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## Town of Searsmont Maine Land Use Ordinance

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**Town of Searsmont**

# **Land Use Ordinance**



## **I. Contents**

<b>SECTION 100 — GENERAL PROVISIONS.....</b>	<b>1</b>
101 TITLE .....	1
102 AUTHORITY .....	1
103 PURPOSE.....	1
104 APPLICABILITY .....	1
105 VALIDITY AND SEVERABILITY .....	1
106 CONFLICTS .....	1
107 EFFECTIVE DATE .....	1
108 AMENDMENTS. ....	2
<b>SECTION 200--ADMINISTRATION .....</b>	<b>3</b>
201 PLANNING BOARD.....	3
202 BOARD OF APPEALS .....	3
203 CODE ENFORCEMENT.....	4
<b>SECTION 300 - PERMITS AND PROCEDURES.....</b>	<b>7</b>
301 BUILDING PERMITS REQUIRED.....	7
302 FEES.....	7
303 GENERAL APPLICATION PROCEDURE .....	7
<b>SECTION 400 - ESTABLISHMENT OF DISTRICTS.....</b>	<b>9</b>
401 INTERPRETATION OF DISTRICT BOUNDARIES .....	9
402 VILLAGE CORE AND VILLAGE EXTENSION DISTRICTS .....	9
<b>SECTION 500 - NONCONFORMANCE.....</b>	<b>15</b>
501 PURPOSE.....	15
502 NON-CONFORMING LOTS .....	15
503 NONCONFORMING STRUCTURES .....	15
504 NON-CONFORMING USES .....	16
505 CHANGES IN NONCONFORMANCE AND TRANSFER OF OWNERSHIP .....	17
<b>SECTION 600 – GENERAL STANDARDS OUTSIDE THE SHORELAND ZONE.....</b>	<b>19</b>
601 MINIMUM LOT SIZE AND SETBACK.....	19
602 BACK LOT DEVELOPMENT .....	19
603 HOLDING TANKS .....	20
604 HOME OCCUPATION .....	21
605 SIGNS.....	21
606 ACCESSORY APARTMENTS.....	23
607 NON-RESIDENTIAL USES.....	23
608 CLUSTER DEVELOPMENTS .....	23
<b>SECTION 700 – TABLE OF LAND USES OUTSIDE THE SHORELAND ZONE .....</b>	<b>27</b>
701 KEY TO TABLES.....	27
702 TABLE OF LAND USES OUTSIDE THE SHORELAND ZONE.....	27
703 TABLE OF DIMENSIONAL REQUIREMENTS OUTSIDE THE SHORELAND ZONE.....	30
<b>SECTION 800 – SHORELAND ZONING .....</b>	<b>31</b>
801 PURPOSES .....	31
802 AUTHORITY .....	31
803 APPLICABILITY.....	31
804 EFFECTIVE DATE OF ORDINANCE AND ORDINANCE AMENDMENTS.....	31
805 AVAILABILITY .....	31
806 SEVERABILITY.....	31
807 CONFLICTS WITH OTHER ORDINANCES. ....	31

808	AMENDMENTS.....	32
809	DISTRICTS AND ZONING MAP.....	32
810	INTERPRETATION OF DISTRICT BOUNDARIES.....	32
811	LAND USE REQUIREMENTS.....	32
812	NON-CONFORMANCE.....	33
813	ESTABLISHMENT OF DISTRICTS.....	37
814	TABLE OF LAND USES.....	41
814A	TABLE OF LAND USES.....	43
815	LAND USE STANDARDS.....	46
816	ADMINISTRATION.....	72
<b>SECTION 900--FLOODPLAIN MANAGEMENT.....</b>		<b>79</b>
901	PURPOSE AND ESTABLISHMENT.....	79
902	PERMIT REQUIRED.....	79
903	APPLICATION FOR PERMIT.....	79
904	APPLICATION FEE AND EXPERT'S FEE.....	80
905	REVIEW STANDARDS FOR FLOOD HAZARD DEVELOPMENT PERMIT APPLICATIONS.....	81
906	DEVELOPMENT STANDARDS.....	82
907	CERTIFICATE OF COMPLIANCE.....	86
908	REVIEW OF SUBDIVISION AND DEVELOPMENT PROPOSALS.....	86
909	APPEALS AND VARIANCES.....	86
910	ENFORCEMENT AND PENALTIES.....	88
911	VALIDITY AND SEVERABILITY.....	88
912	CONFLICT WITH OTHER ORDINANCES.....	88
913	ABROGATION.....	89
<b>SECTION 1000 - SUBDIVISIONS &amp; MOBILE HOME PARKS.....</b>		<b>90</b>
1001	GENERAL PROVISIONS.....	90
1002	PREAPPLICATION SKETCH PLAN MEETING AND SITE INSPECTION.....	93
1003	APPLICATION PROCEDURES.....	94
1004	REVISIONS TO APPROVED PLANS.....	106
1005	INSPECTIONS AND ENFORCEMENT.....	106
1006	PERFORMANCE & DESIGN STANDARDS.....	108
1007	PERFORMANCE GUARANTEES.....	140
1008	WAIVERS.....	142
<b>SECTION 1100 - SITE PLAN REVIEW.....</b>		<b>144</b>
1101	PURPOSE, APPLICABILITY AND CLASSIFICATION.....	144
1102	APPLICATION.....	145
<b>SECTION 1200 – AMENDMENT AND AVAILABILITY OF THIS ORDINANCE.....</b>		<b>158</b>
1201	AMENDMENT.....	158
1202	AVAILABILITY.....	158
<b>SECTION 1300 - APPEALS, AND VARIANCES.....</b>		<b>160</b>
1301	APPEALS.....	160
1302	VARIANCES.....	160
<b>SECTION 1400 – DEFINITIONS.....</b>		<b>164</b>

## **Section 100 — General Provisions**

### **101 Title**

This ordinance shall be known as the “Land Use Ordinance of the Town of Searsmont, Maine” and will be referred to herein as “this ordinance.”

### **102 Authority**

This ordinance is adopted pursuant to the enabling provisions of Section 908, Part 2, §1 of the Maine Constitution, the provisions of Title 30-A, MRSA §3001 (Home Rule), the State's Comprehensive Planning and Land Use Regulation Act, Title 30-A, MRSA, §4312 et. Seq., and Title 38, MRSA §435-449.

### **103 Purpose**

The purposes of this Ordinance are:

- A. To implement the provisions of the Town’s Comprehensive Plan;
- B. To protect property rights and values by balancing the rights of landowners, to use their land with the corresponding rights of abutting and neighboring land owners, and to enjoy their property rights without undue disturbance from abutting or neighboring use;
- C. To promote the health, safety, and general welfare of the residents of the community;
- D. To encourage the most appropriate and efficient use of land throughout the community;
- E. To promote safety from traffic, fire and other elements;
- F. To provide an allotment of land area in new developments sufficient for adequate enjoyment of community life;
- G. To conserve natural resources; and
- H. To protect the scenic and visual resources of the community.

### **104 Applicability**

The provisions of this ordinance shall govern all land and all structures within the boundaries of the Town of Searsmont, Maine.

### **105 Validity and Severability**

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

### **106 Conflicts**

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.

### **107 Effective date**

- A. The effective date of this Ordinance shall be the date of adoption by the legislative Body on March 20, 1999.
- B. The shoreland zoning provisions of this Ordinance, having been adopted by the Legislative body on April 7, 2018, shall be effective upon the date of adoption provided that it is subsequently approved by the Commissioner of the Department of Environmental Protection. A certified copy of the Ordinance, or Ordinance Amendments, attested and signed by the Municipal Clerk, shall be Forwarded to the Commissioner of the Department of Environmental Protection for Approval. If the Commissioner fails to act on the shoreland zoning provisions of this Ordinance or Ordinance Amendments, within 45 days of his/her receipt of the

Ordinance, it shall be deemed approved. All other Land Use or Zoning Ordinances of the Town of Searsmont are repealed as of the effective date of this ordinance.

**108 Amendments.**

- A. This Ordinance may be amended by a majority vote of the legislative body.
- B. For amendments involving the shoreland zoning provisions of this Ordinance, copies of the 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 become 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, it shall be deemed approved. Any application for a permit submitted to the municipality within the forty-five (45) day period shall be governed by the terms of the amendment, if such amendment is approved by the Commissioner.

## **Section 200--Administration**

### **201 Planning Board**

- A. The Planning Board, and/or the Code Enforcement Officer (CEO), shall issue permits and perform such duties and exercise such powers as are provided by town ordinance and the laws of the State of Maine.
- B. The Planning Board is authorized to establish a schedule of fees, which must be paid by an applicant for any building permit, zoning permit, subdivision approval or other land use permit required by the town. The Board is also authorized to establish a schedule of late fees to be paid by a person who fails to file an application until after the work commenced. The Board shall revise these fees as needed.

### **202 Board of Appeals**

#### **202.1 Establishment**

A Board of Appeals has been created in accordance with the provisions of 30-A, MRSA §2691.

#### **202.2 Powers and Duties of the Board of Appeals**

The Board of Appeals shall have the following powers:

- A. Administrative Appeals
  - 1. To hear and decide appeals where it is alleged that there is an error in any order, requirement, decision, or determination made by, or failure to act by, the Code Enforcement Officer or Planning Board in the administration of this Ordinance
  - 2. 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.
  - 3. A decision of the Code Enforcement Officer to take enforcement action for violations of this ordinance or of any permit issued pursuant to this ordinance is not appealable to the Board of Appeals. This ordinance shall be enforced in accordance with 30-A MRSA §4452.
- B. Variance Appeals

To authorize variances upon appeal, within the limitations set forth in this ordinance.

#### **202.3 Variance Appeals**

Variances may be permitted only under the following conditions:

- A. Variances may be granted only from dimensional requirements including but not limited to, lot width, structure height, percent of lot coverage, and setback requirements.
- B. Variances shall not be granted for establishment of any uses otherwise prohibited by this ordinance.
- C. The Board shall not grant a variance unless that it finds:
  - 1. The proposed structure or use would meet the provisions of Section 700 and/or Section 900 except for the specific provision which has created the non-conformity and from which relief is sought; and
  - 2. The strict application of the terms of this Ordinance would result in undue hardship.

The term “undue hardship” shall mean:

#### **202.3 Variance Appeals (cont.)**

- 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. The Board of Appeals shall limit any variances granted as strictly as possible to insure conformance with the purposes and provisions of this ordinance to the greatest extent possible, and in doing so may impose such conditions to a variance as it deems necessary. The party receiving the variance shall comply with any conditions imposed.
- E. A copy of all variances in the Shoreland Districts granted by the Board of Appeals shall be submitted to the Commissioner of the Department of Environmental Protection within fourteen (14) days of the decision.

## **203 Code Enforcement**

### **203.1 Appointment**

The Selectmen shall appoint or reappoint a Code Enforcement Officer annually by July 1<sup>st</sup>.

### **203.2 Nuisances**

Any violation of this ordinance shall be deemed a nuisance

### **203.3 Enforcement**

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.

### **203.4 Inspections and Investigations**

The Code Enforcement Officer shall conduct on-site inspection 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.

### **203.5 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 Planning Board or CEO, are hereby authorized and 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.

### **203.6 Fines**

- A. Any person who continues to violate any provisions of this ordinance after receiving

- notice of such violation shall be guilty of a civil violation subject to a fine as provided in 30-A MRSA Section 4452(3). Any fines shall be recovered for the use of the municipality.
- B. Any person, firm, corporation, or other legal entity who conveys, offers or agrees to convey any land in a subdivision which has not been approved as required by these regulations shall be punished by a fine of not less than \$100, and not more than \$2,500 for each such conveyance, offering or agreement. The Municipality may institute proceedings to enjoin the violation of this section and may collect attorney's fees and court costs if it is the prevailing party.

**203.7      Records**

The Code Enforcement Officer shall keep a complete record of all essential transactions of the office, including inspections, violations investigated, violations found, and violation and remedy notices. Copies of this record shall be submitted to the Chair of the Planning Board and be maintained as a permanent record.



## **Section 300 - Permits and Procedures**

### **301 Building Permits Required**

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.

#### **301.1 Structures**

No building or structure with a footprint greater than 100 sq. Ft. Or more than 16 ft. Above grade shall hereafter be built, enlarged, moved or placed on a lot without a permit. This shall not apply to alterations within the frame of an existing structure\*. Any building or structure, including those too small to require a permit, must abide by all pertinent setback requirements as outlined in the Ordinances. The Planning Board may authorize the Code Enforcement Officer to grant permits for a single family residence, a residential garage, a residential outbuilding or accessory structure, or a residential deck or porch, as provided in this Ordinance, in a Shoreland Zone or in a Flood Hazard Zone, unless the construction (1) involve any commercial activity, home occupation or other project requiring Site Review under this Ordinance, or (2) requires Subdivision or Mobile Home Park approval. The authority of the Code Enforcement Officer as described in this section may be revoked by a simple majority of the Planning Board.

*\*Superseded by State Plumbing Code*

#### **301.2 Uses**

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.

### **302 Fees**

- A. The Planning Board is authorized by Section 201.4(C) of this ordinance to establish a schedule of fees which must be paid by an applicant for any building permit, zoning permit, subdivision approval or other land use permit required by the town. The Board is also authorized to establish a schedule of late fees to be paid by a person who fails to file an application until after the work commenced. The Board shall revise these fees as needed.
- B. See Appendix E for Schedule of Fees

### **303 General Application Procedure**

#### **303.1 Permit Application Requiring Planning Board Approval**

- A. Applicants shall request to be placed on the Board's agenda at least seven (7) days (note: the day of request or submittal does not count as part of the 7 days) prior to a regularly scheduled meeting by contacting the Code Enforcement Officer. Applicants

#### **303.1 Permit Application Requiring Planning Board Approval (cont.)**

who attend a meeting but who are not on the Board's agenda may be heard, but only after all agenda items have been completed, and then only if a majority of the Board so votes.

- B. Every applicant for a permit shall submit a written application, including a scaled site plan, on a form provided by the municipality, to the Code Enforcement Officer.
- C. All applications shall be signed by the owner or owners of the property or other person authorizing the work, certifying that the information in the application is complete and correct.
- D. All applications shall be dated, and the Code Enforcement Officer, as appropriate, shall note upon each application the date and time of its receipt.
- E. 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 would require the installation of a subsurface sewage disposal system.
- F. The application for a building permit shall be accompanied by a fee determined from the fee schedule available at the clerk's office. No building permit shall be issued until the fee is paid. This fee shall not be refundable.
- G. No permit shall be issued for a structure which does not conform to minimal State
- H. Regulations
- I. Building permit(s) are valid for one year from the date of issue.
- J. Valid building permits without a substantial start that have not yet expired may be renewed up to (2) two times without an additional fee.
- K. Two times, without an additional fee.
- L. Applicants with an expired building permit(s) are required to apply for a new permit and pay any applicable fees.

### **303.2 Permit Application Requiring Code Enforcement Officer Approval**

An applicant for a permit to be issued by the Code Enforcement Officer shall submit a written application as provided in 303.1 (B), (C), (D), and (F), and the Code Enforcement Officer shall approve the application if he/she finds that the application complies with all pertinent requirements of the Ordinance.

## **Section 400 - Establishment of Districts**

### **401 Interpretation of District Boundaries**

District boundary lines are set forth on the Official Maps and as defined below. Where uncertainty exists as to the exact location of district boundary lines, the Board of Appeals shall be the final authority as to the location.

### **402 Village Core and Village Extension Districts**

#### **402.1 Purposes**

The purpose of these district requirements are to:

- A. Implement Searsmont's Comprehensive Plan
- B. Provide for orderly development by encouraging efficient land development patterns
- C. Provide for anticipated growth and development by allowing a range of uses
- D. Provide for a separation of land uses that might otherwise be incompatible
- E. To protect property rights and values by balancing the rights of landowners, to use their land with the corresponding rights of abutting and neighboring land owners, and to enjoy their property rights without undue disturbance from abutting or neighboring use.

#### **402.2 Applicability**

These district requirements shall govern the Village Core and Village Extension Districts as established and shown on the land use map of Searsmont and are a part of this ordinance.

#### **402.3 District Boundaries**

The location and boundaries of the Village Districts are established as shown on the Town of Searsmont Land Use Map and are a part of this ordinance as follows:

##### **A. Village Extension District**

1. Beginning on State Route 131 South proceed Northwest along lot 010-046 to lot 003-014 to encompass lots 003-014 and 003-015\* to the St. George River.
2. Proceed East along the river to State Route 173 West, crossing State Route 173 West continue to the South West line of lot 010-064 turning north at lot 003-065 to encompass lots 003-065 and 003-068 to Paul Road.
3. Crossing Paul Road proceed easterly to encompass lot 007-013 turning at lot 007-015 in a southerly direction bisecting lot 007-016 to the North West corner of lot 006-115, thence proceeding in a South East direction to the North West corner of lot 006-023, proceed along the North West line of lot 006-023 to State Route 131 East.
4. Crossing State Route 131 East in a southerly direction-along lot 006-055 turning at lot 006-039 to proceed in a westerly direction to the South West corner of lot 006-046, turning southerly to encompass lots 006-046 and 006-047, turning westerly to Moody Mountain Road bisecting lot 003-003.
5. Crossing Moody Mountain Road proceed South West bisecting lots 003-001 and 003-013 to the junction of lot 003-012, thence north westerly to State Route 131 to the point of beginning.

##### **B. Village Core District**

1. Beginning on State Route 131 in the village at the northeast corner of lot 010-001 proceed along lot line 010-001 in a clockwise direction returning to State Route 131. Proceed west along State Route 131 to Anderson Stream and then proceed south along stream to the southeast corner of lot 010-042 and proceed along the southern lines of lots 010-042 and 010-041 to lot 010-040. Then proceed south along lot line 010-040 to the St. George River.
2. Cross the St. George River to the southeast corner of lot 010-036 and proceed clockwise along lot line 010-036 to lot 010-004. Follow lot line 010-004 in a clockwise direction to State Route 131 and proceed south along State Route 131 to northwest corner of lot 010-035.
3. Crossing State Route 131 South proceed northwest along the northeast line of lot 010-044 to its northeast corner, then follow along the northwest border of lot 003-076 and 003-047 to State Route 173 West.
4. Crossing State Route 173 West to the southwest corner of lot 010-057 and proceed along its southeast border to the St. George River.
5. Crossing the St. George River to the northwest corner of lot 010-025, proceed along the northern border of lot 010-025 to a point where crossing lot 010-070 at a right angle meets the northeast corner of lot 010-024.
6. Proceed clockwise along lot line 010-024 to New England Road.
7. Cross new England Road to the northwest corner of lot 010-022 and proceed along the northwest line of lot 010-022 continuing across the northwest line of lot 010-18 to the southeast corner of lot 010-022-001 then proceeding along the northeastern line of lot 010-018 to Pond Road.
8. Cross Pond Road to northwest corner of lot 010-14 and proceed clockwise around lot 010-014 to Pond Road. Follow Pond Road southwest to northwest corner of lot 010-012 and proceed clockwise around lot 010-012 to lot 010-013. Follow lot line 010-013 clockwise to northwest corner of lot 010-008. Follow lot line 010-008 clockwise to lot 010-007 and proceed clockwise along lot line 010-007 to State Route 131. Follow State Route 131 north to southwest corner of lot 010-006 and proceed clockwise around lot line 010-006 to Riverside Cemetery.
9. Proceed clockwise around the Riverside Cemetery lot to Anderson Stream
10. Cross Anderson Stream and proceed in a clockwise direction around lot 010-48 to State Route 131 and the point of beginning.

#### **402.4 Land Uses**

- A. Land uses permitted in the Village Core and Village Extension District in conformance with the performance standards of this ordinance are shown in Section 700 of this ordinance.
- B. The following additional standards shall be met in the Village Core and the Village Extension Districts:
  1. Driveways, Parking Areas. Driveways and parking areas may be located within any required setback area provided that they shall not be located within six (6) feet of the side or rear lot lines.
  2. Accessory Structures. When located beyond the rear of the principal building, accessory buildings no larger than 150 square feet in floor area may be located

**402.4 Land Uses(cont.)**

within the required side or rear setbacks provided that no structure shall be located within 6 feet from a side or rear lot line.

3. Corner Lots. The front setback requirement shall be observed along all roads abutting the lot.
4. Corner Lot Obstructions. All corner lots shall be kept free from visual obstruction for twenty-five (25) feet measured along the street lines.
5. Structures on Abutting Lots. Where a proposed structure would be abutted on both sides by existing structures, either on the same lot or adjoining lots, whose front setbacks are less than the required setback, the setback of the proposed structure may be reduced to that of the structure with the greatest front setback.

