road commissioner for review and comment.

## **D. STREETS WITHIN PROPOSED SUBDIVISIONS**

Streets proposed as part of a subdivision as defined in the Subdivision Ordinance of the Town of Vassalboro shall be submitted to the Planning Board as an integral part of the subdivision application. Plans shall conform to the provisions of the ordinance as well as those required by the Subdivision Ordinance of the Town of Vassalboro.

**E. APPLICATION FEE**

An application fee of \$25 shall be paid to the Town of Vassalboro upon submission of an application. The selectmen shall have the authority to review and revise the application fee. The application fee shall be waived if the street is being reviewed as an element of a subdivision application.

**SECTION V. Public Acceptance of Streets**

The approval by the Planning Board of a proposed public road or street shall not be deemed to constitute or be evidence of any acceptance by the municipality of a road or street. Final acceptance of a proposed public way shall be made by an affirmative vote at town meeting.

**SECTION VI. Street Design Standards**

- A. These design standards shall be met by all streets and shall control the roadway, shoulders, curbs, sidewalks, drainage systems, culverts, and other appurtenances.
- B. Streets shall be designed to discourage through traffic within a residential subdivision.
- C. Wherever existing or other proposed streets, topography, and public safety permit, streets shall run in east-west directions to maximize access for solar energy utilization. The character, extent, width, and grade of all streets shall be considered in their relation to existing or planned streets.
- D. Reserve strips controlling access to streets shall be prohibited except where their control is definitely placed in the municipality.
- E. Where a subdivision borders an existing narrow street (not meeting the width requirements of the standards for streets in these regulations), 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.
- F. Privately-Owned Roads. Where streets are to remain privately owned roads, the following words shall appear on the recorded plan:

"All roads shall remain private road to be maintained by the developer or the lot owner and shall not be accepted or maintained by the town."

- G. The following design standards apply according to street classification:

**ROAD DESIGN STANDARDS**

ROAD TYPE	MINOR	MAJOR	PRIVATE MINOR	PUBLIC MAJOR
Av. Daily Traffic	0-250	250+	0-100	100+
Right-of-way width	50'	60'	50'	50'
Pavement width	20'	22'	18'	20'
Shoulder width 2'	4'	2'	2'	
Aggregate base req.				

(compacted)	18"	24"	18"	18"
Hot bituminous Pavement	2"base 1" surface	2" base 1" surface	N/A	2"base 1" surface
Roadway Crown	¼"/ft	¼"/ft	½"/ft	¼"/ft
Maximum Grade	8%	6%	8%	6%
Min. angles at Intersection	75	90	75	90
Min center line radius for curve 150'	220'	150'	200'	
Min tangent length between curves 100'	100'	50'	100'	

#### H. TRIP GENERATION RATES

The following chart shall be used to determine the anticipated average daily traffic (ADT) levels of proposed residential development.

<u>Housing types</u>	<u>Average Weekday Trip Generation</u>
Single-family detached	10 trips per dwelling unit
Duplex (twin) multiplex, Townhouses, etc.	8 trips per dwelling unit
Apartment	8 trips per dwelling unit
Mobile home	8 trips per dwelling unit
Retirement Village	3.5 trips per dwelling unit

I. The centerline of the roadway shall be the centerline of the right-of-way.

J. Dead-end streets shall service no more than twenty (20) dwelling units. 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: 65 feet to property lines and 50 feet to the edge of pavement. Dead-end streets may provide a permanent "T" turn-around in lieu of a cul-de-sac. Such turn-arounds shall be a minimum of 35 feet in length and 20 feet in width. The right-of-way dimensions shall be 50 feet in length and 30 feet in width.

#### K. GRADES, INTERSECTIONS, AND SIGHT DISTANCES

- Grades of all streets shall conform in general to the terrain, so that cut and fill are minimized while maintaining the grade standards above.
- All changes in grade shall be connected by vertical curves to provide for the minimum sight distances below.
- Where new street intersections of 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:

Posted Speed Limit

Sight Distances

25 mph	250'
30 mph	300'
35 mph	350'
40 mph	400'
45 mph	450'
50 mph	500'
55 mph	550'

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 200 feet shall be maintained between centerlines of side streets.
- L. Sidewalks, installed where required by the Planning Board, shall meet these minimum requirements:
1. Bituminous Sidewalks
    - a. The gravel aggregate sub-base course shall be no less than twelve (12) inches thick.
    - b. The crushed aggregate base course shall be no less than two (2) inches thick.
    - c. The hot bituminous pavement surface course shall be no less than two (2) inches thick after compaction.
  2. Portland Cement Concrete Sidewalks
    - a. The sand base shall be no less than six (6) 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 (4) inches thick.

## **SECTION VIII. Street Construction Standards**

### **A. PREPARATION**

1. Before any clearing has started on the traveled way, the centerline and sidelines of the new road shall be staked or flagged at 50-foot intervals.
2. Before grading is started, the entire traveled 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 traveled way.
3. All organic materials shall be removed to a depth of two (2) feet below the sub-grade of the roadway. Rocks and boulders shall also be removed to a depth of two (2) feet below the sub-grade of the roadway. On soils which have been identified as not suitable for roadways, the subsoil shall be removed from the street site to a depth of two (2) feet below the sub-grade and replaced with material meeting the specifications for gravel aggregate sub-base below. In lieu of removal of all organic material, engineering fabric (geo-textile) may be used to stabilize the road base.
4. Side slopes shall be no steeper than a slope of three (3) feet horizontal to one (1) foot vertical, and shall be graded, limed, fertilized, and seeded according to the specifications of the erosion and sedimentation control plan.
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.

## **B.BASES AND PAVEMENT SPECIFICATIONS**

### **1. Base Material**

This material shall meet Maine Department of Transportation (MDOT) Standard Specification #703.06 (B) – Type D for the entire (18” or 24”) fill thickness. Depth of fill material will be as measured after compaction. For 18” of material, compaction shall occur after each 9” lift. For 24” of material, compaction is required after each 12” lift. All aggregate sub-base material shall be free of rocks or rock particles which exceed four (4) inches in diameter.

### **2. Pavements**

- a. **Base mix:** A 2” depth of base mix is required which meets MDOT specifications for Plant Mix Grade B with aggregate size of no more than ¾ inch maximum, and a liquid asphalt content between 5.2% and 6.0% by weight.
- b. **Surface Mix:** A 1” layer of mix is required which meets MDOT specifications for Plant Mix for Grade C or Grade D with an aggregate size no greater than ½ inch and a liquid asphalt content between 6.0% and 7.0% by weight.

## **SECTION VIII. Additional Improvements and Requirements**

- A. EROSION CONTROL:** The procedures outlined 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 on-site 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 are in alignment with streets of abutting or neighboring properties shall not duplicate, nor bear phonetic resemblance to, the names of existing streets within the municipality; and they 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.

## **SECTION IX. Certification of Construction**

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 these regulations. “As built” plans shall be submitted to the municipal officers.

## **SECTION X. Performance Guarantees**

Performance guarantees shall be as specified in the Subdivision Ordinance as adopted by the town on June 3, 1989.

## **SECTION XI. Inspection**

- A. NOTIFICATION OF CONSTRUCTION:** At least ten (10) days prior to commencing street construction or alteration of roads, the applicant shall notify the road commissioner or his appointed

inspector, in writing, of the time when he proposes to commence construction. The municipal officers can cause inspection to be made, to assure that all municipal specifications and requirements be met during the construction.

- B. **NONCOMPLIANCE WITH PLAN:** If it is found, upon inspection of the improvements, that the street or road is not being or has not been constructed in accordance with the approved plans and specifications, the inspector shall so report to the municipal officers and Planning Board. The municipal officers shall then notify the applicant and, if necessary, the bonding company, and shall take all necessary steps to preserve the rights of the municipality under the guarantee, security, or bond.
- C. **MODIFICATION DURING CONSTRUCTION:** If at any time before or during the construction of the street, it is demonstrated to the satisfaction of the appointed inspector that unforeseen conditions make it necessary or preferable to modify the location or design of the street, the appointed inspector may, upon approval of the Board, authorize modifications provided these modifications are within the spirit and intent of the Board's approval. The appointed inspector shall issue any authorization under this section in writing and shall transmit a copy of such authorization to the Board at its next regular meeting.
- D. **INSPECTION FEE:** The Board may assess the applicant a fee to cover the costs of construction inspection.

## **SECTION XII. Separability**

\_\_\_\_\_ If any section, subsection, sentence, clause, phrase, or portion of this ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision and such holding shall not affect the validity of the remaining portions thereof.

## **SECTION XIII. Appeals**

- An appeal may be taken within thirty (30) days from the Board's decision on the application, by any party to Superior Court in accordance with Rule 80B of the Maine Rules of Civil Procedure.

## **SECTION XIV. Amendments**

This ordinance may be amended by a majority vote of town meeting. Amendment may be initiated by a majority vote of the board of selectmen or by request of the Planning Board to the selectmen or on petition of 10% of the votes cast in the last gubernatorial election in the town. The Planning Board shall conduct a public hearing on any proposed amendment.

## **SECTION XV. Definitions**

Average daily traffic: A traffic count of vehicles anticipated for weekdays based on the number of dwelling units in residential developments. [See chart, page 5]

Major street: A street which has an average daily traffic count exceeding 250 vehicles.

Minor street: A street which has an average daily traffic count of 250 vehicles or fewer.

Privately owned street: A vehicular access way which is not intended to be dedicated as a private way.

Street: Public and private ways such as alleys, avenues, boulevards, highways, and roads.

Given unto our hands this 24<sup>th</sup> day of May, A.D. 1989

Selectmen, Town of Vassalboro

Phillip W. Haines  
Dudley E. Foley



# TOWN OF VASSALBORO

## SHORELAND ZONING ORDINANCE

CERTIFIED BY

\_\_\_\_\_

TOWN CLERK

ADOPTED MARCH 1974

AMENDMENT DATES					
MAY 1977	MAY 1980	MAY 1981	JUNE 1985	JUNE 1987	JUNE 1989
MAY 1991	NOV 1991	JUNE 1994	JUNE 2009	JUNE 2010	JUNE 5, 2017

STATUTORY AUTHORITY: 38 M.R.S.A. Section 438-A(5)

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## Shoreland Zoning Ordinance for the Municipality of Vassalboro

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 commercial fishing and maritime industries; to protect freshwater and wetlands; to control building sites, placement of structures and land uses; to conserve shore cover, and visual as well as actual points of access to inland waters; to conserve natural beauty and open space; and to anticipate and respond to the impacts of development in shoreland areas.
2. **Authority.** This Ordinance has been prepared in accordance with the provisions of Title 38 sections 435-449 of the Maine Revised Statutes Annotated (M.R.S.A.).
3. **Applicability.** This Ordinance applies to all land areas within 250 feet, horizontal distance, of the
  - normal high-water line of any great pond, river, or stream
  - upland edge of freshwater wetland,

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

4. **Effective Date of Ordinance and Ordinance Amendments.** This Ordinance, which was adopted by the municipal legislative body on June 1, 1974, shall not be effective unless approved by the Commissioner of the Department of Environmental Protection. A certified copy of the Ordinance, or Ordinance Amendment, attested and signed by the Municipal Clerk, shall be forwarded to the Commissioner for approval. If the Commissioner fails to act on this Ordinance or Ordinance Amendment, within forty-five (45) days of his/her receipt of the Ordinance, or Ordinance Amendment, it shall be automatically approved.

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

5. **Availability.** A certified copy of this Ordinance shall be filed with the Municipal Clerk and shall be accessible to any member of the public. Copies shall be made available to the public at reasonable cost at the expense of the person making the request. Notice of availability of this Ordinance shall be posted.
6. **Severability.** Should any section or provision of this Ordinance be declared by the courts to be invalid, such decision shall not invalidate any other section or provision of the Ordinance.
7. **Conflicts with Other Ordinances.** Whenever a provision of this Ordinance conflicts with or is inconsistent with another provision of this Ordinance or of any other ordinance, regulation or statute administered by the municipality, the more restrictive provision shall control.
8. **Amendments.** This Ordinance may be amended by majority vote of the legislative body. All amendments shall require adequate public participation through one or more hearings held by the Board with the appropriate notice as required under 30-A M.R.S.A. section 4352 (1) and (9). Copies of amendments, attested and signed by the Municipal Clerk, shall be submitted to the Commissioner

of the Department of Environmental Protection following adoption by the municipal legislative body and shall not be effective unless approved by the Commissioner. If the Commissioner fails to act on any amendment within forty-five (45) days of his/her receipt of the amendment, the amendment is automatically approved. Any application for a permit submitted to the municipality within the forty-five (45) day period shall be governed by the terms of the amendment, if such amendment is approved by the Commissioner.

## **9. Districts and Zoning Map**

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

- (1) Resource Protection**
- (2) Limited Residential**
- (3) Limited Residential / Commercial**

**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.

**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. The Board or Code Enforcement Officer shall provide the appropriate notification to landowners as required under 38 M.R.S.A. section 438-A(1-B) whose property is being considered for placement in a resource protection zone and a public hearing shall be held as required under this subsection.

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

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

## **12. Non-conformance**

**A. Purpose.** It is the intent of this Ordinance to promote land use conformities, except that non-conforming conditions that existed before the effective date of this Ordinance or amendments thereto shall be allowed to continue, subject to the requirements set forth in Section 12. Except as

otherwise provided in this Ordinance, a non-conforming condition shall not be permitted to become more non-conforming.

## **B. General**

- (1) Transfer of Ownership.** Non-conforming structures, lots, and uses may be transferred, and the new owner may continue the non-conforming use or continue to use the non-conforming structure or lot, subject to the provisions of this Ordinance.
- (2) Repair and Maintenance.** This Ordinance allows, without a permit, the normal upkeep and maintenance of non-conforming uses and structures including repairs or renovations that do not involve expansion of the non-conforming use or structure, and such other changes in a non-conforming use or structure as federal, state, or local building and safety codes may require.

## **C. Non-conforming Structures**

- (1) Expansions.** All new principal and accessory structures, excluding functionally water-dependent uses, must meet the water body, tributary stream, or wetland setback requirements contained in Section 15(B)(1). A non-conforming structure may be added to or expanded after obtaining a permit from the Planning Board, if such addition or expansion does not increase the non-conformity of the structure and is in accordance with subparagraphs (a) and (b) below. Expansion of an accessory structure that is located closer to the normal high-water line of a water body, tributary stream, or upland edge of a wetland than the principal structure is prohibited, even if the expansion will not increase nonconformity with the water body, tributary stream, or wetland setback requirement.
  - (a)** If a legally existing nonconforming principal structure is entirely located less than 25 feet from the normal high-water line of a water body, tributary stream, or upland edge of a wetland, that structure may be expanded as follows, as long as all other applicable municipal land use standards are met and the expansion is not prohibited by Section 12(C)(1).
    - (i)** The maximum total footprint for the principal structure may not be expanded to a size greater than 800 square feet or 30% larger than the footprint that existed on January 1, 1989, whichever is greater. The maximum height of the principal structure may not be made greater than 15 feet or the height of the existing structure, whichever is greater.
  - (b)** For structures located within 75 feet of the normal high-water line, expansion of any portion of that 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.
  - (c)** All other legally existing nonconforming principal and accessory structures that do not meet the water body, tributary stream, or wetland setback requirements may be expanded or altered as follows, as long as other applicable municipal land use standards are met and the expansion is not prohibited by Section 12(C)(1) or Section 12(C)(1)(a), above.

- (i) For structures located less than 75 feet from the normal high-water line of a water body, tributary stream, or upland edge of a wetland, the maximum combined total footprint for all structures may not be expanded to a size greater than 1,000 square feet or 30% larger than the footprint that existed on January 1, 1989, whichever is 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)(a)(i) and Section 12(C)(1)(c)(i), above.
  - (iii) In addition to the limitations in subparagraphs (i) and (ii), for structures that are legally nonconforming due to their location within the Resource Protection District when located at less than 250 feet from the normal high-water line of a water body or the upland edge of a wetland, the maximum combined total footprint for all structures may not be expanded to a size greater than 1,500 square feet or 30% larger than the footprint that existed at the time the Resource Protection District was established on the lot, whichever is 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)(a)(i) and Section 12(C)(1)(c)(i), above.
  - (d) An approved plan for expansion of a nonconforming structure must be recorded by the applicant with the registry of deeds, within 90 days of approval. The recorded plan must show the existing and proposed footprint of the non-conforming structure, the existing and proposed structure height, the footprint of any other structures on the parcel, the shoreland zone boundary and evidence of approval by the municipal review authority.
- (2) Foundations.** Whenever a new, enlarged, or replacement foundation is constructed under a non-conforming structure, the structure and new foundation must be placed such that the setback requirement is met to the greatest practical extent as determined by the Planning Board or its designee, basing its decision on the criteria specified in Section 12(C)(3) Relocation, below.
- (3) Relocation.** A non-conforming structure may be relocated within the boundaries of the parcel on which the structure is located provided that the site of relocation conforms to all setback requirements to the greatest practical extent as determined by the Planning Board or its designee, and provided that the applicant demonstrates that the present subsurface sewage disposal system meets the requirements of State law and the State of Maine Subsurface Wastewater Disposal Rules (Rules), or that a new system can be installed in compliance with the law and said Rules. In no case shall a structure be relocated in a manner that causes the structure to be more non-conforming.

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

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

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

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

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

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

Any non-conforming structure which is located less than the required setback from a water body, tributary stream, or wetland and which is removed by 50% or less of the market value, or damaged or destroyed by 50% or less of the market value of the structure, excluding

normal maintenance and repair, may be reconstructed in place if a permit is obtained from the Code Enforcement Officer within one year of such damage, destruction, or removal, provided there is no expansion.

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.
- (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, the lot shall not be divided in a manner that creates a non-conforming lot or causes a non-conforming lot to become more non-conforming.

- (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.

### 13. Establishment of Districts

- A. Resource Protection District.** The Resource Protection District includes areas in which development would adversely affect water quality, productive habitat, biological ecosystems, or scenic and natural values. This district shall include the following areas when they occur within the limits of the shoreland zone, except that areas which are currently developed and areas which meet the criteria for the Limited Residential or Limited Residential / Commercial need not be included within the Resource Protection District.
- (1) Floodplains along rivers and floodplains along artificially formed great ponds along rivers, defined by the 100 year floodplain as designated on the Federal Emergency Management Agency's (FEMA) Flood Insurance Rate Maps or Flood Hazard Boundary Maps, or the flood of record, or in the absence of these, by soil types identified as recent floodplain soils. This district shall also include 100 year floodplains adjacent to tidal waters as shown on FEMA's Flood Insurance Rate Maps or Flood Hazard Boundary Maps.
  - (2) Areas of two or more contiguous acres with sustained slopes of 20% or greater.
  - (3) 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.
  - (4) Land areas along rivers subject to severe bank erosion, undercutting, or river bed movement;
  - (5) Other important wildlife habitat;
  - (6) Natural sites of significant scenic or aesthetic value;
  - (7) Areas designated by federal, state or municipal governments as natural areas of significance to be preprotected from development; and
  - (8) Other significant areas which should be included in this district to fulfill the purposes of this Ordinance, such as, but not limited to, existing public access areas and certain significant archaeological and historic sites deserving of long-term protection as determined by the municipality after consultation with the Maine Historic Preservation Commission.

- (9) Areas within 250 feet, horizontal distance, of the upland edge of freshwater wetlands, 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). These areas are generally depicted on a Geographic Information System (GIS) data layer.

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

**C. Limited Residential / Commercial District.** The Limited Residential / Commercial District includes areas of mixed, light commercial and residential uses. This district includes areas of two or more contiguous acres in size devoted to a mix of residential and low intensity business and commercial uses. Industrial uses are prohibited.

**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: LAND USES IN THE SHORELAND ZONE**

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

LR/C - Limited Residential / Commercial

**TABLE 1: LAND USES IN THE SHORELAND ZONE**

LAND USES	RP	LR	LR/C
1. Non-intensive recreational uses not requiring structures such as hunting, fishing and hiking including the construction of trails for public use	yes	yes	yes
2. Motorized vehicular traffic on existing roads and trails	yes	yes	yes
3. Clearing or removal of vegetation for activities other than timber harvesting	CEO <sup>1</sup>	yes	yes
4. Fire prevention activities	yes	yes	yes
5. Wildlife management practices	yes	yes	yes
6. Soil and water conservation practices	yes	yes	yes
7. Mineral exploration	yes <sup>2</sup>	yes <sup>2</sup>	yes <sup>2</sup>
8. Mineral extraction including sand and gravel extraction	PB <sup>3</sup>	PB	PB
9. Surveying and resource analysis	yes	yes	yes
10. Emergency operations	yes	yes	yes
11. Agriculture	PB	yes	yes
12. Aquaculture	PB	PB	yes
13. Principal structures and uses			
A. One and two family residential, including driveways	PB <sup>4</sup>	PB	PB
B. Multi-unit residential	no	PB	PB
C. Commercial	no <sup>5</sup>	no <sup>5</sup>	PB <sup>5</sup>
D. Industrial	no	no	no
E. Governmental and institutional	no	PB	PB
F. Small non-residential facilities for educational, scientific, or nature interpretation purposes	PB	CEO	CEO
14. Structures accessory to allowed uses	PB	CEO	CEO
15. Piers, docks, wharfs, bridges, public boat access facilities and other structures and uses extending over of below the normal high-water line or within a wetland			
A. Temporary	CEO <sup>6</sup>	CEO <sup>6</sup>	CEO <sup>6</sup>
B. Permanent	PB	PB	PB
16. Conversions of seasonal residences to year-round residences	LPI	LPI	LPI
17. Home occupations	PB	PB	CEO
18. Private sewage disposal systems for allowed uses	LPI	LPI	LPI
19. Essential services	PB <sup>7</sup>	PB	PB
A. Roadside distribution lines (34.5kV and lower)	CEO <sup>7</sup>	yes <sup>8</sup>	yes <sup>8</sup>
B. Non-roadside or cross-country distribution lines involving ten poles or less in the shoreland zone	PB <sup>7</sup>	CEO	CEO
C. Non-roadside or cross country distribution lines involving eleven or more poles in the shoreland zone	PB <sup>7</sup>	PB	PB
D. Other essential services	PB <sup>7</sup>	PB	PB
20. Service drops, as defined, to allowed uses	yes	yes	yes
21. Public and private recreational areas involving minimal structural development	PB	PB	CEO
22. Individual, private campsites	CEO	CEO	CEO
23. Campgrounds	no <sup>9</sup>	PB	PB
24. Road construction	no <sup>10</sup>	PB	PB
25. Parking facilities	no <sup>9</sup>	PB	PB
26. Marinas	no	PB	PB
27. Filling and earth moving of <10 cubic yards	CEO	yes	yes
28. Filling and earth moving of >10 cubic yards	PB	CEO	CEO
29. Signs	yes	yes	yes
30. Uses similar to allowed uses	CEO	CEO	CEO
31. Uses similar to uses requiring a Code Enforcement Officer permit	CEO	CEO	CEO
32. Uses similar to uses requiring a Planning Board permit	PB	PB	PB

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<sup>1</sup> In RP not allowed within 75 feet horizontal distance, of the normal high-water line of great ponds, except to remove safety hazards.

<sup>2</sup> Requires permit from the Code Enforcement Officer if more than 100 square feet of surface area, in total, is disturbed.

<sup>3</sup> In RP not allowed in areas so designated because of wildlife value.

<sup>4</sup> Single family residential structures may be allowed by special exemption only according to the provisions of Section 16(E), Special Exceptions. Two-family residential structures are prohibited.

<sup>5</sup> Except for commercial uses otherwise listed in this Table, such as marinas and campgrounds, that are allowed in the respective district.

<sup>6</sup> Excluding bridges and other crossings not involving earthwork, in which case no permit is required.

<sup>7</sup> See further restrictions in Section 15(L)(2).

<sup>8</sup> Permit not required, but must file a written "notice of intent to construct" with Code Enforcement Officer.

<sup>9</sup> Except when area is zoned for resource protection due to floodplain criteria in which case a permit is required from the Planning Board.

<sup>10</sup> Except as provided in Section 15(H)(4).

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 or coastal wetland, great pond, rivers, 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.

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

**A. Minimum Lot Standards**

	<b>Minimum Lot Area (sq. ft.)</b>	<b>Minimum Shore Frontage (ft.)</b>
(1) (a) Residential per dwelling unit	40,000	200
(b) Governmental, Institutional, Commercial or Industrial per principal structure	60,000	300
(c) Public and Private Recreational Facilities	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 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) 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.
  - (c) The Planning Board has the authority to increase the required setback of a proposed structure, if necessary, to accomplish the purposes of this ordinance. Instances where a greater setback may be appropriate include, but are not limited to: areas of steep slope; shallow or erodible soils; or where an adequate vegetative buffer does not exist.
- (2) Principal or accessory structures and expansions of existing structures which are permitted in the Resource Protection, Limited Residential, and Limited Residential / Commercial, 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, except accessory structures may be placed in accordance with the standards of the Floodplain Management 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 a total of twenty (20) percent of the portion of the lot

located within the shoreland zone. This limitation does not apply to public boat launching facilities regardless of the district in which the facility is located.

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

- (5) Retaining walls that are not necessary for erosion control shall meet the structure setback requirement, except for low retaining walls and associated fill provided all of the following conditions are met:
- (a) The site has been previously altered and an effective vegetated buffer does not exist;
  - (b) The wall(s) is(are) at least 25 feet, horizontal distance, from the normal high-water line of a water body, tributary stream, or upland edge of a wetland;
  - (c) The site where the retaining wall will be constructed is legally existing lawn or is a site eroding from lack of naturally occurring vegetation, and which cannot be stabilized with vegetative plantings;
  - (d) The total height of the wall(s), in the aggregate, are no more than 24 inches;
  - (e) Retaining walls are located outside of the 100-year floodplain on rivers, streams, coastal 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;

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

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- (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, Public Boat Access Facilities, and Other Structures and Uses Extending Over or Below the Normal High-Water Line of a Water Body or Within a Wetland, and Shoreline Stabilization**

- (1) No more than one pier, dock, wharf or similar structure extending or located below the normal high-water line of a water body or within a wetland is allowed on a single lot; except that when a single lot contains at least twice the minimum shore frontage as specified in Section 15(A), a second structure may be allowed and may remain as long as the lot is not further divided.
- (2) Access from shore shall be developed on soils appropriate for such use and constructed so as to control erosion.
- (3) The location shall not interfere with existing developed or natural beach areas.
- (4) The facility shall be located so as to minimize adverse effects on fisheries.
- (5) The facility shall be no larger in dimension than necessary to carry on the activity and be consistent with the surrounding character and uses of the area.
- (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.

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**NOTE:** A structure constructed on a float or floats is prohibited unless it is designed to function as, and is registered with the Maine Department of Inland Fisheries and Wildlife as a watercraft.