**402.5 Performance Standards**

- A. All non-residential uses shall meet the following requirements:
  1. An 8-foot buffer strip consisting of a six (6) foot stockade type fence or commensurate planting of shrubs shall be maintained at all side and rear setbacks, unless waived in writing by mutual agreement of abutting landowners.
  2. Parking shall be required to be set back at least 15 feet from the side of the road. No parking will be allowed within 15 feet of the road, except for a residential driveway.
  3. Noise levels shall not generate hourly sound levels resulting from routine operating more than 60 decibels as measured at the property lines.
  4. Unenclosed outdoor storage is prohibited, except for firewood.
- B. Permitted Signs
  1. On each premise, wall signs shall be allowed affixed to the exterior of the structure. Such signs shall not occupy more than twenty (20) percent of the wall to which they are attached. For the purpose of this section, wall is defined as the facade of the building up to the roof line including windows, doors and major architectural features.
  2. Projecting signs: One projecting sign is permitted per structure. Projecting signs shall extend no lower than ten (10) feet above ground level, project from the wall at an angle of ninety (90) degrees and be no nearer than eight (8) feet from any property line. No projecting sign shall exceed thirty-two (32) square feet.
  3. Free Standing signs: One freestanding sign is permitted per lot. No freestanding sign shall exceed thirty-two (32) square feet in area. The top edge shall not be higher than twelve (12) feet vertical measure above average ground level from the base.
  4. Awning and canopy signs: Awning and canopy signs are permitted. Canopies over fuel islands shall only advertise fuel and fuel products.
  5. No permanent sign shall have visible moving parts, have blinding, moving, or glaring illumination, or be erected at a location where, by reason of shape, color or wording, it interferes with vehicle traffic or may be confused with any authorized traffic sign, signal or devise.
  6. Large Lots exceeding linear 500 feet of road frontage are allowed 2 signs. There must be a minimum of 500 feet of road frontage between signs.



**402.5 Performance Standards(cont.)**

7. No temporary signs (signs in place for no more than 120 days) can exceed six (6) square feet in area.
8. 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.
9. Signs relating to public safety shall be allowed without restriction.
10. No sign shall extend higher than twelve (12) feet above the ground.
11. Commercial business on a state road is allowed to have a 32sq.ft. Free standing sign without a permit fee.

**C. Prohibited Signs**

The following signs are prohibited throughout the Village Core and Village Extension Districts in the Town of Searsmont:

1. No permanent sign except traffic and similar public safety signs, official business directional signs shall be located in the public right-of-way of any street or highway.
2. No on-premise signs shall be permitted which are erected, painted or maintained upon trees.
3. No sign shall be closer than 8 feet of any property line.
4. No sign shall be located so that it interferes with the view necessary for motorists to proceed safely through intersections or to enter onto or exit public streets or private roads.
5. No signs painted on or attached to stationary-vehicles. For the purpose of this section, a stationary vehicle means any vehicle not properly registered and inspected as required by Maine Law, whose sole purpose is to display signs.
6. No inflatable signs, tethered balloons and pennants except associated with special events or sales for a duration not to exceed (7) days in any calendar year.
7. No signs relating to any business which has been out of business for more than 365 days. The owner of the property or his agent shall be responsible for removing such signs.
8. Signs shall not exceed sixteen (16) square feet in area and shall not exceed two (2) signs per premises. Signs relating to goods and services not sold or rendered on the premises shall be prohibited.

**D. Illumination**

1. Signs shall be illuminated only by the following means:
2. A steady, stationary light(s) of single color shielded and directed solely at the sign and not casting light on the premises.
3. Interior, non-exposed, white lights of reasonable intensity.
4. Neon to be illuminated may be only used for window signs that do not exceed twenty-five (25) percent of the window area in which it is located and must be non-blinking.
5. Exterior lighting shall be limited to illuminating the immediate premises, and direct light shall not project onto adjacent residential properties or be directed skyward. If necessary, direct light shall be shielded by blinders and additional buffering/screening.
6. Signs may be illuminated only by shielded, non- flashing lights.

**402.6 Cluster Developments****A. Purposes**

The purpose of this section is:

1. To provide for efficient use of land and the preservation of open space;
2. To provide for protection of environmentally sensitive resources;
3. To provide for orderly development;
4. To allow for new concepts of housing development; and
5. To encourage the construction of affordable housing.

**B. Basic Requirements for Cluster Developments**

Cluster developments shall comply with the performance standards of this ordinance except as otherwise noted.

1. Cluster developments shall be a minimum of 5 lots and shall meet all requirements for a subdivision, the community's street standards, and all other applicable municipal ordinances, including the General Performance Standards of this ordinance and State laws and regulations.
2. The developer shall illustrate the placement of buildings and the treatment of spaces, paths, roads, services, and parking and in so doing shall take into consideration all requirements of this section and of other relevant sections of this ordinance.
3. There shall be a density bonus of 20% for cluster developments.
4. Unless a public sewer or community sewage collection and treatment system is provided, no lot shall be smaller in area than 60,000 square feet.
5. The total area of open space within the development shall equal or exceed the sum of the area by which any building lots are reduced below the minimum lot area normally required in the District, except where density bonuses are permitted.
6. Every building lot that is reduced in area below the amount normally required should abut the open space for a distance of 50 feet or be within 1,000 feet walking distance of such land, as measured along public ways.
7. Distance between buildings shall not be less than 20 feet.
8. No individual lots shall have frontage on a road which existed prior to the time of development. There shall be a setback of 50 feet from the main public access road and 25 feet from interior roads that are constructed as part of cluster development.
9. In no case shall shore frontage and setback be reduced below the minimums normally required by the municipality's Shoreland Zoning Ordinance.
10. Where a cluster development abuts a body of water, a usable portion of the land along the water, as well as reasonable access to it, shall be a part of the open space land. This open space land shall have a minimum depth of 100 feet.
11. The applicant shall demonstrate the availability of water adequate for domestic purposes as well as for fire safety. The Planning Board may require the construction of storage ponds and dry hydrants.
12. The location of subsurface sewage disposal systems shall be shown on the plan. The report of a Licensed Site Evaluator shall accompany the plan.

**C. Siting Standards**

1. Buildings shall be oriented with respect to scenic vistas, natural landscape features, topography, south facing slopes (where possible) and natural drainage

**402.6 Cluster Developments (cont.)**

- areas, in accordance with an overall plan for site development and landscaping. A site inspection shall be conducted by the Board prior to approval. Once approved, the plan shall not be altered without prior approval of the Planning Board.
2. Buildings shall be designed and laid out to protect bedroom windows from light invasions by vehicle headlights or glare from existing outdoor lighting or illuminated signs where allowed, insofar as practical.
  3. Where parking spaces or storage areas are located in areas abutting existing residential properties permanent wood or masonry screen at least four feet high shall be erected along the property line in addition to the green perimeter strip described below.
  4. A green perimeter strip not less than twenty (20) feet wide shall be maintained with grass, bushes, flowers, or trees along all lot lines (except for entrance and exit driveways). Such green strip shall not be built on or paved or used for parking or storage.
- D. Preservation and Maintenance of Open Space and Facilities
1. There shall be no further subdivision of open space. Open space shall be used only for agriculture, non-commercial recreation, forestry or conservation. However, easements for public utilities, but no structures, may be permitted in the open space area.
  2. The open space(s) shall be shown on the development plan and with appropriate notation on the face thereof to indicate that: (a) the open space shall not be used for future building lots; and (b) a part or all of the open space may be dedicated for acceptance by the municipality or a suitable land trust.
  3. If any or all of the open space is to be reserved as common open space for use by the residents, the by-laws of the proposed neighborhood association shall specify maintenance responsibilities and shall be submitted to the Planning Board prior to approval. The developer or subdivider shall maintain control of such open space(s) and be responsible for their maintenance until development sufficient to support the association has taken place. Such determination shall be made by the Board of Appeals upon request of the neighborhood association or the developer or subdivider.
  4. Open space land may be sold or leased to a third party for agriculture or forestry purposes, provided that development rights are held by the municipality, a conservation organization, or other public or semi-public entity. The legal instruments for conveying such land and retaining development rights shall first be submitted to and approved by the Planning Board.

## **Section 500 - Nonconformance**

### **501 Purpose**

It is the intent of these provisions 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 this section. Except as otherwise provided in this Ordinance, a non-conforming condition shall not be permitted to become more non-conforming.

#### **501.1 Vested Rights**

Nonconforming use rights cannot arise by the mere filing of a notice of intent to build, an application for building permits or an application for required State permits and approvals. Such rights usually arise when actual construction has begun, or, in the case of pending applications, when the review process on a complete application commences. Such construction must be legal at the time it is commenced, and the owner must be in possession of and in compliance with all validly issued permits, both State and local.

### **502 Non-conforming Lots**

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.

#### **502.1 Contiguous Built Lots**

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

#### **502.2 Back Lots**

A single back lot of record, which on the effective date of this ordinance does not meet the area or width requirements of this ordinance, may be built upon provided that such lot shall be in separate ownership and not contiguous with another back lot and that all other provisions of this ordinance shall be met.

### **503 Nonconforming Structures**

#### **503.1 Expansions**

- A. A non-conforming structure may be added to or expanded after obtaining a permit from the same permitting authority as that for a new structure if such addition or

expansion does not increase the nonconformity of the structure.

**B. Further Limitations:**

1. 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 502.2 (B) Relocation, below. If the completed foundation does not extend beyond the exterior dimensions of the structure, except for expansion in conformity with Section 502.1(B)(1) above, and the foundation does not cause the structure to be elevated by more than three (3) additional feet, as measured from the uphill side of the structure (from original ground level to the bottom of the first floor sill), it shall not be considered to be an expansion of the structure.

**503.2 Relocation**

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

**503.3 Reconstruction or Replacement outside the Shoreland Zone**

Any other non-conforming structure, outside the Shoreland zone, which is removed, damaged or destroyed by more than 50% of the market value of the structure before such damage, destruction or removal, may be reconstructed or replaced on the original footprint provided that a permit is obtained within ten (10) years of the date of said damage, destruction, or removal. In no case shall a structure be reconstructed or replaced so as to increase its non-conformity. The applicant will have the burden to prove to the Planning Board that the structure is being reconstructed or replaced within the ten (10) years of the loss of original structure.

**504 Non-conforming Uses**

**504.1 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 existing as of the effective date of this ordinance, or on the effective date of a subsequent amendment that causes such use to be a nonconforming, or within expansions of such structures as allowed in Section 502.1(B) above.

**504.2 Resumption Prohibited.**

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

preceding five (5) year period.

**504.3 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, including water dependent use, than the former use, as determined by the Planning Board.

**505 Changes in Nonconformance and Transfer of Ownership**

**505.1 Transfer of Ownership**

Nonconforming structures, lots and uses may be transferred, and the new owner may Continue the nonconforming use or continue to use the nonconforming structure or lot, Subject to the provisions of this Ordinance.

**505.2 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.



## **Section 600 – General Standards outside the Shoreland Zone**

### **601 Minimum Lot Size and Setback**

All newly created lots shall be governed by table 803, with the exception of back lots that shall be governed as in section 602 and accessory apartments which shall be governed as in Section 606.

### **602 Back Lot Development**

#### **602.1 Purpose**

The purpose of this section is to protect the health, safety, and general welfare of the residents of Searsmont through provisions for the development of back lots with acceptable rights-of-way. This section does not pertain to lots grandfathered by the Minimum Lot Ordinance of March 21, 1987.

#### **602.2 Applicability**

This section shall apply to all back lots as defined. No back lot may be developed which fails to meet the requirements of this ordinance.

#### **602.3 Standards**

New back lots may be developed although they lack any frontage on a Town accepted road if the development is in accordance with the following provisions:

A back lot must be accessible by a legally enforceable private right-of-way and may be used for a single-family dwelling if the following conditions are met:

1. The private right-of-way must be deeded to the owner of the back lot and be a minimum of 40 feet in width.
2. A legal description of the private right-of-way by metes and bounds shall be attached to any building permit application for construction of a single-family dwelling on the back lot.
3. The private right-of-way deed must be recorded in the Waldo County Registry of Deeds at either the time the back lot is first deeded out as a separate parcel, or At the time the single-family home on the lot is first sold.
4. Creation of the 40-foot private right-of-way to serve the back lot shall not create a non-conforming front lot by reducing such lots road frontage below the minimum for that district, or, if the front lot is already non-conforming, reduce its frontage at all. Where the private right-of-way is given by easement or irrevocable license, or some grant less than fee interest, the land, over which such servitude is placed may not be counted toward meeting road frontage requirements for the front lot.
5. No more than one private right-of-way for back lot development may be created out of any lot fronting on a Town accepted road unless each subsequent private right-of-way is created out of at least an additional 150 feet of Town road frontage, and the road entrances to such Town road are at least 300 feet apart.
6. The access road shall be constructed to a minimum width of 16 feet if serving one dwelling unit. The access road shall contain a minimum depth of 15 inches of bank run gravel and have drainage, ditches and culverts at all appropriate points. Such an access road shall serve no more than two dwelling units. Any access road serving between three and eight dwelling units shall meet the road design and construction

#### **602.3 Standards (cont.)**

standards of this ordinance.



7. A back lot shall have a minimum of 1.9 acres and have a length/width ratio of no more than 8 to 1.
8. No more than two back lots may be developed on this private right-of-way. If the private right-of-way is to provide access to more than two lots, the road must meet the construction standards contained in the Subdivision provisions of this ordinance and a maintenance agreement shall be required by the Planning Board and recorded in the Waldo County Registry of Deeds.
9. The intent of this section is to provide adequate access and space for a single dwelling on a lot without the frontage otherwise required by this ordinance. A temporary shelter, such as a woods camp, that is at least 500 feet from a maintained public road or residence, without running water or metered electricity, does not require comparable access or space as would a permanent dwelling. This section does not apply to such a structure, but the structure must meet the State's plumbing code requirements for disposal of wastewater.

### **603 Holding Tanks**

#### **603.1 Purpose**

The purpose of this section is to establish procedures for the use and maintenance of holding tanks designed to receive and retain wastewater from residential or commercial uses.

#### **603.2 Right and privileges granted**

The Authority, as defined in this ordinance, is hereby authorized and empowered to undertake, within the municipality, the control of and methods of disposal of holding tank waste water and the collection and transportation thereof.

#### **603.3 Rules and Regulations to be in conformity with applicable law**

All such rules and regulations adopted by the Authority shall be in conformity with the provisions herein, and all other ordinances of the Town, all applicable laws, and applicable rules and regulations of the administrative agencies of the State of Maine. Holding tanks cannot be used for seasonal conversion, Subdivision 301.3, or new construction within the shore land zone of a major watercourse.

#### **603.4 Rates and charges**

The Authority shall have the right and power to fix, alter, charge, and collect rates, assessments, and other charges in the area served by its facilities at reasonable and uniform rates as authorized by applicable law.

#### **603.5 Exclusiveness of rights and privileges**

The collection and transportation of all waste water from any improved property utilizing a holding tank shall be done solely by, under the direction and control of, the Authority, and the disposal thereof shall be made at such site or sites as may be approved by the Maine Department of Environmental Protection.

#### **603.6 Duties of owner of improved property**

The owner of an improved property that utilizes a holding tank shall:

- A. Maintain the holding tank in conformance with this or any other Ordinance of the Town, the provisions of any applicable law, the rules and regulations of the Authority, and any administrative agency of the State of Maine; and

- B. Permit only the Authority, or its agent, to collect, transport, and dispose of the contents therein.

**603.7 Alternative disposal**

An alternative means of wastewater disposal shall meet first time system criteria. Replacement system criteria shall not be considered.

**604 Home Occupation**

An occupation or profession which is carried on in a dwelling unit or structure accessory to a dwelling unit and which is clearly incidental and secondary to the use of the dwelling for residential purposes and which does not change the character thereof is a Home Occupation. The term "home occupation," shall include both professional and personal services, within the limits of number of employees established in this Ordinance.

- A. The home occupation shall be carried on wholly within the dwelling or accessory structure.
- B. The home occupation shall be carried on primarily by a member or members of the family residing in the dwelling unit. Not more than (2) two persons other than family members residing in the dwelling unit shall be employed on the premise in connection with the home occupation.
- C. There shall be no exterior display, no exterior signs other than those permitted by the Planning Board, no exterior storage of materials and no other exterior indication of the home occupation or variation from residential character of the principal building.
- D. Objectionable conditions such as noise, vibration, smoke, dust, electrical disturbance, odors, heat, glare or activity at unreasonable hours, shall not be permitted.
- E. Any waste/hazardous waste shall be disposed of in accordance with D.E.P. regulations.
- F. The traffic generated by such home occupation shall not increase the volume of traffic to create a traffic hazard or disturb the residential character of the immediate neighborhood.
- G. If existing off-street parking is required to be expanded, it shall be adequately screened from the road and from adjacent lots.

Should all the above conditions not be maintained on a continual basis, the Planning Board shall determine whether the home occupation has become a commercial operation requiring site review.

The maintenance and repair of vehicles and equipment used in one's business and owned by the resident may be done at one's residence as an extension of a home occupation as long as no more than four vehicles are serviced, and the requirements of Searsmont's Home Occupation standards are met. If more than four vehicles are serviced, or if work is done for a fee, a Site Review will be required.

**605 Signs**

**605.1 Permitted Signs.**

- A. Wall signs: On each premise, wall signs shall be allowed affixed to the exterior of the structure. Such signs shall not occupy more than twenty (20) percent of the wall to **605.1**

**Permitted Signs (cont.)**

which they are attached. For this section, wall is defined as the facade of the building up to the roof line including windows, doors, and major architectural features.

- B. Projecting signs: One projecting sign is permitted per structure. Projecting signs shall extend no lower than ten (10) feet above ground level, project from the wall at an angle of ninety (90) degrees and be no nearer than eight (8) feet from any property line. No projecting sign shall exceed sixteen (16) square feet.
- C. Free Standing signs: One freestanding sign is permitted per lot. No freestanding sign shall exceed sixteen (16) square feet in area. The top edge shall not be higher than twenty (20) feet vertical measure above average ground level from the base.
- D. Awning and canopy signs: Awning and canopy signs are permitted. Canopies over fuel islands shall only advertise fuel and fuel products.
- E. No permanent sign shall have visible moving parts, have blinding, moving, or glaring illumination, or be erected at a location where, by reason of shape, color or wording, it interferes with vehicle traffic or may be confused with any authorized traffic sign, signal or devise.
- F. No temporary Signs (signs in place for no more than 120 days) can exceed six (6) square feet in area.
- G. Large lots exceeding linear 500 feet of road frontage are allowed 2 signs. There must be a minimum of 500 feet of road frontage between signs.
- H. No temporary signs (signs in place for no more than 120 days) can exceed six (6) square feet in area.
- I. 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.
- J. Signs relating to public safety shall be allowed without restriction.
- K. No sign shall extend higher than twelve (12) feet above the ground.
- L. A commercial business on a state road is allowed to have a 32 sq. Ft. Free-standing sign at without fee.

#### **605.2. Prohibited Signs**

The following signs are prohibited throughout the Village Core and Village Extension Districts in the Town of Searsmont:

- A. No permanent sign except traffic and similar public safety signs, official business directional signs shall be located in the public right-of-way of any street or highway.
- B. No sign shall be closer than 8 feet of any property line.
- C. No sign shall be located so that it interferes with the view necessary for motorists to proceed safely through intersections or to enter onto or exit public streets or private roads.
- D. No signs painted on or attached to stationary-vehicles. For the purpose of this section, a stationary vehicle means any vehicle not properly registered and inspected as required by Maine Law, whose sole purpose is to display signs.
- E. No inflatable signs, tethered balloons, and pennants except associated with special events or sales for a duration not to exceed seven (7) days in any calendar year.
- F. No signs relating to any business which has been out of business for more than 365 days. The owner of the property or his agent shall be responsible for removing such signs.
- G. Signs shall not exceed thirty-two (32) square feet in area and shall not exceed two (2) signs per premises. Signs relating to goods or services not sold or rendered on the premises shall be prohibited.

- H. No on-premise signs shall be permitted which are erected, painted or maintained upon trees.

**605.3 Illumination**

Signs shall be illuminated only by the following means:

1. A steady, stationary light(s) of single color, shielded and directed solely at the sign and not casting light on the premises.
2. Interior, non-exposed, white lights or reasonable intensity.
3. Neon to be illuminated may be only used for window signs that do not exceed twenty-five (25) percent of the window area in which it is located and must be non-blinking.
4. Exterior lighting shall be limited to illuminating the immediate premises, and direct light shall not project onto adjacent residential properties or be directed skyward. If necessary, direct light shall be shielded by blinders and additional buffering/screening.
5. Signs may be illuminated only by shielded, non-flashing lights.

**606 Accessory Apartments**

In all districts except for the Shoreland District, one accessory apartment may be constructed on a lot that does not meet minimum lot requirements for two dwellings (as set in table 603 of this ordinance), provided the accessory apartment does not contain more than 550 square feet of habitable floor area, contains only one bedroom and conforms to all other residential dimensions set in table 603. In the Village Core and Village Extension districts, this accessory apartment shall be constructed consistent with the architecture of the existing primary dwelling unit. The accessory apartment may house one or two people.

**607 Non-Residential Uses**

All non-residential uses shall meet the following requirements:

1. An 8-foot buffer strip consisting of a six (6) foot stockade type fence or commensurate planting of shrubs shall be maintained at all side and rear setbacks, unless waived in writing by mutual agreement of abutting landowners.
2. Parking shall be required to be set back at least 15 feet from the side of the road. No parking will be allowed within 15 feet of the road, with the exception of a residential driveway.
3. Noise levels shall not generate hourly sound levels resulting from routine operating in excess of 60 decibels as measured at the property lines.
4. Unenclosed outdoor storage is prohibited, except for firewood.

**608 Cluster Developments**

**608.1 Purpose**

The purpose of this section is:

1. To provide for efficient use of land and the preservation of open space;

**608 Cluster Developments**

**608.1 Purpose**

2. To provide for protection of environmentally sensitive resources;
3. To provide for orderly development;
4. To allow for new concepts of housing development; and
5. To encourage the construction of affordable housing.

**608.2 Basic Requirements for Cluster Developments**

Cluster developments shall comply with the performance standards of this ordinance except as otherwise noted.

- A. Cluster developments shall be a minimum of 5 lots and shall meet all requirements for a subdivision, the community's street standards, and all other applicable municipal ordinances, including the General Performance Standards of this ordinance and State laws and regulations.
- B. The developer shall illustrate the placement of buildings and the treatment of spaces, paths, roads, services, and parking and in so doing shall take into consideration all requirements of this section and of other relevant sections of this ordinance.
- C. There shall be a density bonus of 20% for cluster developments.
- D. Unless a public sewer or community sewage collection and treatment system is provided, no lot shall be smaller in area than 60,000 square feet.
- E. The total area of open space within the development shall equal or exceed the sum of the area by which any building lots are reduced below the minimum lot area normally required in the District, except where density bonuses are permitted.
- F. Every building lot that is reduced in area below the amount normally required should abut the open space for a distance of 50 feet or be within 1,000 feet walking distance of such land, as measured along public ways.
- G. Distance between buildings shall not be less than 20 feet.
- H. No individual lots shall have frontage on a road which existed prior to the time of development. There shall be a setback of 50 feet from the main public access road and 25 feet from interior roads that are constructed as part of cluster development.
- I. In no case shall shore frontage and setback be reduced below the minimums normally required by the municipality's Shoreland Zoning Ordinance.
- J. Where a cluster development abuts a body of water, a usable portion of the land along the water, as well as reasonable access to it, shall be a part of the open space land. This open space land shall have a minimum depth of 100 feet.
- K. The applicant shall demonstrate the availability of water adequate for domestic purposes as well as for fire safety. The Planning Board may require the construction of storage ponds and dry hydrants.
- L. The location of subsurface sewage disposal systems shall be shown on the plan. The report of a Licensed Site Evaluator shall accompany the plan.
- M. Cluster housing shall meet the overall dimensional requirements, including frontage and lot area per dwelling unit.

**608.3 Siting Standards**

- A. Buildings shall be oriented with respect to scenic vistas, natural landscape features, topography, south facing slopes (where possible) and natural drainage areas, in accordance with an overall plan for site development and landscaping. A site inspection shall be conducted by the Board prior to approval. Once approved, the plan shall not be altered without prior approval of the Planning Board.
- B. Buildings shall be designed and laid out to protect bedroom windows from light invasions by vehicle headlights or glare from existing outdoor lighting or illuminated signs where allowed, insofar as practical.
- C. Where parking spaces or storage areas are located in areas abutting existing residential

properties permanent wood or masonry screen at least four feet high shall be erected along the property line in addition to the green perimeter strip described below.

- D. A green perimeter strip not less than twenty (20) feet wide shall be maintained with grass, bushes, flowers, or trees along all lot lines (except for entrance and exit driveways). Such green strip shall not be built on or paved or used for parking or storage.

#### **608.4 Preservation and Maintenance of Open Space and Facilities**

- A. There shall be no further subdivision of open space. Open space shall be used only for agriculture, non-commercial recreation, forestry or conservation. However, easements for public utilities, but no structures, may be permitted in the open space area.
- B. The open space(s) shall be shown on the development plan and with appropriate notation on the face thereof to indicate that: (a) the open space shall not be used for future building lots; and (b) a part or all of the open space may be dedicated for acceptance by the municipality or a suitable land trust.
- C. If any or all of the open space is to be reserved as common open space for use by the residents, the by-laws of the proposed neighborhood association shall specify maintenance responsibilities and shall be submitted to the Planning Board prior to approval. The developer or subdivider shall maintain control of such open space(s) and be responsible for their maintenance until development sufficient to support the association has taken place. Such determination shall be made by the Board of Appeals upon request of the neighborhood association or the developer or subdivider.
- D. Open space land may be sold or leased to a third party for agriculture or forestry purposes, provided that development rights are held by the municipality, a conservation organization, or other public or semi-public entity. The legal instruments for conveying such land and retaining development rights shall first be submitted to and approved by the Planning Board.



## Section 700 – Table of Land Uses Outside the Shoreland Zone

### 701 Key to Tables

#### **KEY**

A = Allowed, no Permit required but the use must comply with all applicable land use standards

C = Requires a permit issued by the Code Enforcement Officer.

L = Requires a permit issued by the Local Plumbing Inspector.

N = No, not permitted

P = Requires a permit issued by the Planning Board.

Y\* = Permitted, but subject to Site Plan Review and the issuance of a Building Permit.

Districts: RU - Rural

VC - Village Core

VE - Village Extension

See Section 700 for Shoreland Zoning

Numbers refer to notes following the Table of Land Uses.

**See Table 814 for Table of Land Uses within the Shoreland Zone**

### 702 Table of Land Uses Outside the Shoreland Zone

Use/Structure	VC	VE	RU
<b><i>1. All Uses</i></b>			
Clearing or Removal of Vegetation for Activities other than Timber Harvesting	A	A	A
Emergency Operations	A	A	A
Filling and Earth Moving of 10 Cubic Yards or More	A	A	A
Filling and Earth Moving of Less than 10 Cubic Yards	A	A	A
Fire Prevention Activities	A	A	A
Parking Facilities	Y*	Y*	Y*
Private Sewage Disposal Systems for Allowed Uses	L	L	L
Road Construction	A	A	A
Service Drops as Defined to Allowed Uses	A	A	A
Signs	C	C	C
Uses Similar to Allowed Uses	A	A	A
Uses Similar to Uses Requiring a CEO Permit	C	C	C
Uses Similar to Uses Requiring a PB Permit	P	P	P
<b><i>2. Residential</i></b>			
Accessory Use or Structures Accessory to Allowed Uses	C	C	C
Cluster Development	N	Y*	Y*
Congregate Housing	N	P	Y*
Conversions of Seasonal Residences to Year-Round	L	L	L
Home Occupation	A	A	A
Manufactured Housing	P	P	P
Mobile Home Park	N	Y*	Y*
Multi-family Dwelling/Multi-unit Residential	Y*	Y*	Y*
Single-family Dwelling including driveway	C	C	C



**702 Table of Land Uses Outside the Shoreland Zone(cont.)**

Use/Structure	VC	VE	RU
<b>3. Commercial</b>			
Accessory Use or Structures Accessory to Allowed Uses	Y*	Y*	Y*
Amusement	Y*	Y*	Y*
Auto Repair, Sales	Y*	Y*	Y*
Bed & Breakfast	Y*	P	Y*
Boarding, Lodging	Y*	P	Y*
Boat Repair	Y*	Y*	Y*
Building Materials, Retail Sales	Y*	Y*	Y*
Commercial School	Y*	Y*	Y*
Convenience Store (Neighborhood)	Y*	Y*	Y*
Firewood Processing	N	Y*	Y*
Gas Station	Y*	Y*	Y*
Hotel, Motel	Y*	Y*	Y*
Junkyard	N	N	Y*
Off-street Parking, Loading Facilities	Y*	Y*	Y*
Offices; Business, Professional, Medical	Y*	Y*	Y*
Publishing	Y*	Y*	Y*
Radio Tower	N	Y*	Y*
Restaurant	Y*	Y*	Y*
Retail Business	Y*	Y*	Y*
Service Business	Y*	Y*	Y*
Shopping Center	N	Y*	Y*
Theater (Indoor)	Y*	Y*	Y*
Veterinary, Kennel, Stable	N	Y*	Y*
Wholesale Business	Y*	Y*	Y*
<b>4. Industrial</b>			
Accessory Use or Structures Accessory to Allowed Uses	Y*	P	Y*
Gas Terminal	N	N	Y*
Light Manufacturing	Y*	Y*	Y*
Recycling Operations	Y*	Y*	Y*
Sawmill	Y*	Y*	Y*
Transportation, Communication Facilities	Y*	Y*	Y*
Trucking, Distribution Terminal	N	N	Y*
Warehousing	Y*	Y*	Y*
Waste Disposal, Demolition	N	N	Y*
Accessory Use or Structures Accessory to Allowed Uses	P	P	Y*
Church, Synagogue	Y*	Y*	Y*
Civic, Convention Center	Y*	Y*	Y*
Community Center	Y*	Y*	Y*
Day Care	Y*	Y*	Y*
Essential Services except A-C below	Y*	Y*	Y*
A. Roadside distribution lines (34.5kv and lower)	--	--	--
B. Non-roadside or cross-country distribution lines involving ten poles or less in the shoreland zone	--	--	--
C. Non-roadside or cross-country distribution lines involving eleven or more poles in the shoreland zone	--	--	--

**702 Table of Land Uses Outside the Shoreland**

<i>Use/Structure</i>	<b>VC</b>	<b>VE</b>	<b>RU</b>
<b>5. Government and Institutional</b>			
Fire, Police	Y*	Y*	Y*
Government Office	Y*	Y*	Y*
Group Home, Nursing Home	Y*	Y*	Y*
Hospital	Y*	Y*	Y*
Museum, Library	Y*	Y*	Y*
Public Utility Facility	Y*	Y*	Y*
Public, Private School	Y*	Y*	Y*
Small non-residential Facilities for Education, Scientific or Nature Interpretation Purposes	Y*	Y*	Y*
<b>6. Outdoor, Resource-based Uses</b>			
Accessory Use or Structures Accessory to Allowed Uses	P	P	P
Agriculture	P	P	A
Agriculture Product Processing	Y*	Y*	Y*
Animal Breeding or Care	N	P	A
Aquaculture	Y*	Y*	Y*
Campgrounds	N	N	Y*
Cemetery	P	Y*	P
Farm Stands	P	P	P
Forest Management Activities Except for Timber Harvesting	P	P	A
Golf Course, excluding miniature golf	N	Y*	Y*
Individual, Private Campsites	C	C	C
Land Management Roads in shoreland zone	--	--	--
Marinas	--	--	--
Mineral Exploration	N	N	Y*
Mineral Extraction including Sand and Gravel Extraction	N	N	A
Motorized Vehicular Traffic on Existing Roads and Trails	A	A	A
Non-intensive Recreational Uses Not Requiring Structures such as Hunting, Fishing and Hiking	A	A	A
Parks	P	P	A
Piers, Docks, Wharfs, Bridges, and Other Structures and Uses Extending Over or Below the Normal High-Water Line or Within a Wetland - Temporary	--	--	A
Piers, Docks, Wharfs, Bridges, and Other Structures and Uses Extending Over or Below the Normal High-Water Line or Within a Wetland - Permanent	--	--	--
Public and Private Recreational Areas Involving Minimal Structural Development	A	A	A
Soil and Water Conservation Practices	A	A	A
Surveying and Resource Analysis	A	A	A
Timber Harvesting	P	P	A
Wildlife Management Activities	A	A	A

**703 Table of Dimensional Requirements Outside the Shoreland Zone**

	<b>VC</b>	<b>VE</b>	<b>RU</b>
<b><i>1. Residential Dimensions</i></b> †			
Minimum Lot Size#	60,000 sq. Ft.	80,000 sq. Ft.	1.9 acres
Street Frontage	75'	100'	150'
Minimum Shore Frontage	--	--	--
Front Road Setback	25'	50'	50'
Front Road Setback for private roads.**	25'	25'	25'
Shorefront Setback	--	--	--
Side Setback	10'	15'	15'
Rear Setback*	15'	15'	15'
Height of Structure	50'	50'	--
Impervious surface	25%	30%	--
<b><i>2. Commercial Dimensions</i></b>			
Minimum Lot Size□	40,000 sq. Ft.	40,000 sq. Ft.	1.9 acres
Street Frontage	75'	75'	150'
Minimum Shore Frontage	--	--	--
Front Road Setback	25'	50'	50'
Shorefront Setback	--	--	--
Side Setback	15'	15'	15'
Rear Setback*	15'	15'	15'
Height of Structure	50'	50'	--
Impervious surface	30%	30%	--

The ratio of lot length to width shall be no more than 5 to 1 of lots which are less than 5 acres. Flag lots and other odd shaped lots on which narrow strips are joined to other parcels in order to meet minimum lot size requirement are prohibited. This section shall not apply to conveyances to abutters intended solely to resolve boundary problems.

† Includes Public and Private Recreational Facilities in the Shoreland Districts.

#Per Dwelling Unit: can also include one accessory apartment outside the Shoreland only in VC, VE, and RU Districts.

\*Vegetation Buffer.

\*\*With the exclusions of subdivision(s).

□ Campgrounds shall contain 5,000 sq. Ft minimum per site, not including roads in the Shoreland Districts.

- The Planning Board may reduce road setbacks on lots in the Shoreland Zone if this action reduces shoreline setback nonconformance and is consistent with neighborhood road setbacks.

## **Section 800 – Shoreland Zoning**

### **801 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 coastal 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 and coastal waters; to conserve natural beauty and open space; and to anticipate and respond to the impacts of development in shoreland areas.

### **802 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.).

### **803 Applicability.**

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

- Normal high-water line of any great pond or river,
- Upland edge of a coastal wetland, including all areas affected by tidal action, or
- Upland edge of a freshwater wetland,

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

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

### **804 Effective Date of Ordinance and Ordinance Amendments.**

This Ordinance, which was adopted by the municipal legislative body on April 7, 2018, 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.

### **805 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.

### **806 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.

### **807 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.

#### **808 Amendments.**

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

#### **809 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. Stream Protection
4. General Development
5. Village Core
6. Village Extension

##### **B. Scale of Map.**

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

##### **C. Certification of Official Shoreland Zoning Map.**

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

##### **D. Changes to the Official Shoreland Zoning Map.**

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

#### **810 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.

#### **811 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 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.

## **812 Non-conformance**

### **812.1 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.

### **812.2 General**

- A. 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. Repair and Maintenance.
- B. 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.

### **812.3 Non-conforming Structures**

- A. **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 815.2(A). A non-conforming structure may be added to or expanded after obtaining a permit from the same permitting authority as that for a new structure if such addition or expansion does not increase the non-conformity of the structure and is in accordance with subparagraphs (a) and (b) below.
  - 1. Expansion of any portion of a structure within 25 feet of the normal high-water line of a water body, tributary stream, or upland edge of a wetland is prohibited, even if the expansion will not increase nonconformity with the water body, tributary stream or wetland setback requirement. Expansion of an accessory structure that is located closer to the normal high-water line of a water body, tributary stream, or upland edge of a wetland than the principal structure is prohibited, even if the expansion will not increase nonconformity with the water body, tributary stream, or wetland setback requirement.
  - 2. Notwithstanding paragraph (a), above, if a legally existing nonconforming principal structure is entirely located less than 25 feet from the normal high-water line of a water body, tributary stream, or upland edge of a wetland, that structure may be expanded as follows, as long as all other applicable municipal land use standards are met and the expansion is not prohibited by Section 812.3(A).
    - a. The maximum total footprint for the principal structure may not be expanded to a size greater than 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.

3. 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 812.3(A) or Section 812.3(A)(1) above.
    - a. 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 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.
    - b. 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 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 812.3(A)(2)(a) and Section 812.3(A)(3)(a) above.
    - c. 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 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 812.3(A)(2)(a) and Section 812.3(A)(3)(a) above.
  4. An approved plan for expansion of a nonconforming structure must be recorded by the applicant with the registry of deeds, within 90 days of approval. The recorded plan must show the existing and proposed footprint of the nonconforming structure, the existing and proposed structure height, the footprint of any other structures on the parcel, the shoreland zone boundary and evidence of approval by the municipal review authority.
- B. 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 812.3(C) Relocation, below.

**812.3 Non-conforming Structures (cont.)**

- C. **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 815.20. In addition, the area from which the relocated structure was removed must be replanted with vegetation. Replanting shall be required as follows:

1. 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.

2. 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.

- D. **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 812.3(A) 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 812.3(C) above.

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

In determining whether the building reconstruction or replacement meets the setback to the greatest practical extent the Planning Board or its designee shall consider, in addition to the criteria in Section 812.3(C) above, the physical condition and type of foundation present, if any.

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

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

#### 812.4 Non-conforming Uses

- A. **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 812.3(A) above.
- B. **Resumption Prohibited.** A lot, building or structure in or on which a non-conforming use is discontinued for a period exceeding one year, or which is superseded by a conforming use, may not again be devoted to a non-conforming use except that the Planning Board may, for good cause shown by the applicant, grant up to a one-year extension to that time period. This provision shall not apply to the resumption of a use of a residential structure provided that the structure has been used or maintained for residential purposes during the preceding five (5) year period.
- C. **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, including water dependent uses in the CFMA district, than the former use, as determined by the Planning Board or their

designee. The determination of no greater adverse impact shall be made according to criteria listed in Section 812.3(E) above.

### **812.5 Non-conforming Lots**

A. **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.

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

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

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

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

1. Each lot contains at least 100 feet of shore frontage and at least 20,000 square feet of lot area; or
2. Any lots that do not meet the frontage and lot size requirements of Section 812.5(C)(1) are reconfigured or combined so that each new lot contains at least 100 feet of shore frontage and 20,000 square feet of lot area.

## **813 Establishment of Districts**

### **813.1 Resource Protection District.**

The Resource Protection District includes areas in which development would adversely affect water quality, productive habitat, biological ecosystems, or scenic and natural values. This district shall include the following areas when they occur within the limits of the shoreland zone, exclusive of the Stream Protection District, except that areas which are currently developed and areas which meet the criteria for the Limited Commercial or

**813.1 Resource Protection District. (cont.)**

General Development need not be included within the Resource Protection District.

- A. 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.
- B. Areas of two or more contiguous acres with sustained slopes of 20% or greater.
- C. Areas of two (2) or more contiguous acres supporting wetland vegetation and hydric soils, which are not part of a freshwater or coastal wetland as defined, and which are not surficially connected to a water body during the period of normal high water.
- D. Land areas along rivers subject to severe bank erosion, undercutting, or river bed movement, and lands adjacent to tidal waters which are subject to severe erosion or mass movement, such as steep coastal bluffs.
- E. The Resource Protection District shall include but not be limited to:
  - 1. Part of Quantabacook Outlet (wetland #89) including the applicable Shoreland areas of lots 009-007, 007-070, and 009-006.
  - 2. 250 feet of Bartlett Stream beginning at the mouth of the stream and including those applicable shore land areas of lot numbers 009-011 and 007-071;
  - 3. that area of wetland number 89 located within the 190-degree contour line as referred to in the U.S. Geological Survey topographical map;
  - 4. 250 feet of Little Pond;
  - 5. 250 feet of the 220-degree contour line of the shrub swamp wetlands located at the southerly end of Lawry Pond (wetland #115), as defined in the U.S. Geodetic topographical map.
  - 6. the island of Lawry Pond,
  - 7. 250 feet of the 220-degree contour line (wetland #84) of the shrub swamp wetlands area located at the northerly end of Lawry Pond as referred to in the U.S. Geological Survey topographical map, lots 005-004, 005-003, and 005-034, and
  - 8. the following wetlands as identified on the Town of Searsmont Fresh Water Wetlands Map by the Maine Department of Environmental Protection 1989 and indicated on the U.S. Geodetic Map for the Town of Searsmont Shore Land Zoning Ordinance:
    - a. Wetland #85, Maple Meadow as encompassed by the 210 contour line in lots 006-064, 006-068, 006-070, 006-089, 006-090, 006-091, and 006-092.
    - b. Wetland #97, Witcher swamp bounded by the 280 contour line on the Southwest corner of map in lots 004-045, 008-002, 008-003, 004-054, 008-007, 008-019, 008-021, 008-022, 008-023, and 008-026.
    - c. Wetland #115, Lawry Pond in lots 005-109, 005-031, 005-076, 005-104, and 005-105.
    - d. Wetland #56, Ruffingham Meadow State Game Management Area following

the 230-degree contour line around the meadow to northern point of the water body at contour line 225 degree then contour line 250 degree to Montville line following northerly to Thompson Brook and then southwest from town line on contour line 250 degree to Ruffingham Meadow State Game Management Area.

### **813.2 Limited Residential District.**

The Limited Residential District includes those areas of shoreland zone suitable for residential and recreational development. It encompasses the area from the high-water line to distance back 250 feet from that line. It includes areas of the shoreland zone not included in the Resource Protection Zone. It includes but is not limited to the following areas:

1. 250 feet back from the normal high-water line of the St. George River excluding those shore land areas in the Resource Protection District,
2. 250 feet back from the normal high-water line of Quantabacook Pond (Lake) excluding those shore land areas in the Resource Protection District,
3. 250 feet back from the high water of Levenseller Pond located in Searsmont,
4. 250 feet back of developed areas on Lawry excluding those shore land areas in the Resource Protection District,
5. Around the wetland east of Thompson Ridge Road, north of Route 3, and west of Doloff Pond excluding the Resource Protection zone;
6. A section of the shoreline on the eastern side of the Doloff Pond outlet wetlands for 1,000 feet downstream;
7. Wood Island excluding the Resource Protection zone;
8. The southeastern side of the upland edge on Witcher's Swamp excluding the Resource Protection zone;
9. The southeastern side of the upland edge on Whitney Bog excluding the Resource Protection zone;
10. Surrounding Cedar Swamp along Thompson Brook excluding the Resource Protection zone;
11. Around the wetland off of Moody Mountain Road about one-quarter mile south of intersection with Magog Road; and
12. Around the wetland area east of Moody Mountain Road one-half mile from intersection with Magog Road, easterly one-quarter mile off the road on north side of Black Brook.