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- (7) New permanent piers and docks shall not be permitted unless it is clearly demonstrated to the Planning Board that a temporary pier or dock is not feasible, and a permit has been obtained from the Department of Environmental Protection, pursuant to the *Natural Resources Protection Act*.
- (8) No existing structures built on, over or abutting a pier, dock, wharf or other structure extending beyond the normal high-water line of a water body or within a wetland shall be converted to residential dwelling units in any district.

- (9) Structures built on, over or abutting a pier, wharf, dock or other structure extending beyond the normal high-water line of a water body or within a wetland shall not exceed twenty (20) feet in height above the pier, wharf, dock or other structure.
- (10) Vegetation may be removed in excess of the standards in Section 15(P) of this ordinance in order to conduct shoreline stabilization of an eroding shoreline, provided that a permit is obtained from the Planning Board. Construction equipment must access the shoreline by barge when feasible as determined by the Planning Board.
  - (a) When necessary, the removal of trees and other vegetation to allow for construction equipment access to the stabilization site via land must be limited to no more than 12 feet in width. When the stabilization project is complete the construction equipment accessway must be restored.
  - (b) Revegetation must occur in accordance with Section 15(S).

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

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- (11) A deck over a river may be exempted from the shoreland setback requirements if it is part of a downtown revitalization project that is defined in a project plan approved by the legislative body of the municipality, and may include the revitalization of structures formerly used as mills that do not meet the structure setback requirements, if the deck meets the following requirements:
  - (a) The total deck area attached to the structure does not exceed 700 square feet;
  - (b) The deck is cantilevered over a segment of a river that is located within the boundaries of the downtown revitalization project;
  - (c) The deck is attached to or accessory to an allowed commercial use in a structure that was constructed prior to 1971 and is located within the downtown revitalization project;
  - (d) The construction of the deck complies with all other applicable standards, except the shoreline setback requirements in section 15(B); and

The construction of the deck complies with all other state and federal laws.

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

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- (12) Clearing and roads for public boat access facilities are permitted but subject to conditions in Sections 15(H) and 15(P).

**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, from the normal high-water line of a great pond classified GPA, rivers flowing to a great pond classified GPA, from 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, rivers flowing to a great pond classified GPA, from 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. The setback requirement for parking areas serving public boat launching facilities 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, from the normal high-water line of a great pond classified GPA, rivers flowing to a great pond classified GPA, from 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, public boat access facilities, and facilities located nearer to the shoreline or tributary stream due to an operational necessity, excluding temporary docks for recreational uses. Roads and driveways providing access to permitted structures within the setback area shall comply fully with the requirements of Section 15(H)(1) except for that portion of the road or driveway necessary for direct access to the structure.

- (2) Existing public roads may be expanded within the legal road right of way regardless of their setback from a water body, tributary stream or wetland.
- (3) New roads and driveways are prohibited in a Resource Protection District except that the Planning Board may grant a permit to construct a road or driveway to provide access to public boat access facilities or other permitted uses within the district. A road or driveway may also be approved by the Planning Board in a Resource Protection District, upon a finding that no reasonable alternative route or location is available outside the district. When a road or driveway is permitted in a Resource Protection District the road and/or driveway shall be set back as far as practicable from the normal high-water line of a water body, tributary stream, or upland edge of a wetland.
- (4) Road and driveway banks shall be no steeper than a slope of two (2) horizontal to one (1) vertical, and shall be graded and stabilized in accordance with the provisions for erosion and sedimentation control contained in Section 15(T).
- (5) Road and driveway grades shall be no greater than ten (10) percent except for segments of less than two hundred (200) feet.
- (6) In order to prevent road and driveway surface drainage from directly entering water bodies, tributary streams or wetlands, roads and driveways shall be designed, constructed, and maintained to empty onto an unscarified buffer strip at least (50) feet plus two times the average slope, in width between the outflow point of the ditch or culvert and the normal high-water line of a water body, tributary stream, or upland edge of a wetland. Surface drainage which is directed to an unscarified buffer strip shall be diffused or spread out to promote infiltration of the runoff and to minimize channelized flow of the drainage through the buffer strip.
- (7) Ditch relief (cross drainage) culverts, drainage dips and water turnouts shall be installed in a manner effective in directing drainage onto unscarified buffer strips before the flow gains sufficient volume or head to erode the road, driveway, or ditch. To accomplish this, the following shall apply:
  - (a) Ditch relief culverts, drainage dips and associated water turnouts shall be spaced along the road, or driveway at intervals no greater than indicated in the following table:

<b>Grade (Percent)</b>	<b>Spacing (Feet)</b>
0-2	250
3-5	200-135
6-10	100-80
11-15	80-60
16-20	60-45
21 +	40

- (b) Drainage dips may be used in place of ditch relief culverts only where the grade is ten (10) percent or less.
  - (c) On sections having slopes greater than ten (10) percent, ditch relief culverts shall be placed at approximately a thirty (30) degree angle downslope from a line perpendicular to the centerline of the road or driveway.
  - (d) Ditch relief culverts shall be sufficiently sized and properly installed in order to allow for effective functioning, and their inlet and outlet ends shall be stabilized with appropriate materials.
  - (8) Ditches, culverts, bridges, dips, water turnouts and other storm water runoff control installations associated with roads and driveways shall be maintained on a regular basis to assure effective functioning.
- I. Signs.** The following provisions shall govern the use of signs in the Resource Protection, Limited Residential and Limited Residential / Commercial Districts:
- (1) Signs relating to goods and services sold on the premises shall be allowed, provided that such signs shall not exceed six (6) square feet in area and shall not exceed two (2) signs per premises. In the Limited Residential / Commercial District, however, such signs shall not exceed sixteen (16) square feet in area. Signs relating to goods or services not sold or rendered on the premises shall be prohibited.
  - (2) Name signs are allowed, provided such signs shall not exceed two (2) signs per premises, and shall not exceed twelve (12) square feet in the aggregate.
  - (3) Residential users may display a single sign not over three (3) square feet in area relating to the sale, rental, or lease of the premises.
  - (4) Signs relating to trespassing and hunting shall be allowed without restriction as to number provided that no such sign shall exceed two (2) square feet in area.
  - (5) Signs relating to public safety shall be allowed without restriction.
  - (6) No sign shall extend higher than twenty (20) feet above the ground.
  - (7) Signs may be illuminated only by shielded, non-flashing lights.

## **J. Storm Water Runoff**

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

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

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## **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.
- (2) All subsurface sewage disposal systems shall meet the setback distance in the Building Permit Ordinance.

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

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## **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, 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, river flowing to a great pond classified GPA, the normal high-water line of any other water body, tributary stream, or the upland edge of a wetland. Extraction operations shall not be permitted within fifty (50) feet, horizontal distance, of any property line without written permission of the owner of such adjacent property.
- (3) Within twelve (12) months following the completion of extraction operations at any extraction site, which operations shall be deemed complete when less than one hundred (100) cubic yards of materials are removed in any consecutive twelve (12) month period, ground levels and grades shall be established in accordance with the following:
  - (a) All debris, stumps, and similar material shall be removed for disposal in an approved location, or shall be buried on-site. Only materials generated on-site may be buried or covered on-site.

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

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- (b) The final graded slope shall be two and one-half to one (2 1/2:1) slope or flatter.
  - (c) Top soil or loam shall be retained to cover all disturbed land areas, which shall be reseeded and stabilized with vegetation native to the area. Additional topsoil or loam shall be obtained from off-site sources if necessary to complete the stabilization project.
- (4) In keeping with the purposes of this Ordinance, the Planning Board may impose such conditions as are necessary to minimize the adverse impacts associated with mineral extraction operations on surrounding uses and resources.

## **N. Agriculture**

- (1) All spreading of manure shall be accomplished in conformance with the *Manure Utilization Guidelines* published by the former Maine Department of Agriculture on November 1, 2001, and the *Nutrient Management Law* (7 M.R.S.A. sections 4201-4209).
- (2) Manure shall not be stored or stockpiled within one hundred (100) feet, horizontal distance, of a great pond classified GPA, a river flowing to a great pond classified GPA, 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.

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

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- (4) There shall be no new tilling of soil within one-hundred (100) feet, horizontal distance, of the normal high-water line of a great pond classified GPA; within seventy-five (75) feet, horizontal distance, from other water bodies; nor within twenty-five (25) feet, horizontal distance, of tributary streams and freshwater wetlands. Operations in existence on the effective date of this ordinance and not in conformance with this provision may be maintained.
- (5) Newly established livestock grazing areas shall not be permitted within one hundred (100) feet, horizontal distance, of the normal high-water line of a great pond classified GPA; within seventy-five (75) feet, horizontal distance, of other water bodies; nor within twenty-five (25) feet, horizontal distance, of tributary streams and freshwater wetlands. Livestock grazing associated with ongoing farm activities, and which are not in conformance with the above setback provisions may continue, provided that such grazing is conducted in accordance with a Conservation Plan that has been filed with the planning board.

## **O. Timber Harvesting – Repealed (DATE \_\_\_\_\_) The Bureau of Forestry will regulate Timber Harvesting**

## **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), above, within a strip of land extending one-hundred (100) feet, horizontal distance, inland from the normal high-water line of a great pond classified GPA, a river flowing to a great pond classified GPA, from any other water

body, tributary stream, or the upland edge of a wetland, a buffer strip of vegetation shall be preserved as follows:

- (a) There shall be no cleared opening greater than 250 square feet in the forest canopy (or other existing woody vegetation if a forested canopy is not present) as measured from the outer limits of the tree or shrub crown. However, a single footpath not to exceed six (6) feet in width as measured between tree trunks and/or shrub stems is allowed for accessing the shoreline provided that a cleared line of sight to the water through the buffer strip is not created.
- (b) Selective cutting of trees within the buffer strip is allowed provided that a well-distributed stand of trees and other natural vegetation is maintained. For the purposes of Section 15(P)(2)(b) a “well-distributed stand of trees” adjacent to a great pond classified GPA or a river or stream flowing to a great pond classified GPA, shall be defined as maintaining a rating score of 24 or more in each 25-foot by 50-foot rectangular (1250 square feet) area as determined by the following rating system.

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

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

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

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

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

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The following shall govern in applying this point system:

- (i) The 25-foot by 50-foot rectangular plots must be established where the landowner or lessee proposes clearing within the required buffer;
- (ii) Each successive plot must be adjacent to, but not overlap a previous plot;
- (iii) Any plot not containing the required points must have no vegetation removed except as otherwise allowed by this Ordinance;

- (iv) Any plot containing the required points may have vegetation removed down to the minimum points required or as otherwise allowed by this Ordinance;
- (v) Where conditions permit, no more than 50% of the points on any 25-foot by 50-foot rectangular area may consist of trees greater than 12 inches in diameter.

For the purposes of Section 15(P)(2)(b) “other natural vegetation” is defined as retaining existing vegetation under three (3) feet in height and other ground cover and retaining at least five (5) saplings less than two (2) inches in diameter at four and one half (4 ½) feet above ground level for each 25-foot by 50-foot rectangle area. If five saplings do not exist, no woody stems less than two (2) inches in diameter can be removed until 5 saplings have been recruited into the plot.

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

- (c) In order to protect water quality and wildlife habitat, existing vegetation under three (3) feet in height and other ground cover, including leaf litter and the forest duff layer, shall not be cut, covered, or removed, except to provide for a footpath or other permitted uses as described in Section 15(P) paragraphs (2) and (2)(a) above and 2(g) below.
- (d) Pruning of tree branches, on the bottom 1/3 of the tree is allowed.
- (e) In order to maintain a buffer strip of vegetation, when the removal of storm-damaged, dead or hazard trees results in the creation of cleared openings, these openings shall be replanted with native tree species in accordance with Section Q, below, unless existing new tree growth is present.
- (f) In order to maintain the vegetation in the shoreline buffer, clearing or removal of vegetation for allowed activities, including associated construction and related equipment operation, within or outside the shoreline buffer, must comply with the requirements of Section 15(P)(2).
- (g) Clearing for recreational trails for public use is permitted provided that the width of the trail does not exceed six (6) feet in width and the other objectives of this section are met to the greatest extent practical.

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

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

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

- (4) Legally existing nonconforming cleared openings may be maintained, but shall not be enlarged, except as allowed by this Ordinance.
- (5) Fields and other cleared openings which have reverted to primarily shrubs, trees, or other woody vegetation shall be regulated under the provisions of Section 15(P).

**Q. Hazard Trees, Storm-Damaged Trees, and Dead Tree Removal**

- (1) Hazard trees in the shoreland zone may be removed without a permit after consultation with the Code Enforcement Officer if the following requirements are met:
  - (a) Within the shoreline buffer, if the removal of a hazard tree results in a cleared opening in the tree canopy greater than two hundred and fifty (250) square feet, replacement with native tree species is required, unless there is new tree growth already present. New tree growth must be as near as practicable to where the hazard tree was removed and be at least two (2) inches in diameter, measured at four and one half (4.5) feet above the ground level. If new growth is not present, then replacement trees shall consist of native species and be at least four (4) feet in height, and be no less than two (2) inches in diameter. Stumps may not be removed.
  - (b) Outside of the shoreline buffer, when the removal of hazard trees exceeds forty (40) percent of the volume of trees four (4) inches or more in diameter, measured at four and one half (4.5) feet above ground level in any ten (10) year period, and/or results in cleared openings exceeding twenty-five (25) percent of the lot area within the shoreland zone, or ten thousand (10,000) square feet, whichever is greater, replacement with native tree species is required, unless there is new tree growth already present. New tree growth must be as near as practicable to where the hazard tree was removed and be at least two (2) inches in diameter, measured at four and one half (4.5) feet above the ground level. If new growth is not present, then replacement trees shall consist of native species and be at least two (2) inches in diameter, measured at four and one half (4.5) feet above the ground level.
  - (c) The removal of standing dead trees, resulting from natural causes, is permissible without the need for replanting or a permit, as long as the removal does not result in the creation of new lawn areas, or other permanently cleared areas, and stumps are not removed. For the purposes of this provision dead trees are those trees that contain no foliage during the growing season.
  - (d) The Code Enforcement Officer may require the property owner to submit an evaluation from a licensed forester or arborist before any hazard tree can be removed within the shoreland zone.
  - (e) The Code Enforcement Officer may require more than a one-for-one replacement for hazard trees removed that exceed eight (8) inches in diameter measured at four and one half (4.5) feet above the ground level.

- (2) Storm-damaged trees in the shoreland zone may be removed without a permit after consultation with the Code Enforcement Officer if the following requirements are met:
- (a) Within the shoreline buffer, when the removal of storm-damaged trees results in a cleared opening in the tree canopy greater than two hundred and fifty (250) square feet, replanting is not required, but the area shall be required to naturally revegetate, and the following requirements must be met:
    - (i) The area from which a storm-damaged tree is removed does not result in new lawn areas, or other permanently cleared areas;
    - (ii) Stumps from the storm-damaged trees may not be removed;
    - (iii) Limbs damaged from a storm event may be pruned even if they extend beyond the bottom one-third (1/3) of the tree; and
    - (iv) If after one growing season, no natural regeneration or regrowth is present, replanting of native tree seedlings or saplings is required at a density of one seedling per every eighty (80) square feet of lost canopy.
  - (b) Outside of the shoreline buffer, if the removal of storm damaged trees exceeds 40% of the volume of trees four (4) inches or more in diameter, measured at four and one half (4.5) feet above the ground level in any ten (10) year period, or results, in the aggregate, in cleared openings exceeding 25% of the lot area within the shoreland zone or ten thousand (10,000) square feet, whichever is greater, and no natural regeneration occurs within one growing season, then native tree seedlings or saplings shall be replanted on a one-for-one basis.

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

- (1) The removal of vegetation that occurs at least once every two (2) years for the maintenance of legally existing areas that do not comply with the vegetation standards in this chapter, such as but not limited to cleared openings in the canopy or fields. Such areas shall not be enlarged, except as allowed by this section. If any of these areas, due to lack of removal of vegetation every two (2) years, reverts back to primarily woody vegetation, the requirements of Section 15(P) apply;
- (2) The removal of vegetation from the location of allowed structures or allowed uses, when the shoreline setback requirements of section 15(B) are not applicable;
- (3) The removal of vegetation from the location of public swimming areas associated with an allowed public recreational facility;
- (4) The removal of 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 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 river that does not flow to a great pond classified as GPA pursuant to 38 M.R.S.A section 465-A.
- (6) The removal of non-native invasive vegetation species, provided the following minimum requirements are met:
  - (a) If removal of vegetation occurs via wheeled or tracked motorized equipment, the wheeled or tracked motorized equipment is operated and stored at least twenty-five (25) feet, horizontal distance, from the shoreline, except that wheeled or tracked equipment may be operated or stored on existing structural surfaces, such as pavement or gravel;
  - (b) Removal of vegetation within twenty-five (25) feet, horizontal distance, from the shoreline occurs via hand tools; and
  - (c) If applicable clearing and vegetation removal standards are exceeded due to the removal of non-native invasive species vegetation, the area shall be revegetated with native species to achieve compliance.

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

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

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

- (1) The property owner must submit a revegetation plan, prepared with and signed by a qualified professional, that describes revegetation activities and maintenance. The plan must include a scaled site plan, depicting where vegetation was, or is to be removed, where existing vegetation is to remain, and where vegetation is to be planted, including a list of all vegetation to be planted.
- (2) Revegetation must occur along the same segment of shoreline and in the same area where vegetation was removed and at a density comparable to the pre-existing vegetation, except where a shoreline stabilization activity does not allow revegetation to occur in the same area and at a density comparable to the pre-existing vegetation, in which case revegetation must occur along the same segment of shoreline and as close as possible to the area where vegetation was removed:

- (3) If part of a permitted activity, revegetation shall occur before the expiration of the permit. If the activity or revegetation is not completed before the expiration of the permit, a new revegetation plan shall be submitted with any renewal or new permit application.
- (4) Revegetation activities must meet the following requirements for trees and saplings:
  - (a) All trees and saplings removed must be replaced with native noninvasive species;
  - (b) Replacement vegetation must at a minimum consist of saplings;
  - (c) If more than three (3) trees or saplings are planted, then at least three (3) different species shall be used;
  - (d) No one species shall make up 50% or more of the number of trees and saplings planted;
  - (e) If revegetation is required for a shoreline stabilization project, and it is not possible to plant trees and saplings in the same area where trees or saplings were removed, then trees or sapling must be planted in a location that effectively reestablishes the screening between the shoreline and structures; and
  - (f) A survival rate of at least eighty (80) percent of planted trees or saplings is required for a minimum five (5) years period.
- (5) Revegetation activities must meet the following requirements for woody vegetation and other vegetation under three (3) feet in height:
  - (a) All woody vegetation and vegetation under three (3) feet in height must be replaced with native noninvasive species of woody vegetation and vegetation under three (3) feet in height as applicable;
  - (b) Woody vegetation and vegetation under three (3) feet in height shall be planted in quantities and variety sufficient to prevent erosion and provide for effective infiltration of stormwater;
  - (c) If more than three (3) woody vegetation plants are to be planted, then at least three (3) different species shall be planted;
  - (d) No one species shall make up 50% or more of the number of planted woody vegetation plants; and
  - (e) Survival of planted woody vegetation and vegetation under three feet in height must be sufficient to remain in compliance with the standards contained within this chapter for minimum of five (5) years
- (6) Revegetation activities must meet the following requirements for ground vegetation and ground cover:
  - (a) All ground vegetation and ground cover removed must be replaced with native herbaceous vegetation, in quantities and variety sufficient to prevent erosion and provide for effective infiltration of stormwater;

- (b) Where necessary due to a lack of sufficient ground cover, an area must be supplemented with a minimum four (4) inch depth of leaf mulch and/or bark mulch to prevent erosion and provide for effective infiltration of stormwater; and
- (c) Survival and functionality of ground vegetation and ground cover must be sufficient to remain in compliance with the standards contained within this chapter for minimum of five (5) years.

#### **T. Erosion and Sedimentation Control**

- (1) All activities which involve filling, grading, excavation or other similar activities which result in unstabilized soil conditions and which require a permit shall also require a written soil erosion and sedimentation control plan. The plan shall be submitted to the permitting authority for approval and shall include, where applicable, provisions for:
  - (a) Mulching and revegetation of disturbed soil.
  - (b) Temporary runoff control features such as hay bales, silt fencing or diversion ditches.
  - (c) Permanent stabilization structures such as retaining walls or 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.

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

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## **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.

**D1. Procedure for Administering Permits.** Within thirty-five (35) calendar 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 thirty-five (35) calendar 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 thirty-five (35) calendar days after the first available date on the Planning Board's agenda following receipt of the completed application, or within 35 calendar 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
- (6) Will protect archaeological and historic resources as designated in the strategic 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.

## **D2. Prohibition of Permitting**

In addition to the other requirements of this ordinance, a permit shall not be issued by the Planning Board or Code Enforcement Officer under the following conditions:

- (1) The applicant for the permit is currently in violation of any land use ordinance or state law related to land use within the Town of Vassalboro.
- (2) The landowner for whom a permit application has been submitted is currently in violation of any land use ordinance or state law related to land use within the Town of Vassalboro.
- (3) The applicant for the permit has engaged in activities requiring a permit under state laws or local ordinances without having obtained a permit with respect to any land within the Town of Vassalboro.
- (4) The landowner for whom a permit application has been submitted has engaged in activities requiring a permit under state laws or local ordinances without having obtained a permit with respect to any land within the Town of Vassalboro.
- (5) The applicant or landowner will be using a contractor, developer, or any business or person gaining monetary benefit to undertake work related to the issuance of the permit and the contractor, developer, business or person is currently in violation of any ordinance or state law related to land use in the Town of Vassalboro.

**E. Special Exceptions.** In addition to the criteria specified in Section 16(D1) 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 and outside the velocity zone in areas subject to tides, based on detailed flood insurance studies and as delineated on the Federal Emergency Management Agency's 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 100 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 of Appeals shall not grant a variance unless it finds that:
  - (i) The proposed structure or use would meet the provisions of Section 15 except for the specific provision which has created the non-conformity and from which relief is sought; and
  - (ii) The strict application of the terms of this Ordinance would result in undue hardship. The term “undue hardship shall mean:
    - a. That the land in question cannot yield a reasonable return unless a variance is granted;
    - b. That the need for a variance is due to the unique circumstances of the property and not to the general conditions in the neighborhood;
    - c. That the granting of a variance will not alter the essential character of the locality; and
    - d. That the hardship is not the result of action taken by the applicant or a prior owner.
- (d) Notwithstanding Section 16(H)(2)(c)(ii) above, the Board of Appeals, or the Code Enforcement Officer if authorized in accordance with 30-A MRSA §4353-A, may grant a variance to an owner of a residential dwelling for the purpose of making that dwelling accessible to a person with a disability who resides in or regularly uses the dwelling. The board shall restrict any variance granted under this subsection solely to the installation of equipment or the construction of structures necessary for access to or egress from the dwelling by the person with the disability. The board may impose conditions on the variance, including limiting the variance to the duration of the disability or to the time that the person with the disability lives in the dwelling. The term “structures necessary for access to or egress from the dwelling” shall include railing, wall or roof systems necessary

for the safety or effectiveness of the structure. Any permit issued 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 Ordinance or contrary to the facts presented to the Planning Board. The Board of Appeals may only review the record of the proceedings before the Planning Board. The Board Appeals shall not receive or consider any evidence which was not presented to the Planning Board, but the Board of Appeals may receive and consider written or oral arguments. If the Board of Appeals determines that the record of the Planning Board proceedings are inadequate, the Board of Appeals may remand the matter to the Planning Board for additional fact finding.

### **(4) Appeal Procedure**

#### **(a) Making an Appeal**

- (i) An administrative or variance appeal may be taken to the Board of Appeals by an aggrieved party from any decision of the Code Enforcement Officer or the Planning Board, except for enforcement-related matters as described in Section 16(H)(1)(a) above. Such an appeal shall be taken within thirty (30) calendar 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) calendar 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) calendar days of its receipt of a complete written application, unless this time period is extended by the parties.
- (b) Notice of Appeal and Hearing
- At least fifteen (15) calendar days prior to the date of the hearing on such appeal, the Board of Appeals shall:
- (i) Cause to be published in one issue in a newspaper of general circulation in the Town, a notice which includes:
    - a. The name of the person appealing;
    - b. The location and description of the property involved;
    - c. A brief description of the decision appealed from or of the nature of the appeal; and
    - d. The date, time and place of the hearing.
  - (ii) Cause the Code Enforcement Officer to give similar written notice by mail to:
    - a. All property owners whose properties lie within 200 feet of the affected property;
    - b. The person making the appeal; and
    - c. The Planning Board, the Code Enforcement Officer, the Municipal Officers and any other parties expressing an interest in the hearing.
- (c) Hearings:
- (i) The Board of Appeals may receive any oral or documentary evidence, but may also exclude any irrelevant, immaterial or unduly repetitious evidence. All parties shall have the right to present their case or defense by oral or documentary evidence, to submit rebuttal evidence, and to conduct such cross-examinations as may be required for a full and true disclosure of the facts.
  - (ii) The appellant's case shall be heard first. To maintain orderly procedure, each side shall proceed without interruption. Questions may be asked through the Chair. All persons at the hearings shall abide by the order established by the Chairperson.
  - (iii) At any hearing, a party may be represented by agent or attorney. Hearings shall not be continued to other times except for good cause.

- (iv) The transcript or tape recording of testimony, if any, minutes, and exhibits, together with all papers, documents, exhibits and requests filed in the proceedings, shall constitute the record.
  - (v) The record may be kept open after the hearing to receive additional comments or evidence by order of the Chairperson until a date established by the order.
- (d) **Decision by Board of Appeals**
- (i) A majority of the full voting membership of the Board of Appeals shall constitute a quorum for the purpose of deciding an appeal.
  - (ii) The concurring vote of a majority of the members present and voting shall be necessary to reverse an order, requirement, decision, or determination of the Code Enforcement Officer or Planning Board, or to decide in favor of the applicant on any matter on which it is required to pass under this Ordinance, or to affect any variation in the application of this Ordinance from its stated terms.
  - (iii) The person filing the appeal shall have the burden of proof.
  - (iv) Following the public hearing on an administrative appeal, the Board of Appeals may reverse the decision of the CEO or Planning Board only upon a finding that the decision was clearly contrary to specific provisions of this Ordinance.
- (e) The Board of Appeals shall decide all administrative appeals and variance appeals within thirty-five (35) calendar days after the close of the hearing, and shall issue a written decision on all appeals.
- (f) 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 of Appeals. All decisions shall be based upon the material issues of fact and law. The Board of Appeals 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) calendar days of the Board of Appeals'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) calendar 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 45 calendar days of its prior decision. A request to the Board of Appeals to reconsider a decision must be filed within ten (10) calendar 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) calendar 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) calendar days after the decision on reconsideration.