### **813.3 Limited Commercial District.**

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

### **813.4 General Development District**

The General Development District includes the following types of existing, intensively developed areas:

- (1) Areas of two or more contiguous acres devoted to commercial, industrial or intensive recreational activities, or a mix of such activities, including but not limited to the following:
  - (a) Areas devoted to manufacturing, fabricating or other industrial activities;

**813.4 General Development District (cont.)**

- (b) Areas devoted to wholesaling, warehousing, retail trade and service activities, or other commercial activities; and
- (c) Areas devoted to intensive recreational development and activities, such as, but not limited to amusement parks, race tracks and fairgrounds.
- (2) Areas otherwise discernible as having patterns of intensive commercial, industrial or recreational uses.

**813.5 Village Core and Village Extension Districts**

See Section 402

**813.7 Stream Protection District.**

- A. The Stream Protection District includes all land areas within seventy-five (75) feet, horizontal distance, of the normal high-water line of a stream, exclusive of those areas within two-hundred and fifty (250) feet, horizontal distance, of the normal high-water line of a great pond, or river, or within two hundred and fifty (250) feet, horizontal distance, of the upland edge of a freshwater or coastal wetland. Where a stream and its associated shoreland area are located within two-hundred and fifty (250) feet, horizontal distance, of the above water bodies or wetlands, that land area shall be regulated under the terms of the shoreland district associated with that water body or wetland.
- B. The Stream Protection District includes:
  - 1. Thompson Brook;
  - 2. Bartlett Stream;
  - 3. Dolloff Pond outlet;
  - 4. Stearns Brook;
  - 5. Jam Brook;
  - 6. East Searsmont Cemetery Brook;
  - 7. Dump Brook; and
  - 8. Maple Brook.

**814 Table of Land Uses**

All land use activities, as indicated in Table 814, Land Uses in the Shoreland Zone, shall conform with all of the applicable land use standards in Section 816. The district designation for a particular site shall be determined from the Official Shoreland Zoning Map.

**Key to Table 1:**

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

No - Prohibited

PB - Allowed with permit issued by the Planning Board.

CEO - Allowed with permit issued by the Code Enforcement Officer

LPI - Allowed with permit issued by the Local Plumbing Inspector

**Abbreviations:**

RP - Resource Protection

VC- Village Core

LR - Limited Residential

VE- Village Extension

SP - Stream Protection

GD- General Development

**Table 814. Land Uses in the Shoreland Zone***DISTRICT*

<i>LAND USES</i>	SP	RP	LR	VC	VE	GD
1. Non-intensive recreational uses not requiring structures such as hunting, fishing and hiking	Yes	Yes	Yes	PB	PB	Yes
2. Motorized vehicular traffic on existing roads and trails	Yes	Yes	Yes	PB	PB	Yes
3. Forest management activities except for timber harvesting & land management roads	Yes	Yes	Yes	Yes	Yes	Yes
4. Timber harvesting	Yes	CEO <sup>13</sup>	Yes	Yes	Yes	Yes
5. Clearing or removal of vegetation for activities other than timber harvesting	CEO	CEO <sup>1</sup>	Yes	CEO	CEO	Yes
6. Fire prevention activities	Yes	Yes	Yes	PB	PB	Yes
7. Wildlife management practices	Yes	Yes	Yes	PB	PB	Yes
8. Soil and water conservation practices	Yes	Yes	Yes	PB	PB	Yes
9. Mineral exploration	No	Yes <sup>2</sup>	Yes <sup>2</sup>	CEO	CEO <sup>2</sup>	Yes <sup>2</sup>
10. Mineral extraction including sand and gravel extraction	No	PB <sup>3</sup>	PB	No	No	PB
11. Surveying and resource analysis	Yes	Yes	Yes	Yes	Yes	Yes
12. Emergency operations	Yes	Yes	Yes	Yes	Yes	Yes
13. Agriculture	Yes	PB	Yes	PB	PB	Yes
14. Aquaculture	PB	PB	PB	Yes	PB	Yes
15. Principal structures and uses						
A. One and two family residential, including driveways	CEO	CEO	CEO	CEO	CEO	CEO
B. Multi-unit residential	No	No	PB	PB	PB	PB
C. Commercial	No	No <sup>10</sup>	No <sup>10</sup>	PB	PB <sup>5</sup>	PB
D. Industrial	No	No	No	PB	PB <sup>5</sup>	PB
E. Governmental and institutional	No	No	PB	PB	PB <sup>5</sup>	PB
F. Small non-residential facilities for educational, scientific, or nature interpretation purposes	PB <sup>4</sup>	PB	CEO	PB	PB <sup>5</sup>	CEO
16. Structures accessory to allowed uses	CEO	CEO	CEO	PB	PB	Yes

**Table 814. Land Uses in the Shoreland Zone**

<i>LAND USES</i>	SP	RP	LR	VC	VE	GD
17. Piers, docks, wharfs, bridges and other structures and uses extending over or below the normal high-water line or within a wetland	CEO <sup>11</sup>	CEO <sup>11</sup>	CEO <sup>11</sup>	CEO <sup>11</sup>	CEO <sup>11</sup>	CEO <sup>11</sup>
A. Temporary	PB	PB	PB	PB	PB5	PB
B. Permanent						
18. Conversions of seasonal residences to year-round residences	LPI	LPI	LPI	LPI	LPI	LPI
19. Home occupations	LPI	LPI	LPI	LPI	LPI	--
20. Private sewage disposal systems for allowed uses	LPI	LPI	LPI	LPI	LPI	LPI
21. Essential services	PB <sup>6</sup>	PB <sup>6</sup>	PB	PB	PB	PB
A. Roadside distribution lines (34.5kv and lower)	CEO <sup>6</sup>	CEO <sup>6</sup>	Yes <sup>12</sup>	PB	PB <sup>12</sup>	PB
B. Non-roadside or cross-country distribution lines involving ten poles or less in the shoreland zone	CEO	CEO	CEO	CEO	CEO	CEO
C. Non-roadside or cross-country distribution lines involving eleven or more poles in the shoreland zone	CEO	CEO	CEO	CEO	CEO	CEO
D. Other essential services	PB <sup>6</sup>	PB <sup>6</sup>	PB	PB	PB	PB
22. Service drops, as defined, to allowed uses	Yes	Yes	Yes	PB	PB	Yes
23. Public and private recreational areas involving minimal structural development	PB	PB	PB	CEO	CEO	CEO
24. Individual, private campsites	CEO	CEO	CEO	CEO	CEO	CEO
25. Campgrounds	No	No <sup>7</sup>	PB	No	No	Yes
26. Road construction	PB	No <sup>8</sup>	PB	PB	PB	Yes
27. Land management roads	Yes	PB <sup>13</sup>	Yes	--	--	Yes
28. Parking facilities	No	No <sup>7</sup>	PB	PB	PB	Yes
29. Marinas	PB	No	PB	--	--	--
30. Filling and earth moving of <10 cubic yards	CEO	CEO	Yes	No	No	Yes
31. Filling and earth moving of >10 cubic yards	CEO	CEO	CEO	Yes	Yes	Yes
32. Signs	CEO	CEO	CEO	CEO	CEO	CEO
33. Uses similar to allowed uses	CEO	CEO	CEO	CEO	CEO	Yes
34. Uses similar to uses requiring a CEO permit	CEO	CEO	CEO	CEO	CEO	CEO
35. Uses similar to uses requiring a PB permit	PB	PB	PB	PB	PB	PB

<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>Provided that a variance from the setback requirement is obtained from the Board of Appeals.

<sup>5</sup>Functionally water-dependent uses and uses accessory to such water dependent uses only (See note on previous page).

<sup>6</sup>See further restrictions in Section 815( L)(2).

<sup>7</sup>Except when area is zoned for resource protection due to floodplain criteria in which case a permit is required from the PB.

<sup>8</sup>Except as provided in Section 815(H)(4).

<sup>9</sup>Single family residential structures may be allowed by special exception only according to the provisions of Section 816(E), Special Exceptions. Two-family residential structures are prohibited.

<sup>10</sup>Except for commercial uses otherwise listed in this Table, such as marinas and campgrounds, that are allowed in the respective district.

<sup>11</sup>Excluding bridges and other crossings not involving earthwork, in which case no permit is required.

<sup>12</sup>Permit not required but must file a written "notice of intent to construct" with CEO.

<sup>13</sup>Option 3 towns only.

**814A Table of Land Uses**

<b>Use/Structure</b>	<b>LR</b>	<b>RP</b>	<b>SP</b>
<b>1. All Uses</b>			
Clearing or Removal of Vegetation for Activities other than Timber Harvesting	A	C1	C
Emergency Operations	A	A	A
Filling and Earth Moving of 10 Cubic Yards or More	C	C	C
Filling and Earth Moving of Less than 10 Cubic Yards	A	C	C
Fire Prevention Activities	A	A	A
Parking Facilities	P	N7	N
Private Sewage Disposal Systems for Allowed Uses	L	L	L
Road Construction	P	N8	P
Service Drops as Defined to Allowed Uses	A	A	A
Signs	C	C	C
Uses Similar to Allowed Uses	C	C	C
Uses Similar to Uses Requiring a CEO Permit	C	C	C
Uses Similar to Uses Requiring a PB Permit	P	P	P
<b>2. Residential</b>			
Accessory Use or Structures Accessory to Allowed Uses(*10)	C	C	C
Cluster Development	--	--	--
Congregate Housing	N	N	N
Conversions of Seasonal Residences to Year-Round	L	L	L
<b>2. Residential Continued</b>			
Duplex/Two-family Residential including driveways	C	P9N	P4
Home Occupation	P	P	P
Manufactured Housing	P	N	P4
Mobile Home Park	--	--	--
Multi-family Dwelling/Multi-unit Residential	P	N	N
Single-family Dwelling including driveway	C	C	C
<b>3. Commercial</b>			
Accessory Use or Structures Accessory to Allowed Uses	N	N	N
Amusement	N	N	N
Auto Repair, Sales	N	N	N
Bed & Breakfast	N	N	N
Boarding, Lodging	N	N	N
Boat Repair	N	N	N
Building Materials, Retail Sales	N	N	N
Commercial School	N	N	N
Convenience Store (Neighborhood)	N	N	N
Firewood Processing	N	N	N
Gas Station	N	N	N
Hotel, Motel	N	N	N
Junkyard	N	N	N



**814A Table of Land Uses (cont.)**

<b>Use/Structure</b>	<b>LR</b>	<b>RP</b>	<b>SP</b>
Off-street Parking, Loading Facilities	N	N	N
Offices; Business, Professional, Medical	N	N	N
Publishing	N	N	N
Radio Tower	N	N	N
Restaurant	N	N	N
Retail Business	N	N	N
Service Business	N	N	N
Shopping Center	N	N	N
Theater (Indoor)	N	N	N
Veterinary, Kennel, Stable	N	N	N
Wholesale Business	N	N	N
<b>4. Industrial</b>			
Accessory Use or Structures Accessory to Allowed Uses	N	N	N
Gas Terminal	N	N	N
Light Manufacturing	N	N	N
Recycling Operations	N	N	N
Sawmill	N	N	N
Transportation, Communication Facilities	N	N	N
Trucking, Distribution Terminal	N	N	N
Warehousing	N	N	N
Waste Disposal, Demolition	N	N	N
<b>5. Government and Institutional</b>			
Accessory Use or Structures Accessory to Allowed Uses	C	P	P4
Church, Synagogue	N	N	N
Civic, Convention Center	N	N	N
Community Center	N	N	N
Day Care	N	N	N
Essential Services except A-C below	P	P6	P6
A. Roadside distribution lines (34.5kV and lower)	A <sup>11</sup>	C <sup>6</sup>	C <sup>6</sup>
B. Non-roadside or cross-country distribution lines involving ten poles or less in the shoreland zone	C	C	C
C. Non-roadside or cross-country distribution lines involving eleven or more poles in the shoreland zone	C	C	C
Fire, Police	N	N	N
Government Office	N	N	N
Group Home, Nursing Home	N	N	N
Hospital	N	N	N
Museum, Library	N	N	N
Public Utility Facility	N	N	N
Public, Private School	N	N	N
Small non-residential Facilities for Education, Scientific or Nature Interpretation Purposes	C	P	P4

<b>6. Outdoor, Resource-based Uses</b>			
Accessory Use or Structures Accessory to Allowed Uses	P	P	P4
Agriculture	A	P	A
Agriculture Product Processing	P	P	P
Animal Breeding or Care	P	P	P
Aquaculture	P	P	P
Campgrounds	P	N7	P
Cemetery	N	N	N
Farm Stands	P	P	P
Forest Management Activities Except for Timber Harvesting	A	A	A
Golf Course, excluding miniature golf	N	N	N
Individual, Private Campsites	C	C	C
Land Management Roads in shoreland zone	A	P	A
Marinas	P	N	P
Mineral Exploration	A2	A2	N
Mineral Extraction including Sand and Gravel Extraction	P	P3	N
Motorized Vehicular Traffic on Existing Roads and Trails	A	A	A
Non-intensive Recreational Uses not Requiring Structures such as Hunting, Fishing and Hiking	A	A	A
Parks	P	P	P
Piers, Docks, Wharves, Bridges, and Other Structures and Uses Extending Over or Below the Normal High-Water Line or Within a Wetland - Temporary	A	A	A
Piers, Docks, Wharves, Bridges, and Other Structures and Uses Extending Over or Below the Normal High-Water Line or Within a Wetland - Permanent	P	P	P
Public and Private Recreational Areas Involving Minimal Structural Development	P	P	P
Soil and Water Conservation Practices	A	A	A
Surveying and Resource Analysis	A	A	A
Timber Harvesting	A	C1	A
Wildlife Management Activities	A	A	A

**NOTES TO TABLE of LAND USES:**

1. **\*Clearing of Vegetation.** In RP not permitted within 100 feet of the normal high-water line of great ponds, except to remove safety hazards.
2. **Mineral Exploration.** Requires a permit from the Code Enforcement Officer if more than 100 square feet of surface area, in total, is disturbed.
3. **Mineral Extraction.** In RP not permitted in areas so designated because of wildlife value.
4. **Structures.** Provided that a variance from the setback requirement is obtained from the Board of Appeals.
5. **Piers, Docks, Wharves, Bridges, etc.** Functionally water-dependent uses and uses accessory to such water dependent uses only. Excluding bridges and other crossings not involving earthwork, in which case no permit is required.
6. **Essential Services.** See further restrictions in Section 900, *Shoreland Zoning*.
7. **\*Campgrounds.** Except when area is zoned for resource protection due to flood plain criteria in which case a permit is required from the PB.
8. **\*Roads.** Except to provide access to permitted uses within the district, or where no reasonable alternative route or location is available outside the RP area, in which case a permit is required from the PB.

9. Single family residential structures may be allowed by special exception only according to the provisions of Section 903.2, Special Exceptions.
10. **These permits may be issued by the Code Enforcement Officer as provided in Section 401.1.**
11. **Permit not required, but must file a written "notice of intent to construct" with CEO.**

## **815 Land Use Standards.**

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

### **815.1. Minimum Lot Standards**

A.

	<b>Minimum Lot Area (sq.ft.)</b>	<b>Minimum Shore Frontage (ft.)</b>
1. Residential per dwelling unit		
a. Within the Shoreland Zone Adjacent to Tidal Areas	30,000	150
b. Within the Shoreland Zone Adjacent to Non-Tidal Areas	40,000	200
2. Governmental, Institutional, Commercial or Industrial per principal structure		
a. Within the Shoreland Zone Adjacent to Tidal Areas, Exclusive Of Those Areas Zoned for Commercial Fisheries and Maritime Activities	40,000	200
b. Within the Shoreland Zone Adjacent to Tidal Areas Zoned For Commercial Fisheries and Maritime Activities	NONE	NONE
c. Within the Shoreland Zone Adjacent to Non-Tidal Areas	60,000	300
3. Public and Private Recreational Facilities		
a. Within the Shoreland Zone Adjacent To Tidal and Non-Tidal Areas	40,000	200
B. 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.		
C. 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.		
D. 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.		
E. 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.		

**815.2 Principal and Accessory Structures**

- A. All new principal and accessory structures shall be set back at least one hundred (100) feet, horizontal distance, from the normal high-water line of great ponds classified GPA and rivers that flow to great ponds classified GPA, and seventy-five (75) feet, horizontal distance, from the normal high-water line of other water bodies, tributary streams, or the upland edge of a wetland, except that in the General Development District the setback from the normal high-water line shall be at least twenty five (25) feet, horizontal distance. In the Resource Protection District the setback requirement shall be 250 feet, horizontal distance, except for structures, roads, parking spaces or other regulated objects specifically allowed in that district in which case the setback requirements specified above shall apply.

In addition:

1. 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.
2. All principal structures along Significant River Segments as listed in 38 M.R.S.A. section 437 (see Appendix A), shall be set back a minimum of one hundred and twenty-five (125) feet, horizontal distance, from the normal high-water line and shall be screened from the river by existing vegetation. This provision does not apply to structures related to hydropower facilities.
3. For principal structures, water and wetland setback measurements shall be taken from the top of a coastal bluff that has been identified on Coastal Bluff maps as being “highly unstable” or “unstable” by the Maine Geological Survey pursuant to its “Classification of Coastal Bluffs” and published on the most recent Coastal Bluff map. If the applicant and the permitting official(s) are in disagreement as to the specific location of a “highly unstable” or “unstable” bluff, or where the top of the bluff is located, the applicant may at his or her expense, employ a Maine Registered Professional Engineer, a Maine Certified Soil Scientist, a Maine State Geologist, or other qualified individual to make a determination. If agreement is still not reached, the applicant may appeal the matter to the board of appeals.
4. 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.
5. The Planning Board has the authority to increase the required set back of a proposed structure, as a condition to permit approval, if necessary to accomplish the purpose 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.

**815.2 Principal and Accessory Structures**

- B. Principal or accessory structures and expansions of existing structures which are permitted in the Resource Protection, Limited Residential, Limited Commercial, and Stream Protection Districts, shall not exceed thirty-five (35) feet in height. This provision shall not apply to structures such as transmission towers, windmills, antennas, and similar structures having no floor area.
- C. The lowest floor elevation or openings of all buildings and structures, including basements, shall be elevated at least one foot above the elevation of the 100-year flood, the flood of record, or in the absence of these, the flood as defined by soil types identified as recent flood-plain soils. In those municipalities that participate in the National Flood Insurance Program and have adopted the April 2005 version, or later version, of the Floodplain Management Ordinance, accessory structures may be placed in accordance with the standards of that ordinance and need not meet the elevation requirements of this paragraph.
- D. With the exception of General Development Districts located adjacent to coastal wetlands and rivers that do not flow to great ponds, non-vegetated surfaces 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.

In a General Development District located adjacent to coastal wetlands, or rivers that do not flow to great ponds, non-vegetated surfaces shall not exceed a total of seventy (70) percent of the portion of the lot located within the shoreland zone.

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

- E. 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:
  - 1. The site has been previously altered and an effective vegetated buffer does not exist;
  - 2. 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;
  - 3. 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;
  - 4. The total height of the wall(s), in the aggregate, are no more than 24 inches;
  - 5. 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.
  - 6. 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

7. 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:
  - a. 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;
  - b. Vegetation plantings must be in quantities sufficient to retard erosion and provide for effective infiltration of storm water runoff;
  - c. Only native species may be used to establish the buffer area;
  - d. 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;
  - e. A footpath not to exceed the standards in Section 815.17(B)(1), may traverse the buffer;
- F. 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.

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

- A. 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 815.1, a second structure may be allowed and may remain as long as the lot is not further divided.
- B. Access from shore shall be developed on soils appropriate for such use and constructed so as to control erosion.
- C. The location shall not interfere with existing developed or natural beach areas.
- D. The facility shall be located so as to minimize adverse effects on fisheries.
- E. The facility shall be no larger in dimension than necessary to carry on the activity and be consistent with the surrounding character and uses of the area. A temporary pier, dock or wharf in non-tidal waters shall not be wider than six feet for non-commercial uses.
- F. 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.
- G. New permanent piers and docks on non-tidal waters shall not be permitted unless it is

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

- H. 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*.
- I. 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.
- J. Except in the General Development Districts structures built on, over or abutting a pier, wharf, dock or other structure extending beyond the normal high-water line of a water body or within a wetland shall not exceed twenty (20) feet in height above the pier, wharf, dock or other structure.
- K. Vegetation may be removed in excess of the standards in Section 815.17 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.
  - 1. 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.
  - 2. Revegetation must occur in accordance with Section 815.20.
- L. 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:
  - 1. The total deck area attached to the structure does not exceed 700 square feet;
  - 2. The deck is cantilevered over a segment of a river that is located within the boundaries of the downtown revitalization project;
  - 3. 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;
  - 4. The construction of the deck complies with all other applicable standards, except the shoreline setback requirements in section 815.2; and
  - 5. The construction of the deck complies with all other state and federal laws.

**815.4 Campgrounds.**

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

- A. 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.
- B. The areas intended for placement of a recreational vehicle, tent or shelter, and utility and service buildings shall be set back a minimum of one hundred (100) feet, horizontal distance, from the normal high-water line of a great pond classified GPA

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

#### **815.5 Individual Private Campsites.**

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

- A. 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.
- B. 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.
- C. Campsite placement on any lot, including the area intended for a recreational vehicle or tent platform, shall be set back one hundred (100) feet, horizontal distance, from the normal high-water line of a great pond classified GPA or river flowing to a great pond classified GPA, and seventy-five (75) feet, horizontal distance, from the normal high-water line of other water bodies, tributary streams, or the upland edge of a wetland.
- D. 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.
- E. 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.
- F. 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.
- G. When a recreational vehicle, tent or similar shelter is placed on-site for more than thirty (30) consecutive 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.

#### **815.6 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:

- A. Auto washing facilities
- B. Auto or other vehicle service and/or repair operations, including body shops
- C. Chemical and bacteriological laboratories
- D. Storage of chemicals, including herbicides, pesticides or fertilizers, other than amounts normally associated with individual households or farms
- E. Commercial painting, wood preserving, and furniture stripping
- F. Dry cleaning establishments



- G. Electronic circuit assembly
- H. Laundromats, unless connected to a sanitary sewer
- I. Metal plating, finishing, or polishing
- J. Petroleum or petroleum product storage and/or sale except storage on same property as use occurs and except for storage and sales associated with marinas
- K. Photographic processing
- L. Printing

#### **815.7      Parking Areas**

- A. Parking areas shall meet the shoreline and tributary stream setback requirements for structures for the district in which such areas are located, parking areas shall be set back at least twenty-five (25) feet, horizontal distance, from the shoreline. The setback requirement for parking areas serving public boat launching facilities in Districts other than the General Development District shall be no less than fifty (50) feet, horizontal distance, from the shoreline or tributary stream if the Planning Board finds that no other reasonable alternative exists further from the shoreline or tributary stream.
- B. Parking areas shall be adequately sized for the proposed use and shall be designed to prevent storm water runoff from flowing directly into a water body, tributary stream or wetland and where feasible, to retain all runoff on-site.
- C. In determining the appropriate size of proposed parking facilities, the following shall apply:
  - 1. 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.
  - 2. Internal travel aisles: Approximately twenty (20) feet wide.

#### **815.8      Roads and Driveways.**

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

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

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

Section 815.8(A) does not apply to approaches to water crossings or to roads or driveways that provide access to permitted structures and facilities located nearer to the shoreline or tributary stream due to an operational necessity, excluding temporary docks for recreational uses. Roads and driveways providing access to permitted

- structures within the setback area shall comply fully with the requirements of Section 815.8(A) except for that portion of the road or driveway necessary for direct access to the structure.
- B. 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.
  - C. New permanent roads are not allowed within the shoreland zone along Significant River Segments except:
    - 1. To provide access to structures or facilities within the zone; or
    - 2. When the applicant demonstrates that no reasonable alternative route exists outside the shoreland zone. When roads must be located within the shoreland zone they shall be set back as far as practicable from the normal high-water line and screened from the river by existing vegetation.
  - D. New roads and driveways are prohibited in a Resource Protection District except that the Planning Board may grant a permit to construct a road or driveway to provide access to permitted uses within the district. A road or driveway may also be approved by the Planning Board in a Resource Protection District, upon a finding that no reasonable alternative route or location is available outside the district. When a road or driveway is permitted in a Resource Protection District the road and/or driveway shall be set back as far as practicable from the normal high-water line of a water body, tributary stream, or upland edge of a wetland.
  - E. 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 815.21
  - F. Road and driveway grades shall be no greater than ten (10) percent except for segments of less than two hundred (200) feet.
  - G. 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.
  - H. 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:
    - 1. 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

2. Drainage dips may be used in place of ditch relief culverts only where the grade is ten (10) percent or less.
3. 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.
4. 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.
- I. 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.

#### **815.9 Signs.**

The following provisions shall govern the use of signs in the Resource Protection, Stream Protection, Limited Residential and Limited Commercial Districts:

- A. Signs relating to goods and services sold on the premises shall be allowed, provided that such signs shall not exceed six (6) square feet in area and shall not exceed two (2) signs per premises. In the Limited Commercial District, however, such signs shall not exceed thirty-two (32) square feet in area. Signs relating to goods or services not sold or rendered on the premises shall be prohibited.
- B. 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.
- C. 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.
- D. 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.
- E. Signs relating to public safety shall be allowed without restriction.
- F. No sign shall extend higher than twenty (20) feet above the ground.
- G. Signs may be illuminated only by shielded, non-flashing lights.

#### **815.10 Storm Water Runoff**

- A. 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 storm waters.
- B. Storm water runoff control systems shall be maintained as necessary to ensure proper functioning.

#### **815.11 Septic Waste Disposal**

- A. All subsurface sewage disposal systems shall be installed in conformance with the State of Maine Subsurface Wastewater Disposal Rules, and the following:
  1. 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

2. A holding tank is not allowed for a first-time residential use in the shoreland zone.

#### **815.12. Essential Services**

- A. Where feasible, the installation of essential services shall be limited to existing public ways and existing service corridors.
- B. The installation of essential services, other than road-side distribution lines, is not allowed in a Resource Protection or Stream Protection District, except to provide services to a permitted use within said district, or except where the applicant demonstrates that no reasonable alternative exists. Where allowed, such structures and facilities shall be located so as to minimize any adverse impacts on surrounding uses and resources, including visual impacts.
- C. Damaged or destroyed public utility transmission and distribution lines, towers and related equipment may be replaced or reconstructed without a permit.

#### **815.13 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:

- A. 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 815.13(D) below.
- B. No part of any extraction operation, including drainage and runoff control features, shall be permitted within one hundred (100) feet, horizontal distance, of the normal high-water line of a great pond classified GPA or a river flowing to a great pond classified GPA, and within seventy-five (75) feet, horizontal distance, of the normal high-water line of any other water body, tributary stream, or the upland edge of a wetland. Extraction operations shall not be permitted within fifty (50) feet, horizontal distance, of any property line without written permission of the owner of such adjacent property.
- C. Developers of new gravel pits along Significant River Segments shall demonstrate that no reasonable mining site outside the shoreland zone exists. When gravel pits must be located within the zone, they shall be set back as far as practicable from the normal high-water line and no less than seventy-five (75) feet and screened from the river by existing vegetation.
- D. 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:

1. 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.
  2. The final graded slope shall be two and one-half to one (2 1/2:1) slope or flatter.
  3. 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.
- E. 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.

#### **815.14 Agriculture**

- A. 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).
- B. Manure shall not be stored or stockpiled within one hundred (100) feet, horizontal distance, of a great pond classified GPA or a river flowing to a great pond classified GPA, or within seventy-five (75) feet horizontal distance, of other water bodies, tributary streams, or wetlands. All manure storage areas within the shoreland zone must be constructed or modified such that the facility produces no discharge of effluent or contaminated storm water.
- C. 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.
- D. 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 and coastal wetlands; nor within twenty-five (25) feet, horizontal distance, of tributary streams and freshwater wetlands. Operations in existence on the effective date of this ordinance and not in conformance with this provision may be maintained.
- E. 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 and coastal wetlands, nor; within twenty-five (25) feet, horizontal distance, of tributary streams and freshwater wetlands. Livestock grazing associated with ongoing farm activities, and which are not in conformance with the above setback provisions may continue, provided that such grazing is conducted in accordance with a Conservation Plan that has been filed with the planning board.

#### **815.15 Timber Harvesting – Statewide Standards**

- A. **Shoreline integrity and sedimentation.** Persons conducting timber harvesting and related activities must take reasonable measures to avoid the disruption of shoreline integrity, the occurrence of sedimentation of water, and the disturbance of water body

- and tributary stream banks, water body and tributary stream channels, shorelines, and soil lying within water bodies, tributary streams and wetlands. If, despite such precautions, the disruption of shoreline integrity, sedimentation of water, or the disturbance of water body and tributary stream banks, water body and tributary stream channels, shorelines, and soil lying within water bodies, tributary streams and wetlands occurs, such conditions must be corrected.
- B. **Slash treatment.** Timber harvesting and related activities shall be conducted such that slash or debris is not left below the normal high-water line of any water body or tributary stream, or the upland edge of a wetland. Section 815.15(B) does not apply to minor, incidental amounts of slash that result from timber harvesting and related activities otherwise conducted in compliance with this section.
1. Slash actively used to protect soil from disturbance by equipment or to stabilize exposed soil, may be left in place, provided that no part thereof extends more than 4 feet above the ground.
  2. Adjacent to great ponds, rivers and wetlands:
    - a. No accumulation of slash shall be left within 50 feet, horizontal distance, of the normal high-water line or upland edge of a wetland; and
    - b. Between 50 feet and 250 feet, horizontal distance, of the normal high-water line or upland edge of a wetland, all slash larger than 3 inches in diameter must be disposed of in such a manner that no part thereof extends more than 4 feet above the ground.
- A. Timber harvesting and related activities must leave adequate tree cover and shall be conducted so that a well-distributed stand of trees is retained. This requirement may be satisfied by following one of the following three options:
1. **Option 1 (40% volume removal)**, as follows:
    - a. Harvesting of no more than 40 percent of the total volume on each acre of trees 4.5 inches DBH or greater in any 10-year period is allowed. Volume may be considered to be equivalent to basal area;
    - b. A well-distributed stand of trees which is windfirm, and other vegetation including existing ground cover, must be maintained; and,
    - c. Within 75 feet, horizontal distance, of the normal high-water line of rivers, streams, and great ponds, and within 75 feet, horizontal distance, of the upland edge of a freshwater wetland, there must be no cleared openings. At distances greater than 75 feet, horizontal distance, of the normal high-water line of a river or great pond or upland edge of a wetland, timber harvesting and related activities must not create single cleared openings greater than 14,000 square feet in the forest canopy. Where such openings exceed 10,000 square feet, they must be at least 100 feet, horizontal distance, apart. Such cleared openings will be included in the calculation of total volume removal. Volume may be considered equivalent to basal area.
  2. **Option 2 (60 square foot basal area retention)**, as follows:
    - a. The residual stand must contain an average basal area of at least 60 square feet per acre of woody vegetation greater than or equal to 1.0-inch DBH, of which 40 square feet per acre must be greater than or equal to 4.5 inches DBH;
    - b. A well-distributed stand of trees which is windfirm, and other vegetation including existing ground cover, must be maintained; and,

- c. Within 75 feet, horizontal distance, of the normal high-water line of water

**815.15 Timber Harvesting – Statewide Standards (cont.)**

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

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

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

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

- D. **Skid trails, yards, and equipment operation.** This requirement applies to the construction, maintenance, and use of skid trails and yards in shoreland areas.

1. Equipment used in timber harvesting and related activities shall not use river, stream or tributary stream channels as travel routes except when surface waters are frozen and snow covered, and the activity will not result in any ground disturbance.
2. Skid trails and yards must be designed and constructed to prevent sediment and concentrated water runoff from entering a water body, tributary stream, or wetland. Upon termination of their use, skid trails and yards must be stabilized.
3. Setbacks
  - a. Equipment must be operated to avoid the exposure of mineral soil within 25 feet, horizontal distance, of any water body, tributary stream, or wetland. On slopes of 10 percent or greater, the setback for equipment operation must be increased by 20 feet, horizontal distance, plus an additional 10 feet, horizontal distance, for each 5 percent increase in slope above 10 percent. Where slopes fall away from the resource, no increase in the 25-foot setback is required.
  - b. Where such setbacks are impracticable, appropriate techniques shall be used to avoid sedimentation of the water body, tributary stream or wetland. Such techniques may include the installation of sump holes or settling basins, and/or the effective use of additional ditch relief culverts and ditch water turnouts placed to avoid sedimentation of the water body, tributary stream, or wetland. If, despite such precautions, sedimentation or the disruption of

shoreline integrity occurs, such conditions must be corrected.

- E. **Land Management Roads.** Land management roads, including approaches to crossings of water bodies, tributary stream channels, and freshwater wetlands, ditches and other related structures, must be designed, constructed, and maintained to prevent sediment and concentrated water runoff from directly entering the water body, tributary stream or wetland. Surface water on or adjacent to water crossing approaches must be diverted through vegetative filter strips to avoid sedimentation of the watercourse or wetland. Because roadside ditches may not extend to the resource being crossed, vegetative filter strips must be established in accordance with the setback requirements in Section 815.15(G) of this rule.
1. Land management roads and associated ditches, excavation, and fill must be set back at least:
    - a. 100 feet, horizontal distance, from the normal high-water line of a great pond, river or freshwater or coastal wetland;
    - b. 50 feet, horizontal distance, from the normal high-water line of streams; and
    - c. 25 feet, horizontal distance, from the normal high-water line of tributary streams
  2. The minimum 100 foot setback specified in Section 815.15(E)(1)(a) above may be reduced to no less than 50 feet, horizontal distance, and the 50 foot setback specified in Section 815.15(E)(1)(b) above may be reduced to no less than 25 feet, horizontal distance, if, prior to construction, the landowner or the landowner's designated agent demonstrates to the Planning Board's satisfaction that no reasonable alternative exists and that appropriate techniques will be used to prevent sedimentation of the water body, tributary stream, or wetland. Such techniques may include, but are not limited to, the installation of settling basins, and/or the effective use of additional ditch relief culverts and turnouts placed to avoid sedimentation of the water body, tributary stream or wetland. If, despite such precautions, sedimentation or the disruption of shoreline integrity occurs, such conditions must be corrected.
  3. On slopes of 10 percent or greater, the land management road setback must be increased by at least 20 feet, horizontal distance, plus an additional 10 feet, horizontal distance, for each 5 percent increase in slope above 10 percent.
  4. New land management roads are not allowed within the shoreland area along Significant River Segments as identified in 38 M.R.S.A. section 437, nor in a Resource Protection District, unless, prior to construction, the landowner or the landowner's designated agent makes a clear demonstration to the Planning Board's satisfaction that no reasonable alternative route exists outside the shoreland zone, and that the new road must be set back as far as practicable from the normal high-water line and screened from the river by existing vegetation.
  5. Ditches, culverts, bridges, dips, water turnouts and other water control installations associated with roads must be maintained on a regular basis to assure effective functioning. Drainage structures shall deliver a dispersed flow of water into an unscarified filter strip no less than the width indicated in the setback requirements in Section 815.15(G). Where such a filter strip is impracticable, appropriate techniques shall be used to avoid sedimentation of the water body, tributary stream, or wetland. Such techniques may include the installation of sump holes or settling basins, and/or



the effective use of additional ditch relief culverts

**815.15 Timber Harvesting – Statewide Standards (cont.)**

6. and ditch water turnouts placed to avoid sedimentation of the water body, tributary stream, or wetland. If, despite such precautions, sedimentation or the disruption of shoreline integrity occurs, such conditions must be corrected.
  7. Road closeout and discontinuance. Maintenance of the water control installations required in Section 815.15(E)(5) must continue until use of the road is discontinued and the road is put to bed by effective installation of water bars or other adequate road drainage structures at appropriate intervals, constructed to avoid surface water flowing over or under the water bar, and extending a sufficient distance beyond the traveled way so that water does not reenter the road surface.
  8. Upgrading existing roads. Extension or enlargement of presently existing roads must conform to the provisions of Section 815.15. Any nonconforming existing road may continue to exist and to be maintained, as long as the nonconforming conditions are not made more nonconforming.
  9. Exception. Extension or enlargement of presently existing roads need not conform to the setback requirements of Section 815.15(E)(1) if, prior to extension or enlargement, the landowner or the landowner's designated agent demonstrates to the Planning Board's satisfaction that no reasonable alternative exists and that appropriate techniques will be used to prevent sedimentation of the water body, tributary stream, or wetland. Such techniques may include, but are not limited to, the installation of settling basins, and/or the effective use of additional ditch relief culverts and turnouts placed to avoid sedimentation of the water body, tributary stream, or wetland. If, despite such precautions, sedimentation or the disruption of shoreline integrity occurs, such conditions must be corrected.
  10. Additional measures. In addition to the foregoing minimum requirements, persons undertaking construction and maintenance of roads and river, stream and tributary stream crossings must take reasonable measures to avoid sedimentation of surface waters.
- F. **Crossings of waterbodies.** Crossings of rivers, streams, and tributary streams must allow for fish passage at all times of the year, must not impound water, and must allow for the maintenance of normal flows.
1. Determination of flow. Provided they are properly applied and used for the circumstances for which they are designed, methods including but not limited to the following are acceptable as a means of calculating the 10 year and 25 year frequency water flows and thereby determining water crossing sizes as required in Section 815.15: The United States Geological Survey (USGS) Methods; specifically: Hodgkins, G. 1999. Estimating the Magnitude of Peak Flows for Streams in Maine for Selected Recurrence Intervals. U.S. Geological Survey. Water Resources Investigations Report 99-4008. 45 pp.
  2. Upgrading existing water crossings. Extension or enlargement of presently existing water crossings must conform to the provisions of Section 815.15. Any nonconforming existing water crossing may continue to exist and be maintained, as long as the nonconforming conditions are not made more nonconforming; however, any maintenance or repair work done below the normal high-water line

must conform to the provisions of Section 815.15.

**815.15 Timber Harvesting – Statewide Standards (cont.)**

3. Other Agency Permits. Any timber harvesting and related activities involving the design, construction, and maintenance of crossings on waterbodies other than a river, stream or tributary stream may require a permit from the Land Use Regulation Commission, the Department of Environmental Protection, or the US Army Corps of Engineers.
4. Any timber harvesting and related activities involving the design, construction, and maintenance of crossings of freshwater wetlands identified by the Department of Inland Fisheries and Wildlife as essential wildlife habitat require prior consultation with the Department of Inland Fisheries and Wildlife.
5. Notice to Bureau of Forestry. Written notice of all water crossing construction maintenance, alteration and replacement activities in shoreland areas must be given to the Bureau prior to the commencement of such activities. Such notice must contain all information required by the Bureau, including:
  - a. A map showing the location of all proposed permanent crossings;
  - b. The GPS location of all proposed permanent crossings;
  - c. For any temporary or permanent crossing that requires a permit from state or federal agencies, a copy of the approved permit or permits; and
  - d. A statement signed by the responsible party that all temporary and permanent crossings will be constructed, maintained, and closed out in accordance with the requirements of this Section.
6. Water crossing standards. All crossings of rivers require a bridge or culvert sized according to the requirements of Section 815.15(F)(7) below. Streams and tributary streams may be crossed using temporary structures that are not bridges or culverts provided:
  - a. Concentrated water runoff does not enter the stream or tributary stream;
  - b. Sedimentation of surface waters is reasonably avoided;
  - c. There is no substantial disturbance of the bank, or stream or tributary stream channel;
  - d. Fish passage is not impeded; and,
  - e. Water flow is not unreasonably impeded.Subject to Section 815.15(F)(6)(a-e) above, skid trail crossings of streams and tributary streams when channels of such streams and tributary streams are frozen and snow-covered or are composed of a hard surface which will not be eroded or otherwise damaged are not required to use permanent or temporary structures.
7. Bridge and Culvert Sizing. For crossings of river, stream and tributary stream channels with a bridge or culvert, the following requirements apply:
  - a. Bridges and culverts must be installed and maintained to provide an opening sufficient in size and structure to accommodate 25-year frequency water flows or with a cross-sectional area at least equal to 3 times the cross-sectional area of the river, stream, or tributary stream channel.
  - b. Temporary bridge and culvert sizes may be smaller than provided in Section 815.15(F)(7)(a) if techniques are effectively employed such that in the event of culvert or bridge failure, the natural course of water flow is maintained, and sedimentation of the water body or tributary stream is avoided. Such

crossing structures must be at least as wide as the channel and placed above

**815.15 Timber Harvesting – Statewide Standards (cont.)**

the normal high-water line. Techniques may include, but are not limited to, the effective use of any, a combination of, or all of the following:

- i. Use of temporary skidder bridges;
    - ii. Removing culverts prior to the onset of frozen ground conditions;
    - iii. Using water bars in conjunction with culverts;
    - iv. Using road dips in conjunction with culverts.
  - c. Culverts utilized in river, stream and tributary stream crossings must:
    - i. Be installed at or below river, stream or tributary stream bed elevation;
    - ii. Be seated on firm ground;
    - iii. Have soil compacted at least halfway up the side of the culvert;
    - iv. Be covered by soil to a minimum depth of 1 foot or according to the Culvert manufacturer's specifications, whichever is greater; and
    - v. Have a headwall at the inlet end which is adequately stabilized by riprap or other suitable means to reasonably avoid erosion of material around the culvert.
  - d. River, stream and tributary stream crossings allowed under Section 815.15, but located in flood hazard areas (i.e. A zones) as identified on a community's Flood Insurance Rate Maps (FIRM) or Flood Hazard Boundary Maps (FHBM), must be designed and constructed under the stricter standards contained in that community's National Flood Insurance Program (NFIP). For example, a water crossing may be required to pass a 100-year flood event.
  - e. Exception. Skid trail crossings of tributary streams within shoreland areas and wetlands adjacent to such streams may be undertaken in a manner not in conformity with the requirements of the foregoing subsections provided persons conducting such activities take reasonable measures to avoid the disruption of shoreline integrity, the occurrence of sedimentation of water, and the disturbance of stream banks, stream channels, shorelines, and soil lying within ponds and wetlands. If, despite such precautions, the disruption of shoreline integrity, sedimentation of water, or the disturbance of stream banks, stream channels, shorelines, and soil lying within ponds and wetlands occurs, such conditions must be corrected.
8. Skid trail closeout. Upon completion of timber harvesting and related activities, or upon the expiration of a Forest Operations Notification, whichever is earlier, the following requirements apply:
  - a. Bridges and culverts installed for river, stream, and tributary stream crossings by skid trails must either be removed and areas of exposed soil stabilized, or upgraded to comply with the closeout standards for land management roads in Section 815.15(F)(7)(a) below.
  - b. Water crossing structures that are not bridges or culverts must either be removed immediately following timber harvesting and related activities, or, if frozen into the river, stream or tributary stream bed or bank, as soon as practical after snowmelt.
  - c. River, stream and tributary stream channels, banks and approaches to crossings of water bodies and tributary streams must be immediately

stabilized on completion of harvest, or if the ground is frozen and/or snow-covered, as soon as practical after snowmelt. If, despite such precautions, sedimentation or the disruption of shoreline integrity occurs, such conditions must be corrected.