## **I. Enforcement**

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

### **(2) Code Enforcement Officer**

- (a) It shall be the duty of the Code Enforcement Officer to enforce the provisions of this Ordinance. If the Code Enforcement Officer shall find that any provision of this Ordinance is being violated, he or she shall notify in writing the person responsible for such violation, indicating the nature of the violation and ordering the action necessary to correct it, including discontinuance of illegal use of land, buildings or structures, or work being done, removal of illegal buildings or structures, and abatement of nuisance conditions. A copy of such notices shall be submitted to the municipal officers and be maintained as a permanent record.
- (b) The Code Enforcement Officer shall conduct on-site inspections to insure compliance with all applicable laws and conditions attached to permit approvals. The Code Enforcement Officer shall also investigate all complaints of alleged violations of this Ordinance.
- (c) The Code Enforcement Officer shall keep a complete record of all essential transactions of the office, including applications submitted, permits granted or denied, variances granted or denied, revocation actions, revocation of permits, appeals, court actions, violations investigated, violations found, and fees collected.

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

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

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

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

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

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

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

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

**Bureau of Forestry** – State of Maine Department of Agriculture, Conservation, and Forestry, Bureau of Forestry.

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

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

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

**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.

**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, including 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 can not be located away from these waters. The uses include, but are not limited to, commercial and recreational fishing and boating facilities, finfish and shellfish processing, fish-related storage and retail and wholesale fish marketing facilities, waterfront dock and port facilities, shipyards and boat building facilities, marinas, navigation aids, basins and channels, shoreline structures necessary for erosion control purposes, industrial uses dependent upon water-borne transportation or requiring large volumes of cooling or processing water that can not reasonably be located or operated at an inland site, and uses that primarily provide general public access to inland waters. Recreational boat storage buildings are not considered to be a functionally water-dependent use.

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

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

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

**Hazard tree** - a tree with a structural defect, combination of defects, or disease resulting in a structural defect that under the normal range of environmental conditions at the site exhibits a high probability of failure and loss of a major structural component of the tree in a manner that will strike a target. A normal range of environmental conditions does not include meteorological anomalies, such as, but not limited to: hurricanes; hurricane-force winds; tornados; microbursts; or significant ice storm events. Hazard trees also include those trees that pose a serious and imminent risk to bank stability. A target is the area where personal injury or property damage could occur if the tree or a portion of the tree fails. Targets include roads, driveways, parking areas, structures, campsites, and any other developed area where people frequently gather and linger.

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

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

**Increase in nonconformity of a structure** - any change in a structure or property which causes further deviation from the dimensional standard(s) creating the nonconformity such as, but not limited to, reduction in water body, tributary stream or wetland setback distance, increase in lot coverage, or increase in height of a structure. Property changes or structure expansions which either meet the dimensional standard or which cause no further increase in the linear extent of nonconformance of the existing structure shall not be considered to increase nonconformity. For example, there is no increase

in nonconformity with the setback requirement for water bodies, wetlands, or tributary streams if the expansion extends no further into the required setback area than does any portion of the existing nonconforming structure. Hence, a structure may be expanded laterally provided that the expansion extends no closer to the water body, tributary stream, or wetland than the closest portion of the existing structure from that water body, tributary stream, or wetland. Included in this allowance are expansions which in-fill irregularly shaped structures.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

**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	Hadley	Limerick	Lovewell	Medomak	Odnawa
Alluvial	Cornish	Charles	Podunk	Rumney	Saco
Suncook	Sunday	Winooski			

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

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

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

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

**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.

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

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

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

(1) in the case of electric service

(a) the placement of wires and/or the installation of utility poles is located entirely upon the premises of the customer requesting service or upon a roadway right-of-way; and

(b) the total length of the extension is less than one thousand (1,000) feet.

(2) in the case of telephone service

(a) the extension, regardless of length, will be made by the installation of telephone wires to existing utility poles, or

- (b) the extension requiring the installation of new utility poles or placement underground is less than one thousand (1,000) feet in length.

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

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

**Shoreland zone** - the land area located within two hundred and fifty (250) feet, horizontal distance, of the normal high-water line of any great pond or river; within 250 feet of the upland edge of a freshwater wetland; or within one hundred (100) feet, horizontal distance, of the normal high-water line of a stream.

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

**Shoreline buffer** – vegetated area within 100 feet of the shoreline.

**Significant River Segments** - No Significant River Segments exist in Vassalboro.

**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 erected on or in the ground. The term includes structures temporarily or permanently located, such as decks, patios, and satellite dishes. Structure does not include fences; poles and wiring and other aerial equipment normally associated with service drops, including guy wires and guy anchors; subsurface waste water disposal systems as defined in Title 30-A, section 4201, subsection 5; geothermal heat exchange wells as defined in Title 32, section 4700-E, subsection 3-C; or wells or water wells as defined in Title 32, section 4700-E, subsection 8.

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

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

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

**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.

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

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**Upland edge of a wetland** - the boundary between upland and 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.

**Water body** - any great pond, river or stream.

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

**Wetland** - a freshwater wetland.

**Woody Vegetation** - live trees or woody, non-herbaceous shrubs.

# **SITE REVIEW ORDINANCE FOR THE TOWN OF VASSALBORO**

as Revised and Adopted June 11, 2012

## SITE REVIEW ORDINANCE

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## **SITE REVIEW ORDINANCE**

### **SECTION I. PURPOSE**

The purpose of this Site Plan Ordinance is to promote public health, safety, and general welfare by requiring plans to be submitted to, reviewed, and approved by the Planning Board. The purpose of such review shall be to ensure orderly, beneficial, and environmentally sound development and the most appropriate use of land in keeping with the purposes of the general area in which a development is proposed.

### **SECTION II. APPLICABILITY**

A. This Ordinance shall apply to all new uses, and structures, new construction, alterations and substantial enlargement to existing uses and structures for commercial, retail, industrial, and institutional purposes. This Ordinance does not apply to detached single and two-family dwelling units, multiple family dwelling units consisting of three (3) or more units along with accessory uses and structures thereof, agricultural land management or forest land management practices, or home occupations as defined in Section XVII.

B. This Ordinance shall also apply to any commercial, retail, industrial or institutional activity that commenced prior to the adoption of this Ordinance and is discontinued for more than 90 (ninety) calendar days.

C. This Ordinance also applies to any seasonal, commercial, retail, industrial or institutional activity which commenced prior to the adoption of this Ordinance and is discontinued for more than 1 (one) year.

### **SECTION III. AUTHORITY**

#### **Review and Approval Authority:**

The Planning Board is authorized to review and act on site plans for both Minor and Major developments as defined below in "Classification of Projects".

In considering Site Plans under this section, the Planning Board may act to approve, disapprove, or approve the project with conditions as are authorized by these provisions.

## **SECTION IV. CLASSIFICATION OF PROJECTS**

The Planning Board shall classify each project as a minor or major development. Minor developments are smaller scale, less complex projects for which a less complex review process is adequate to protect the Town's interest. Major developments are larger, more complex projects for which a more detailed review process and additional information may be required.

### **A. Minor Developments shall include:**

1. Projects involving the construction or addition of fewer than five thousand (5,000) square feet of gross developed area.
2. Projects involving the conversion of existing uses or structures five thousand (5,000) square feet or less from one use to another without enlargement of the gross developed area.

### **B. Major Developments shall include:**

1. Projects involving the construction or addition of five thousand (5,000) or more square feet of developed area.
2. Projects involving the conversion of existing buildings or structures five thousand (5,000) square feet or more from one use to another without enlargement of the developed area.
3. Other projects requiring review which are not classified as minor developments.

## **SECTION V. APPLICATION PROCEDURE – MINOR**

- A. Persons seeking Site Plan approval shall file site plans in duplicate (meeting the specifications of this Ordinance) with the Planning Board, which shall immediately refer copies of such plans to the Code Enforcement Officer. The filing of required plans with the Planning Board shall constitute filing of an application for Site Plan Review.
- B. The applicant shall be required to notify, by mail, all abutting property owners that a Site Plan has been filed. For notification purposes, the East Vassalboro Water Company is considered to be an abutting property owner to all projects located on parcels wholly or partially within their Wellhead Protection Area as mapped by the Maine Drinking Water Program. Return receipts will be required to verify notification of all abutting property owners.
- C. The application shall be filed with the Planning Board for review and accompanied by a fee of \$50 for processing the application. Within thirty (30) days of the filing of an application, the Planning Board shall notify the applicant, in writing, either that the application is a complete application or, if the

application is incomplete, the specific additional material needed to make a complete application. After the Planning Board has determined that a complete application has been filed, it shall notify the applicant, in writing, and begin its review of the proposed development.

- D. On all Minor Site Review Applications the Planning Board may hold a public hearing within thirty (30) days of the filing of the completed application. The Planning Board shall publish the time, date, and place of the hearing at least two (2) times; the date of the first publication to be at least seven (7) days prior to the hearing in a newspaper of area wide circulation. The abutting landowners shall be notified of the hearing and return receipts will be required to verify their notification.
- E. Public hearings by the Planning Board shall be conducted according to the procedures outlined in Title 30, M.R.S.A., §241 1, Subsection 3, (A), (B), (C), (D), and (E).
- F. The Planning Board may determine that it is necessary to conduct a site visit in order to obtain first hand knowledge of the site. Written permission for members of the Planning Board and the interested public to enter the property will be necessary. Proper public notice of the site visit must be given to interested parties and abutters since the site visit is technically a meeting. The applicant shall be required to notify all abutting property owners that a site visit is scheduled. Return receipts or signed affidavits will be required to verify notification of all abutting property owners.
- G. Within thirty (30) days of the public hearing or sixty (60) days of receiving the completed application, the Planning Board shall approve, approve with conditions, or dis-approve the application.
- H. Within seven (7) days of reaching their decision, the Planning Board shall notify the applicant, in writing, of any action taken and the reason for taking such action.
- I. All time limits provided for in this section may be extended by mutual agreement of the applicant and the Planning Board.
- J. Minor changes in approved plans to address field conditions may be approved by the Code Enforcement Officer provided that such change does not affect compliance with the standards or alter the essential nature of the proposal. Any such change must be endorsed in writing by the CEO on the approved plan.
- K. Approvals of site plans are dependent upon and limited to the proposals and plans contained in the application and supporting documents submitted and affirmed by the applicant. Any variation from the plans, proposals, and supporting documents, except minor changes as noted in paragraph G of this section, is subject to further review and approval.

## **SECTION VI. APPLICATION PROCEDURE – MAJOR**

- A. Preapplication: *Prior to submitting a formal application, the applicant or his/her representative shall attend a preapplication conference with the Planning Board. The preapplication meeting shall be informal and informational in nature. There shall be no fee for a preapplication 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.*

*There are no formal submission requirements for a preapplication conference. However, the applicant should be prepared to discuss the following with the Board:*

- 1. The proposed site, including its location, size, and general characteristics;*
  - 2. The nature of the proposed use and potential development;*
  - 3. Any issues or questions about existing municipal regulations and their applicability to the project; and*
  - 4. Any request for waivers from the submission requirements.*
- B. *Persons seeking Site Plan approval shall file site plans in duplicate (meeting the specifications of this Ordinance) with the Planning Board, which shall immediately refer copies of such plans to the Code Enforcement Officer. The filing of required plans with the Planning Board shall constitute filing of an application for Site Plan Review.*
- C. *The applicant shall be required to notify, by mail, all abutting property owners that a Site Plan has been filed. For notification purposes, the East Vassalboro Water Company is considered to be an abutting property owner to all projects located on parcels wholly or partially within their Wellhead Protection Area as mapped by the Maine Drinking Water Program. Return receipts will be required to verify notification of all abutting property owners.*
- D. *The application shall be filed with the Planning Board for review and accompanied by a fee of \$50 for processing the application. Within thirty (30) days of the filing of an application, the Planning Board shall notify the applicant, in writing, either that the application is a complete application or, if the application is incomplete, the specific additional material needed to make a complete application.*
- E. *After the Planning Board has determined that a complete application has been filed, it shall notify the applicant, in writing, and begin its review of the proposed development.*
- F. *On all Major Site Review Applications the Planning Board may hold a public hearing within thirty (30) days of the filing of the completed application. The Planning Board shall publish the time, date, and place of*

the hearing at least two (2) times; the date of the first publication to be at least seven (7) days prior to the hearing in a newspaper of area wide circulation. The abutting landowners shall be notified of the hearing and return receipts will be required to verify their notification.

- G. Public hearings by the Planning Board shall be conducted according to the procedures outlined in Title 30, M.R.S.A., §241 1, Subsection 3, (A), (B), (C), (D), and (E). *Any public hearings by the Planning Board shall be conducted according to the procedures outlined in Title 30, M.R.S.A., §241 1, Subsection 3, (A), (B), (C), (D), and (E). Within thirty (30) days of the public hearing or sixty (60) days of receiving the completed application, the Planning Board shall approve, approve with conditions, or dis-approve the application.*
- H. *The Planning Board may determine that it is necessary to conduct a site visit in order to obtain first hand knowledge of the site. Proper public notice of the site visit must be given to interested parties and abutters since the site visit is technically a meeting. The applicant shall be required to notify all abutting property owners that a site visit is scheduled. Return receipts or signed affidavits will be required to verify notification.*
- I. *Within seven (7) days of reaching their decision, the Planning Board shall notify the applicant, in writing, of any action taken and the reason for taking such action.*
- J. *All time limits provided for in this section may be extended by mutual agreement of the applicant and the Planning Board.*
- K. *The Code Enforcement Officer may approve minor changes in approved plans to address field conditions provided that such changes do not affect compliance with the standards or alter the essential nature of the proposal. Any such changes must be endorsed in writing by the CEO on the approved plan.*
- L. *Approvals of site plans are dependent upon and limited to the proposals and plans contained in the application and supporting documents submitted and affirmed by the applicant. Any variation from the plans, proposals, and supporting documents, except minor changes as noted in paragraph G of this section, is subject to further review and approval*

## **SECTION VII. SITE PLAN CONTENT - *Minor***

A. The Final Plan shall be drawn to scale of not less than one (1") inch equals (50') feet, and shall contain the following:

1. Name and address of owner and applicant.
2. Scale and north arrow.
3. Location, dimensions, and acreage of parcel to be built upon.
4. Existing contours at intervals of not more than ten (10') feet and proposed contours at intervals of not more than five (5') feet. *The Board may waive this requirement or require closer contour intervals depending on the nature of the project.*
5. The size, shape, and location of existing and proposed buildings.
6. The location and dimensions of existing and proposed parking areas, loading and unloading facilities, and points of ingress and egress of vehicles to and from the site to public streets.
7. Location of all existing and proposed easements and rights-of-way.
8. Location and dimension existing and proposed of pedestrian access ways.
9. Location and size of existing and proposed water and sewer mains, culverts, and storm drains.
10. Location of existing and proposed outdoor lighting.
11. Location of natural features such as watercourses, marshes, rock out-cropping, and stands of trees.
12. Landscape plan showing location and type of existing and proposed plantings and screenings.
13. Location and size of existing and proposed signs and advertising features.
14. Any other provisions contained in the Town of Vassalboro's Subdivision Regulations or *Shoreland Zoning Ordinance*, whenever applicable.
15. *Due to the nature of the project, the Planning Board may require one or more additional plan contents as specified in the "Site Plan Content – Major", Section VIII.*
16. *For projects located wholly or partially within the Wellhead Protection Area of the East Vassalboro Water Company as mapped by the Maine Drinking*

*Water Program, a written statement obtained from the East Vassalboro Water Company indicating that the proposed project will not negatively impact their essential operations.*

- B. A narrative, with supporting data, shall be required to address the environmental suitability of the chosen site to support the proposed development. This may require the use of appropriate qualified profession(s). This narrative shall address the standards as listed in Section IX.

### **SECTION VIII. SITE PLAN CONTENT - Major:**

- A. *The Final Plan shall be drawn to a scale of not less than one (1") inch equals (50') feet, and shall contain the following:*
1. *Name and address of owner and applicant.*
  2. *Scale and north arrow.*
  3. *Location, dimensions, and acreage of parcel to be built upon.*
  4. *Existing contours at intervals of not more than ten (10') feet and proposed contours at intervals of not more than five (5') feet. The Board may require closer contour intervals depending on the nature of the project.*
  5. *The size, shape, and location of all existing and proposed buildings.*
  6. *The location and dimensions of all existing and proposed parking areas, loading and unloading facilities, and points of ingress and egress of vehicles to and from the site to public streets. Parking Layout and Design - Off-street parking must conform to the following standards:*
    - (a) *Parking areas with more than two (2) parking spaces must be arranged so that it is not necessary for vehicles to back into the street.*
    - (b) *All parking spaces, access drives, and impervious surfaces must be located at least five (5) feet from any side or rear lot line, except where standards for buffer yards require a greater distance. No parking spaces or asphalt type surface shall be located within five (5) feet of the front property line. Parking lots on adjoining lots may be connected by access ways not exceeding twenty-four (24) feet in width.*
    - (c) *In lots utilizing diagonal parking, the direction of proper traffic flow must be indicated by signs, pavement markings or other permanent indications and maintained as necessary.*
    - (d) *Parking areas for nonresidential 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.*

- (e) 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.*

- 7. Location of all existing and proposed easements and rights-of-way.*
- 8. Location and dimensions of all existing and proposed pedestrian access ways.*
- 9. Location and size of existing and proposed water and sewer mains, culverts, and storm drains.*
- 10. Location of all existing and proposed outdoor lighting.*
- 11. Location of natural features such as watercourses, marshes, rock out-cropping, and stands of trees.*
- 12. Landscape Plan showing location and type of all existing and proposed plantings and screenings.*

*Landscaping must be provided as part of site design and may include plant materials such as trees, shrubs, groundcovers, perennials, and annuals, and other materials such as rocks, water, sculpture, art, walls, fences, paving materials, and street furniture.*

- 13. Location and size of all existing and proposed signs and advertising features.*

*Freestanding commercial business signs should be placed at right angles to the street so as to be viewed from both directions. Signs shall be no larger than 4' X 8'.*

*In urban, built-up areas commercial business signs should be placed on the building, unless visibility is impaired and a freestanding sign is the best option.*

- 14. Any other provisions contained in the Town of Vassalboro's Subdivision Regulations whenever applicable.*
- 15. Any other requirements deemed necessary by the Planning Board based on the nature of the proposed development.*
- 16. For projects located wholly or partially within the Wellhead Protection Area of the East Vassalboro Water Company as mapped by the Maine Drinking*

*Water Program, a written statement obtained from the East Vassalboro Water Company indicating that the proposed project will not negatively impact their essential operations.*

- B. *A narrative, with supporting data, shall be required to address the environmental suitability of the chosen site to support the proposed development. This may require the use of appropriate qualified professional(s). This narrative shall address the standards as listed in Section X.*

## **SECTION IX. PERFORMANCE STANDARDS – Minor**

- A. The Site Plan shall be approved, unless the Planning Board makes a written finding that the applicant is not able to meet one or more of these standards. In all instances, the burden of proof shall be on the applicant and such burden of proof shall include the production of evidence necessary to complete the application.

1. The provisions for vehicular loading and unloading and parking and for vehicular and pedestrian circulation on the site and onto adjacent public streets and ways will create no hazards to safety.

*Internal Vehicular Circulation - The layout of the site must provide for the safe movement of passenger, service and emergency vehicles through the site.*

2. The location or height of proposed structures and the proposed uses thereof will not be detrimental to other public or private development in the neighborhood.
3. The provision for on-site landscaping provides adequate protection to neighboring properties from detrimental features of the development.
4. The proposed use will not impose undue burdens so as to exceed the capacity of the sewers, sanitary and storm drains, water, solid waste, fire protection, or other public facilities.
5. The Site Plan provides sufficient information to show that storm water will be adequately drained from the site with no adverse impact on other property or publicly-owned drainage systems.
6. Soil erosion and all other adverse impacts on the soil ground water and surface water shall be prevented. Ground water shall not be adversely impacted in quality or quantity.
7. The provisions for exterior lighting do not create hazards to motorists traveling on adjacent public streets and are adequate for the safety of

occupants or users of the site and such provisions will not damage the value and diminish the usability of adjacent properties.

8. An applicant for Site Plan approval has provided evidence of his financial capability to complete the development as planned.
9. The proposed development will not create safety hazards and will provide adequate access for emergency vehicles to the site, and to all buildings on the site.
10. The proposed development will not adversely affect the use and enjoyment of abutting property as a result of noise, vibrations, fumes, odor, dust, glare, or other cause.

#### **SECTION X. PERFORMANCE STANDARDS – Major**

A. *The Site Plan shall be approved, unless the Planning Board makes a written finding that the applicant is not able to meet one or more of these standards. In all instances, the burden of proof shall be on the applicant and such burden of proof shall include the production of evidence necessary to complete the application.*

1. *The provisions for vehicular loading and unloading and parking and for vehicular and pedestrian circulation on the site and onto adjacent public streets and ways will create no hazards to safety and will conform to the following:*

##### *Access to the Site:*

- a. *Any driveway or proposed street must be designed so as to provide the minimum sight distance according to the Maine Department of Transportation standards, to the maximum extent possible.*
- 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 (2) car lengths, or forty feet, from the intersection.*
- d. *The intersection of any access/egress drive or proposed street must function at a level which will allow for safe access into and out of the project if at least one thousand (1,000) trips are generated.*
- e. *Where a lot has frontage on two (2) 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 is safe and does not promote shortcutting through the site.*
- 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 turning lanes, traffic directional islands, and 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:*
  - No use that generates less than one hundred (100) vehicle trips per day shall have more than one (1) two-way driveway onto a single roadway. Such driveway must be no greater than thirty (30) feet wide.*
  - No use which generates one hundred (100) or more vehicle trips per day shall have more than two (2) points of entry from and two (2) points of egress to a single roadway. The combined width of all access ways must not exceed sixty (60) feet.*

#### *Access way Location and Spacing:*

*Access ways must meet the following standards:*

- a. Private entrance/exits must be located at least fifty (50) feet from the closest un-signalized intersection and one hundred fifty (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 seventy-five (75) feet where possible.*

#### *Internal Vehicular Circulation*

- a. The layout of the site must provide for the safe movement of passenger, service, and emergency vehicles through the site.*
- b. Nonresidential 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 for a minimum of a vehicle with a wheelbase of 40 feet.*
- c. 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).*
- d. The layout and design of parking areas must provide for safe and convenient circulation of vehicles throughout the lot.*
- e. 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. The road network must provide for*

*vehicular, pedestrian, and cyclist safety, all season emergency access, snow storage, and delivery and collection services.*

2. *The location or height of proposed structures and the proposed uses thereof will not be detrimental to other public or private development in the neighborhood.*
3. *The provision for on-site landscaping provides adequate protection to neighboring properties from detrimental features of the development. The development must provide for the buffering of adjacent uses where there is a transition from one type of use to another use and for screening of mechanical equipment and service and storage areas.*

*Buffering must be designed to provide a year-round visual screen in order to minimize adverse impacts. It may consist of fencing, evergreens, berms, rocks, boulders, mounds, or a combination thereof.*

*A development must provide sufficient buffering when topographical or other barriers do not provide reasonable screening and where there is a need to:*

- ☐ *Shield neighboring properties from any adverse external effects of the development, or*
- ☐ *Shield the development from the negative impacts of adjacent uses.*

*The width of the buffer may vary depending on the treatment of the area. Within densely built-up areas, a buffer with dense plantings, fencing, or changes in grade may be as little as five (5) feet in width. A buffer with moderate levels of planting should be ten (10) feet to fifteen (15) feet in width. In suburban and rural settings, the width of the vegetated buffer should be increased to a minimum of twenty-five (25) feet. Areas adjacent to service loading or storage areas should be screened by dense planting, berms, fencing, or a combination thereof with a width of a minimum of five (5) feet.*

4. *The proposed use will not impose undue burdens so as to exceed the capacity of the sewers, sanitary and storm drains, water, solid waste, fire protection, or other public facilities.*

*Storage of Materials - Exposed nonresidential storage areas, exposed machinery, and areas used for the storage or collection of discarded automobiles, auto parts, metals or other articles of salvage or refuse must have sufficient setbacks and screening (such as a stockade fence or a dense evergreen hedge) to provide a visual buffer sufficient to minimize their impact on abutting residential uses and users of public streets.*

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

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

- 5. The Site Plan provides sufficient information to show that storm water will be adequately drained from the site with no adverse impact on other property or publicly owned drainage systems.*
- 6. Soil erosion and all other adverse impacts on the soil, ground water, and surface water shall be prevented. Ground water shall not be adversely impacted in quality or quantity. Adequate provisions must be made for the collection and disposal of all storm water that runs off from proposed streets, parking areas, roofs and other surfaces, through a storm water drainage system and maintenance plan, which must not have adverse impacts on abutting or downstream properties.*
- 7. The provisions for exterior lighting do not create hazards to motorists traveling on adjacent public streets and are adequate for the safety of occupants or users of the site and such provisions will not damage the value and diminish the usability of adjacent properties.*

*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 that is open for business during that period.*

*Wiring to light poles and standards must be underground.*

8. *An applicant for Site Plan approval has provided evidence of his financial capability to complete the development as planned. This could include a letter of support from an accredited financial institution or some other means of documenting financial solvency.*
9. *The proposed development will not create safety hazards and will provide adequate access for emergency vehicles to the site, and to all buildings on the site.*
10. *The proposed development will not adversely affect the use and enjoyment of abutting property as a result of noise, vibrations, fumes, odor, dust, glare, or other cause.*

*The maximum permissible sound pressure level of any continuous, regular or frequent or intermittent source of sound produced by any activity on the site shall be limited by the time period and by the abutting land use as listed below. Sound levels shall be measured at least four (4) feet above ground at the property boundary of the source.*

*Sound Pressure Level Limits Using the Sound Equivalent Level of One Minute (leq 1) (Measured in dB(a)Scale)*

<u>Abutting Use</u>	<u>7 am- 10pm</u>	<u>10pm - 7am</u>
<i>Residential</i>	55	45
<i>Residential in a commercial area</i>	65	55
<i>Public, semipublic and institutional</i>	60	55
<i>Vacant or rural</i>	60	55
<i>Commercial</i>	65	55
<i>Industrial</i>	70	60

*Noise shall be measured by a meter set on the A-weighted response scale, fast response. The meter shall meet the American National Standards Institute (ANSI S1 4-1961) 'American Standards Specification for General Purpose Sound Level Meters.'*

## **SECTION XI. PERMITS**

- A. **Permits required:** After the effective date of this ordinance, no person shall engage in any use or construct, alter, or substantially enlarge any structure to which this Ordinance applies without first obtaining a permit. Following the issuance of a permit, if no substantial start is made in construction (completion of the exterior shell) or in the use of the property within one year of the date of permit, the permit shall lapse and become void.