9. Land management road closeout. Maintenance of the water control features must continue until use of the road is discontinued and the road is put to bed by taking the following actions:
  - a. Effective installation of water bars or other adequate road drainage structures at appropriate intervals, constructed to reasonably avoid surface water flowing over or under the water bar, and extending sufficient distance beyond the traveled way so that water does not reenter the road surface.
  - b. Water crossing structures must be appropriately sized or dismantled and removed in a manner that reasonably avoids sedimentation of the water body or tributary stream.
  - c. Any bridge or water crossing culvert in roads to be discontinued shall satisfy one of the following requirements:
    - i. It shall be designed to provide an opening sufficient in size and structure to accommodate 25-year frequency water flows;
    - ii. It shall be designed to provide an opening with a cross-sectional area at least 3½ times the cross-sectional area of the river, stream or tributary stream channel; or
    - iii. It shall be dismantled and removed in a fashion to reasonably avoid sedimentation of the river, stream or tributary stream.

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

#### **G. Slope Table**

Filter strips, skid trail setbacks, and land management road setbacks must be maintained as specified in Section 815.15, but in no case shall be less than shown in the following table.

<b>Average slope of land between exposed Mineral soil and the shoreline (percent)</b>	<b>Width of strip between exposed mineral soil and shoreline (feet along surface of the ground)</b>
0	25
10	45
20	65
30	85
40	105
50	125
60	145

70 165

- H. **Definitions.** Unless otherwise provided herein, this Section 815.15 incorporates by reference the definitions contained in the Maine Forest Service Rules Chapter 20, “Forest Regeneration and Clearcutting Standards”, and Chapter 21, “Statewide Standards for Timber Harvesting and Related Activities in Shoreland Areas”.

#### **815.16 Timber Harvesting**

- A. In a Resource Protection District abutting a great pond, timber harvesting shall be

limited to the following:

**815.16 Timber Harvesting (cont.)**

1. Within the strip of land extending one hundred (100) feet, horizontal distance, inland from the normal high-water line, timber harvesting may be conducted when the following conditions are met:
  - a. The ground is frozen;
  - b. There is no resultant soil disturbance;
  - c. The removal of trees is accomplished using a cable or boom and there is no entry of tracked or wheeled vehicles into the 100-foot strip of land;
  - d. There is no cutting of trees less than 6 inches in diameter; no more than 30% of the trees 6 inches or more in diameter, measured at 4 ½ feet above ground level, are cut in any 10-year period; and a well-distributed stand of trees and other natural vegetation remains; and
  - e. A licensed professional forester has marked the trees to be harvested prior to a permit being issued by the municipality.
2. Beyond the 100-foot strip referred to in Section 815.16(A)(1) above, timber harvesting is permitted in accordance with paragraph B below except that in no case shall the average residual basal area of trees over 4 ½ inches in diameter at 4 1/2 feet above ground level be reduced to less than 30 square feet per acre.
- B. Except in areas as described in Section 815.16(A) above, timber harvesting shall conform with the following provisions:
  1. Within one-hundred (100) feet, horizontal distance, of the normal high-water line of a great pond classified GPA or a river flowing to a great pond classified GPA, and within seventy-five (75) feet, horizontal distance, of the normal high-water line of other water bodies, tributary streams, or the upland edge of a wetland, there shall be no clear-cut openings and a well-distributed stand of trees and other vegetation, including existing ground cover, shall be maintained.
  2. No accumulation of slash shall be left within fifty (50) feet, horizontal distance, of the normal high-water line of a water body. In all other areas slash shall either be removed or disposed of in such a manner that it lies on the ground and no part thereof extends more than four (4) feet above the ground. Any debris that falls below the normal high-water line of a water body or tributary stream shall be removed.
  3. Timber harvesting equipment shall not use stream channels as travel routes except when:
    - a. Surface waters are frozen; and
    - b. The activity will not result in any ground disturbance.
  4. All crossings of flowing water shall require a bridge or culvert, except in areas with low banks and channel beds which are composed of gravel, rock or similar hard surface which would not be eroded or otherwise damaged.
  5. Skid trail approaches to water crossings shall be located and designed so as to prevent water runoff from directly entering the water body or tributary stream. Upon completion of timber harvesting, temporary bridges and culverts shall be removed and areas of exposed soil revegetated.
  6. Except for water crossings, skid trails and other sites where the operation of machinery used in timber harvesting results in the exposure of mineral soil shall be

located such that an unscarified strip of vegetation of at least one hundred (100) feet, horizontal distance, in width for slopes up to ten (10) percent shall be retained between the exposed mineral soil and the normal high-water line of a water body or upland edge of a wetland. For each ten (10) percent increase in slope, the unscarified strip shall be increased by twenty (20) feet, horizontal distance. The provisions of this paragraph apply only to a face sloping toward the water body or wetland, provided, however, that no portion of such exposed mineral soil on a back face shall be closer than twenty-five (25) feet, horizontal distance, from the normal high-water line of a water body or upland edge of a wetland.

#### **815.17 Clearing or Removal of Vegetation for Activities Other Than Timber Harvesting**

- A. 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 815.18.

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.

- B. Except in areas as described in Section 815.17(A), above, within a strip of land extending one-hundred (100) feet, horizontal distance, inland from the normal high-water line of a great pond classified GPA or a river flowing to a great pond classified GPA, or within a strip extending seventy-five (75) feet, horizontal distance, from any other water body, tributary stream, or the upland edge of a wetland, a buffer strip of vegetation shall be preserved as follows:
1. 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.
  2. 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 815.17(B)(2) 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 - < 4 in.	1
4 - < 8 in.	2
8 - < 12 in.	4
12 in. Or greater	8

### **815.17 Clearing or Removal of Vegetation for Activities Other Than Timber Harvesting (cont.)**

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

The following shall govern in applying this point system:

- a. The 25-foot by 50-foot rectangular plots must be established where the landowner or lessee proposes clearing within the required buffer;
- b. Each successive plot must be adjacent to, but not overlap a previous plot;
- c. Any plot not containing the required points must have no vegetation removed except as otherwise allowed by this Ordinance;
- d. Any plot containing the required points may have vegetation removed down to the minimum points required or as otherwise allowed by is Ordinance;
- e. 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 815.17(B)(2) "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.

3. 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 815.17 paragraphs (B) and (B)(1) above.
  4. Pruning of tree branches, on the bottom 1/3 of the tree is allowed.
  5. 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 815.18, below, unless existing new tree growth is present.
  6. 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 815.17(B).
- C. At distances greater than one hundred (100) feet, horizontal distance, from a great pond classified GPA or a river flowing to a great pond classified GPA, and seventy-five (75) feet, horizontal distance, from the normal high-water line of any other water body, tributary stream, or the upland edge of a wetland, there shall be allowed on any lot, in any ten (10) year period, selective cutting of not more than forty (40) percent of the volume of trees four (4) inches or more in diameter, measured 4 1/2 feet above ground level. Tree removal in conjunction with the development of permitted uses shall be

included in the forty (40) percent calculation. For the purposes of these standards volume may be considered to be equivalent to basal area.

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

- D. Legally existing nonconforming cleared openings may be maintained, but shall not be enlarged, except as allowed by this Ordinance.
- E. Fields and other cleared openings which have reverted to primarily shrubs, trees, or other woody vegetation shall be regulated under the provisions of Section 815.17.

#### **815.18 Hazard Trees, Storm-Damaged Trees, and Dead Tree Removal**

- A. 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:
  - 1. 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.
  - 2. 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.
  - 3. 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.
  - 4. 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.
  - 5. 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.

- B. 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:
1. 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:
    - a. The area from which a storm-damaged tree is removed does not result in new lawn areas, or other permanently cleared areas;
    - b. Stumps from the storm-damaged trees may not be removed;
    - c. Limbs damaged from a storm event may be pruned even if they extend beyond the bottom one-third (1/3) of the tree; and
    - d. 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.
  2. 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.

#### **815.19 Exemptions to Clearing and Vegetation Removal Requirements**

The following activities are exempt from the clearing and vegetation removal standards set forth in Section 815.17 provided that all other applicable requirements of this chapter are complied with, and the removal of vegetation is limited to that which is necessary:

- A. 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 815.17 apply;
- B. The removal of vegetation from the location of allowed structures or allowed uses, when the shoreline setback requirements of section 815.2 are not applicable;
- C. The removal of vegetation from the location of public swimming areas associated with an allowed public recreational facility;
- D. The removal of vegetation associated with allowed agricultural uses, provided best management practices are utilized, and provided all requirements of section 815.14 are complied with;
- E. The removal of vegetation associated with brownfields or voluntary response action program (VRAP) projects provided that the removal of vegetation is necessary for remediation activities to clean-up contamination on a site in a general development district or other equivalent zoning district approved by the

Commissioner that is part of a state or federal brownfields program or a voluntary response action program pursuant 38 M.R.S.A section 343-E, and that is located along a river that does not flow to a great pond classified as GPA pursuant to 38 M.R.S.A section 465-A.

- F. The removal of non-native invasive vegetation species, provided the following minimum requirements are met:
  - 1. 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;
  - 2. Removal of vegetation within twenty-five (25) feet, horizontal distance, from the shoreline occurs via hand tools; and
  - 3. 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.
- G. 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.

#### **815.20 Revegetation Requirements**

When revegetation is required in response to violations of the vegetation standards set forth in Section 815.16, 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.

- A. 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.
- B. 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:
- C. 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.
- D. Revegetation activities must meet the following requirements for trees and saplings:
  - 1. All trees and saplings removed must be replaced with native noninvasive species;
  - 2. Replacement vegetation must at a minimum consist of saplings;
  - 3. If more than three (3) trees or saplings are planted, then at least three (3) different species shall be used;

4. No one species shall make up 50% or more of the number of trees and saplings planted;
  5. 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
  6. A survival rate of at least eighty (80) percent of planted trees or saplings is required for a minimum five (5) years period.
- E. Revegetation activities must meet the following requirements for woody vegetation and other vegetation under three (3) feet in height:
1. 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;
  2. 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 storm water;
  3. If more than three (3) woody vegetation plants are to be planted, then at least three (3) different species shall be planted;
  4. No one species shall make up 50% or more of the number of planted woody vegetation plants; and
  5. 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
- F. Revegetation activities must meet the following requirements for ground vegetation and ground cover:
1. 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 storm water;
  2. 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 storm water; and
  3. 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.

#### **815.21 Erosion and Sedimentation Control**

- A. 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:
1. Mulching and revegetation of disturbed soil.
  2. Temporary runoff control features such as hay bales, silt fencing or diversion ditches.
  3. Permanent stabilization structures such as retaining walls or rip-rap.
- B. 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.

- C. 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.
- D. 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:
  - 1. 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.
  - 2. Anchoring the mulch with netting, peg and twine or other suitable method may be required to maintain the mulch cover.
  - 3. 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.
- E. 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.

#### **815.22 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

#### **815.23 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.

#### **815.24 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.

## **816 Administration**

### **816.1 Administering Bodies and Agents**

- A. Code Enforcement Officer. A Code Enforcement Officer shall be appointed or reappointed annually by July 1st.
- B. Board of Appeals. A Board of Appeals shall be created in accordance with the provisions of 30-A M.R.S.A. section 2691.
- C. Planning Board. A Planning Board shall be created in accordance with the provisions of State law.

### **816.2 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.

- A. A permit is not required for the replacement of an existing road culvert as long as:
  - 1. The replacement culvert is not more than 25% longer than the culvert being replaced;
  - 2. The replacement culvert is not longer than 75 feet; and
  - 3. Adequate erosion control measures are taken to prevent sedimentation of the water, and the crossing does not block fish passage in the watercourse.
- B. 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.
- C. Any permit required by this Ordinance shall be in addition to any other permit required by other law or ordinance.

### **816.3 Permit Application**

- A. 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 814.
- B. Applicants with applications to the Planning Board shall make a written request to be placed on the Planning Board agenda at least seven (7) days prior to a regularly scheduled meeting by contacting the Code Enforcement Officer. Note: the day of request or submittal does not count as a part of the 7 days.
- C. 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.
- D. 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.

- E. 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.

#### **816.4 Procedure for Administering Permits.**

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

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

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

- A. Will maintain safe and healthful conditions;
- B. Will not result in water pollution, erosion, or sedimentation to surface waters;
- C. Will adequately provide for the disposal of all wastewater;
- D. Will not have an adverse impact on spawning grounds, fish, aquatic life, bird or other wildlife habitat;
- E. Will conserve shore cover and visual, as well as actual, points of access to inland and coastal waters;
- F. Will protect archaeological and historic resources as designated in the comprehensive plan;
- G. Will avoid problems associated with floodplain development and use; and
- H. 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.

#### **816.5 Special Exceptions.**

In addition to the criteria specified in Section 816.4 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:

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

- B. 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.
- C. All proposed buildings, sewage disposal systems and other improvements are:
  - 1. Located on natural ground slopes of less than 20%; and
  - 2. 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.
- D. 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.
- E. All structures, except functionally water-dependent structures, are set back from the normal high-water line of a water body, tributary stream or upland edge of a wetland to the greatest practical extent, but not less than 75 feet, horizontal distance. In determining the greatest practical extent, the Planning Board shall consider the depth of the lot, the slope of the land, the potential for soil erosion, the type and amount of vegetation to be removed, the proposed building site's elevation in regard to the flood-plain, and its proximity to moderate-value and high-value wetlands.

#### **816.6 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.

#### **816.7 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.

#### **816.8 Appeals**

##### **A. Powers and Duties of the Board of Appeals.**

The Board of Appeals shall have the following powers:

##### **1. Administrative Appeals:**

- a. 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.

- b. 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.
  - c. A decision of the Code Enforcement Officer to take enforcement action for violations of this ordinance or of any permit issued pursuant to this ordinance is not appealable to the Board of Appeals. This ordinance shall be enforced in accordance with 30-A MRSA §4452.
2. **Variance Appeals:** To authorize variances upon appeal, within the limitations set forth in this Ordinance.

**B. Variance Appeals.**

Variances may be granted only under the following conditions:

- 1. Variances may be granted only from dimensional requirements including, but not limited to, lot width, structure height, percent of lot coverage, and setback requirements.
- 2. Variances shall not be granted for establishment of any uses otherwise prohibited by this Ordinance.
- 3. The Board shall not grant a variance unless it finds that:
  - a. 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
  - b. The strict application of the terms of this Ordinance would result in undue hardship. The term "undue hardship" shall mean:
    - i. That the land in question cannot yield a reasonable return unless a variance is granted;
    - ii. That the need for a variance is due to the unique circumstances of the property and not to the general conditions in the neighborhood;
    - iii. That the granting of a variance will not alter the essential character of the locality; and
    - iv. That the hardship is not the result of action taken by the applicant or a prior owner.
- 4. Notwithstanding Section 816.8(B)(3)(b) above, the Board of Appeals, or the codes 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"



**816.8 Appeals (cont.)**

5. 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 816.8(B)(6) and 816.8(D)(2)(d) below.)
6. 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.
7. 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.

**C. Administrative Appeals**

To hear and decide appeals where it is alleged that there is an error in any order, requirement, decision, or determination made by, or failure to act by, the Code Enforcement Officer or Planning Board in the administration of this Ordinance

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.

**D. Appeal Procedure****1. Making an Appeal**

- a. An administrative or variance appeal may be taken to the Board of Appeals by an aggrieved party from any decision of the Code Enforcement Officer or the Planning Board, except for enforcement-related matters as described in Section 816.8(A)(1) above. Such an appeal shall be taken within thirty (30) days of the date of the official, written decision appealed from, and not otherwise, except that the Board, upon a showing of good cause, may waive the thirty (30) day requirement.

- b. Applications for appeals shall be made by filing with the Board of Appeals a written notice of appeal which includes:
  - i. A concise written statement indicating what relief is requested and why the appeal or variance should be granted.
  - ii. 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.
- c. 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.
- d. The Board of Appeals shall hold a public hearing on an administrative appeal or a request for a variance within thirty-five (35) days of its receipt of a complete written application unless this time period is extended by the parties.

**2. Decision by Board of Appeals**

- a. A majority of the full voting membership of the Board shall constitute a quorum for the purpose of deciding an appeal.
- b. The person filing the appeal shall have the burden of proof.
- c. The Board shall decide all administrative appeals and variance appeals within thirty-five (35) days after the close of the hearing and shall issue a written decision on all appeals.
- d. The Board of Appeals shall state the reasons and basis for its decision, including a statement of the facts found and conclusions reached by the Board. The Board shall cause written notice of its decision to be mailed or hand-delivered to the applicant and to the Department of Environmental Protection within seven (7) days of the Board's decision. Copies of written decisions of the Board of Appeals shall be given to the Planning Board, Code Enforcement Officer, and the municipal officers.

**E. Appeal to Superior Court.**

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

**F. Reconsideration.**

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

**816.8 Appeals (cont.)**

and testimony.

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

**816.9 Enforcement**

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

B. **Code Enforcement Officer**

1. 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.

2. 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.

3. 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.

C. **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.

D. **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.

## **Section 900--Floodplain Management**

### **901 Purpose and Establishment**

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

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

The areas of special flood hazard, are identified by the Federal Emergency Management Agency in a map entitled "Flood Insurance Rate Map - Town of Searsmont, Maine, Waldo County," dated September 27, 1985, which is hereby adopted by reference and declared to be a part of this Ordinance.

### **902 Permit Required**

Before any construction or other development (as defined in Section 908), including the placement of manufactured homes, begins within any areas of special flood hazard established in 901, a Flood Hazard Development Permit shall be obtained from the Planning Board or 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 Searsmont, Maine.

### **903 Application for Permit**

The application for a Flood Hazard Development Permit shall be submitted to the Planning Board.

- 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 or to a locally established datum, of the:

1. Base flood at the proposed site of all new or substantially improved structures, which in

Zone A is determined:

- a. From any base flood elevation data from federal, state, or other technical sources (such as FEMA's Quick-2 model, FEMA 265/July 1995), including information obtained pursuant to Section 906.K. and VIII.D.;
- b. From the contour elevation extrapolated from a best fit analysis of the floodplain boundary when overlaid onto a USGS Quadrangle Map or other topographic map prepared by a Professional Land Surveyor or registered professional engineer, if the floodplain boundary has a significant correlation to the elevation contour line(s); or, in the absence of all other data,
- c. To be the elevation of the ground at the intersection of the floodplain boundary and a line perpendicular to the shoreline which passes along the ground through the site of the proposed building.

I. A description of an elevation reference point established on the site of all developments For which elevation standards apply as required in Section 906;

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

K. The following certifications as required in Section 906 by a registered professional engineer

Or architect:

1. Floodproofing Certificate (FEMA Form 81-65, as amended), to verify that the Floodproofing methods for any non-residential structures will meet the floodproofing

Criteria of Section 903.H.4.; Section 906.G.; and other applicable standards in Section 906;

2. A Hydraulic Openings Certificate to verify that engineered hydraulic openings in Foundation walls will meet the standards of Section 905.I.L. 2a

3. A certified statement that bridges will meet the standards of Section 906.M.;

4. A certified statement that containment walls will meet the standards of Section 906.N.;

L. A description of the extent to which any water course will be altered or relocated as a Result of the proposed development; and,

M. A statement of construction plans describing in detail how each applicable development Standard in Section 906 will be met.

#### **904 Application Fee and Expert's Fee**

A non-refundable application fee as set by the Planning Board shall be paid to the Town Clerk and a copy of a receipt for the same shall accompany the application.

An additional fee may be charged if the Planning Board 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.

**905 Review standards for flood hazard development permit applications**

The Planning Board shall:

- A. Review all applications for the Flood Hazard Development Permit to assure that Proposed developments are reasonably safe from flooding and to determine that all Pertinent requirements of Section 906 (Development Standards) have been, or will be Met;
- B. Utilize, in the review of all Flood Hazard Development Permit applications:
  1. The base flood data contained in the "Flood Insurance Rate Map-, Waldo County, Maine," as described in Section 901;
  2. In special flood hazard areas where base flood elevation data are not provided, the Planning Board or Code Enforcement Officer shall obtain, review and reasonably utilize any base flood elevation and floodway data from federal, state, or other technical sources, including information obtained pursuant to Section 903.H.1.; Section 906.K and Section 908.D., in order to administer Section 906 of this Ordinance; and,
  3. When the community establishes a base flood elevation in a Zone A by methods Outlined in Section 903.H.1., the community shall submit that data to the Maine Floodplain Management Program.
- C. Make interpretations of the location of boundaries of special flood hazard areas shown  
On the maps described in Section 901 of this Ordinance;
- D. In the review of Flood Hazard Development Permit applications, determine that all necessary permits have been obtained from those federal, state, and local government agencies from which prior approval is required by federal or state law, including but not limited to Section 404 of the Federal Water Pollution Control Act Amendments of 1972, 33 U.S.C. 1344;
- E. Notify adjacent municipalities, the Department of Environmental Protection, and the Maine Floodplain Management Program prior to any alteration or relocation of a water course and submit copies of such notifications to the Federal Emergency Management Agency;
- F. If the application satisfies the requirements of this Ordinance, approve the issuance of one of the following Flood Hazard Development Permits based on the type of development:
  1. A two-part Flood Hazard Development Permit for elevated structures. Part I shall Authorize the applicant to build a structure to and including the first horizontal floor only above the base flood level. At that time the applicant shall provide the Code Enforcement Officer with an Elevation Certificate completed by a Professional Land Surveyor, registered professional engineer or architect based on the Part I permit construction, "as built", for verifying compliance with the elevation requirements of Section 906, 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,
- A Flood Hazard Development Permit for Floodproofing of Non-Residential Structures that are new construction or substantially improved non-residential structures that are not being elevated but that meet the floodproofing standards of Section 906.G.1.,2., and the application for this permit shall include a Floodproofing Certificate signed by a registered professional engineer or architect; or,
2. A Flood Hazard Development Permit for Minor Development for all development that is not new construction or a substantial improvement, such as repairs, maintenance, renovations, or additions, whose value is less than 50% of the market value of the structure. Minor development also includes, but is not limited to: accessory structures as provided for in Section 906.I., mining, dredging, filling, grading, paving, excavation, drilling operations, storage of equipment or materials, deposition or extraction of materials, public or private sewage disposal systems or water supply facilities that do not involve structures; and non-structural projects such as bridges, dams, towers, fencing, pipelines, wharves and piers.
- G. Maintain, as a permanent record, copies of all Flood Hazard Development Permit Applications, corresponding Permits issued, and data relevant thereto, including reports of the Board of Appeals on variances granted under the provisions of Section 909 of this Ordinance, and copies of Elevation Certificates, Floodproofing Certificates, Certificates of Compliance and certifications of design standards required under the provisions of Section 903, 903, and 907 of this Ordinance.

#### **906 Development standards**

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

- A. All Development - All development shall:
1. Be designed or modified and adequately anchored to prevent flotation (excluding piers and docks), collapse or lateral movement of the development resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy;
  2. Use construction materials that are resistant to flood damage;
  3. Use construction methods and practices that will minimize flood damage; and,
  4. Use electrical, heating, ventilation, plumbing, and air conditioning equipment, and other service facilities that are designed and/or located so as to prevent water from entering or accumulating within the components during flooding conditions.
- B. Water Supply - All new and replacement water supply systems shall be designed to Minimize or eliminate infiltration of flood waters into the systems.
- C. Sanitary Sewage Systems - All new and replacement sanitary sewage systems shall be designed and located to minimize or eliminate infiltration of flood waters into the system and discharges from the system into flood waters.
- D. On Site Waste Disposal Systems - On site waste disposal systems shall be located And constructed to avoid impairment to them or contamination from them during floods.
- E. Watercourse Carrying Capacity - All development associated with altered or

- relocated portions of a watercourse shall be constructed and maintained in such a manner that no reduction occurs in the flood carrying capacity of the watercourse.
- F. Residential - New construction or substantial improvement of any residential structure located within Zone A shall have the lowest floor (including basement) elevated to at least one foot above the base flood elevation utilizing information obtained pursuant to Section 903.H.1.; Section 905.B; or Section 908.D.
- G. Non-Residential - New construction or substantial improvement of any non-residential structure located within Zone A shall have the lowest floor (including basement) elevated to at least one foot above the base flood elevation utilizing information obtained pursuant to Section 903.H.1.; Section 905.B; or Section 908.D., or together with attendant utility and sanitary facilities shall:
1. Be floodproofed to at least one foot above the base flood elevation utilizing information obtained pursuant to Section 903.H.1.; Section 905.B; or Section 908.D., so that below that elevation the structure is watertight with walls substantially impermeable to the passage of water;
  2. Have structural components capable of resisting hydrostatic and hydrodynamic loads and the effects of buoyancy; and,
  3. Be certified by a registered professional engineer or architect that the floodproofing design and methods of construction are in accordance with accepted standards of practice for meeting the provisions of this section. Such certification shall be provided with the application for a Flood Hazard Development Permit, as required by Section 903.K. and shall include a record of the elevation above mean sea level to which the structure is floodproofed.
- H. Manufactured Homes - New or substantially improved manufactured homes located within Zone A shall:
1. Be elevated such that the lowest floor (including basement) of the manufactured home is at least one foot above the base flood elevation utilizing information obtained pursuant to Section 903.H.1.; Section 905.B; or Section 908.D.;
  2. Be on a permanent foundation, which may be poured masonry slab or foundation walls, with hydraulic openings, or may be reinforced piers or block supports, any of which support the manufactured home so that no weight is supported by its wheels and axles; and,
  3. Be securely anchored to an adequately anchored foundation system to resist flotation, collapse, or lateral movement. Methods of anchoring may include, but are not limited to:
    - a. Over-the-top ties anchored to the ground at the four corners of the manufactured home, plus two additional ties per side at intermediate points (manufactured homes less than 50 feet long require one additional tie per side); or by,
    - b. Frame ties at each corner of the home, plus five additional ties along each side at intermediate points (manufactured homes less than 50 feet long require four additional ties per side).
    - c. All components of the anchoring system described in Section 906.H.3.a. & b. Shall be capable of carrying a force of 4800 pounds.
- I. Recreational Vehicles- Recreational Vehicles located within
1. Zone A shall either:



- a. Be on the site for fewer than 180 consecutive days,
  - b. Be fully licensed and ready for highway use. A recreational vehicle is ready for highway use if it is on its wheels or jacking system, is attached to the site only by quick disconnect type utilities and security devices, and has n permanently attached additions; or
  - c. Be permitted in accordance with the elevation and anchoring requirements for “manufactured homes” in Section 906.H.1.
- J. Accessory Structures - Accessory Structures, as defined in Section 908, located within Zone A, shall be exempt from the elevation criteria required in Section 906.F. & G. Above, if all other requirements of Section 906 and all the following requirements are met. Accessory Structures shall:
  1. Be 500 square feet or less and have a value less than \$3000;
  2. Have unfinished interiors and not be used for human habitation;
  3. Have hydraulic openings, as specified in Section 906.L.2., in at least two different walls of the accessory structure;
  4. Be located outside the floodway;
  5. When possible be constructed and placed on the building site so as to offer the minimum resistance to the flow of floodwaters and be placed further from the source of flooding than is the primary structure; and,
  6. Have only ground fault interrupt electrical outlets. The electric service disconnect shall be located above the base flood elevation and when possible outside the Special Flood Hazard Area.
- K. Floodways - Encroachments, including fill, new construction, substantial improvement, and other development shall not be permitted in a floodway which, in Zone A riverine areas, is the channel of the river or other water course and the adjacent land areas to a distance of one-half the width of the floodplain as measured from the normal high water mark to the upland limit of the floodplain, unless a technical evaluation certified by a registered professional engineer is provided demonstrating that the cumulative effect of the proposed development, when combined with all other existing development and anticipated development:
  1. Will not increase the water surface elevation of the base flood more than one foot at any point within the community; and,
  2. Is consistent with the technical criteria contained in FEMA’s guidelines and standards for flood risk analysis and mapping.
- L. Enclosed Areas Below the Lowest Floor - New construction or substantial improvement of any structure in Zone A that meets the development standards of Section 906, including the elevation requirements of Section 906, paragraphs F, G, or H and is elevated on posts, columns, piers, piles, "stilts," or crawlspace may be enclosed below the base flood elevation requirements provided all the following criteria are met or exceeded:
  1. Enclosed areas are not "basements" as defined in Article XIII;
  2. Enclosed areas shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of flood water. Designs for meeting this requirement must either:
    - a. Be engineered and certified by a registered professional engineer or architect;
    - or,

- b. Meet or exceed the following minimum criteria:
  - (1) A minimum of two openings having a total net area of not less than one square inch for every square foot of the enclosed area;
  - (2) The bottom of all openings shall be below the base flood elevation and no higher than one foot above the lowest grade; and,
  - (3) Openings may be equipped with screens, louvers, valves, or other coverings or devices provided that they permit the entry and exit of flood waters automatically without any external influence or control such as human intervention, including the use of electrical and other non-automatic mechanical means;
- 3. The enclosed area shall not be used for human habitation; and,
- 4. The enclosed areas are usable solely for building access, parking of vehicles, or storage.
- M. Bridges - New construction or substantial improvement of any bridge in Zone A shall Be designed such that:
  - 1. When possible, the lowest horizontal member (excluding the pilings, or columns) Is elevated to at least one foot above the base flood elevation utilizing information Obtained pursuant to Section 903.H.1.; Section 905.B; or Section 908.D.; and
  - 2. A registered professional engineer shall certify that:
    - a. The structural design and methods of construction shall meet the elevation requirements of this section and the floodway standards of Section 906.J.; and
    - b. The foundation and superstructure attached thereto are designed to resist flotation, collapse and lateral movement due to the effects of wind and water loads acting simultaneously on all structural components. Water loading values used shall be those associated with the base flood.
- N. Containment Walls - New construction or substantial improvement of any containment wall located within Zone A shall:
  - 1. Have the containment wall elevated to at least one foot above the base flood elevation utilizing information obtained pursuant to Section 903.H.1.; Section 905.B.; or Section 908.D.
  - 2. Have structural components capable of resisting hydrostatic and hydrodynamic loads and the effects of buoyancy; and
  - 3. Be certified by a registered professional engineer or architect that the design and methods of construction are in accordance with accepted standards of practice for meeting the provisions of this section. Such certification shall be provided with the application for a Flood Hazard Development Permit, as required by Section 903.K.
- O. Wharves, Piers and Docks - New construction or substantial improvement of wharves, piers, and docks are permitted in Zone A in and over water and seaward of the mean high tide if the following requirements are met:
  - 1. Wharves, piers, and docks shall comply with all applicable local, state, and federal regulations; and
  - 2. For commercial wharves, piers, and docks, a registered professional engineer shall develop or review the structural design, specifications, and plans for the construction.

**907 Certificate of compliance**

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

- A. For New Construction or Substantial Improvement of any elevated structure the applicant shall submit to the Code Enforcement Officer, an Elevation Certificate completed by a Professional Land Surveyor, registered professional engineer, or architect, for compliance with Section 906, 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.

**908 Review of Subdivision and Development Proposals**

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

- A. All such proposals are consistent with the need to minimize flood damage.
- B. All public utilities and facilities, such as sewer, gas, electrical and water systems are located and constructed to minimize or eliminate flood damages.
- C. Adequate drainage is provided so as to reduce exposure to flood hazards.
- D. All proposals include base flood elevations, flood boundaries, and, in a riverine floodplain, floodway data. These determinations shall be based on engineering practices recognized by the Federal Emergency Management Agency.
- E. Any proposed development plan must include a condition of plan approval requiring that structures on any lot in the development having any portion of its land within a Special Flood Hazard Area, are to be constructed in accordance with Section 906 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.

**909 Appeals and Variances**

The Board of Appeals of the Town of Searsmont 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 Section 909 and Section 906.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 Section 909, 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 Section 909, 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 Planning Board and Code Enforcement Officer a report of all variance actions, including justification for the granting of the variance and an authorization for the Planning Board to issue a Flood Hazard Development Permit, which includes any conditions to be attached to said permit.
7. Any aggrieved party who participated as a party during the proceedings before the Board of Appeals may take an appeal to Superior Court in accordance with State laws within forty-five days from the date of any decision of the Board of Appeals.

**910 Enforcement and Penalties**

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

**911 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.

**912 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.

**913 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).

## **Section 1000 - Subdivisions & Mobile Home Parks**

### **1001 General Provisions**

#### **1001.1 Purposes, Statutory Review Criteria, Applicability, Permit Required, Authority,**

The purposes of these regulations are:

- A. To provide for an expeditious and efficient process for the review of proposed subdivisions;
- B. To assure new development in the Town of Searsmont meets the goals and conforms to the policies of the Town's Comprehensive Plan;
- C. To assure the comfort, convenience, safety, health and welfare of the people of the Town of Searsmont, to protect the environment and conserve the natural and cultural resources identified in the Comprehensive Plan;
- D. To assure that a minimal level of services and facilities are available to the residents of new subdivisions and that lots in subdivisions are capable of supporting the proposed uses and structures;
- E. To minimize the potential impacts from new subdivisions on neighboring properties and on the municipality; and
- F. To promote the development of an economically sound and stable community.

#### **1001.2 Statutory Review Criteria:**

When reviewing any application for a subdivision, as defined by Section 300, the Planning Board shall find that the following criteria as found in Title 30-A M.R.S.A. §4404 have been met, as well as all applicable provisions of the Land Use Ordinance have been met, before granting approval.

The proposed project:

- A. Will not result in undue water or air pollution. In making this determination, the Board shall at least consider:
  - 1. The elevation of the land above sea level and its relation to the flood plains;
  - 2. The nature of soils and subsoil's and their ability to adequately support waste water Disposal;
  - 3. The slope of the land and its effect on effluents;
  - 4. And
  - 5. The applicable State and local health, air and water resources rules and Regulations;
- B. Has sufficient water available for the reasonably foreseeable needs of the subdivision;
- C. Will not cause an unreasonable burden on an existing water supply, if one is to be utilized;
- D. Will not cause unreasonable soil erosion or reduction in the land's capacity to hold water so that a dangerous or unhealthy condition results;
- E. 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, the Department of Transportation has provided documentation indicating that the driveways or entrances conform to Title 23, section 812 and any rules adopted under that section;
- F. Will provide for adequate sewage waste disposal and will not cause an unreasonable burden on municipal services if they are utilized;
  - G. Will not cause an unreasonable burden on the municipality's ability to dispose of solid waste if municipal services are to be utilized;
  - H. Will not have an undue adverse effect on the historic sites, significant wildlife habitat, excluding significant vernal pools, identified by the Department of Inland Fisheries and Wildlife or the municipality
  - I. Is in conformance with a duly adopted subdivision ordinance, comprehensive plan, development plan or land use plan, if any. In making this determination, the Planning Board may interpret these ordinances and plans;
  - J. The developer has adequate financial and technical capacity to meet the standards of this section.
  - K. 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, sections 435 through 490, will not adversely affect the quality of such body of water or unreasonably affect the shoreline of such body of water.
  - L. Will not, alone or in conjunction with existing activities, adversely affect the quality or quantity of ground water; and
  - M. 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 or any part of it, is in a flood-prone area, the subdivider shall determine the 100-year flood elevation and flood hazard boundaries within the subdivision. The proposed subdivision plan must include a condition of plan approval requiring that principal structures in the subdivision will be constructed with their lowest floor, including the basement, at least one foot above the 100-year flood elevation;
  - N. 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. Larger than 5,000 square feet. Wetlands shall be delineated by a qualified professional knowledgeable in soils, vegetation and hydrology;
  - O. Any river or stream 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 has the same meaning as defined in our LUO
  - P. The proposed subdivision will provide for adequate storm water management;
  - Q. If any lots in the proposed subdivision have shore frontage on a river, stream, brook, great pond as these features are defined in Title 38, section 480-B, none of the lots created within the subdivision have a lot depth to shore frontage ratio greater than 5 to 1;
  - R. 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;
  - S. 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.

- T. Lands subject to liquidation harvesting. Timber on the parcel being subdivided has not been harvested in violation of rules adopted pursuant to Title 12, M.R.S.A section 8869, subsection 14. If a violation of rules adopted by the Maine Forest Service to substantially eliminate liquidation harvesting has occurred, the Planning 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 Planning Board may request technical assistance from the Department of Conservation, Bureau of Forestry to determine whether a rule violation has occurred, or the Board may accept a determination certified by a forester licensed pursuant to Title 32, chapter 76. If the Bureau agrees to provide assistance, it shall make a finding and determination as to whether a rule violation has occurred. If the Bureau notifies the Planning Board that it will not provide assistance, the Board 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, M.R.S.A 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.

#### **1001.3 Applicability**

The provisions of these standards shall pertain to all land proposed for subdivision, as Defined in Title 30-A MRSA §4401(4), within the boundaries of the Town of Searsmont.

#### **1001.4 Permit Required**

- A. No person shall construct, develop, establish, expand or operate a subdivision or mobile home park without first having obtained a permit from the Planning Board. A permit shall be granted for a period of (1) one-year. If construction is not initiated within the (1) one-year period, the permit expires, and the applicant must reapply to the Planning Board for another permit. Each permit shall be issued only for the site designated in the plans accompanying the final application.
- B. No utility installations; no ditching, grading or construction of roads; no grading of land or lots; and no construction of buildings shall be done on any part of the subdivision or mobile home park until the application has been prepared, submitted, reviewed, approved, and endorsed as provided for by these regulations, nor until an attested copy of the plan so approved and endorsed has been recorded by the subdivider in the Registry of Deeds.

#### **1001.5 Authority.**

See Section 102

#### **1001.6 Administration.**

See Section 200

#### **1001.7 Amendments.**

See Section 108

**1001.8 Applicability**

See Section 104

**1001.9- Definitions**

See Section 1400

**1002 Preapplication Sketch Plan Meeting and Site Inspection**

Applicants shall make a written request to be placed on the Planning Board's agenda at least seven (7) days prior to a regularly scheduled meeting by contacting the Code Enforcement Officer (note: the day of request or submittal does not count as part of the 7 days).

**1002.1 Purpose.**

The purpose of the sketch plan meeting and on-site inspection is for the applicant to present general information regarding the proposed subdivision to the Board and receive the Board's comments prior to the expenditure of substantial sums of money on surveying, soils identification, and engineering by the applicant.

**1002.2 Procedure.**

- A. The applicant shall present the Preapplication Sketch Plan and make a verbal presentation regarding the site and the proposed subdivision.
- B. Following the applicant's presentation, the Board may ask questions, point out potential problems or issues for future discussions, and make suggestions to be incorporated by the applicant into the subsequent application. Substantive, lengthy discussions about compliance with review standards or the consideration of waiver requests shall be postponed until the subsequent review of the full application.
- C. The date of the on-site inspection is selected.

**1002.3 Submissions**

Three (3) copies of the sketch plan and all supporting materials must be submitted 7 days prior to a regularly scheduled Planning Board meeting, in order to be placed on the Board's agenda (note: the day of request or submittal does not count as part of the 7 days). The sketch plan shall show, in simple sketch form, the proposed layout of streets, lots, buildings and other features in relation to existing conditions. The sketch plan, which does not have to be engineered and may be a freehand penciled sketch, shall show site conditions such as steep slopes, wet areas and vegetative cover in a general manner. The sketch plan shall be supplemented with a written project narrative, with general information to describe or outline the existing conditions of the site and a full description of the proposed development. The narrative should include general proposals for how any common areas and infrastructure will be managed and maintained. It is recommended that the sketch plan be superimposed on or accompanied by a copy of the Assessor's Map(s) on which the land is located. The sketch plan shall be accompanied by:

- A. A sketch plan application form, and a sketch plan application fee (See Appendix E) no charge for Preapplication.
- B. A copy of a portion of the U.S.G.S. topographic map of the area showing the outline of the proposed subdivision; unless the proposed subdivision is less than 10 acres in size.
- C. A copy of that portion of the Waldo County Soil Survey covering the proposed

- subdivision, showing the outline of the proposed subdivision development, and
- D. A written project narrative as described above.

#### **1002.4 Contour Intervals and On-Site Inspections.**

Within thirty days The Board shall:

- A. Determine and inform the applicant in writing of the required contour interval (the contour interval on the applicable 1:24000 United States Geological Survey quadrangle map or as specified) on the Preliminary Plan (or Final Plan in the case of a Minor Subdivision); and
- B. Hold an on-site inspection of the property.

The applicant shall place "flagging" at the centerline of any proposed streets, and at the approximate intersection of the street centerline and lot corners, prior to the on-site inspections. The Board may choose not to conduct on-site inspections when there is inclement weather or snow on the ground. On-site inspections shall be noticed as required by 1 M.R.S.A. §§401-410, and the public shall be allowed to accompany the Board. Minutes shall be taken in the same manner as for regular meetings.

#### **1002.5 Rights not vested.**

The submittal or review of the pre-application sketch plan shall not be considered the initiation of the review process for the purpose of bringing the plan under the protection of Title 1, MRSA, §302.