*The Planning Board may grant up to two (2), six (6) month extensions to the periods if the approved plan conforms to the ordinance in effect at the time the extension is requested and all federal, state and local approvals and permits are current. The permittee's request for an extension must be received at least 30 days prior to the expiration of the permit and include explanations for the request.*

- B. Permits expire for use or structures that are discontinued for more than 90 days, unless the permittee can demonstrate that the discontinuance was for factors beyond his/her control.
- C. Permits expire for seasonal uses or structures that are discontinued for more than 1 (one) year, unless the permittee can demonstrate that the discontinuance was for factors beyond his/her control.
- D. Permits shall be issued to the applicant of record. The permit(s) are not transferable to a new owner.

## **SECTION XII. GENERAL PROVISIONS**

- A. The Planning Board may modify or waive any of the above application requirements or Performance Standards when the Planning Board determines that because of the special circumstances of the site or the nature of the project, such application requirements or standards would not be applicable or would be an unnecessary burden upon the applicant and when such waivers would not adversely affect the abutting land owners and the general health, safety, welfare, and environment of the Town.
- B. The Planning Board shall require proof of ownership of the site or written authority from the owner verifying the applicant's right, title, and interest to develop the site.
- C. The Planning Board may require the filing of a Performance Bond or the execution of a conditional agreement with the municipality by the applicant.
- D. All construction performed under the authorization of a building permit or certificate of occupancy issued for development within the scope of this Ordinance shall be in conformance with the approved Site Plan.

## **SECTION XIII. ADMINISTRATION**

- A. The Planning Board of the Town of Vassalboro shall administer this Ordinance.

- B. No building permit or plumbing permit shall be issued by the Municipal Officers or Code Enforcement Officer for any use or development within the scope of this Ordinance until a Site Plan has been reviewed and favorably acted upon by the Planning Board.

#### **SECTION XIV. ADMINISTRATIVE APPEALS**

An aggrieved party may appeal any decision of the Board or the Code Enforcement Officer under this Ordinance to the Superior Court within thirty (30) days from the date of the written notice of such decision.

#### **SECTION XV. VIOLATION, ENFORCEMENT, AND FINES**

- A. Code Enforcement Officer (CEO): It shall be the duty of the Code Enforcement Officer to enforce the provisions of this Ordinance. If the CEO shall find that any provision of this Ordinance is being violated, he shall notify, in writing, the person(s) responsible for such violation. The notification will indicate the nature of the violation and ordering the action necessary to correct it, including discontinuance of illegal use of land, building, structure, or work being done, removal of illegal building or structure, and abatement of nuisance conditions. A copy of such notice shall be maintained as a permanent record.
- B. Legal Action: 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 CEO, are hereby authorized and directed to institute any and all actions and proceedings, either legal or equitable, including seeking injunction of violation and the imposition of a fine that may be appropriate or necessary to enforce the provisions of this Ordinance in the name of the municipality.
- C. Fine: Any person who continues to violate any provision of this Ordinance, after receiving notice of such violation, shall be guilty of a misdemeanor subject to a fine of up to \$100 for each violation. Each day such a violation is continued is a separate offense.

#### **SECTION XVI. VALIDITY AND SEVERABILITY AND CONFLICT WITH OTHER ORDINANCES.**

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

- B. Conflict with Other 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.

## **SECTION XVII. AMENDMENTS**

This Ordinance may be amended by a majority vote of the Town meeting. Amendments may be initiated by a majority vote of the Planning Board, or by request of the Board of Selectmen to the Planning Board, or on petition of ten (10%) percent of the votes cast in the last gubernatorial election in the Town. The Planning Board shall conduct a public hearing on any proposed amendment.

## **SECTION XVIII. EFFECTIVE DATE**

The effective date of this revised ordinance is June 11, 2012. The first effective date was June 7, 1986. Past amendments have been accepted in 1987, 1989, 1992, and 2003.

## **SECTION XIX. DEFINITIONS**

- A. Accessory Use or Structure: A subordinate use of a building, other structure, or land, or a subordinate building or other structure:
1. Whose use is customary in connection with the principal building, other structure or use of land; and
  2. Whose use is clearly incidental to the use of the principal building, other structure, or use of land; and
  3. Which is located on the same lot with the principal building, other structure, or use of land, or on a lot adjacent to such a lot if in the same ownership.
  4. Is part of the same establishment.
- B. Agricultural Land Management Practices: Those devices and procedures utilized in the cultivation of land in order to further crop and livestock production and conservation of related soil and water resources.
- C. Alteration: Structural changes, rearrangement, change of location, or addition to a building or structure other than repairs and modification in building equipment involving more than twenty-five (25%) percent increase in the overall floor space, or bulk of the building, or structure at any time or in total since the effective date of this Ordinance.
- D. Building: Any structure having a roof or partial roof supported by columns or walls used for the shelter or enclosure of persons, animals, goods, or property of any kind. A building shall include a multiple family dwelling.

- E. Commercial: Connected with the buying or selling of goods or services or the provision of facilities for a fee.
- F. Developed area: any site where the existing features (natural features i.e., topography, soils, vegetation, water bodies or resources, floodplains, unique natural features) are modified in some way (i.e., building structures or changing the use of buildings, locating public utilities or water supplies, sewage disposal facilities, locations of curb cuts for driveways) shall constitute a developed area.
- G. Discontinuance: Cessation of use.
- H. Dwelling Unit: A room or group of rooms designed and equipped exclusively for use as living quarters for one family including provisions for living, cooking, and eating.
- I. Forest Management Activities: Includes timber cruising and other forest resource evaluation activities, pesticide application, timber stand improvement, pruning, timber harvesting and other forest harvesting, regeneration of forest stands, and other similar associated activities, but not the construction, creation of maintenance of land management roads.
- J. Home Occupations: Home occupation means an occupation conducted within a dwelling unit by a resident thereof which is customarily incidental and secondary to the residential use of the unit which such use does not occupy more than fifty (50%) percent of the dwelling unit devoted to living quarters, except that the area devoted to living quarters shall not be reduced below six hundred (600) square feet by this subsection; which requires no display of goods, no stock in trade, no commodity sold on the premises; not more than two (2) non-residents of the dwelling unit employed, and which does not interfere with the peace and quiet of the neighborhood. The office of a doctor or dentist shall be considered as a home occupation provided that it conforms to the restrictions set forth above.
- K. Industrial: Connected with the assembling, fabrication, finishing, manufacturing, packaging or processing of goods or the extraction of minerals.
- L. Institutional: A building devoted to some public, governmental, educational, charitable, medical, or similar purpose.
- M. Multiple Family Dwelling: A building consisting of three (3) or more attached dwelling units designed and intended for long-term occupancy, rather than temporary occupancy as with a hotel or motel.
- N. Persons: Means any person, firm, association, partnership, corporation, municipal, or other local government entity, quasi-municipal entity, state agency, educational, or charitable organization or institution or other legal entity.

- O. Recreational Vehicle: A vehicle or vehicular attachment for temporary sleeping or living quarters for one or more persons which is not a dwelling and which may include a pick-up camper, travel trailer, tent trailer, or motor home.
- P. Retail: Connected with the sale of goods to the ultimate consumer for direct use and consumption and not for trade.
- Q. Seasonal: Less than or equal to seven (7) months of use.
- R. Structure: Anything constructed, erected, or placed in or on the ground, the use of which requires location on the ground or attachment to something on the ground, including but not limited to buildings, mobile homes, recreational vehicles, piers, floats, recreation areas, and parking lots. Boundary walls and fences are not included under this regulation.
- S. Substantial Enlargement: An expansion of the land area of the development site, *volume or square footage of buildings, addition of fixtures or equipment involving more than twenty-five percent (25%) increase in floor space*, or the volume of activity by more than twenty-five (25%) percent, at any one time or in total since the effective date of this Ordinance.
- T. Substantial Start: Completion of thirty (30%) percent of a permitted structure or use measured as a percentage of the estimated total cost. *Exterior walls and roof must be completely closed in and finish applied.*

# **TOWN OF VASSALBORO**

## **SUBDIVISION ORDINANCE**

**June 10, 2014**

ENACTED: \_\_\_\_\_  
Date

EFFECTIVE: \_\_\_\_\_  
Date

CERTIFIED BY: \_\_\_\_\_  
Name  
\_\_\_\_\_  
Title

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## TOWN OF VASSALBORO SUBDIVISION ORDINANCE

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## SECTION 1 – PURPOSES AND APPLICABILITY

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### **1.1 Purposes**

The purposes of this Ordinance are as follows: to assure the comfort, convenience, safety, health, and welfare of the people of the Town of Vassalboro, Maine; to protect the environment; to promote the development of an economically sound and stable community; to assure that a sufficient level of services and facilities is available to the residents of new subdivisions and that lots in subdivisions are capable of supporting the proposed uses and structures; to minimize potential negative impacts from new subdivisions on neighboring properties and on the Town; to provide for the expeditious and efficient process for the review of proposed subdivisions; and to comply with 30-A, MRSA, §4403 (Municipal Review and Regulation) and §4404 (Review Criteria).

### **1.2 Applicability**

- 1.2.1 The provisions of this Ordinance shall pertain to all land proposed for subdivision as defined in Title 30-A, MRSA, §4401(4), as amended. Also included are all mobile/manufactured home parks, condominiums, and apartment buildings or complexes proposed for subdivision into 3 or more dwelling units.
- 1.2.2 Any subdivision is a division of a tract or parcel of land into 3 or more lots within any 5-year period that begins after September 23, 1971. The definition applies whether the division is accomplished by sale, lease, development, buildings, or otherwise. The term “subdivision” also includes the division of a new structure or structures on a tract of land into 3 or more dwelling units within a 5-year period, the construction or placement of 3 or more dwelling units on a single tract or parcel of land, and the division of an existing structure, structures previously used for commercial or industrial use into 3 or more dwelling units within a 5-year period.
- 1.2.3 In determining whether a tract or parcel of land is divided into 3 or more lots, the first dividing of such tract or parcel shall be considered to create the first 2 lots and the next dividing of either of the first 2 lots, by whomever accomplished, unless otherwise exempted herein shall be considered to create a 3rd lot, unless:
- A. Both dividings are accomplished by a subdivider who has retained one of the lots for the subdivider’s use as a single-family residence that has been the subdivider’s principal residence for a period of at least 5 years immediately preceding the 2<sup>nd</sup> division; or the division of the tract or parcel is otherwise exempted under this section (Section 1.2 Applicability).
  - B. A lot of 40 acres or more shall not be counted as a separate lot, except where the lot or parcel from which it was divided is located entirely or partially within any shoreland area as defined in 38 MRSA, §435, or the Town of Vassalboro Shoreland Zoning Ordinance.
- 1.2.4 A division accomplished by devise, condemnation, order of court, gift to a person related to the donor by blood, marriage or adoption or a gift to a municipality (if the municipality accepts the gift), or by transfer of any interest in land to the owner of land abutting that land, does not create a lot or lots for the purposes of this Ordinance, unless the intent of the transferor in any transfer or gift is to avoid the objectives of this Ordinance. If the real estate exempt under this paragraph by a gift to a person related to the donor by blood, marriage or adoption is transferred within 5 years to another person not related to the donor of the exempt real estate by blood, marriage or adoption, then that exempt division creates a lot or lots for the purposes of this definition. A grant of bona fide security interest in an entire lot that has been exempted from the definition under this paragraph, or subsequent transfer of that entire lot by the original holder of the security interest or that person’s successor in interest, does not create a lot for the purposes of this definition, unless the intent of the transferor is to avoid the objectives of this Ordinance.

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- 1.2.5 In determining the number of dwelling units in a structure, the provisions regarding the determination of the number of lots shall apply, including exemptions from the definition of a subdivision of land.
- 1.2.6 Leased dwelling units meeting any part of the definition of subdivision above are subject to the requirements of this Ordinance.

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**SECTION 2 – AUTHORITY, ADMINISTRATION AND APPEALS**

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**2.1 Authority**

- 2.1.1 This Ordinance is adopted pursuant to Home Rule Powers as provided for in Article VIII-A Part 2, Section 1 of the Maine Constitution and 30-A MRSA, §3001. These standards have been prepared in accordance with the provisions of 30-A MRSA, §4403.
- 2.1.2 This Ordinance shall be known and may be cited as “Town of Vassalboro Subdivision Ordinance.”
- 2.1.3 The Planning Board of the Town of Vassalboro, hereinafter called the “Board”, shall administer this Ordinance.

**2.2 Amendments to this Ordinance**

- 2.2.1 An amendment to this Ordinance may be initiated by:
- A. The Planning Board provided a majority of the Board has so voted;
  - B. Request by the Board of Selectmen; or
  - C. Written petition of a number of voters equal to at least 10% of the number of votes cast in the Town at the last gubernatorial election.
- 2.2.2 The Board shall hold a public hearing on the proposed amendment. Notification of the hearing shall be posted and advertised in a newspaper of general circulation in the Town at least 7 days prior to the hearing.
- 2.2.3 An amendment to this Ordinance may be adopted by a majority vote of the Town Meeting.

**2.3 Interpretation, Conflict and Severability**

- 2.3.1 The provisions of this Ordinance shall be construed as minimum requirements. More stringent provisions may be required if it is demonstrated that such are necessary to promote the public health, safety and welfare. Where the conditions imposed by any provisions of this Ordinance are either more restrictive or less restrictive than comparable conditions imposed by any other provisions of this Ordinance or any other applicable law, ordinance, or regulation of any kind, the regulations which are more restrictive and impose higher standards or requirements shall govern.
- 2.3.2 The provisions of this Ordinance are separable. If any portion of this Ordinance is declared by the courts to be invalid, the decision shall not affect the validity of the remaining portions of this Ordinance.
- 2.3.3 This Ordinance shall not in any way impair or remove the necessity of compliance with any other applicable rule, ordinance, regulation, bylaw, permit, or provision of law. Where this Ordinance imposes a greater restriction upon the use of land or structures, the provisions of this Ordinance shall control.

**2.4 Effective Date and Repeal of Prior Ordinances**

This Ordinance becomes effective on the date it is adopted by Town Meeting. This Ordinance repeals and replaces any municipal ordinance previously enacted to control the development of subdivisions in the Town of Vassalboro.

**2.5 Violations and Enforcement**

- 2.5.1 No plan of a division of land within the Town which would constitute a subdivision shall be recorded in the Registry of Deeds until a final plan has been approved by the Board in accordance with this Ordinance.
- 2.5.2 A person shall not 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.
- 2.5.3 A person shall not sell, lease or otherwise convey any land in an approved subdivision which is not shown on the plan as a separate lot.
- 2.5.4 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.
- 2.5.5 Development of a subdivision without Board approval shall be a violation of law. Development includes grading or construction of roads, grading of land or lots, or construction of buildings which require a plan approved as provided in this Ordinance and recorded in the Registry of Deeds.
- 2.5.6 *Default.* Any developer who (1) fails to perform any required improvements in accordance with any timetable established at the time of final plan approval, (2) completes required improvements in a manner which, although timely, is not acceptable to the Town, or (3) maintains a situation that is hazardous to the public health and safety, shall be deemed in default. In addition, a developer shall be deemed in default if any required improvement is not completed in accordance with the plan and all applicable regulations before the expiration date of any performance guarantees tendered by the developer to the Town with respect to required improvements. The Town will not be required to initiate action to exercise its rights under any financial performance guarantee in order to declare a developer in default. For purposes of interpreting this paragraph, "hazards to public health and safety" shall include, but not be limited to, inadequate drainage, stormwater management, or erosion and sedimentation control measures.
- 2.5.7 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 final plan approval and this Ordinance up to and including the entire frontage of the lot. No unit in a multifamily development shall be occupied before the street upon which the unit is accessed is completed in accordance with final plan approval and this Ordinance.
- 2.5.8 Violations of the above provisions of this section are a nuisance and shall be punished in accordance with the provisions of 30-A MRSA, §4452.

**2.6 Appeals**

An aggrieved party may appeal any decision of the Board under this Ordinance to the Superior Court within 30 days from the date the Board issues a written notice of its decision.

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## SECTION 3 – DEFINITIONS

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### 3.1 Construction of Language

In the interpretation and enforcement of this Ordinance, all words other than those specifically defined in the Ordinance shall have the meaning implied by their context in the Ordinance or their ordinarily accepted meaning.

The present tense includes the future tense, the singular number includes the plural, and plural numbers include the singular.

The words "shall," "will" and "must" are mandatory; the word "may" is permissive.

The word "lot" includes the word "parcel".

The word "structure" includes the word "building".

The word "Town" means the Town of Vassalboro, Maine.

The term "Board" means the Vassalboro Planning Board, unless a different board is specifically mentioned.

### 3.2 Definition of Terms

In this Ordinance the following terms shall have the following meanings:

**Abutter:** The owner of any property with one or more common boundaries, or across the street or stream from, the property involved in an application or appeal.

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

**Agricultural Products:** Those plants and animals and their products that are useful to humans and includes, but is not limited to, forages and sod crops, grains and feed crops, dairy and dairy products, poultry and poultry products, bees and bees' products, livestock and livestock products and fruits, berries, vegetables, flowers, seeds, grasses and other similar products, or any other plant, animal or plant or animal products that supply humans with food, feed, fiber or fur. "Agricultural products" does not include trees grown and harvested for forest products.

**Applicant:** The person or persons applying for subdivision approval under this Ordinance.

**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.

**Buffer Area:** A part of a property or an entire property, which is not built upon and is specifically intended to separate and thus minimize the effects of a land use activity (e.g. noise, dust, visibility, glare, etc.) on adjacent properties or on sensitive natural resources.

**Certified Soil Scientist:** As registered, licensed and/or certified by the appropriate licensing and registration boards in the State of Maine.

**Commercial:** The use of lands, buildings, or structures, 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.

**Common Open Space:** Land within or related to a subdivision, not individually owned or within an individual lot, which is designed and intended for the common use or enjoyment by the residents of the development or general public. It may include complementary structures and improvements, typically used for maintenance and operation of the open space, such as for outdoor recreation.

**Complete Application:** An application shall be considered complete upon submission of the required fee and all information required by this Ordinance unless waived, after the applicant's written request, by a vote by the Board. The Board shall issue a written statement to the applicant upon its determination that an application is complete.

**Complete Substantial Construction:** The completion of a portion of the improvements which represents no less than 30% of the costs of the proposed improvements within a subdivision. If the subdivision is to consist of individual lots to be sold or leased by the subdivider, the cost of construction of buildings on those lots shall not be

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included. If the subdivision is a multifamily development, or if the applicant proposes to construct the buildings within the subdivision, the cost of building construction shall be included in the total costs of proposed improvements.

**Conservation Easement:** A nonpossessory interest in real property imposing limitations or affirmative obligations, the purposes of which include retaining or protecting natural, scenic or open space values of real property; assuring its availability for agricultural, forest, recreational or open space use; protecting natural resources; or maintaining air or water quality.

**Density:** The number of dwelling units per acre of land.

**Development:** A change in land use involving alteration of the land, water or vegetation, or the addition or alteration of structures or other man-made construction.

**Direct Watershed of a Great Pond:** That portion of the watershed which drains directly to the great pond without first passing through an upstream great pond. For the purposes of this Ordinance, the watershed boundaries shall be as depicted in the drainage divide data layer provided by the Maine Office of GIS. Due to the scale of the map there may be small inaccuracies in the delineation of the watershed boundary. Where there is a dispute as to exact location of a watershed boundary, the Board or its designee and the applicant shall conduct an on-site investigation to determine where the drainage divide lies. If the Board and the applicant cannot agree on the location of the drainage divide based on the on-site investigation, the burden of proof shall lie with the applicant to provide the Board with information from a professional land surveyor showing where the drainage divide lies.

**Drinking Water Standards:** Thresholds for contaminants set by the Maine Department of Health and Human Services. Standards have been established for contaminants which pose a health threat ("primary drinking water standards") and those which pose an aesthetic concern ("secondary drinking water standards").

**Driveway:** A vehicular accessway serving two lots 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, and sleeping facilities; includes single family houses, and the units in a duplex, apartment house, multifamily dwellings, and residential condominiums and time-share units.

**Engineered Subsurface Waste Water Disposal System:** A subsurface waste water disposal system designed, installed, and operated as a single unit to treat and dispose of 2,000 gallons of waste water per day or more; or any system designed to be capable of treating waste water with higher BODs and total suspended solids concentrations than domestic waste water. Any engineered system must be approved by the Maine Department of Health and Human Services.

**Farmland:** A parcel consisting of 5 or more acres of land that is either: (a) classified as prime farmland, unique farmland or farmland of statewide or local importance by the Natural Resources Conservation Service within the United States Department of Agriculture; or (b) used for the production of agricultural products as defined in 7 MRSA, §152, sub-§2.

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

**Flood, 100-Year:** The highest level of flood that, on the average, has a 1% chance of occurring in any given year.

**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.

**Great Pond:** Any inland body of water which in a natural state has a surface area in excess of 10 acres, and any inland body of water artificially formed or increased which has surface area in excess of 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.

**Groundwater:** The water that is found beneath the earth's surface recharged from rain infiltration. Groundwater moves slowly, finding its way from pore space to pore space in the subsurface soils and rocks; but it may surface as seeps and springs when intercepted by an excavation or slope cut.

**High Intensity Soil Survey:** A map prepared by a certified soil scientist, identifying the soil types down to 1/8 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 used to identify the soils, and shall be accompanied by a log of each sample point identifying the textural classification and the depth to a limiting factor such as seasonal high water table or bedrock at that location.

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**Level of Service:** A description of the operating conditions a driver will experience while traveling on a particular street or highway calculated in accordance with the provisions of the *Highway Capacity Manual*, most recent edition, published by the National Academy of Sciences, Transportation Research Board. There are 6 levels of service ranging from Level of Service A with free traffic flow and no delays, to Level of Service F with forced flow and congestion resulting in complete failure of the roadway.

**Liquidation Harvesting:** The purchase of timberland followed by a harvest that removes most or all commercial value in standing timber, without regard for long-term forest management principles, and the subsequent sale or attempted resale of the harvested land within 5 years.

**Medium Intensity Soil Survey:** The *Soil Survey of Kennebec County, Maine*, published by the USDA, Soil Conservation Service, is recognized as a medium intensity soil survey.

**Multifamily Development:** A subdivision that contains 3 or more dwelling units on land in common ownership, such as apartment buildings, condominiums or mobile home parks.

**New Structure or Structures:** Includes any structure for which construction began on or after September 23, 1988. The area included in the expansion of an existing structure is deemed to be a new structure.

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

**Preliminary Plan:** The preliminary drawings indicating the proposed layout of the subdivision to be submitted to the Planning Board for its consideration.

**Principal Structure:** Any building or structure in which the main use of the premises takes place.

**Professional Engineer:** A professional engineer registered in the State of Maine.

**Professional Land Surveyor:** As registered, licensed and/or certified by the appropriate licensing and registration boards in the State of Maine.

**Public Improvements:** The term shall include all roads; fire protection structures and ponds; any structure or land proposed to be dedicated to the Town; any land or structure which is offered as an easement to the Town; and, all stormwater drainage structures designed to allow water to flow outside the property or the subdivision.

**Public Water System:** There are 2 basic types: (a) a "community water system" which serves at least 15 service connections used by year-round residents or regularly serves at least 25 year-round residents; and (b) a "non-community water system" that is not a "community water system", but that serves at least 25 of the same persons for 6 months or more per year and may include, but is not limited to, a school, factory, industrial park or office building, or a water system that serves at least 25 persons, but not necessarily the same persons, for at least 60 days per year and may include, but is not limited to, a highway rest stop, seasonal restaurant, seasonal motel, golf course, park or campground. A bottled water company is a non-community water system.

**Recording Plan:** An original of the final plan, suitable for recording at the Registry of Deeds and which needs to show only information relevant to the transfer of an interest in the property, and which does not show other information presented on the plan such as sewer and water line locations and sizes, culverts, and building lines.

**River, Stream or Brook:** A channel between defined banks that is created by the action of surface water and has two or more of the following characteristics:

A. It is depicted as a solid or broken blue line on the most recent edition of the U.S. Geological Survey 7.5-minute series topographic map or, if that is not available, a 15-minute series topographic map.

B. It contains or is known to contain flowing water continuously for a period of at least 6 months of the year in most years.

C. The channel bed is primarily composed of mineral material such as sand and gravel, parent material or bedrock that has been deposited or scoured by water.

D. The channel contains aquatic animals such as fish, aquatic insects or mollusks in the water or, if no surface water is present, within the stream bed.

E. The channel contains aquatic vegetation and is essentially devoid of upland vegetation.

*"River, stream or brook" does not mean a ditch or other drainage way constructed, or constructed and maintained, solely for the purpose of draining stormwater or a grassy swale.*

**Runoff:** The part of precipitation excluding evaporation and infiltration that becomes a discharge of stormwater.

**Sketch Plan:** Conceptual maps, renderings, and supportive data describing the project proposed by the applicant for initial review prior to submitting an application for subdivision approval.

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**Street:** Public and private ways such as alleys, avenues, highways, roads, and other rights-of-way, as well as areas on subdivision plans designated as rights-of-way for vehicular access other than driveways.

**Stormwater:** The part of precipitation, including runoff from rain or melting ice and snow that flows across the ground surface or in drainage ways.

**Subdivision:** The term shall be defined as in 30-A, MRSA, §4401, sub-§4, with the modifications as described in Section 1.2 Applicability of this Ordinance.

**Subdivision, Major:** Any subdivision containing more than 4 lots or dwelling units, or any subdivision containing a proposed street.

**Subdivision, Minor:** Any subdivision containing 4 lots or dwelling units or fewer, and in which no street is proposed to be constructed.

**Substantial Construction:** (See “Complete Substantial Construction”)

**Tract or Parcel of Land:** All contiguous land in the same ownership, except that lands located on opposite sides of a public or private road are considered each a separate tract or parcel of land unless the road was established by the owner of land on both sides of the road after September 22, 1971.

**Vegetation:** All live trees, shrubs, and other plants.

**Vernal pool:** An area exhibiting pooling, vegetation and even small creatures for a limited time of year, usually during the spring flooding, and drying up over the course of the summer.

**Wetland:** Areas which are inundated or saturated by surface or groundwater 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; and which are not part of a great pond, river, stream, or brook.

Freshwater wetlands may contain small stream channels or inclusions of land that do not conform to the above criteria. This also includes forested wetlands.

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## SECTION 4 - ADMINISTRATIVE PROCEDURES AND FEES

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### **4.1 Agenda**

The Code Enforcement Officer (CEO) in consultation with the Board Chair shall prepare a written agenda for each regularly scheduled meeting. The agenda shall be prepared no less than one week prior to the meeting, distributed to Board members and any applicants appearing on the agenda, and posted at the Town Office. Applicants shall request to be placed on the Board's agenda at least 14 days in advance of a regularly scheduled meeting by contacting the CEO. Applicants who attend a meeting but who are not on the Board's agenda may be heard only after all agenda items have been completed. However, the Board shall take no action on any application not appearing on the written agenda.

### **4.2 Establishment of File for Subdivision**

The CEO shall establish a file for every proposed subdivision. The file shall be a permanent record of all matters concerning the subdivision, including all correspondence, submissions, proceedings and minutes.

### **4.3 Joint Meetings with Adjacent Municipalities**

If any portion of a subdivision crosses town boundaries, all meetings and hearings to review a subdivision application, including an application for an amendment or revision to a subdivision, must be held jointly by the reviewing authorities from each town. The reviewing authorities in each town, upon written agreement, may waive the requirement under this subsection for any joint meeting or hearing.

### **4.4 Application Fee**

An application for subdivision approval shall include payment of a non-refundable permit fee as set by the Board of Selectmen. The application shall not be considered complete until this fee is paid.

### **4.5 Escrow Account for Review by Outside Experts<sup>1</sup>**

- 4.5.1 The Board may require that the applicant deposit with the Town, funds sufficient to reimburse the Town for all reasonable costs for hiring independent consulting services to review engineering and other technical submissions associated with the application and to ensure compliance with this Ordinance.
- 4.5.2 If the Board requires an escrow account, the applicant shall pay an escrow fee of \$250 per lot or dwelling unit, to be deposited in a special escrow account designated for that subdivision application. If the balance in this special account is drawn down by 75%, the Board shall notify the applicant, and require that the balance be brought back up to the original deposit amount. The Board shall continue to notify the applicant and require a deposit as necessary whenever the balance of the escrow account is drawn down by 75% of the original deposit.
- 4.5.3 In the event that the amount held in escrow is more than the amount of actual invoicing at the conclusion of the project, the remaining balance shall be promptly refunded to the applicant.

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<sup>1</sup> Also see Section 11.6.1 regarding inspections of required improvements.

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## SECTION 5 – APPLICATION REVIEW PROCESS

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### **5.1 Classification as Minor or Major Subdivision**

5.1.1 *Classification.* The CEO shall classify each project as a major or minor subdivision.

- A. A Minor Subdivision is any subdivision containing 4 lots or dwelling units or fewer, and in which no street is proposed to be constructed.
- B. A Major Subdivision is defined as any subdivision containing more than 4 lots or dwelling units, or any subdivision containing a proposed street.

5.1.2 Upon receipt of the formal application (preliminary plan or final plan) the CEO shall determine if the classification is still correct and may reclassify the application if the scope has changed.

### **5.2 Minor Subdivisions**

5.2.1 *Two-Step Process.* Minor subdivisions require a two-step application process consisting of: (1) sketch plan review by the CEO; and (2) final plan review by the Planning Board. Applicants are also encouraged to consult with the CEO prior to the submission of a sketch plan to become familiar with the review procedures, submission requirements, and approval criteria.

5.2.2 *Sketch Plan Review Process*

- A. *Purpose.* The purpose of sketch plan review is for the applicant to present general information regarding the proposed subdivision to the CEO, and to receive the CEO's comments prior to undertaking the costs associated with the development of the final plan. Sketch plan review shall not be considered the initiation of the review process for the purposes of bringing the plan under protection of 1 MRSA, §302.
- B. *Sketch Plan Review Meeting with the CEO*
  - 1. *Appointment Required.* The applicant shall make an appointment with the CEO for the sketch plan review meeting.
  - 2. *Meeting Procedure*
    - a. The applicant shall present the sketch plan application (See Section 6.1 Sketch Plan Submissions) and make a verbal presentation regarding the site and the proposed subdivision.
    - b. The CEO may ask questions, point out potential problems or issues for future discussions, and make suggestions to be incorporated into the final plan.
    - c. *Waivers.* Requests for waivers may be discussed, but formal acceptance of any waivers shall not occur until the Board has an opportunity to review the final plan (See Section 9 Waivers).
  - 3. *Site Inspection.* The CEO may visit the site to observe existing conditions, generally confirm the information submitted, and assess the development proposal. Prior to the site inspection, the applicant shall place "flagging" at lot corners. If the proposed project includes buildings, the approximate corners of building footprints shall be "flagged."
  - 4. *CEO Authorization to Submit Final Plan.* The CEO shall authorize the submission of the final plan application when sketch plan review is complete. (See Section 6 for submission requirements)

5.2.3 *Final Plan Review Process*

- A. The applicant shall submit a final plan within 6 months after the CEO has authorized the submission. The CEO may, upon failure to meet the 6 month deadline, require the application to return to the sketch plan review phase. Each time that an application is returned to the sketch plan phase, the applicant shall pay the required application fees.

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- B. *Consistency with Sketch Plan.* The final plan shall approximate the layout shown on the sketch plan, plus any recommendations made by the CEO.
- C. *Final Plan Submission and Public Notice Requirements*
1. *CEO.* Within 3 business days of receipt of a final plan application, the CEO shall issue a dated receipt to the applicant, and notify the clerk and the review authority of neighboring municipalities if any portion of the subdivision abuts or crosses the municipal boundary.
  2. *Applicant.* Upon submission of the final plan to the CEO, the applicant shall notify by return receipt mail all owners of abutting property and/or property owners within 200 feet of the subdivision property line that an application for subdivision approval has been submitted. The notification shall specify the location of the proposed subdivision and include a general description of the project. This notice shall also include notice for the Board meeting where the final plan will be considered. The applicant shall also notify any supplier of a “public drinking water system” (as defined) when the subdivision is located on parcels wholly or partially within the “source water protection area” as mapped by the Maine Drinking Water Program. Return receipts will be required to verify notification of all of the notified property owners and public drinking water system suppliers.
- D. *Determination of Completeness.* Within 30 days of the receipt of a final plan application, the CEO shall determine if the submission is complete, and shall notify the applicant in writing of this finding. If the CEO determines the application is incomplete, the notice shall specify the additional materials required, and shall 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 complete. A determination of completeness under this subsection does not preclude the Board from requiring additional materials necessary for the review of the project.
- E. *Review by Others.* Upon a determination that the application for a final plan is complete, the CEO shall inform the applicant of the requirements for notification of other town officials and entities, such as the Town Manager, Road Foreman, Fire Chief, public water suppliers, etc.
- F. *Planning Board Meeting to Review the Final Plan*
1. Upon a determination that the final plan application is complete, the CEO shall schedule, and provide the required public notice for, a meeting of the Board to review the application. The applicant or his/her authorized agent must be present at all Board meetings and/or hearings where the application is to be considered by the Board.
  2. All final plan submission requirements shall be submitted to the CEO at the Town Office at least 14 days prior to the meeting at which the applicant wishes to be heard by the Board.
  3. *Public Hearing*
    - a. If the Board decides to hold a public hearing, the hearing must be held within 30 days after the determination that a complete application has been submitted or within any other time limit that is mutually agreed upon by the Board and the applicant. The purpose of the hearing is to allow the applicant and affected property owners to provide information as part of the record the Board will use in considering its action on the application.
    - b. *Public Notice Requirements*
      - i. *CEO.* The CEO shall notify the applicant and publish the time, date, and place of the hearing at least 2 times; the date of the first publication to be at least 7 days prior to the hearing in a newspaper of area wide circulation.
      - ii. *Applicant.* The applicant shall follow the notification requirements in Section 5.2.3,C.2, except this notice shall be made at least 7 days prior to the hearing.
  4. *Planning Board Decision on the Final Plan Application*
    - a. The Board shall, within 30 days from the public hearing or within 60 days of determining a complete application has been received, if no hearing is held, or within another time limit as may be otherwise mutually agreed to by the Board and the applicant, make findings of fact and conclusions of law on the application, and approve, approve with conditions, or deny the final plan application. The Board shall specify in writing its findings of fact, conclusions of law, and reasons for any conditions or denial.

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- b. The Board shall notify the applicant of the action of the Board including the findings of fact, conclusions of law, and any conditions of approval or reasons for denial. This requirement can be met through the distribution of minutes of the meeting or an approval letter.
- c. All time limits within this section may be extended by mutual agreement of the applicant and Board.

### 5.2.4 *Final Approval and Filing* (See Section 5.4)

## 5.3 ***Major Subdivisions***

5.3.1 *Three-Step Process.* Major subdivisions require a 3-step application process consisting of: (1) sketch plan review; (2) preliminary plan review; and (3) final plan review. Each step requires the Board consideration.

5.3.2 *Pre-application Consultation.* Applicants are encouraged to consult with the CEO prior to submission of a sketch plan to become familiar with the review procedures, submission requirements and approval criteria. The applicant should present the proposed subdivision on copies of the property tax map and a topographic map, to show the location and general characteristics of the site. The applicability of any state or municipal regulations, and any potential waivers (See Section 9 Waivers) may also be discussed.

### 5.3.3 *Sketch Plan Review Process*

- A. *Purpose.* The purpose of sketch plan review is for the applicant to present general information regarding the proposed subdivision to the Board, and to receive the Board's comments prior to the expenditure of substantial sums of money on surveying, soils identification, and engineering by the applicant. Sketch plan review shall not be considered the initiation of the review process for the purposes of bringing the plan under protection of 1 MRSA §302.
- B. *Sketch Plan Review Meeting with the Board*
  - 1. Upon receipt of a completed sketch plan application, the CEO shall schedule, and provide the required public notice for, a meeting of the Board to review the application. The CEO shall also notify the clerk and the review authority of neighboring municipalities if any portion of the subdivision abuts or crosses the municipal boundary.
  - 2. All sketch plan application requirements (See Section 7.1) shall be submitted to the CEO at least 14 days prior to the sketch plan review meeting with the Board.
  - 3. The applicant, or his/her representative, shall present the sketch plan to the Board. Failure to attend the meeting may result in a delay of the Board's review until the next meeting the applicant attends.
  - 4. *Public Notice, Applicant.* Upon submission of the sketch plan application to the CEO, the applicant shall notify by return receipt mail all owners of abutting property and/or property owners within 200 feet of the subdivision property line that an application for subdivision approval has been submitted, specifying the location of the proposed subdivision and including a general description of the project. This notice shall also include notice for the meeting where the application will be considered by the Board. The applicant shall also notify any supplier of a "public drinking water system" (as defined) when the subdivision is located on parcels wholly or partially within the "source water protection area" as mapped by the Maine Drinking Water Program. Return receipts will be required to verify notification of all of the notified property owners and public drinking water system suppliers.
  - 5. *Meeting Procedure*
    - a. The applicant shall present the sketch plan and make a verbal presentation regarding the proposal.
    - b. The Board and CEO may ask questions, point out potential problems or issues for future discussions, and make suggestions to be incorporated into the preliminary plan. Substantive, lengthy discussions about compliance with review standards shall be postponed until the subsequent review of the full application.
    - c. *Waivers.* Requests for waivers may be discussed, but formal acceptance of any waivers shall not occur until the Board has an opportunity to review the preliminary plan.

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- C. *Site Inspection.* The CEO and/or Board may choose to visit the site to observe existing conditions, generally confirm the information submitted, and assess the development proposal. The Board may decide not to hold, or postpone, a site inspection when the site is snow covered. If the Board is to conduct the site inspection, written permission for members of the Board and the interested public to enter the property will be necessary. The site inspection may be conducted during preliminary plan and/or final plan review.
1. *Public Notice.*
    - a. *CEO.* If the Board decides to conduct a site inspection, notice of the site inspection shall be published in a newspaper of general circulation at least 7 days prior to the inspection.
    - b. *Applicant.* The applicant shall notify property owners and others as specified in Section 5.3.3, B.4, except that this notice shall be made at least 7 days prior to the site inspection.
  2. Prior to the site inspection, the applicant shall place "flagging" at the centerline of any proposed streets, and at the approximate intersections of the street centerlines and lot corners. If the proposed project includes buildings, the approximate corners of building footprints shall be "flagged". The applicant shall provide a copy of the sketch plan (on an 8½ by 11 inch or an 11 by 17 inch sheet) of the project for each member of the Board and the CEO.
  3. *Minutes.* Minutes shall be taken of the site inspection in the same manner as for regular meetings.
- D. *Board Authorization to Submit Preliminary Plan Application.* The Board shall authorize the submission of the preliminary plan application when sketch plan review is complete.

### 5.3.4 Preliminary Plan Process

- A. *Timeframe.* The applicant shall submit the preliminary plan within 6 months after the Board has authorized its submission. The Board may, upon failure to meet the 6 month deadline, require the applicant to return to the sketch plan phase, including the payment of application fees.
- B. *Consistency with the Sketch Plan.* The preliminary plan shall approximate the layout shown on the sketch plan, plus any recommendations made by the Board.
- C. *Preliminary Plan Submission and Public Notice Requirements*
1. Within 3 business days of receipt of a preliminary plan application, the CEO shall issue a dated receipt to the applicant, and notify the clerk and the review authority of neighboring municipalities if any portion of the subdivision abuts or crosses the municipal boundary.
  2. *Public Notice, Applicant.* Upon submission of the preliminary plan to the CEO, the applicant shall notify property owners and others as specified in Section 5.3.3, B.4.
- D. *Determination of Completeness.* Within 30 days of the receipt of a preliminary plan application, the CEO shall determine if the submission is complete, and shall notify the applicant in writing of this finding. If the CEO determines the application is incomplete, the notice shall specify the additional materials required and shall advise the applicant that the application will not be considered by the Board until the additional information is submitted. A determination of completeness under this subsection does not preclude the Board from requiring additional materials necessary for review of the project.
- E. *Review by Others.* Upon determination that a complete application has been submitted, the CEO shall inform the applicant of the requirements for notification of other town officials and entities, such as the Town Manager, Road Foreman, Fire Chief, School Superintendent, public water suppliers, etc..
- F. *Planning Board Meeting(s) to Review the Preliminary Plan Application*
1. Upon a determination that the preliminary plan application is complete, the CEO shall schedule, and provide the required public notice for, a meeting of the Board to review the application.
  2. All preliminary plan submission requirements shall be submitted to the CEO at the Town Office at least 14 days prior to the meeting at which the applicant wishes to be heard by the Board.
  3. The applicant, or a representative, shall present the preliminary plan to the Board. Failure to attend the meeting may result in a delay of the Board's review until the next meeting the applicant attends.
  4. *Public Hearing*
    - a. If the Board decides to hold a public hearing, the hearing must be held within 30 days after the determination that a complete application has been submitted or within any other time limit that is mutually agreed upon by the Board and applicant. The purpose of the hearing is to allow the

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applicant and affected property owners to provide information as part of the record that the Board will use in considering its action on the application.

b. *Public Notice Requirements*

- i. *CEO.* The CEO shall notify the applicant and publish the time, date, and place of the hearing at least 2 times; the date of the first publication to be at least 7 days prior to the hearing in a newspaper of area wide circulation.
- ii. *Applicant.* The applicant shall notify property owners and others as specified in Section 5.3.3, B.4, excepting that this notice shall be made at least 7 days prior to the public hearing.

G. *Planning Board Decision on the Preliminary Plan Application*

1. Within 30 days after the public hearing or within 60 days of determining a complete preliminary plan application has been received, if no hearing is held, or within another time limit as may be otherwise mutually agreed to by the Board and the applicant, the Board shall make findings of fact and conclusions on the application, and approve, approve with conditions, or deny the preliminary plan application. The Board shall specify in writing its findings of facts, conclusions, and reasons for any conditions or denial.
2. If the Board decides the preliminary plan must be revised, the applicant shall have 6 months to return with the required revisions. If a revised plan is not submitted within this timeframe, the Board may grant an extension of up to 3 months or require that the application return to sketch plan phase. Application fees shall not be refunded. New fees will be required for each phase of the review repeated.
3. When granting approval to a preliminary plan application, the Board shall state the conditions of such approval, if any, with respect to:
  - a. The specific changes which it will require in the final plan.
  - b. The character and extent of required improvements for which waivers have been requested and that the Board finds may be waived without jeopardy to public health, safety and general welfare.
  - c. The construction items for which cost estimates and performance guarantees will be required as prerequisite to the approval of the final plan.
4. Approval of a 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 preliminary plan design as a guide to the preparation of the final plan. The final plan shall be submitted for approval by the Board upon fulfillment of the requirements of this Ordinance and the conditions of the preliminary plan approval, if any. Prior to approval of the final plan, the Board may require additional information and changes in the plan as a result of further study of the proposed subdivision or as a result of new information received.

### 5.3.5 *Final Plan Application Process*

- A. *Timeframe.* The applicant shall submit the final plan within 6 months after the Board has approved the preliminary plan. If the final plan is not submitted within 6 months, the Board may require that the applicant repeat preliminary plan review, including the payment of required application fees. If an applicant cannot submit the final plan within 6 months due to delays caused by other regulatory bodies, or other reasons, the applicant may make a written request for an extension prior to the 6-month deadline. The Board may grant an extension if the applicant has made due progress in preparation of the final plan and/or in pursuing other agency approvals. The Board shall also take into consideration any amendments made to local ordinances or regulations that might impact the project.
- B. *Plan Consistency.* The final plan shall be consistent with the preliminary plan, plus any requirements made by the Board.
- C. *Review Process*
1. The final plan review process shall follow the same steps as required for preliminary plan review, including Sections 5.3.4, C, D, E, and F.
  2. *Planning Board Decision on the Final Plan Application*
    - a. Within 30 days from the public hearing, or within 60 days of determining a complete final plan application has been received, if no hearing is held, or within another time limit as may be otherwise mutually agreed to by the Board and the applicant, the Board shall make findings of fact

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and conclusions on the application, and approve, approve with conditions, or deny the final plan application. The Board shall specify in writing its findings of fact, conclusions, and reasons for any conditions or denial.

- b. *Submission of Revisions.* If the Board decides the final plan must be revised, the applicant shall have 6 months to return to the Board with the required revisions. If an applicant cannot comply with this section, the Board may grant an extension in accordance with Subsection 5.3.5.A above.

### **5.4 Final Approval and Filing for Major and Minor Subdivisions**

- 5.4.1 No plan shall be approved by the Board as long as the applicant is in violation of the provisions of a previously approved subdivision plan within the Town.
- 5.4.2 Upon findings of fact and a determination that all standards in 30-A, MRSA, §4404, and this Ordinance have been met, the Board shall vote to approve the subdivision and sign the final plan. The Board shall specify in writing its findings of fact, conclusions of law, and reasons for any conditions or denial. One copy of the signed plan shall be retained by the Board for its permanent records. Copies of the signed plan shall be forwarded to the Tax Assessor and the CEO. Any subdivision not recorded in the Registry of Deeds within 90 days of the date upon which the plan is approved and signed by the Board shall become null and void.
- 5.4.3 *Phasing of Development.* At the time the Board grants final plan approval, it may permit the plan to be divided into two or more separate and distinct phases subject to any conditions it deems necessary to ensure the orderly development of the subdivision. If any municipal or quasi-municipal department head informs the Board their department or district does not have adequate capacity to service the subdivision, the Board may require the plan to be divided into phases subject to any conditions it deems necessary for orderly planning, financing and provision of public services to the subdivision.

In all cases, final approval of lots in subsequent phases shall be given only upon satisfactory completion of all requirements pertaining to previous phases.

- 5.4.4 No changes, erasures, modifications, or revisions shall be made to any final plan after Board approval and endorsement in writing on the plan, unless a revised plan is first submitted and the Board approves any modifications in accordance with Section 10. The Board shall make findings and conclusions of law that the revised plan meets the criteria of 30-A, MRSA, §4404, and the standards of this Ordinance. If a plan is recorded without complying with this requirement, it shall be considered null and void, and the Board shall institute proceedings to have the plan stricken from the records of the Registry of Deeds.
- 5.4.5 Board approval of a subdivision plan shall not constitute or be evidence of any acceptance by the Town of any street, easement, or other open space shown on such plan. When a park, playground, or other recreation area is shown on the plan to be dedicated to the Town, approval of the plan shall not constitute an acceptance by the Town 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 Board of Selectmen covering future deed and title dedication, and provision for the cost of grading, development, equipment, and maintenance of any such dedicated area.
- 5.4.6 Except in the case of a phased development plan, failure to complete substantial construction (see definitions) of the subdivision within 3 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.

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## SECTION 6 - MINOR SUBDIVISION SUBMISSION REQUIREMENTS

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### **6.1 Sketch Plan Submissions**

- 6.1.1 The sketch plan shall show, in simple form, the proposed layout of the subdivision. The intent of the sketch plan is to provide the applicant and the CEO with a flexible, low-cost means to understanding the site, and to create a development plan that reflects the site's opportunities and constraints in accordance with the requirements of this Ordinance.
- 6.1.2 The sketch plan shall contain, at a minimum, 2 copies of the following information:
- A. A completed sketch plan application form for a minor subdivision.
  - B. A description of existing conditions of the site - the number and size of lots, constraints and opportunities.
  - C. Name, addresses, and phone numbers of the record owner, the applicant, preparer, and any consultants.
  - D. Evidence of right, title, or interest in the property.
  - E. Evidence of payment of the applicable fee and escrow deposit, if required.
  - F. A copy of a portion of the U.S.G.S. topographic map (7.5 min. quad.) of the area showing the boundaries of the proposed subdivision.
  - G. A copy of that portion of the Kennebec County Medium Intensity Soil Survey covering the proposed subdivision with the boundaries of the proposed subdivision shown.
  - H. A plan of the parcel, with an accurate scale, showing at a minimum the information listed below.<sup>2</sup>
    - 1. Name(s) of the applicant and owner of the parcel.
    - 2. North arrow, date and map scale.
    - 3. Boundary and lot lines of the subdivision.
    - 4. Approximate location, width and purpose of easements or restrictions, if applicable.
    - 5. Streets on and adjacent to the tract.
    - 6. Approximate location and size of existing utilities on and adjacent to the tract.
    - 7. Existing buildings, structures, or other improvements on the site.
    - 8. The major natural features of the site, approximated by the applicant, including wetlands, streams, ponds, floodplains, groundwater aquifers, tree lines, significant wildlife habitat and fisheries and other important natural features.

### **6.2 Final Plan Submissions**

- 6.2.1 *Consistency with the Sketch Plan.* The final plan shall approximate the layout shown on the sketch plan, plus any recommendations made by the CEO.
- 6.2.2 *Mandatory Submissions.* The following items shall be submitted as part of the final plan application, unless the applicant is granted a waiver from the submission requirement (see Section 9 Waivers). The Board may require additional information, as necessary, to determine if the criteria of this Ordinance are met (See Section 8 Review Criteria and Standards). Seven copies (unless otherwise specified by the CEO) of the following shall be submitted:
- A. A Completed Application, the Application Fee, Establishment of Escrow Account (if applicable)
  - B. *Location Map.* The location map shall be drawn at a size adequate to show the relationship of the proposed subdivision to adjacent properties, and to allow the Board to locate the subdivision within the town. The location map shall show:
    - 1. Existing land uses and subdivisions in the proximity of the proposed subdivision.
    - 2. Locations and names of existing and proposed streets, if applicable.

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<sup>2</sup> *If the applicant decides to survey the property as part of the sketch plan, the applicant may want to obtain the required electronic data while the surveyor is on site (See electronic submission requirements for a final plan review)*

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3. Boundaries and designations of shoreland zoning districts, if applicable.
  4. An outline of the proposed subdivision and any remaining portion of the owner's property if the final plan submitted covers only a portion of the owner's entire contiguous holdings.
- C. *Final Plan.* The final plan shall consist of one or more maps or drawings drawn to a scale of not more than 100 feet to the inch. Plans for subdivisions containing more than 100 acres may be drawn at a scale of not more than 200 feet to the inch provided all necessary detail can be easily read. Plans shall be no larger than 24 by 36 inches in size, and shall have a margin of 2 inches outside of the borderline 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. One reproducible, stable-based transparency of the recording plan to be recorded at the Registry of Deeds, and 3 full sized paper copies of all the final plan sheets and any supporting documents shall be submitted. The original reproducible plan shall be embossed with the seal of the professional land surveyor and be signed by that individual. In addition, one copy of the plan shall be reduced to a size of 8½ by 11 inches or 11 by 17 inches for forwarding to Board members. The following information shall be included on the plan:
1. Proposed name of the subdivision, or identifying title, and the name of the municipality(ies) in which it is located, plus tax assessor's map and lot numbers.
  2. Date the plan was prepared, magnetic and true north point, and graphic map scale.
  3. Names and addresses of record owner, applicant, and all those involved in preparing the plan.
  4. Deed references, and existing and proposed deed restrictions, covenants, easements, rights-of-way, or other encumbrances or conditions affecting the property. Include any public rights for physical or visual access to the shoreline of a water body.
  5. Names and addresses of all abutters, including any property owners directly across any existing road from the subdivision. Include property lines, tax map and lot numbers, and deed references.
  6. Standard boundary survey and internal development survey with complete descriptive data by bearings and distances, made by a professional land surveyor. The entire parcel shall be shown, including all contiguous land in common ownership within the last 5 years, as required by Title 30-A MRSA §4401. 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.<sup>3</sup>
  7. Location of all monuments, including monuments to be placed at the corners of the parcel and each lot, and the type of monument (granite, concrete, iron pin, or drilled hole in ledge).
  8. Number of acres within the subdivision, and proposed lot numbers and acreages for each lot.
  9. Contour lines at the interval specified by the CEO, showing elevations relative to mean sea level.
  10. Location and boundaries of all water bodies and wetlands, including vernal pools, and the location of any shoreland zoning affecting the tract. If any portion of the subdivision is located in the direct watershed of a great pond, the boundaries of the direct watershed and the name of the great pond.
  11. Location and type of vegetative cover, unusually large trees and other essential existing physical features.
  12. Location, names, and dimensions of existing and proposed streets, highways, utilities, easements, buildings, parks, open spaces or other improvements on or adjacent to the subdivision.
  13. Proposed building locations or building envelopes that meet all setback requirements of the Vassalboro Building Permit Ordinance and the Maine Subsurface Wastewater Disposal Rules.
  14. Proposed locations of private and/or community wells.
  15. For proposed subsurface wastewater disposal systems, the location of at least one test pit per lot, performed by a Maine licensed site evaluator or certified soil scientists; on lots where the limiting soil factor is less than 24", the location of a reserve disposal area not to be built upon.
  16. Location and size of existing and proposed sewers, water mains, culverts, and drainage ways on or adjacent to the property to be subdivided.
  17. Location of any proposed open space areas to be preserved including vegetative buffers, common use areas, significant wildlife habitat and unique natural areas, historic or prehistoric sites, shoreland zone resource protection zones, and farmland. (See Sections 8.7 and 8.8).

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<sup>3</sup> *The Board may require that this information be submitted electronically in a format compatible with the assessor's records.*

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18. Delineation of any flood hazard areas and the 100-year flood elevation, as depicted on the Town's Flood Insurance Rate Map. If any portion of the subdivision is within the flood hazard area, the following note shall be on the final recording plan: "If any portion of this subdivision is within a flood hazard area, all principal structures hereafter constructed or placed herein shall be so located that their lowest floor, including basement, is at least one foot above the 100-year flood elevation."
  19. Any waiver(s) approved by the Board as required in Section 9.3 Waivers.
- D. *Other Required Information*
1. Verification of right, title, and interest to the property by deed, purchase and sales agreement, option to purchase, or some other proof of interest.
  2. Copy of the most recently recorded deed, deed restrictions, easements, rights-of-way, or other encumbrances affecting the property.
  3. Copy of any proposed deed restrictions intended to cover all or part of the lots or dwellings in the subdivision.
  4. When sewage disposal is to private subsurface systems, a copy of the test pit analysis for each lot.
  5. When sewage disposal is to a public sewer, a letter from the sanitary district confirming there is adequate capacity to collect and treat the wastewater, and that the design of the proposed collection system meets applicable utility rules and standards.
  6. When water is to be supplied by an on-site well(s), a letter from a local well-driller or hydrogeologist familiar with the area indicating it is likely the water supply will be adequate.
  7. When water is to be supplied by public water supply, a written statement from the servicing water district indicating there is adequate supply and pressure for the subdivision, and that the design of the water service system meets applicable utility rules and standards.
  8. For projects located wholly or partially within the wellhead protection area of a public water supply as mapped by the Maine Drinking Water Program, a written statement from the water provider indicating the proposed development will not negatively impact their essential operations.
  9. When a private community water supply system is proposed, evidence that the system shall conform to the Maine Rules Relating to Drinking Water (10-144A CMR 231).
  10. Medium intensity soils map (USDA Kennebec County Soil Survey) that encompasses the area to be subdivided. Wetlands shall be identified on the survey, regardless of size. The Board may require a high intensity soils map in instances where poor soils are evident.
  11. Description of the measures to be taken to control erosion and sedimentation onto adjacent properties including roads, and into lakes, ponds and other water bodies in accordance with the Maine Erosion and Sedimentation Control Best Management Practices, MDEP, 2003 (or most current edition).
  12. Location of any sand and gravel aquifers as mapped by the Maine Geologic Survey. The Board may require a hydrogeologic assessment prepared by a certified geologist or professional engineer, experienced in hydrogeology, when the subdivision is not served by a public sewer and/or any part of the subdivision is located over a sand and gravel aquifer identified by the Maine Geological Survey.
  13. Copy of driveway/entrance permit(s) from the Town and/or the Maine Department of Transportation.
  14. A letter from (each) the Vassalboro Town Manager, Road Commissioner and Chief Fire indicating their review and approval of the subdivision.
  15. Landscape plan that shows the preservation of any existing trees, the replacement of trees and vegetation, graded contours, streams, and the preservation of scenic, historic, or environmentally significant areas.
  16. Description of the measures to be taken to assure there will not be an undue adverse effect to identified significant wildlife habitat and unique natural areas based on attached letters from public agency(ies) (Maine Department of Inland Fisheries and Wildlife, Maine Natural Areas Program, Maine Department of Marine Resources) and/or other experts as approved by the Board.
  17. Description of the measures to be taken to assure there will not be an undue adverse effect to any historic or prehistoric sites within or adjacent to the proposed subdivision that are either listed on or eligible to be listed on the National Register of Historic Places based on attached letter(s) from the Maine Historic Preservation Commission and/or other experts as approved by the Board.
  18. Description of the measures to be taken to conserve productive farmland.

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19. Description of proposed ownership, management and any improvements for all parcels proposed to be dedicated to public use and the conditions of such dedication.
  20. Evidence of adequate financial and technical capability to complete the project in the form of a letter(s) from certified financial institution(s) and/or a letter of credit. The Board may allow alternative forms of evidence should circumstances warrant.
  21. Affidavit signed by the applicant indicating that no timber harvest occurred on the tract within the preceding 5 years, or if it has, an affidavit signed by a licensed forester or an agent of the Maine Forest Service indicating that the timber harvest was not conducted in violation of rules adopted pursuant to 12 MRSA, §8869(14).
  22. E911 lot addresses shown on plan.
- 6.2.3 Prior to submittal of the final plan application, any of the approvals required in Section 7.2.3, where applicable, shall be obtained in writing. If the Board is unsure whether a permit or license from a state or federal agency is necessary, the applicant may be required to obtain a written opinion from the appropriate agency as to its applicability.
- 6.2.4 Prior to submittal of the final plan application, the applicant shall provide evidence that a legal entity has been established for common multi-user systems and ownership vested by deed reference for future potential owners for such items as roads, wells, septic systems, stormwater facilities, etc.. (See Section 7 Major Subdivision Submission Requirements for additional requirements, as applicable)

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## SECTION 7 – MAJOR SUBDIVISION SUBMISSION REQUIREMENTS

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### **7.1 Sketch Plan Submissions**

- 7.1.1 A sketch plan showing in simple form, the proposed layout of the subdivision shall be required for all major subdivision applications. The intent of the sketch plan is to provide the applicant, the CEO and the Board with a flexible, low-cost means to understanding the site, and to create a development plan that reflects the site's opportunities and constraints in accordance with the requirements of this Ordinance.
- 7.1.2 The sketch plan shall contain, at a minimum, 7 copies of the following information:
- A. Complete sketch plan application for a major subdivision.
  - B. Narrative describing the existing conditions of the site, the number and size of lots, and the constraints and opportunities of the site. The narrative should outline any traffic studies, utility studies, market studies or other applicable work to be conducted for the preliminary plan.
  - C. Name, addresses, and phone numbers of the record owner, the applicant, the preparer, and any consultants working on the project.
  - D. Evidence of right, title, or interest in the property.
  - E. Evidence of payment of the application fee and escrow deposit, if required.
  - F. Any anticipated requests for waivers from the submission requirements (See Section 9 Waivers).
  - G. Copy of the property tax map showing the map and lot number of the parcel to be subdivided.
  - H. Copy of a portion of the U.S.G.S. topographic map (7.5 min. quad.) of the area showing the boundaries of the proposed subdivision.
  - I. Copy of that portion of the Kennebec County Medium Intensity Soil Survey covering the proposed subdivision with the boundaries of the proposed subdivision shown.
  - J. Plan of the parcel, with an accurate scale, showing at a minimum the information listed, below.<sup>4</sup>
    - 1. Name(s) of the subdivision applicant and the owner of the parcel.
    - 2. North arrow, date and map scale.
    - 2. Boundary and lot lines of the subdivision.
    - 3. Approximate location, width and purpose of easements or restrictions, if applicable.
    - 4. Streets on and adjacent to the tract.
    - 5. Approximate location and size of existing utilities on and adjacent to the tract.
    - 6. Existing buildings, structures, or other improvements on the site.
    - 7. Major natural features of the site, approximated, including wetlands, streams, ponds, floodplains, groundwater aquifers, treelines, significant wildlife habitat and fisheries or other important natural features.

### **7.2 Preliminary Plan Submissions**

- 7.2.1 *Consistency with Sketch Plan.* The preliminary plan shall approximate the layout shown on the sketch plan, plus any recommendations made by the CEO and the Board. The CEO and the applicant should review Section 8 Review Criteria and Standards to determine if additional submissions may be required.
- 7.2.2 *Mandatory Submissions.* The following items shall be submitted as part of the preliminary plan application, unless the applicant submits a written waiver request, and is granted a waiver from the Board, pursuant to Section 9 Waivers. The Board may require additional information where it finds it necessary to determine whether the criteria of 30-A, MRSA, §4404 and this Ordinance are met. Seven copies of the following shall be submitted, unless otherwise indicated by the CEO.
- A. *A Completed Application, the Application Fee, and Establishment of Escrow Account (as applicable)*

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<sup>4</sup> *If the applicant decides to survey the property as part of the sketch plan, the applicant may want to obtain the required electronic data while the surveyor is on site (See electronic submission requirements for a final plan review)*

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- B. *Location Map.* The location map shall be drawn at a size 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 land uses and subdivisions in the proximity of the proposed subdivision.
  2. Locations and names of existing and proposed streets.
  3. Boundaries and designations of shoreland zoning districts, if present.
  4. 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 holdings.
- C. *Preliminary Plan.* The preliminary plan shall be submitted in duplicate copies of one or more maps or drawings that may be reproduced on paper, with all dimensions shown in feet. The plan shall be drawn to a scale of not more than 100 feet to the inch. Plans for subdivisions containing more than 100 acres may be drawn to a scale of not more than 200 feet per inch provided all necessary detail can be easily read. In addition, the applicant shall provide seven copies of the plan(s) reduced to a size of 8½ by 11 inches or 11 by 17 inches for forwarding to the Board. The following information shall be included on the plan:
- D. *Preliminary Plan*
1. Proposed name of the subdivision, or identifying title, and the name of the municipality(ies) in which it is located, plus assessor's map(s) and lot numbers.
  2. Date the plan was prepared, magnetic and true north points, and graphic map scale.
  3. Names and addresses of record owner, applicant, and preparer(s) of the plan.
  4. Deed references, and existing and proposed deed restrictions, covenants, easements, rights-of-way, or other encumbrances and conditions affecting the property. Include any public rights for physical or visual access to the shoreline of a water body.
  5. Names and addresses of all abutters, including any property owners directly across any existing road or street from the subdivision. Include property lines, tax map and lot numbers, and deed references.
  6. Standard boundary survey of the parcel with complete descriptive data by bearings and distances made by a licensed professional land surveyor. The entire parcel shall be shown, including all contiguous land in common ownership within the last 5 years, as required by Title 30-A MRSA §4401. 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.<sup>5</sup>
  7. Location of all monuments to be placed at the corners of the parcel and each lot, and the type of monument (granite, concrete, iron pin, or drilled hole in ledge).
  8. Number of acres within the subdivision, and proposed lot lines with approximate dimensions and lot areas. Lot numbers to identify each lot.
  9. Contour lines at intervals determined by the Board.
  10. Location and boundaries of all water bodies and wetlands including vernal pools, and the location of any shoreland zoning affecting the tract. If any portion of the subdivision is located in the direct watershed of a great pond, the boundaries of the direct watershed and the name of the great pond.
  11. Location and type of vegetative cover, unusually large trees and other essential existing physical features.
  12. Location, names, and dimensions of existing and proposed streets, highways, utilities, easements, buildings, parks, open spaces or other improvements on or adjacent to the subdivision.
  13. Proposed building locations or envelopes that meet all setback requirements of the Vassalboro Building Permit Ordinance and the Maine Subsurface Wastewater Disposal Rules.
  14. Proposed locations of private and community wells.
  15. For subsurface wastewater disposal systems, the location of at least one test pit per lot, performed by a Maine licensed site evaluator or certified soil scientist. On lots where the limiting soil factor is less than 24", the location of a reserve disposal area not to be built upon.
  16. Location and size of existing and proposed sewers, water mains, culverts, and drainage ways on or adjacent to the property to be subdivided.

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<sup>5</sup> *The Board may require that this information be submitted electronically in a format compatible with the assessor's records.*

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17. Delineation of any flood hazard areas and the 100-year flood elevation, as depicted on the Town's Flood Insurance Rate Map.
18. Location of any proposed open space areas to be preserved including vegetative buffers, common use areas, significant wildlife habitat and unique natural areas, historic or prehistoric sites, shoreland zone resource protection zones, and farmland.

E. *Other Required Information*

1. Verification of right, title, and interest to the property by deed, purchase and sales agreement, option to purchase, or some other proof of interest.
2. Copy(ies) of the most recently recorded deed, deed restrictions, easements, rights-of-way, or other encumbrances affecting the property.
3. Copy of any proposed deed restrictions intended to cover all or part of the lots or dwellings in the subdivision.
4. For private subsurface sewage disposal systems, a copy of the test pit analysis for each lot performed by a Maine licensed site evaluator or certified soil scientist.
5. For sewage disposal to a public sewer, a letter from the sanitary district confirming there is adequate capacity to collect and treat the wastewater from the subdivision.
6. When water is to be from on-site wells, a letter from a local well-driller or hydrogeologist familiar with the area indicating it is likely the water supply will be adequate.
7. When water is to be from a public water supply, a written statement from the servicing water district indicating there is adequate supply and pressure for the subdivision.
8. When a private community water supply system is proposed, evidence the system shall conform to the Maine Rules Relating to Drinking Water (10-144A CMR 231).
9. For projects located wholly or partially within the wellhead protection area of a public water supply as mapped by the Maine Drinking Water Program, a written statement from the water provider indicating the proposed development will not negatively impact their essential operations.
10. High-intensity soil survey by a certified soil scientist. Wetlands shall be identified, regardless of size. A medium-intensity survey may be adequate, if the subdivision proposes low-density development and lots large enough to find house sites on suitable soils.
11. The Board may require a hydrogeologic assessment when the subdivision is not served by a public sewer and/or any part of the subdivision is located over a sand and gravel aquifer identified by the Maine Geological Survey, or the subdivision has an average density of more than one dwelling unit per 100,000 square feet, or in other cases where site considerations or development design indicate greater potential of adverse impacts on groundwater quality. (See Section 8.2)
12. An estimate of the amount and type of vehicular traffic to be generated on a daily basis and at peak hours. Trip generation rates shall be taken from the most recent available edition of the Trip Generation Manual, published by the Institute of Transportation Engineers. Trip generation rates from other sources may be used if the applicant demonstrates these sources better reflect local conditions.
13. For subdivisions involving 28 or more parking spaces or projected to generate more than 140 vehicle trips per day, a traffic impact analysis, prepared by a professional engineer with experience in traffic engineering. 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.
14. All submissions required by the Town of Vassalboro Road Construction Ordinance and the Vassalboro Site Review Ordinance, as applicable.
15. For subdivisions requiring a state permit under the Maine Site Location of Development Law or the Maine Stormwater Management Law, a stormwater management plan prepared by a professional engineer, demonstrating compliance with the standards of MDEP Rule Chapter 500 and 502 (Stormwater Management Regulations).
16. For subdivisions within, or with areas within, the watershed of a great pond, and containing 5 or more lots or dwelling units created within any 5-year period, or any combination of 800 linear feet of new or

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upgraded driveways and/or streets see Section 8.14 Phosphorus Control in Great Pond Watersheds for submission requirements.

17. An erosion and sedimentation control plan prepared by a qualified professional that details control structures to be installed along with ongoing maintenance procedures and practices to be followed during site preparation, construction and clean-up stages. The plan shall comply with 38 MRSA §420-H. Erosion and Sedimentation Control and the Maine Erosion and Sediment Control BMPs, Maine Department of Environmental Protection, 2003, or most current edition.
18. A letter from (each) the Vassalboro Town Manager, Fire Chief, Road Commissioner, and School Superintendent indicating their review and approval of the subdivision.
19. An affidavit that no timber harvesting has occurred on the tract within the preceding 5 years, or if it has, that it has not been conducted in violation of rules adopted pursuant to 12 MRSA §8869(14). The affidavit may be signed by a licensed forester or an agent of the Maine Forest Service.
20. Landscape or open space plan that shows the preservation of any existing trees, the replacement of trees and vegetation, graded contours, streams, and the preservation of scenic, historic, or environmentally significant areas.
21. Description of the measures to be taken to assure there will not be an undue adverse effect to identified significant wildlife habitat and unique natural areas based on attached letters from public agency(ies) (Maine Department of Inland Fisheries and Wildlife, Maine Natural Areas Program, Maine Department of Marine Resources) and/or other experts as approved by the Board.
22. Description of the measures to be taken to assure there will not be an undue adverse effect to any historic or prehistoric sites within or adjacent to the proposed subdivision that are either listed on or eligible to be listed on the National Register of Historic Places based on attached letter from the Maine Historic Preservation Commission and/or other experts as approved by the Board.
23. Description of the measures to be taken to conserve productive farmland.
24. Description of proposed ownership, management and any improvements for all parcels proposed to be dedicated to public use and the conditions of such dedication.
25. Evidence of adequate financial capability to complete the project in the form of a letter(s) from certified financial institution(s) and/or a letter of credit. The Board may allow alternative forms of evidence should circumstances warrant the substitution.
26. Evidence of adequate technical capacity to construct the project to include the applicant's previous experience and the experience and training of the consultants and contractors.

7.2.2 The Board may require any additional information not listed above, when necessary to determine whether the statutory review criteria of 30-A, MRSA, §4404 and the requirements of this Ordinance have been met.

7.2.3 Prior to submittal of the final plan application, the following approvals shall be obtained in writing, where applicable:

- A. Maine Department of Environmental Protection, under the Site Location of Development Act, the Natural Resources Protection Act or the Stormwater Management Law, or if an MEPDES wastewater discharge license is needed.
- B. Maine Department of Health and Human Services, if the applicant proposes to provide a public water system, or if an engineered subsurface waste water disposal system(s) is to be utilized.
- C. U.S. Army Corps of Engineers, if a permit under Section 404 of the Clean Water Act is required.
- D. Maine Department of Transportation Traffic Movement Permit, and/or Highway Entrance/Driveway Access Management Permit.
- E. Written approval of any proposed street names from the Town of Vassalboro E911 Addressing Officer.

If the Board is unsure whether a permit or license from a state or federal agency is necessary, the applicant may be required to obtain a written opinion from the appropriate agency as to the applicability of their regulations.

**7.3 Final Plan Submissions**

- 7.3.1 *Mandatory Submissions.* The following shall be submitted as part of the final plan application, unless the applicant submits a written waiver request, and is granted a waiver from the Board, pursuant to Section 9 Waivers. The Board may require additional information where it finds it necessary to determine whether the criteria of 30-A, MRSA, §4404 and this Ordinance are met. Seven copies of the following shall be submitted, unless otherwise indicated by the CEO.
- 7.3.2 All information presented in the preliminary plan and any amendments or conditions required by the Board must appear in the final plan application.
- 7.3.3 *Final Plan.* The final plan shall consist of one or more maps or drawings drawn to a scale of not more than 100 feet to the inch. Plans for subdivisions containing more than 100 acres may be drawn at a scale of not more than 200 feet to the inch provided all necessary detail can be easily read. Plans shall be no larger than 24 by 36 inches in size, and shall have a margin of 2 inches outside of the borderline 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. One reproducible, stable-based transparency of the recording plan to be recorded at the Registry of Deeds, and 3 full sized paper copies of all the final plan sheets and any supporting documents shall be submitted. The original reproducible plan shall be embossed with the seal of the professional land surveyor or design engineer, and be signed by that individual. In addition, one copy of the plan shall be reduced to a size of 8½ by 11 inches or 11 by 17 inches for forwarding to Board members.
- 7.3.4 *Application Form, Fees, and Submissions.* In addition to the information provided in the preliminary plan, the final plan shall reflect revisions, including those required by the Board, and shall include or be accompanied by the following:
- A. Completed final plan application form and any required fees.
  - B. If different than those submitted with the preliminary plan, a copy of any proposed deed restrictions intended to cover all or part of the lots or dwellings in the subdivision.
  - C. Final proposed lot lines with dimensions, bearings, deflection angles radii and central angles sufficient to reproduce any line on the ground, and lot areas and total area to be subdivided. <sup>6</sup>
  - D. The location, names, and dimensions of existing and proposed streets, highways, easements, building lines, parks and other open spaces on or adjacent to the subdivision. 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.
  - E. Detailed design and construction plans for the infrastructure, including, but not limited to, roads, streets, parking lots, sidewalks, and utilities in accordance with the requirements of the Town of Vassalboro Road Construction Ordinance, the Town of Vassalboro Site Plan Review Ordinance, and this Ordinance.
  - F. When sewage disposal is through connection to the public sewer, a written statement from the sewer district indicating the district has reviewed and approved the sewerage design.
  - G. When water is to be from an existing public water supply, a written statement from the servicing water district indicating the district has reviewed and approved the water system design. Also, a written statement from the Fire Chief approving all hydrant locations or other fire protection measures.
  - H. All parcels of land proposed to be dedicated to public use and the conditions of such dedication. Written offers to convey title to the Town of all public ways and 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 managed and maintained. These may include homeowners' association bylaws and condominium declarations.

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<sup>6</sup> *In order to facilitate the addition of the subdivision into the town property records and geographic information system, the Board may require that subdivision plans be submitted in electronic format compatible with Town's property tax records.*

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- I. If proposed streets and/or open spaces or other land is to be offered to the Town, written evidence that the Board of Selectmen are satisfied with the legal sufficiency of the written offer to convey title. All roads and other public improvements not dedicated to the Town during such time prior to the actual acceptance by the Town shall be maintained by the subdivision owners or developer. A legal agreement indicating how the infrastructure will be maintained shall be submitted. The Board shall review the maintenance plan to ensure sufficient provisions have been incorporated to maintain all improvements for the applicable time period. The Road Commissioner shall review the road plan to confirm there is an adequate right-hand turnout for snowplow access, unless the road is to be forever private.
- J. If roads are to remain privately owned, the following shall be noted on the final plan: "All roads shall remain private roads to be maintained by the developer or lot owners, and shall not be accepted or maintained by the Town."
- K. The construction items for which cost estimates and performance guarantees will be required as prerequisite to the approval of the final plan.

Approval by the Board of a subdivision plan shall not constitute or be evidence of any acceptance by the Town of any street, easement, or other open space shown on the plan. When a park or other recreation area has been shown on the plan to be dedicated to the Town, approval of the plan shall not constitute an acceptance by the Town 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 Board of Selectmen covering future deed and title dedication, and provision for the cost of grading, development, equipment, and maintenance of any such dedicated area.

- L. E911 lot addresses shall be shown on the plan.
- M. If any portion of the subdivision is within the flood hazard area, the following note shall be on the final recording plan: "If any portion of this subdivision is within a flood hazard area, all principal structures hereafter constructed or placed herein shall be so located that their lowest floor, including basement, is at least one foot above the 100-year flood elevation."
- N. Any waiver(s) approved by the Board shall be noted on the recording plan (See Section 9.3 Waivers.

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## SECTION 8 - REVIEW CRITERIA AND STANDARDS

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*Purpose:* The review criteria in this section are those found in 30-A, MRSA, §4404. The following standards clarify and expand upon the review criteria. Alternative designs and approaches to the standards that will satisfy the criteria equally as well, or better, may be considered. In all instances, the burden of proof shall be upon the applicant to present information that, in the judgment of the Board, sufficiently demonstrates conformance with the review criteria and standards. This shall not be construed as limiting the authority of the Board to require additional evidence or impose additional standards based on characteristics of the site or development. For example, the Board may require that minor subdivisions meet the additional requirements of major subdivisions where necessary to demonstrate conformance with the review criteria and standards of this section.

*Findings of Fact and Conclusions of Law.* In issuing its decision, the Board shall make written findings of fact and conclusions of law relative to the review criteria and standards contained in 30-A, MRSA, §4404 and in this Ordinance. Applicants for major subdivisions shall prepare written findings of fact and conclusions of law for the Board's consideration. If the Board finds that all criteria and standards of the Statute and this Ordinance have been met, it shall approve the final plan. If the Board finds that any of the provisions of the Statute, or of this Ordinance have not been met, the Board shall either deny the application or approve the application with conditions to ensure all of the criteria and standards shall be met by the development.

### **8.1 Sufficient Water Supply**

8.1.1 *Criterion: The proposed subdivision has sufficient water available for the reasonably foreseeable needs of the subdivision.*

8.1.2 *Criterion: Municipal Water Supply. The proposed subdivision will not cause an unreasonable burden on an existing water supply, if one is to be used.*

8.1.3 *Standards:*

- A. *Individual Wells and Private Community Water Supplies.* A subdivision not served by either the East Vassalboro Water Company (EVWC) or Kennebec Water District (KWD) shall be served in accordance with applicable state rules for individual wells or private community water supply systems.
  1. The Board may require applicants to submit a letter from a local well driller or hydrogeologist familiar with the area indicating there is a sufficient, healthful water supply to serve the needs of the subdivision.
  2. *Individual Wells*
    - a. Individual wells shall be sited and constructed to prevent infiltration of surface water, and contamination from subsurface waste water disposal systems and other potential sources of contamination.
    - b. A dug well on a lot with an area of less than one acre shall not be used as a drinking water source. Where applicable, this restriction shall be included in lot deeds and noted on the subdivision plan.
    - c. Each lot shall be designed so that wells can comply with the Maine Subsurface Wastewater Disposal Rules and the Maine Well Drillers and Pump Installers Rules.
  3. *Private Community Water Supply Systems*
    - a. The water source, source protection measures, and system design, installation and operating procedures for a private community water supply system shall conform to the standards of the Maine Rules Relating to Drinking Water (10-144A C.M.R. 231).
    - b. Documents establishing the legal responsibilities and procedural framework for the ongoing fiscal and operational management of the community water system shall be executed prior to occupancy of the subdivision.
  4. *Major Subdivisions (additional standards). Fire-Fighting Water Storage Facilities.* In areas where the Vassalboro Fire Department (VFD) has identified the need for additional water storage capacity for

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fire-fighting, water storage facilities such as ponds and underground storage tanks, satisfactory to the VFD Fire Chief, shall be provided at the applicant's expense.

- B. *East Vassalboro Water Company (EVWC) and Kennebec Water District (KWD)*. The following standards apply to a subdivision located within either the EVWC or KWD service area:
1. Upon occupation of the subdivision, service demand shall fall within the EVWC's or KWD's available service capacity, as applicable.
  2. The complete water service system, including the service lines to each lot or unit, and fire hydrants, shall be designed and installed in accordance with the rules and specifications of the applicable public water supplier (EVWC, KWD) and at the applicant's expense. The applicant shall provide letters from the applicable water supplier and Fire Chief indicating that the water service system is designed to their satisfaction.

### **8.2 Impact on Groundwater Quality and Quantity**

8.2.1 *Criterion: The subdivision will not, alone or in conjunction with existing activities, adversely affect the quality or quantity of groundwater.*

8.2.2 *Standards:*

- A. *Groundwater Quality and Quantity*. The subdivision shall not pose an unreasonable risk that a discharge of pollutants to groundwater will occur, or that groundwater withdrawals will lower the water table beyond the boundaries of the subdivision. Additionally, the subdivision shall not pose an unreasonable risk of lowering of the water table beyond the boundaries of the subdivision by increasing runoff with a corresponding decrease in infiltration.
- B. *Hydrogeologic Assessment*
1. The Board may require a hydrogeologic assessment prepared by a certified geologist or 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 as amended; or
    - b. The subdivision has an average density of more than one dwelling unit per 100,000 square feet.
  2. The Board may require a hydrogeologic assessment in other cases where site considerations or development design indicate greater potential of adverse impacts on groundwater quality. These cases may include:
    - a. Extensive areas of shallow depth to bedrock soils;
    - b. Developments in which the average density is less than one dwelling unit per 100,000 square feet, but the density of the developed portion is in excess of one dwelling unit per 80,000 square feet; and/or
    - c. The proposed development will use shared or common subsurface waste water disposal systems.
  3. The hydrogeologic assessment should contain at least the following information:
    - a. A map showing the basic soils types and locations of any subsurface waste water disposal systems and drinking water wells within the subdivision and within 200 feet of the subdivision boundaries.
    - b. The depth to the water table at representative points throughout the subdivision.
    - c. Drainage conditions throughout the subdivision.
    - d. Data on existing groundwater quality, either from test wells in the subdivision or from existing wells on neighboring properties.
    - e. An analysis and evaluation of the effect of the subdivision on groundwater resources. In the case of residential development, the evaluation shall, at a minimum, include a projection of post-development nitrate-nitrogen concentration at any wells within the subdivision, at the subdivision boundaries and at a distance of 1,000 feet from potential contamination sources, whichever is a shorter distance. Projections of groundwater quality shall be based on the assumption of drought conditions (i.e. 60% of annual average precipitation).

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4. Drinking water wells and subsurface wastewater disposal systems 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 condition of plan approval, and as restrictions in the deeds to the affected lots.

### **8.3 Soil Erosion, Sedimentation and Impact on Water Bodies**

- 8.3.1 *Criterion: The proposed subdivision will not cause unreasonable soil erosion or reduction in the land's capacity to hold water so that a dangerous or unhealthy condition results.*

- 8.3.2 *Standards:*

- A. The proposed subdivision shall be designed to prevent soil erosion and sedimentation from entering water bodies, wetlands, and adjacent properties.
- B. The subdivision shall comply with 38 MRSA, §420-C. Erosion and Sedimentation Control and the Maine Erosion and Sediment Control BMPs, Maine Department of Environmental Protection, 2003, or most current edition.
- C. Filling, excavation, and earth moving activity shall be carried out in a way that keeps erosion and sedimentation to a minimum, including:
  1. Preservation and protection of natural vegetation where possible;
  2. Keeping duration of exposure of disturbed soils to as short a period as possible before stabilization;
  3. Use of temporary vegetation or mulching to protect exposed critical areas during development;
  4. Where appropriate or necessary, use of sediment basins, silt traps or other acceptable methods to trap sediment from stormwater run-off;
  5. No storage of fill materials within 50 feet of any intermittent or perennial stream, or water body;
  6. Topsoil shall not be removed from the site, except for surplus topsoil removed from areas to be occupied by buildings, paving, or other surfaces that will not be revegetated;
  7. Adequate provision shall be made for surface drainage so that discharge of stormwaters will not have an unreasonable adverse effect on neighboring properties, downstream water quality, soil erosion or the public storm drain system. Whenever possible, on-site absorption of run-off shall be used to minimize discharges from the site.
- D. Cutting or removal of vegetation along water bodies shall not increase water temperature or result in shoreline erosion or sedimentation.
- E. *Major Subdivisions (additional requirement). Erosion Control Plan.* An application for a major subdivision shall include an erosion and sedimentation control plan, prepared by a qualified professional that details control structures to be installed, ongoing maintenance procedures, and practices to be followed during the site preparation, construction, and clean-up stages.

### **8.4 Traffic Conditions**

- 8.4.1 *Criterion: The proposed subdivision will not cause unreasonable highway or public road congestion or unsafe conditions with respect to the use of the highways or public roads existing or proposed and, if the proposed subdivision requires driveways or entrances onto a state or state aid highway, the Department of Transportation has provided documentation indicating that the driveways or entrances conform to Title 23, section 704 and any rules adopted under that section.*

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### 8.4.2 *Standards:*

- A. Provision shall be made for vehicular access to the subdivision and circulation within the subdivision to: safeguard against hazards to traffic and pedestrians in existing streets and within the subdivision; avoid traffic congestion on any street; and provide safe and convenient circulation on public streets and within the subdivision.
- B. Access and circulation shall also conform to the following:
  - 1. *Entrance/ Driveway Permits Required*
    - a. *State Permit.* If the proposed subdivision requires driveways or street entrances onto a state or state aid highway, the applicant shall provide documentation indicating that the driveways or entrances conform to Maine Department of Transportation (MDOT) Chapter 299, Highway Driveway and Entrance Rules.
    - b. *Local Permit.* If the proposed subdivision requires driveways or street entrances onto a town road, the applicant shall provide documentation indicating the driveways or entrances conform to the Vassalboro Road Construction Ordinance.
  - 2. If the proposed subdivision requires a MDOT Traffic Movement Permit (23 MRSA, §704-A), the applicant shall submit evidence of permit approval from the MDOT.
  - 3. Where a subdivision lot is proposed to have frontage on two or more streets, access to the lot shall be via the street where there is lesser potential for traffic congestion and for hazards to traffic and pedestrians. The Board may waive this requirement where there are aspects of the site that would make this requirement not feasible.
- C. *Major Subdivisions (additional standards)*
  - 1. The street providing access to the subdivision and neighboring streets and intersections which can be expected to carry traffic generated by the subdivision shall have the capacity or be suitably improved to accommodate that traffic and avoid unreasonable congestion. The Board may require a traffic impact study of roadways and intersections in the vicinity of the proposed subdivision if the subdivision has the potential of generating significant amounts of traffic, or if traffic safety and capacity deficiencies exist in the vicinity of the project site.
  - 2. Accessways shall be designed to avoid queuing of entering vehicles on any street. Internal roadways should be utilized if at all possible. A study or analysis to determine the need for a left-turn storage lane shall be done when peak hour traffic is forecast to be 40 or more vehicles.
  - 3. Where topographic and other conditions allow, provisions shall be made, and noted on the plan, for connections to adjoining lots of similar existing or potential use wherever: (i) the access connection will facilitate fire protection services as approved by the Fire Chief; (ii) the adjoining tract is deeded to or otherwise under the control of the subdivider; or (iii) it would enable the public to travel between adjacent developments without the need to travel upon a street outside the subdivision.
  - 4. All transportation infrastructure, including, but not limited to, roads, streets, parking and loading and unloading areas, and sidewalks shall conform to the design and construction standards of the Town of Vassalboro, Maine, Road Construction Ordinance, and the Town of Vassalboro Site Plan Review Ordinance.

## **8.5 Sewage Disposal**

8.5.1 *Criterion: The proposed subdivision will provide for adequate sewage waste disposal and will not cause an unreasonable burden on municipal services if they are utilized.*

### 8.5.2 *Standards:*

- A. *Private Systems.* A proposed subdivision served by individual subsurface wastewater disposal systems, or by a common collection and subsurface disposal system, or other treatment system shall be in full compliance with the Maine Subsurface Wastewater Disposal Rules.

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1. The applicant shall submit evidence of site 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.
  2. On lots in which the limiting factor has been identified as being within 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 in the deed so as not to be built upon.
  3. In no instance shall a disposal area be on a site that requires a New System Variance from the Subsurface Wastewater Disposal Rules.
- B. *Vassalboro Sanitary District (VSD)*. For a subdivision located within the service area of the VSD, prior to final subdivision approval, the applicant shall provide written confirmation from the VSD that: the design of the proposed subdivision collection system meets applicable utility rules and standards; and the District's collection and treatment system has or will have, prior to occupancy of the subdivision, sufficient capacity to serve the proposed subdivision.

### **8.6 Solid Waste**

8.6.1 *Criterion: The proposed subdivision will not cause an unreasonable burden on the municipality's ability to dispose of solid waste, if municipal services are to be utilized.*

8.6.2 *Standards:*

- A. The application shall include a letter from the Town Manager referencing the ability of the Town's facility to absorb the additional materials.
- B. If solid waste from a proposed subdivision is expected to: (a) exceed the available capacity of the Town's solid waste facility; (b) cause the Town's facility to become non-compliant with its MDEP license; or (c) cause the Town to exceed the tonnage limits of its contract with a non-municipal facility, the Board shall require the applicant to submit evidence of an alternate arrangement for the disposal of solid waste. Any disposal facility included in the alternate arrangement shall be in compliance with its license.

### **8.7 Aesthetic, Cultural and Natural Values**

8.7.1 *Criterion: The proposed subdivision will not have an undue adverse effect on the scenic or natural beauty of the area, aesthetics, historic sites, significant wildlife habitat identified by the Department of Inland Fisheries and Wildlife or the municipality, or rare and irreplaceable natural areas or any public rights for physical or visual access to the shoreline.*

8.7.2 *Standards:*

- A. *Landscape Plan*. The Board may require a landscape plan that shows the preservation of any existing trees, the replacement of trees and vegetation, graded contours, streams, and the preservation of scenic, historic, or environmentally significant areas. Further, the Board may require notes on the final plan and deed restrictions, as necessary to assure the required landscaping is maintained in the future.
- B. *Public Rights for Physical or Visual Access to the Shoreline*. Any existing or proposed public or private rights for physical or visual access, including access to the shoreline of a water body, shall be depicted on the plan and shall be described in the deed or deeds of any lot or other parcel within the subdivision that benefits from or is subject to such access rights.
- C. *Retention of Important Open Spaces, and Natural and Cultural Resources*. Developments shall be designed to retain and conserve important open spaces, and natural and cultural resources to the greatest extent practicable to assure there will be no undue adverse effect to these resources. The Board may require that any restrictions to protect historic and prehistoric sites, unique natural areas, or significant wildlife habitat appear as notes on the plan and as deed restrictions to the affected lots.
  1. *Historic/Prehistoric Sites*. An application for a subdivision that includes any historic or prehistoric sites that are either listed on, or deemed eligible to be listed on the National Register of Historic Places, shall describe the measures to be taken to assure there will not be an undue adverse effect on these sites.

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2. *Unique Natural Areas.* An application for a subdivision that includes any area designated as a Unique Natural Area by the Maine Natural Areas Program (MNAP) shall describe the measures to be taken to assure there will not be an undue adverse effect on these unique natural areas and the species they support.
  3. *Significant Wildlife Habitat (SWH).* If any portion of a subdivision lies within 250 feet of SWH as identified and mapped by the Maine Department of Inland Fisheries and Wildlife (MDIFW), the following shall apply: (i) the application shall describe the measures to be taken to assure there will not be an undue adverse effect on the SWH and the species it supports; (ii) there shall be no cutting of vegetation within such areas, or within the strip of land extending at least 75 feet from the edge of the normal high-water mark of such habitat areas unless the applicant demonstrates there will be no undue adverse effects; and (iii) the application shall include written comments from the MDIFW.
- D. *Major Subdivisions (additional standards): Reservation, Dedication and Maintenance of Common Open Space and Associated Facilities.* The Board may require the reservation of common open space (as defined) within a proposed subdivision to conserve cultural or natural resources, to maintain productive farmland, and/or to provide for the recreational needs of the occupants of the subdivision.
1. In determining the need for common open space the Board shall consider the following:
    - a. Open space needs consistent with the Board's findings for Sections 8.7.2, A, B and C (above), and Section 8.8 Farmland, including the proximity of the subdivision to neighboring open space with similar purposes.
    - b. Recreational needs for common open space based on the proximity of the subdivision to neighboring facilities, the type of development and the demographic characteristics of potential residents of the subdivision, and the density of the development.
  2. Land reserved for common open space purposes shall be of a character, configuration and location suitable for the particular use intended.
  3. Further subdivision of common open space and its use for other than conservation, agriculture or non-commercial recreation shall be prohibited, except that easements for underground utilities may be allowed. Only structures accessory to conservation or non-commercial recreation uses may be erected on common open space. Common open space that is to be owned by an entity other than the Town shall be subject to a perpetual conservation easement, held by the Town, the state, or a qualified land trust.
  4. All common open space and associated facilities shall be owned by an incorporated lot owners' association to which all lot or dwelling unit owners shall belong, a land trust or other qualified nonprofit land conservation organization, or the Town.
  5. Notes on the final plan shall state that common open space shall not be used for residential or commercial purposes, and shall indicate which portions of the common open space, if any, are to be offered to the Town for acceptance.
  6. The final plan application shall include draft legal documents to assure the common open space is adequately maintained by the lot owners, and the developer until there is adequate development for the lot owners to assume maintenance of the open space.

### **8.8 Farmland**

- 8.8.1 *Criterion:* All farmland within the proposed subdivision has been identified on maps submitted as part of the application. Any mapping of farmland may be done with the help of the local soil and water conservation district.
- 8.8.2 *Standards:* All developments shall be configured to preserve productive farmland (as defined) to the maximum extent practicable. New structures and roads may be built on farmland to the extent allowed under other provisions of this Ordinance, but the applicant shall seek creative measures to minimize development that occurs on productive farmland, or divides a single field, or otherwise reduces the ease with which a parcel of farmland can be farmed in the future. All areas of farmland of 5 or more acres must be identified on one or more plan drawings. Farmland is defined by state statute as any area of 5 or more acres of land that is classified as prime farmland, unique farmland, or farmland of statewide importance by

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## TOWN OF VASSALBORO SUBDIVISION ORDINANCE

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the United States Department of Agriculture Natural Resource Conservation Service, or is used for the production of agricultural products as defined in 7 MRSA §152(2).

### **8.9 Conformance with Local Ordinances and Plans**

- 8.9.1 *Criterion: The proposed subdivision is in conformance with the duly adopted plans and ordinances for the Town of Vassalboro. In making this determination, the Planning Board may interpret these ordinances and plans.*
- 8.9.2 *Standard: The proposed subdivision shall conform to the Town's Shoreland Zoning Ordinance, Site Review Ordinance, Floodplain Ordinance, Road Construction Ordinance, Building Permit Ordinance, and other ordinances and plans, as applicable.*

### **8.10 Financial and Technical Capacity**

- 8.10.1 *Criterion: The developer has adequate financial and technical capacity to meet the standards of this Ordinance.*
- 8.10.2 *Standards:*
- A. *Financial Capacity.* The applicant shall demonstrate the availability of financial resources sufficient to implement the proposed subdivision plan. In determining the applicant's financial capacity, the Board shall consider cost estimates for implementation of the plan, letters from prospective sources of financing, the proposed time frame for construction, and performance guarantees required of the applicant, as applicable. (See Section 11 Performance Guarantees and Inspection of Required Improvements)
  - B. *Technical Capacity.* The applicant shall demonstrate the qualifications of the contractors and consultants, who will supervise, construct and inspect the improvements of the proposed subdivision, as applicable. In determining the applicant's technical ability, the Board shall consider the applicant's previous experience, the experience and training of the applicant's consultants and contractors, and the number and nature of any violations of previous approvals granted to the applicant, as applicable.

### **8.11 Floodplain Management**

- 8.11.1 *Criterion: Based on the Federal Emergency Management Agency's Flood Boundary and Floodway Maps and Flood Insurance Rate Maps, and information presented by the applicant whether the subdivision is in a flood-prone area. If the subdivision, or any part of it, is in such an area, the subdivider shall determine the 100-year flood elevation and flood hazard boundaries within the subdivision. The proposed subdivision plan must include a condition of plan approval requiring that principal structures in the subdivision will be constructed with their lowest floor, including the basement, at least one foot above the 100-year flood elevation.*
- 8.11.2 *Standards: When any part of a subdivision is located in a special flood hazard area as identified by the Federal Emergency Management Agency (FEMA), the following shall apply:*
- A. The applicant shall determine the 100-year flood elevation, and the flood hazard boundaries within the subdivision shall be shown on the subdivision plan.
  - B. All public utilities and facilities, such as sewer, gas, electrical, and water systems, shall be located and constructed to minimize or eliminate flood damage.
  - C. Adequate drainage shall be provided to reduce exposure to flood hazards.
  - D. The subdivision plan shall include a statement that all principal structures shall be constructed with their lowest habitable floor, including the basement, at least one foot above the 100-year flood elevation. Such a restriction shall be included in any deed, lease, purchase and sales agreement, or document transferring or expressing the intent to transfer any interest in real estate or structure.
  - E. The plan shall meet the requirements of the Town's Floodplain Management Ordinance.

**8.12 Freshwater Wetlands, Rivers, Streams and Brooks**

8.12.1 *Criterion: All freshwater wetlands within the proposed subdivision shall be identified on any maps submitted as part of the application, regardless of the size of these wetlands.*

8.12.2 *Criterion: Any river, stream or brook within or abutting the proposed subdivision has been identified on any maps submitted as part of the application. For purposes of this section, "river, stream or brook" has the same meaning as in Title 38, §480-B, sub§9.*

*Standards.* Every wetland, river, stream or brook within or abutting the proposed subdivision shall be identified and depicted on the subdivision plan. Wetland boundaries shall be delineated in the field in accordance with the *1987 Corps of Engineers Wetland Delineation Manual*, published by the United States Army Corps of Engineers.

**8.13 Stormwater Management**

8.13.1 *Criterion: The proposed subdivision will provide for adequate stormwater management.*

8.13.2 *Standards:*

- A. Adequate provision shall be made for the management of the quantity and quality of all stormwater generated within the subdivision, including the collection and disposal of all runoff from proposed streets, parking areas, and other impervious surfaces. Stormwater shall be retained using vegetation and other natural features of the site to the greatest extent feasible. Stormwater shall not create adverse impacts on water bodies, or on abutting or downstream properties.
- B. *Major Subdivisions and Developments Requiring State Stormwater Permits (additional standards)*
  - 1. Applications for subdivisions that require a state permit under the Site Location of Development Law or the Stormwater Management Law shall include a stormwater management plan, prepared by a professional engineer, demonstrating compliance with the standards of MDEP Rule Chapter 500 (Stormwater Management Regulations). Applications shall include a copy of the State permit.
  - 2. For projects involving structural treatments, such as detention ponds, a Stormwater Maintenance Agreement that describes how the stormwater facilities shall be maintained through the course of their projected life, shall be submitted at the time of application.

**8.14 Lake Phosphorus Concentration**

8.14.1 *Criterion: The long-term cumulative effects of the proposed subdivision will not unreasonably increase a great pond's phosphorus concentration during the construction phase and life of the proposed subdivision.*

8.14.2 *Standards:* If any portion of the proposed subdivision is in the direct watershed of a Great Pond<sup>7</sup>, the following shall be submitted or indicated on the plan:

- A. *Major Subdivisions (additional standards):* For subdivisions containing 5 or more lots or dwelling units created within any 5-year period, or any combination of 800 linear feet of new or upgraded streets, the following is required:
  - 1. A Stormwater Management Plan shall be submitted that meets the phosphorus allocation across the entire subdivision in accordance with the methodology described in the MDEP Phosphorus Design Manual, Volume II of the Maine Stormwater Best Management Practices Manual, 2006, or most current editions. The phosphorus impact analysis and control plan shall include all worksheets, engineering calculations, and construction specifications and diagrams for control measures.

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<sup>7</sup> Great ponds with watersheds within Vassalboro include Webber Pond, Threemile Pond, China Lake (West Basin), Pattee Pond, Spectacle Pond, and Threecornered Pond. (Source: Maine Department of Environmental Protection Per Acre Phosphorus Allocations for Selected Maine Lakes, updated 11/18/10)

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2. A long-term maintenance plan for all phosphorus control measures shall be submitted.
- B. For all other subdivisions not included in subsection 8.14.2.A above, meeting the requirements of 8.3 Erosion and Sedimentation and 8.13 Stormwater Management shall be demonstration that this criterion has been met.

### **8.15 Spaghetti Lots Prohibited (Shoreland Zoning Areas)**

- 8.15.1 *Criterion: If any lots in the proposed subdivision have shore frontage on a river, stream, brook, or great pond as these features are defined in 38 MRSA, §480-B, none of the lots created within the subdivision will have a lot depth to shore frontage ratio greater than 5 to 1.*
- 8.15.2 *Standard: The subdivision plan shall clearly show that any subdivision lot with shore frontage on a river, stream, brook or great pond, as defined in the Maine Shoreland Zoning statute, will not have a lot depth to shore frontage ratio greater than 5 to 1.<sup>8</sup>*

### **8.16 Impact on Adjoining Municipality**

- 8.16.1 *Criterion: For any proposed subdivision that crosses municipal boundaries, the proposed subdivision will not cause unreasonable traffic congestion or unsafe conditions with respect to the use of existing public ways in an adjoining municipality in which part of the subdivision is located.*
- 8.16.2 *Standard: If any proposed subdivision crosses municipal boundaries, the Board shall conduct a review parallel to the review of the adjoining municipality, and shall attempt to conduct at least one joint meeting. If either municipality requests a traffic study or traffic impact analysis by the applicant, the study shall be made available to both review authorities.*

### **8.17 Lands Subject to Liquidation Harvesting**

- 8.17.1 *Criterion: Timber on the parcel being subdivided has not been harvested in violation of rules adopted pursuant to 12 MRSA, §8869, sub-§14, adopted by the Maine Forest Service to substantially eliminate liquidation harvesting.*
- 8.17.2 *Standards:*
  - A. If the tract to be subdivided shows evidence of having been forested within the preceding 10 years, the applicant shall submit an affidavit concerning the status of timber harvesting operations. The affidavit shall be signed by the Maine Forest Service (MFS) or a forester licensed pursuant to Title 32, chapter 76. The affidavit shall state whether the timber was harvested in compliance with 38 MRSA, §8869(14), and the MFS Rule (Chapter 23 Timber Harvesting Standards to Substantially Eliminate Liquidation Harvesting).
  - B. If a violation of the above-cited rules adopted by the MFS has occurred, the Board must determine prior to granting approval for the subdivision that 5 years have elapsed from the date the landowner under whose ownership the harvest occurred acquired the parcel. The Board may request technical assistance from the MFS to determine whether a rule violation has occurred. For the purposes of this subsection, "parcel" means a contiguous area within the Town owned by one person or a group of persons in common or joint ownership.

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<sup>8</sup> See Section 1.2.3 B with reference to 40 acre lot exemption.

**8.18 Pollution**

8.18.1 *Criterion: The proposed subdivision will not result in undue water or air pollution. In making this determination, the Board shall at least consider:*

- A. The elevation of the land above sea level and its relation to the flood plains;*
- B. The nature of soils and subsoils and their ability to adequately support waste disposal;*
- C. The slope of the land and its effect on effluents;*
- D. The availability of streams for disposal of effluents; and*
- E. The applicable state and local health and water resource rules and regulations.*

8.18.2 *Standards:*

**A. Water Pollution**

1. The proposed subdivision will meet all applicable water quality control standards of the Maine Department of Environmental Protection (MDEP).
2. Water supplied to lots or units within the subdivision shall meet the primary drinking water standards contained in the Maine Rules Relating to Drinking Water. If water supplied to any lot or unit within the subdivision contains contaminants in excess of the secondary drinking water standards in the Maine Rules Relating to Drinking Water, that fact shall be disclosed in a note on the final subdivision plan.
3. The subdivision will meet the requirements of sections 8.3, 8.5, 8.10, 8.11, and 8.14 of this Ordinance.

**B. Air Pollution.** The proposed subdivision will meet any applicable air pollution regulations of the MDEP.

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## SECTION 9 - WAIVERS

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### **9.1 Waivers of Certain Submission Requirements**

The Board may waive certain submission requirements where there are special circumstances of the development, or where the application is simple and minor in nature, provided the public health, safety, and welfare are protected, and provided the waivers do not have the effect of nullifying the intent and purposes of this Ordinance.

### **9.2 Waivers of Certain Improvements**

The Board may waive certain required improvements where there are special circumstances of the development such that the required improvements are not requisite to providing for the public health, safety and welfare, or are inappropriate because of inadequate or lacking connecting facilities adjacent to or in proximity of the proposed development, provided the waivers do not have the effect of nullifying the intent and purposes of this Ordinance.

### **9.3 Requirements for Waivers**

When granting waivers, the Board shall set conditions so that the purposes of this Ordinance are met. The Board shall make a written record of waivers granted and the reasons for granting them to be made a part of the decision on the application. When the Board grants a waiver to any of the improvements required by this ordinance, the final plan, to be recorded in the Registry of Deeds, shall indicate the waiver(s) granted and the date on which they were granted.

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## SECTION 10 - REVISIONS TO APPROVED PLANS

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### **10.1 Procedure and Scope of Review**

- 10.1.1 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.
- 10.1.2 *Minor Subdivisions.* If the revision involves the creation of additional lots or dwelling units, the procedures for final plan approval shall be followed, unless the addition of lots or dwelling units creates a major subdivision, in which case Section 10.1.3 below shall apply.
- 10.1.3 *Major Subdivisions.* If the revision involves the creation of additional lots or dwelling units, the procedures for preliminary and final plan approval shall be followed.
- 10.1.4 The scope of review shall be limited to those portions of the plan proposed to be changed.

### **10.2 Submissions**

The applicant shall submit a copy of the approved plan as well as 7 copies of the proposed revisions, with enough supporting information to allow the Board to determine if the proposed revisions meet the standards of this Ordinance. The revised plan shall indicate it is the revision of a previously approved and recorded plan, and shall show the title of the subdivision and the book and page or cabinet and sheet on which the original plan is recorded at the Registry of Deeds.

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## SECTION 11 - PERFORMANCE GUARANTEES AND INSPECTION OF REQUIRED IMPROVEMENTS

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### **11.1 Performance Guarantees**

The Board shall require performance guarantees for all improvements necessary to meet the standards of this Ordinance, including performance guarantees for the construction of the streets, stormwater management facilities, public sewage collection or disposal facilities, public water systems, and erosion and sedimentation control measures.

### **11.2 Types of Guarantees**

The applicant shall provide one of the following types of performance guarantees with the application for final plan approval. The performance guarantee shall be 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 rates for construction costs.

- A. *Escrow Account.* A cash contribution to the establishment of an escrow account shall be made by either a certified check made out to the Town, the direct deposit into a savings account, or the purchase of a certificate of deposit. For any account opened by the applicant, the Town shall be named as owner or co-owner, and the consent of the Town shall be required for a withdrawal. Any interest earned on the escrow account shall be returned to the applicant unless the Town has found it necessary to draw on the account, in which case the interest earned shall be proportionately divided between the amount returned to the applicant and the amount withdrawn to complete the required improvements.
- B. *Performance Bond.* A performance bond issued by a surety company shall be made payable to the Town and approved by the Board of Selectmen or Town Manager. The performance bond shall detail the conditions of the bond, the method for release of the bond or portions of the bond to the applicant, and the procedures for collection by the Town. The bond documents shall specifically reference the subdivision for which approval is sought.
- C. *Letter of Credit.* An irrevocable letter of credit from a financial institution establishing funding for the construction of the subdivision, from which the Town may draw if construction is inadequate, approved by the Board of Selectmen, or Town Manager. An irrevocable letter of credit from a bank or other lending institution with offices in the region shall indicate that funds have been set aside for the construction of the subdivision for the duration of the project and may not be used for any other project or loan.

### **11.3 Conditions and Contents of the Guarantee**

- 11.3.1 The conditions and amount of the performance guarantee shall be determined by the Board with the advice of the Town Manager, Road Commissioner, Board of Selectmen, town attorney, and/or a professional engineer employed by the Town to review the proposed development.
- 11.3.2 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 applicant will be in default and the Town shall have access to the funds to finish construction.

**11.4 Release of Guarantee**

11.4.1 Prior to the release of any part of the performance guarantees, the Board shall determine to its satisfaction, in part upon the report of the CEO or other qualified individual(s) retained by the Town, and any other agencies and departments involved, that the proposed improvements meet or exceed the design and construction requirements for that portion or phase of the subdivision for which the release is requested.

11.4.2 *Default.* If, upon inspection, the CEO and/or other qualified individual(s) working on behalf of the Town finds any of the required improvements have not been constructed in accordance with the plans and specifications filed as part of the application, (s)he shall so report in writing to the Board of Selectmen, the Planning Board and the developer. The Board of Selectmen shall take any steps necessary to preserve the Town's rights. (See also Section 2.5 Violations and Enforcement.)

**11.5 Conditional Agreement**

11.5.1 The Board, at its discretion, may provide for the applicant to enter into a binding agreement with the Town in lieu of the other financial performance guarantees. Such an agreement shall provide for approval of the final plan on the condition that no lot 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 this Ordinance and the Board's conditions of approval, or
- B. A performance guarantee, acceptable to the Town, 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.

11.5.2 All conditional agreements shall have a time limit for completion and shall be approved by the Planning Board and by the Board of Selectmen prior to final review of the plan. Notice of the agreement and any conditions shall be noted on the plan which is recorded at the Registry of Deeds.

11.5.3 Release from the agreement shall follow the procedures contained in Section 11.4.

**11.6 Inspection of Required Improvements**

11.6.1 At least 5 days prior to commencing construction of required improvements, the developer shall:

- A. Notify the CEO in writing of the time when (s)he proposes to commence construction of such improvements, so the Board of Selectmen can arrange for inspections to assure all Town specifications, requirements, and conditions of approval are met during the construction of required improvements, and to assure the satisfactory completion of improvements and utilities required by the Board.
- B. Deposit with the Board of Selectmen a check for the amount of 2% of the estimated costs of the required improvements to pay for the costs of inspection. If upon satisfactory completion of construction and cleanup there are funds remaining, the surplus shall be refunded to the developer as appropriate. If the inspection account shall be drawn down by 90%, the developer shall deposit an additional 1% of the estimated costs of the required improvements.

11.6.2 If the CEO finds upon inspection of the improvements any of the required improvements have not been constructed in accordance with the plans and specifications filed by the developer, the CEO shall so report in writing to the Board of Selectmen, Planning Board, and the developer. The Board of Selectmen shall take any steps necessary to assure compliance with the approved plans.

11.6.3 If at any time it appears necessary or desirable to modify the required improvements before or during the construction of the required improvements, the CEO is authorized to approve minor modifications due to

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unforeseen circumstances such as encountering hidden outcrops of bedrock, natural springs, etc. The CEO 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 Board. For major modifications, such as relocation of rights-of-way, property boundaries, changes of grade by more than 1%, etc., the developer shall obtain permission from the Board to modify the plans in accordance with Section 10 Revisions to Approved Plans.

- 11.6.4 At the close of each summer construction season the Town shall, at the expense of the developer, have the site inspected by the CEO. By October 1 of each year during which construction was done on the site, the CEO shall submit a report to the Board based on that inspection, addressing whether stormwater and erosion control measures (both temporary and permanent) are in place, are properly installed, and appear adequate. The report shall also include a discussion and recommendations on any problems which were encountered.
- 11.6.5 Prior to the sale of any lot, the developer shall provide the Board with a letter from a professional land surveyor, stating all monumentation shown on the plan has been installed.
- 11.6.6 Upon completion of street construction and prior to a vote by the Board of Selectmen to submit a proposed public way to a Town Meeting vote, a written certification signed by a professional engineer shall be submitted to the Board of Selectmen at the expense of the applicant, certifying the proposed public way meets or exceeds the design and construction requirements of these regulations. If there are any underground utilities, the servicing utility shall certify in writing they have been installed in a manner acceptable to the utility. "As built" plans shall be submitted to the Board of Selectmen.
- 11.6.7 The developer shall be required to maintain all improvements and provide for snow removal on streets and sidewalks until acceptance of the improvements by the Town or control is placed with a lot owners' association.

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## SECTION 12 - APPENDIX

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30-A. MRSA. §4401. as amended (Definitions)

30-A. MRSA. §4403. as amended (Municipal Review and Regulation)

30-A. MRSA. §4404. as amended (Review Criteria)

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### 30-A §4401. DEFINITIONS

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As used in this subchapter, unless the context otherwise indicates, the following terms have the following meanings.  
[1989, c. 104, Pt. A, §45 (NEW); 1989, c. 104, Pt. C, §10 (NEW).]

**1. Densely developed area.** "Densely developed area" means any commercial, industrial or compact residential area of 10 or more acres with an existing density of at least one principal structure per 2 acres.

[ 1989, c. 104, Pt. A, §45 (NEW); 1989, c. 104, Pt. C, §10 (NEW) .]

**2. Dwelling unit.** "Dwelling unit" means any part of a structure which, through sale or lease, is intended for human habitation, including single-family and multifamily housing, condominiums, apartments and time-share units.

[ 1989, c. 104, Pt. A, §45 (NEW); 1989, c. 104, Pt. C, §10 (NEW) .]

**2-A. Freshwater wetland.** "Freshwater wetland" means freshwater swamps, marshes, bogs and similar areas which are:

A. 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; and [1989, c. 404, §1 (NEW).]

B. Not considered part of a great pond, coastal wetland, river, stream or brook. [1989, c. 404, §1 (NEW).]

These areas may contain small stream channels or inclusions of land that do not conform to the criteria of this subsection.

[ 1989, c. 404, §1 (NEW) .]

**2-B. Farmland.** "Farmland" means a parcel consisting of 5 or more acres of land that is:

A. Classified as prime farmland, unique farmland or farmland of statewide or local importance by the Natural Resources Conservation Service within the United States Department of Agriculture; or [2009, c. 356, Pt. C, §1 (NEW) .]

B. Used for the production of agricultural products as defined in Title 7, section 152, subsection 2. [2009, c. 356, Pt. C, §1 (NEW) .]

[ 2009, c. 356, Pt. C, §1 (NEW) .]

**3. Principal structure.** "Principal structure" means any building or structure in which the main use of the premises takes place.

[ 1989, c. 104, Pt. A, §45 (NEW); 1989, c. 104, Pt. C, §10 (NEW); 1989, c. 497, §1 (RPR) .]

**4. Subdivision.** "Subdivision" means the division of a tract or parcel of land into 3 or more lots within any 5-year period that begins on or after September 23, 1971. This definition applies whether the division is accomplished by sale, lease, development, buildings or otherwise. The term "subdivision" also includes the division of a new structure or structures on a tract or parcel of land into 3 or more dwelling units within a 5-year period, the construction or placement of 3 or more dwelling units on a single tract or parcel of land and the division of an existing structure or structures previously used for commercial or industrial use into 3 or more dwelling units within a 5-year period.

A. In determining whether a tract or parcel of land is divided into 3 or more lots, the first dividing of the tract or parcel is considered to create the first 2 lots and the next dividing of either of these first 2 lots, by whomever accomplished, is considered to create a 3rd lot, unless:

(1) Both dividings are accomplished by a subdivider who has retained one of the lots for the subdivider's own use as a single-family residence that has been the subdivider's principal residence for a period of at least 5 years immediately preceding the 2nd division; or

(2) The division of the tract or parcel is otherwise exempt under this subchapter. [2001, c. 359, §1 (AMD) .]

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B. The dividing of a tract or parcel of land and the lot or lots so made, which dividing or lots when made are not subject to this subchapter, do not become subject to this subchapter by the subsequent dividing of that tract or parcel of land or any portion of that tract or parcel. The municipal reviewing authority shall consider the existence of the previously created lot or lots in reviewing a proposed subdivision created by a subsequent dividing. [1989, c. 104, Pt. A, §45 (NEW); 1989, c. 104, Pt. C, §10 (NEW).]

C. A lot of 40 or more acres must be counted as a lot, except:

(2) When a municipality has, by ordinance, or the municipal reviewing authority has, by regulation, elected not to count lots of 40 or more acres as lots for the purposes of this subchapter when the parcel of land being divided is located entirely outside any shoreland area as defined in Title 38, section 435 or a municipality's shoreland zoning ordinance. [2001, c. 651, §1 (AMD).]

D. [2001, c. 359, §2 (RP).]

D-1. A division accomplished by devise does not create a lot or lots for the purposes of this definition, unless the intent of the transferor is to avoid the objectives of this subchapter. [2001, c. 359, §3 (NEW).]

D-2. A division accomplished by condemnation does not create a lot or lots for the purposes of this definition, unless the intent of the transferor is to avoid the objectives of this subchapter. [2001, c. 359, §3 (NEW).]

D-3. A division accomplished by order of court does not create a lot or lots for the purposes of this definition, unless the intent of the transferor is to avoid the objectives of this subchapter. [2001, c. 359, §3 (NEW).]

D-4. A division accomplished by gift to a person related to the donor of an interest in property held by the donor for a continuous period of 5 years prior to the division by gift does not create a lot or lots for the purposes of this definition, unless the intent of the transferor is to avoid the objectives of this subchapter. If the real estate exempt under this paragraph is transferred within 5 years to another person not related to the donor of the exempt real estate as provided in this paragraph, then the previously exempt division creates a lot or lots for the purposes of this subsection. "Person related to the donor" means a spouse, parent, grandparent, brother, sister, child or grandchild related by blood, marriage or adoption. A gift under this paragraph can not be given for consideration that is more than 1/2 the assessed value of the real estate. [2001, c. 359, §3 (NEW).]

D-5. A division accomplished by a gift to a municipality if that municipality accepts the gift does not create a lot or lots for the purposes of this definition, unless the intent of the transferor is to avoid the objectives of this subchapter. [2001, c. 359, §3 (NEW).]

D-6. A division accomplished by the transfer of any interest in land to the owners of land abutting that land that does not create a separate lot does not create a lot or lots for the purposes of this definition, unless the intent of the transferor is to avoid the objectives of this subchapter. If the real estate exempt under this paragraph is transferred within 5 years to another person without all of the merged land, then the previously exempt division creates a lot or lots for the purposes of this subsection. [2001, c. 359, §3 (NEW).]

E. The division of a tract or parcel of land into 3 or more lots and upon each of which lots permanent dwelling structures legally existed before September 23, 1971 is not a subdivision. [1989, c. 104, Pt. A, §45 (NEW); 1989, c. 104, Pt. C, §10 (NEW).]

F. In determining the number of dwelling units in a structure, the provisions of this subsection regarding the determination of the number of lots apply, including exemptions from the definition of a subdivision of land. [1989, c. 104, Pt. A, §45 (NEW); 1989, c. 104, Pt. C, §10 (NEW).]

G. Notwithstanding the provisions of this subsection, leased dwelling units are not subject to subdivision review if the municipal reviewing authority has determined that the units are otherwise subject to municipal review at least as stringent as that required under this subchapter. [1989, c. 104, Pt. A, §45 (NEW); 1989, c. 104, Pt. C, §10 (NEW); 1989, c. 497, §2 (AMD).]

H. [2001, c. 651, §2 (RP).]

H-1. This subchapter may not be construed to prevent a municipality from enacting an ordinance under its home rule authority that:

- (1) Expands the definition of "subdivision" to include the division of a structure for commercial or industrial use; or
- (2) Otherwise regulates land use activities.

A municipality may not enact an ordinance that expands the definition of "subdivision" except as provided in this

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subchapter. A municipality that has a definition of "subdivision" that conflicts with the requirements of this subsection at the time this paragraph takes effect shall comply with this subsection no later than January 1, 2006. Such a municipality must file its conflicting definition at the county registry of deeds by June 30, 2003 for the definition to remain valid for the grace period ending January 1, 2006. A filing required under this paragraph must be collected and indexed in a separate book in the registry of deeds for the county in which the municipality is located. [2001, c. 651, §3 (NEW).]

I. The grant of a bona fide security interest in an entire lot that has been exempted from the definition of subdivision under paragraphs D-1 to D-6, or subsequent transfer of that entire lot by the original holder of the security interest or that person's successor in interest, does not create a lot for the purposes of this definition, unless the intent of the transferor is to avoid the objectives of this subchapter. [2001, c. 359, §5 (AMD).]

[ 2001, c. 651, §§1-3 (AMD) .]

**5. New structure or structures.** "New structure or structures" includes any structure for which construction begins on or after September 23, 1988. The area included in the expansion of an existing structure is deemed to be a new structure for the purposes of this subchapter.

[ 1989, c. 104, Pt. A, §45 (NEW); 1989, c. 104, Pt. C, §10 (NEW) .]

**6. Tract or parcel of land.** "Tract or parcel of land" means all contiguous land in the same ownership, except that lands located on opposite sides of a public or private road are considered each a separate tract or parcel of land unless the road was established by the owner of land on both sides of the road after September 22, 1971.

[ 2007, c. 49, §1 (AMD) .]

**7. Outstanding river segments.** In accordance with Title 12, section 402, "outstanding river segments" means:

I. The Kennebec River from Thorns Head Narrows in North Bath to the Edwards Dam in Augusta, excluding Perkins Township, and from the Route 148 bridge in Madison to the Caratunk and The Forks Plantation town line, excluding the western shore in Concord Township, Pleasant Ridge Plantation and Carrying Place Township and excluding Wyman Lake; [1989, c. 104, Pt. A, §45 (NEW); 1989, c. 104, Pt. C, §10 (NEW).]

V. The Sheepscot River from the railroad bridge in Wiscasset to the Halldale Road in Montville, excluding Long Pond and Sheepscot Pond, including its tributary the West Branch of the Sheepscot from its confluence with the Sheepscot River in Whitefield to the outlet of Branch Pond in China; [1989, c. 104, Pt. A, §45 (NEW); 1989, c. 104, Pt. C, §10 (NEW).]

### 30-A §4404. REVIEW CRITERIA

When adopting any subdivision regulations and when reviewing any subdivision for approval, the municipal reviewing authority shall consider the following criteria and, before granting approval, must determine that: [1989, c. 104, Pt. A, §45 (NEW); 1989, c. 104, Pt. C, §10 (NEW).]

**1. Pollution.** The proposed subdivision will not result in undue water or air pollution. In making this determination, it shall at least consider:

A. The elevation of the land above sea level and its relation to the flood plains; [1989, c. 104, Pt. A, §45 (NEW); 1989, c. 104, Pt. C, §10 (NEW).]

B. The nature of soils and subsoils and their ability to adequately support waste disposal; [1989, c. 104, Pt. A, §45 (NEW); 1989, c. 104, Pt. C, §10 (NEW).]

C. The slope of the land and its effect on effluents; [1989, c. 104, Pt. A, §45 (NEW); 1989, c. 104, Pt. C, §10 (NEW).]

D. The availability of streams for disposal of effluents; and [1989, c. 104, Pt. A, §45 (NEW); 1989, c. 104, Pt. C, §10 (NEW).]

E. The applicable state and local health and water resource rules and regulations; [1989, c. 104, Pt. A, §45 (NEW); 1989, c. 104, Pt. C, §10 (NEW).]

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[1989, c. 104, Pt. A, §45 (NEW); 1989, c. 104, Pt. C, §10 (NEW) .]

**2. Sufficient water.** The proposed subdivision has sufficient water available for the reasonably foreseeable needs of the subdivision;

[ 1989, c. 104, Pt. A, §45 (NEW); 1989, c. 104, Pt. C, §10 (NEW) .]

**3. Municipal water supply.** The proposed subdivision will not cause an unreasonable burden on an existing water supply, if one is to be used;

[ 1989, c. 104, Pt. A, §45 (NEW); 1989, c. 104, Pt. C, §10 (NEW) .]

**4. Erosion.** The proposed subdivision will not cause unreasonable soil erosion or a reduction in the land's capacity to hold water so that a dangerous or unhealthy condition results;

[ 1989, c. 104, Pt. A, §45 (NEW); 1989, c. 104, Pt. C, §10 (NEW) .]

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

[ 2001, c. 560, §1 (AMD) .]

**6. Sewage disposal.** The proposed subdivision will provide for adequate sewage waste disposal and will not cause an unreasonable burden on municipal services if they are utilized;

[ 1989, c. 104, Pt. A, §45 (NEW); 1989, c. 104, Pt. C, §10 (NEW); 1989, c. 497, §8 (AMD) .]

**7. Municipal solid waste disposal.** The proposed subdivision will not cause an unreasonable burden on the municipality's ability to dispose of solid waste, if municipal services are to be utilized;

[ 1989, c. 104, Pt. A, §45 (NEW); 1989, c. 104, Pt. C, §10 (NEW); 1989, c. 497, §8 (AMD) .]

**8. Aesthetic, cultural and natural values.** The proposed subdivision will not have an undue adverse effect on the scenic or natural beauty of the area, aesthetics, historic sites, significant wildlife habitat identified by the Department of Inland Fisheries and Wildlife or the municipality, or rare and irreplaceable natural areas or any public rights for physical or visual access to the shoreline;

[ 1989, c. 104, Pt. A, §45 (NEW); 1989, c. 104, Pt. C, §10 (NEW); 1989, c. 497, §8 (AMD) .]

**9. Conformity with local ordinances and plans.** The proposed subdivision conforms with a duly adopted subdivision regulation or ordinance, comprehensive plan, development plan or land use plan, if any. In making this determination, the municipal reviewing authority may interpret these ordinances and plans;

[ 1989, c. 104, Pt. A, §45 (NEW); 1989, c. 104, Pt. C, §10 (NEW) .]

**10. Financial and technical capacity.** The subdivider has adequate financial and technical capacity to meet the standards of this section;

[ 1989, c. 104, Pt. A, §45 (NEW); 1989, c. 104, Pt. C, §10 (NEW) .]

**11. Surface waters; outstanding river segments.** Whenever situated entirely or partially within the watershed of any pond or lake or within 250 feet of any wetland, great pond or river as defined in Title 38, chapter 3, subchapter I, article 2-B,

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the proposed subdivision will not adversely affect the quality of that body of water or unreasonably affect the shoreline of that body of water.

A. When lots in a subdivision have frontage on an outstanding river segment, the proposed subdivision plan must require principal structures to have a combined lot shore frontage and setback from the normal high-water mark of 500 feet.

(1) To avoid circumventing the intent of this provision, whenever a proposed subdivision adjoins a shoreland strip narrower than 250 feet which is not lotted, the proposed subdivision shall be reviewed as if lot lines extended to the shore.

(2) The frontage and set-back provisions of this paragraph do not apply either within areas zoned as general development or its equivalent under shoreland zoning, Title 38, chapter 3, subchapter I, article 2-B, or within areas designated by ordinance as densely developed. The determination of which areas are densely developed must be based on a finding that existing development met the definitional requirements of section 4401, subsection 1, on September 23, 1983: [1989, c. 104, Pt. A, §45 (NEW); 1989, c. 104, Pt. C, §10 (NEW).]

[1989, c. 104, Pt. A, §45 (NEW); 1989, c. 104, Pt. C, §10 (NEW); 1989, c. 497, §8 (AMD).]

**12. Ground water.** The proposed subdivision will not, alone or in conjunction with existing activities, adversely affect the quality or quantity of ground water;

[1989, c. 104, Pt. A, §45 (NEW); 1989, c. 104, Pt. C, §10 (NEW); 1989, c. 429, §1 (AMD); 1989, c. 497, §8 (AMD).]

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

[1989, c. 104, Pt. A, §45 (NEW); 1989, c. 104, Pt. C, §10 (NEW); 1989, c. 429, §1 (AMD); 1989, c. 497, §8 (AMD); 1989, c. 878, Pt. A, §85 (RPR).]

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

[1989, c. 404, §2 (NEW); 1989, c. 429, §2 (NEW); 1989, c. 497, §9 (NEW); 1989, c. 772, §3 (AMD); 1989, c. 878, Pt. G, §5 (RPR).]

**14-A. Farmland.** All farmland within the proposed subdivision has been identified on maps submitted as part of the application. Any mapping of farmland may be done with the help of the local soil and water conservation district;

[2009, c. 356, Pt. C, §2 (NEW).]

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

[1991, c. 838, §12 (AMD).]

**16. Storm water.** The proposed subdivision will provide for adequate storm water management;

[1991, c. 838, §12 (AMD).]

**17. Spaghetti-lots prohibited.** If any lots in the proposed subdivision have shore frontage on a river, stream, brook, great pond or coastal wetland as these features are defined in Title 38, section 480-B, none of the lots created within the subdivision

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have a lot depth to shore frontage ratio greater than 5 to 1;

[1997, c. 226, §2 (AMD) .]

**18. Lake phosphorus concentration.** The long-term cumulative effects of the proposed subdivision will not unreasonably increase a great pond's phosphorus concentration during the construction phase and life of the proposed subdivision;

[2003, c. 622, §2 (AMD) .]

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

[2003, c. 622, §3 (AMD) .]

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

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

### 30-A §4403. MUNICIPAL REVIEW AND REGULATION

This section governs municipal review of proposed subdivisions. [1989, c. 104, Pt. A, §45 (NEW); 1989, c. 104, Pt. C, §10 (NEW) .]

**1. Municipal reviewing authority.** The municipal reviewing authority shall review all requests for subdivision approval. On all matters concerning subdivision review, the municipal reviewing authority shall maintain a permanent record of all its meetings, proceedings and correspondence.

[1989, c. 104, Pt. A, §45 (NEW); 1989, c. 104, Pt. C, §10 (NEW) .]

**1-A. Joint meetings.** If any portion of a subdivision crosses municipal boundaries, all meetings and hearings to review the application must be held jointly by the reviewing authorities from each municipality. All meetings and hearings to review an application under section 4407 for a revision or amendment to a subdivision that crosses municipal boundaries must be held jointly by the reviewing authorities from each municipality. In addition to other review criteria, the reviewing authorities shall consider and make a finding of fact regarding the criteria described in section 4404, subsection 19.

The reviewing authorities in each municipality, upon written agreement, may waive the requirement under this subsection for any joint meeting or hearing.

[1997, c. 226, §1 (AMD) .]

**2. Regulations; review procedure.** The municipal reviewing authority may, after a public hearing, adopt, amend or

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repeal additional reasonable regulations governing subdivisions which shall control until amended, repealed or replaced by regulations adopted by the municipal legislative body. The municipal reviewing authority shall give at least 7 days' notice of this hearing.

A. The regulations may provide for a multi-stage application or review procedure consisting of no more than 3 stages:

- (1) Preapplication sketch plan;
- (2) Preliminary plan; and
- (3) Final plan.

Each stage must meet the time requirements of subsections 4 and 5. [1989, c. 104, Pt. A, §45 (NEW); 1989, c. 104, Pt. C, §10 (NEW).]

[1989, c. 104, Pt. A, §45 (NEW); 1989, c. 104, Pt. C, §10 (NEW).]

**3. Application; notice; completed application.** This subsection governs the procedure to be followed after receiving an application for a proposed subdivision.

A. When an application is received, the municipal reviewing authority shall give a dated receipt to the applicant and shall notify by mail all abutting property owners of the proposed subdivision, and the clerk and the reviewing authority of municipalities that abut or include any portion of the subdivision, specifying the location of the proposed subdivision and including a general description of the project. The municipal reviewing authority shall notify by mail a public drinking water supplier if the subdivision is within its source water protection area. [1999, c. 761, §11 (AMD).]

B. Within 30 days after receiving an application, the municipal reviewing authority shall notify the applicant in writing either that the application is complete or, if the application is incomplete, the specific additional material needed to complete the application. [1989, c. 104, Pt. A, §45 (NEW); 1989, c. 104, Pt. C, §10 (NEW).]

C. After the municipal reviewing authority has determined that a complete application has been filed, it shall notify the applicant and begin its full evaluation of the proposed subdivision. [1989, c. 104, Pt. A, §45 (NEW); 1989, c. 104, Pt. C, §10 (NEW).]

D. The municipal reviewing authority may not accept or approve final plans or final documents prepared within the meaning and intent of Title 32, chapter 121 that are not sealed and signed by the professional land surveyor under whose responsible charge they were completed, as provided in Title 32, section 13907. [1995, c. 93, §1 (NEW).]

[1999, c. 761, §11 (AMD) .]

**4. Public hearing; notice.** If the municipal reviewing authority decides to hold a public hearing on an application for subdivision approval, it shall hold the hearing within 30 days after determining it has received a complete application. The municipal reviewing authority shall have notice of the date, time and place of the hearing:

A. Given to the applicant; and [1989, c. 104, Pt. A, §45 (NEW); 1989, c. 104, Pt. C, §10 (NEW) .]

B. Published, at least 2 times, in a newspaper having general circulation in the municipality in which the subdivision is proposed to be located. The date of the first publication must be at least 7 days before the hearing. [1989, c. 104, Pt. A, §45 (NEW); 1989, c. 104, Pt. C, §10 (NEW) .]

[1989, c. 104, Pt. A, §45 (NEW); 1989, c. 104, Pt. C, §10 (NEW); 1989, c. 497, §6 (AMD) .]

**5. Decision; time limits.** The municipal reviewing authority shall, within 30 days of a public hearing or, if no hearing is held, within 60 days of determining it has received a complete application or within any other time limit that is otherwise mutually agreed to, issue an order:

A. Denying approval of the proposed subdivision; [1989, c. 104, Pt. A, §45 (NEW); 1989, c. 104, Pt. C, §10 (NEW) .]

B. Granting approval of the proposed subdivision; or [1989, c. 104, Pt. A, §45 (NEW); 1989, c. 104, Pt. C, §10 (NEW) .]

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C. Granting approval upon any terms and conditions that it considers advisable to:

- (1) Satisfy the criteria listed in section 4404;
- (2) Satisfy any other regulations adopted by the reviewing authority; and
- (3) Protect and preserve the public's health, safety and general welfare. [1989, c. 104, Pt. A, §45 (NEW); 1989, c. 104, Pt. C, §10 (NEW).]

[1989, c. 104, Pt. A, §45 (NEW); 1989, c. 104, Pt. C, §10 (NEW); 1989, c. 497, §7 (AMD) .]

**6. Burden of proof; findings of fact.** In all instances, the burden of proof is upon the person proposing the subdivision. In issuing its decision, the reviewing authority shall make findings of fact establishing that the proposed subdivision does or does not meet the criteria described in subsection 5.

[1989, c. 104, Pt. A, §45 (NEW); 1989, c. 104, Pt. C, §10 (NEW) .]

**7. Conditioned on variance.** If the initial approval or any subsequent amendment of a subdivision is based in part on the granting of a variance, the subdivider must comply with section 4406, subsection 1, paragraph B.