#### **1002.6 Records**

Following the sketch plan meeting the Board shall establish a file for the proposed subdivision. All correspondence and submissions regarding the sketch plan meeting and application shall be maintained in the file.

### **1003 Application Procedures**

#### **1003.1 Preliminary Plan Application**

A. Procedure

Within six months after the on-site inspection by the Board, the subdivider shall submit an application for approval of a Plan at least seven days prior to a scheduled meeting of the Board (note: the day of request or submittal does not count as part of the 7 days). Failure to do so shall require a resubmission of the Sketch Plan to the Board. The Plan shall approximate the layout shown on the Sketch Plan, plus any recommendations made by the Board.

1. All applications for preliminary plan shall be accompanied by a nonrefundable application fee according to appendix E of the LUO per dwelling unit, payable by check to the municipality. In addition, 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, to be used by the Board for hiring independent consulting services to review engineering and other technical submissions associated with the application, and to ensure compliance with the Zoning Ordinance and Subdivision Regulations. 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.

- Any balance in the escrow account remaining after a decision on the final plan application by the Board shall be returned to the applicant.
2. The subdivider shall certify to the Board that all owners of abutting property have been notified that an application for subdivision approval has been submitted to the Board.
  3. The Board shall not review any preliminary plan application unless the applicant or applicant's representative attends the meeting. Should the applicant or applicant's representative fail to attend, the Board shall reschedule review of the application.
  4. Within three days of the receipt of the Preliminary Plan application, the Board, or its designee, shall:
    - a. Issue a dated receipt to the applicant.
    - b. Notify the Code Enforcement Officer and the review authority of the neighboring municipalities if any portion of the subdivision abuts or crosses the municipal boundary.
  5. Within thirty days of the receipt of the preliminary plan application, the Board shall  
Determine whether the application is complete and notify the applicant in writing of its determination. If the application is not complete, the Board shall notify the applicant of the specific additional material needed to complete the application.
  6. Upon determination that a complete application has been submitted for review, the Board shall also notify the Road Commissioner, Fire Chief and Superintendent of  
Schools of the proposed subdivision, the number of dwelling units proposed, the length of roadways, and the size and construction characteristics of any multifamily,  
Commercial or industrial buildings. The Board shall request that these officials Comment upon the adequacy of their department's existing capital facilities to service  
The proposed subdivision. The Board shall determine whether to hold a public hearing on the preliminary plan application.
  7. If the Board decides to hold a public hearing, it shall hold the hearing within thirty days of receipt of a complete application, and shall publish notice of the date, time, and place of the hearing in a newspaper of general circulation in the municipality at least two times, the date of the first publication to be at least seven days prior to the hearing. In addition, the notice of the hearing shall be posted in at least three prominent places within the municipality at least seven days prior to the hearing. A copy of the notice shall be sent by First Class mail to abutting landowners and to the applicant, at least ten days prior to the hearing.
  8. Within thirty days of a public hearing, or within sixty days of receipt of a complete application, if no hearing is held, or within another time limit as may be otherwise mutually agreed to by the Board and the subdivider, the Board shall make findings of fact on the application, and approve, approve with conditions, or deny the Plan. The Board shall specify in writing its findings of facts and reasons for any conditions or denial.
  9. When granting approval to a preliminary plan, 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 the required improvements for which waivers may have been requested and which the Board finds may be waived without jeopardy to the public health, safety, and general welfare; and
- c. Land improvements and road construction items for which cost estimates and Performance guarantees will be required as prerequisite to the approval of the final plan.

10. 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 design of the preliminary plan 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 these regulations and the conditions of preliminary approval, if any. Prior to the approval of the final plan, the Board may require that additional information be submitted and changes in the plan be made as a result of further study of the proposed subdivision or as a result of new information received.

**B. Mandatory Submissions for Preliminary Plan**

The applicant shall, at least seven (7) days prior to a regularly scheduled meeting contact the Code Enforcement Officer to be placed on the Board's agenda and deliver eight (8) copies of the following materials to the Town Office as part of the Preliminary Plan. (note: the day of request or submittal does not count as part of the 7 days). The Board may require additional information to be submitted, as necessary, in order to determine whether the criteria of Title 30-A M.R.S.A., §4404 are met.

**1. Application Form.**

Eight (8) copies of the application form and any accompanying information.

**2. 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:

- a. Existing subdivisions in the proximity of the proposed subdivision.
- b. Locations and names of existing and proposed streets.
- c. Boundaries and designations of zoning districts.
- d. An outline of the proposed subdivision and any remaining portion of the owner's property if the preliminary plan submitted covers only a portion of the owner's entire contiguous holding.

**3. Preliminary Plan.**

The preliminary plan may be printed or reproduced on paper, with all dimensions shown in feet or decimals of a foot. The preliminary plan shall be drawn to a scale of not more than 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 easily be read. The application materials for preliminary plan approval shall include the following information:

- a. Proposed name of the subdivision, or identifying title, and the name of the municipality in which it is located, plus the Tax Assessor's Map and Lot numbers.

- b. Verification of right, title or interest in the property by deed, purchase and sales  
Agreement, option to purchase, or some other proof of interest.
  - c. A standard boundary survey of the parcel, giving complete descriptive data by Bearings and distances, made and certified by a licensed land surveyor. The corners of the tract shall be located on the ground and marked by monuments. The plan shall indicate the type of monument to be set or found at each lot corner, the entire parcel or tract shall be shown, including all contiguous land in common ownership within the last five years, as required by Title 30-A M.R.S.A. section 4401.
- 4. A copy of the most recently recorded deed (from which the survey was based). A copy of all covenants or deed restrictions, easements, rights-of-way, or other encumbrances currently affecting the property.
  - 5. A copy of any covenants or deed restrictions intended to cover all or part of the lots in the subdivision.
  - 6. Indication of the type of sewage disposal to be used in the subdivision.
    - a. When sewage disposal is to be accomplished by subsurface wastewater disposal systems, test pit analyses, prepared by a Licensed Site Evaluator shall be provided.
    - b. A map showing the location of all test pits dug on the site shall be submitted.
  - 7. Indication of the type of water supply system(s) to be used in the subdivision.
    - a. When water is to be supplied by private wells, evidence of adequate ground water supply and quality shall be submitted by a well driller or a hydro geologist familiar with the area.
  - 8. The date the plan was prepared, magnetic north point, graphic map scale, names and addresses of the record owner, subdivider, and individual or company who prepared the plan
  - 9. The names and addresses of owners of record of adjacent property, including any property directly across an existing public street from the subdivision.
  - 10. The zoning district in which the proposed subdivision is located and the location of any zoning boundaries affecting the subdivision.
  - 11. A copy or digitized version of the portion of the County Soil Survey covering the subdivision.
  - 12. The number of acres within the proposed subdivision, location of property lines, Existing buildings, watercourses, vegetative cover type, and other essential existing physical features. On wooded sites, the plan shall indicate the area where clearing for lawns, structures or other cover shall be permitted and any proposed restrictions to be placed on clearing existing vegetation.
  - 13. The location of all rivers and streams within or adjacent to the proposed subdivision. If any portion of the proposed subdivision is located in the direct watershed of a great pond, the application shall indicate which great pond.
  - 14. If any portion of the subdivision is in a flood-prone area, the boundaries of any flood hazard areas and the 100-year flood elevation shall be delineated on the plan.
  - 15. The location and size of existing and proposed sewers, water mains, culverts, and drainage ways on or adjacent to the property to be subdivided.

16. The location, names, and present widths of existing and proposed streets, highways, easements, building lines, parks and other open spaces on or adjacent to the subdivision.
17. The width and location of any streets, public improvements or open space shown upon the official map and the comprehensive plan, if any, within the subdivision.
18. The proposed lot lines with approximate dimensions and lot areas.
19. All parcels of land proposed to be dedicated to public use and the conditions of such dedication.
20. The location of any open space to be preserved and a description of proposed improvements and its management.
21. All areas within or adjacent to the proposed subdivision which are either listed on or eligible to be listed on the National Register of Historic Places or have been identified in the comprehensive plan .

C. Required Submissions for which a Waiver May be Granted.

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 submission requirement by the Planning Board, pursuant to Article 12, Waivers. (8) eight copies of all materials shall be delivered to the Town Office, at least seven (7) days (note: the day of request or submittal does not count as part of the 7 days) prior to a regularly scheduled Planning Board meeting, in order for the application to be placed on the Board's agenda. The Board may require additional information to be submitted, as necessary, in order to determine whether the criteria of Title 30-A M.R.S.A., §4404 are met.

1. A high-intensity soil survey by a soil scientist.
2. Contour lines at the interval specified by the Planning Board, showing elevations in relation to mean sea level.
3. Hydro geologic assessment.

A hydro geologic assessment prepared by a certified geologist or registered professional engineer, experienced in hydrogeology, when the subdivision is not served by public sewer and:

- a. Any part of the subdivision is located over a sand and gravel aquifer, as shown on a map entitled "Hydrogeologic Data for Significant Sand and Gravel Aquifers," by the Maine Geological Survey, 1998, File No. 98-138, 144 and 147; or
- b. The subdivision has an average density of more than one dwelling unit per 100,000 square feet.

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 include extensive areas of shallow to bedrock soils; or cluster 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 proposed use of shared or common subsurface wastewater disposal systems. The hydrogeologic assessment shall be conducted in accordance with the provisions of section 10.9 below.

4. An estimate of the amount and type of vehicular traffic to be generated daily and

at peak hours. Trip generation rates used 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 that these sources better reflect local conditions.

5. Traffic Impact Analysis. 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 Registered Professional Engineer with experience in traffic engineering, shall be submitted. The analysis shall indicate the expected average daily vehicular trips, peak-hour volumes, access conditions at the site, distribution of traffic, types of vehicles expected, effect upon the level of service of the street giving access to the site and neighboring streets which may be affected, and recommended improvements to maintain the desired level of service on the affected streets.
- E. The Planning Board may require any additional information not listed above when it is determined necessary by the Board to determine whether the statutory review criteria of Title 30-A M.R.S.A. §4404 have been met.

### **1003.2 Final Plan Application**

#### **A. Final Plan Approval Procedure**

1. The subdivider shall, within six months after the approval of the Preliminary Plan, file with the Board an application for approval of the Final Plan, with all supporting materials, at least seven days prior to a scheduled meeting of the Board (note: the day of request or submittal does not count as part of the 7 days). If the application for the Final Plan is not submitted within six months after Preliminary Plan approval, the Board shall require resubmission of the preliminary plan, except as stipulated below. The Final Plan shall approximate the layout shown on the Preliminary Plan, plus any recommendation made by the Board.  
If an applicant cannot submit the final plan within six months, due to delays caused by other regulatory bodies, or other reasons, the applicant may request an extension. Such a request for an extension to the filing deadline shall be filed, in writing, with the Board prior to the expiration of the filing period. In considering the request for an extension the Board shall make findings that the applicant has made due progress in preparation of the final plan and in pursuing approval of the plans before other agencies, and that municipal ordinances or regulations which may impact on the proposed development have not been amended.
2. All applications for Final Plan approval for Major Subdivision shall be accompanied by a nonrefundable application fee, see Appendix E. As determined in accordance with Section 402 per lot or dwelling unit payable by check to the municipality. If a public hearing is deemed necessary by the Board; an additional fee shall be required to cover the cost of advertising and postal notification. The Planning Board may continue to require the replenishment of the escrow account for hiring independent consulting services to review the application for final plan approval, along with any supporting materials, pursuant to the procedures of section.
3. Prior to submittal of the Final Plan application, the following approvals shall be obtained in writing, where appropriate:



- a. Maine Department of Environmental Protection, under the Site Location of Development Act.
- b. Maine Department of Environmental Protection, under the Natural Resources Protection Act or Storm Water Law, or if an MEPDES wastewater discharge license is needed.
- c. Maine Department of Human Services, if the applicant proposes to provide a public water system.
- d. Maine Department of Human Services, if an engineered subsurface waste water disposal system(s) is to be utilized.
- e. U.S. Army Corps of Engineers, if a permit under Section 404 of the Clean Water Act is required.
- f. Maine Department of Transportation Traffic Movement Permit, and/or Highway Entrance/Driveway Access Management Permit

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.

4. If the preliminary plan identified any areas listed on or eligible to be listed on the National Register of Historic Places, in accordance with Section 6.2.C.23, the applicant shall submit a copy of the plan and a copy of any proposed mitigation measures to the Maine Historic Preservation commission prior to submitting the final plan application.
5. Written approval of any proposed street names from the Town of Searsmont E911 Addressing Officer.
6. The Board shall not review any final plan application unless the applicant or applicant's representative attends the meeting. Should the applicant or applicant's representative fail to attend, the Board shall reschedule review of the application at its next regular meeting.
7. Within three days of the receipt of the Final Plan application, the Board, or its designee, shall issue a dated receipt to the applicant.
8. Within thirty days of the receipt of the final plan application, the Board shall determine whether the application is complete and notify the applicant in writing of its determination. If the application is not complete, the Board shall notify the applicant of the specific additional material needed to complete the application.
9. The Board shall determine whether to hold a public hearing on the Final Plan application.
10. A public hearing may be held by the Board within thirty days after the issuance of a receipt for the submittal of a complete application. This hearing shall be advertised in a newspaper of local circulation at least two times, the date of the first publication to be at least seven days before the hearing and the notice of the hearing shall be posted in at least three prominent places at least seven days prior to the hearing. A copy of the notice shall be sent by First Class mail, by the Planning Board Clerk, to abutting landowners and to the applicant, at least ten days prior to the hearing (note: the day of request or submittal does not count as part of the 10 days).

11. When a subdivision is located within 500 feet of a municipal boundary, and a public hearing is to be held, the Board shall notify the Clerk and the Planning Board of the adjacent municipality involved, at least ten days prior to the hearing (note: the day of request or submittal does not count as part of the 10 days).
12. The Board shall notify the Road Commissioner, School Superintendent, Police Chief, and Fire Chief of the proposed subdivision, the number of dwelling units proposed the length of roadways, and the size and construction characteristics of any multi-family, commercial or industrial buildings. The Board shall request that these officials comment upon adequacy of their department's existing capital facilities to service the proposed subdivision.
13. Before the Board grants approval of the Final Plan the subdivider shall meet the performance guarantee requirements contained in Section 1008.
14. If the subdivision is located in more than one municipality, the Board may require meeting with the Planning Board of the adjacent municipality to discuss the Plan.
15. The Board, within thirty days from the public hearing or within sixty days of receiving a complete application, if no hearing is held, or within another time limit as may be otherwise mutually agreed to by the Board and the applicant, shall make findings of fact, and conclusions relative to the standards contained in Title 30-A, MRSA §4404 and in these regulations. If the Board finds that all standards of the Statute and these regulations have been met, they shall approve the Final Plan. If the Board finds that any of the standards of the Statute or these regulations have not been met, the Board shall either deny the application or approve the application with conditions to ensure all of the standards will be met by the subdivision. The reason for any conditions shall be stated in the records of the Board.

**B. Final Plan Approval Submissions**

The final plan shall consist of one or more maps or drawings drawn to a scale of not More than one hundred feet to the inch. Plans for subdivisions containing more than one hundred acres may be drawn at a scale of not more than two hundred feet to the inch provided all necessary detail can easily be read. Plans shall be no larger than 24 by 36 inches in size and shall have a margin of two inches outside of border line on the left side for binding and a one-inch margin outside the border along the remaining sides. Space shall be reserved on the plan for endorsement by the Board. 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 final plan shall include or be accompanied by the following mandatory submissions of information.

1. Completed Final Plan Application Form and Final Plan Application Submissions Checklist.
2. Proposed name of the subdivision and the name of the municipality in which it is Located, plus the assessor's map and lot numbers.
3. The number of acres within the proposed subdivision, location of property lines, existing buildings, watercourses, and other essential existing physical features.
4. An indication of the type of sewage disposal to be used in the subdivision. When sewage disposal is to be accomplished by connection to the public sewer, a

- written statement from the sewer district indicating the district has reviewed and approved the sewerage design shall be submitted.
5. An indication of the type of water supply system(s) to be used in the subdivision.
    - a. When water is to be supplied by an existing public water supply, a written statement from the servicing water district shall be submitted indicating the district has reviewed and approved the water system design.
    - b. A written statement shall be submitted from the fire chief approving all hydrant locations or other fire protection measures deemed necessary.
    - c. When water is to be supplied by private wells, evidence of adequate ground water supply and quality shall be submitted by a well driller or a hydrogeologist familiar with the area.
  6. The date the plan was prepared, north point, graphic map scale.
  7. The names and addresses of the record owner, applicant, and individual or company who prepared the plan.
  8. The location of any zoning boundaries affecting the subdivision.
  9. 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.
  10. The location and size of existing and proposed sewers, water mains, culverts, and drainage ways on or adjacent to the property to be subdivided.
  11. The location, names, and present widths of existing and proposed streets, highways, easements, buildings, 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. The location, bearing and length of street lines, lot lines and parcel boundary lines shall be certified by a professional land surveyor. The original reproducible plan shall be embossed with the seal of the professional land surveyor and be signed by that individual.
  12. Street plans, meeting the requirements of Section 1006.16.
  13. The width and location of any proposed new streets or public improvements or open space within the subject property that are shown upon the official map, in the comprehensive plan, or Capital Improvements Program, if any.
  14. All parcels of land proposed to be dedicated to public use and the conditions of such dedication. Written offers to convey title to the municipality 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 shall be submitted. These may include homeowners' association by laws and condominium declarations. If proposed streets and/or open spaces or other land is to be offered to the municipality, written evidence that the Municipal Officers are satisfied with the legal sufficiency of the written offer to convey title shall be included.
  15. The boundaries of any flood hazard areas and the 100-year flood elevation as depicted on the municipality's Flood Insurance Rate Map, shall be delineated on the plan.
  16. The location and method of disposal for land clearing and construction debris.

C. Required Submissions for which a Waiver May be Granted.

The final plan shall also include or be accompanied by the following information, unless a waiver is requested and granted pursuant to Section 1008, Waivers:

1. An erosion and sedimentation control plan prepared in accordance with the Maine Erosion and Sediment Control Handbook for Construction, Best Management Practices, published by the Maine Department of Environmental Protection and the Cumberland County Soil and Water Conservation District, 1991. The Board may waive submission of the erosion and sedimentation control plan only if the subdivision is not in the watershed of a great pond, and upon a finding that the proposed subdivision will not involve road construction or grading which changes drainage patterns and if the addition of impervious surfaces such as roofs and driveways is less than 5% of the area of the subdivision.
2. A storm water management plan, prepared by a registered professional engineer in accordance with the most recent edition of Stormwater Management for Maine: BMPS Technical Design Manual, published by the Maine Department of Environmental Protection, 2006. Another methodology may be used if the applicant can demonstrate it is equally applicable to the site. The Board may waive submission of the storm water management plan only if the subdivision is not in the watershed of a great pond, and upon a finding that the proposed subdivision will not involve road construction or grading which changes drainage patterns and if the addition of impervious surfaces such as roofs and driveways is less than 5% of the area of the subdivision.
3. If any portion of the proposed subdivision is in the direct watershed of a great Pond and meets the criteria of section 10.12.D, the following shall be submitted Or indicated on the plan:
  - a. A phosphorus impact analysis and control plan conducted using the procedures set forth in DEP Phosphorus Design Manual, Volume II of the Maine Stormwater Best Management Practices Manual, 2006. The analysis and control plan shall include all worksheets, engineering calculations, and construction specifications and diagrams for control measures, as required by the Technical Guide.
  - b. A long-term maintenance plan for all phosphorus control measures.
  - c. The contour lines shown on the plan shall be at an interval of no less than five Feet.
  - d. Areas with sustained slopes greater than 25% covering more than one acre shall  
Be delineated.
4. A list of construction items with cost estimated that will be completed by the developer prior to the sale of lots. A separate list of construction and maintenance items, with both capital and annual operating cost estimated, that must be financed by the municipality, or quasi-municipal districts. These lists shall include but not limited to:
  - Schools, including busing
  - Street maintenance and snow removal
  - Police and fire protection
  - Solid waste disposal

Recreational facilities  
Storm water drainage  
Waste water treatment  
Water supply

5. The developer shall provide an estimate of the net increase in taxable assessed valuation at the completion of the construction of the subdivision.

D. Final Approval and Filing

1. No plan shall be approved by the Board as long as the subdivider is in violation of the provisions of a previously approved Plan within the municipality.
2. Upon findings of fact and determination that all standards in Title 30-A, M.R.S.A. §4404 and these regulations have been met, and upon voting to approve the subdivision, the Board shall sign the Final Plan. The Board shall specify in writing its findings of facts and reasons for any conditions or denial. One copy of the signed plan shall, be retained by the Board as part of its permanent records. One copy of the signed plan shall be forwarded to the Tax Assessor. One copy of the signed plan shall be forwarded to the Code Enforcement Officer. Any subdivision not recorded in the Registry of Deeds within ninety days of the date upon which the plan is approved and signed by the Board shall become null and void.
3. At the time the Board grants Final Plan approval, it may permit the Plan to be divided into two or more sections subject to any conditions the Board deems necessary in order to insure the orderly development of the Plan. If any municipal or quasi-municipal department head notified of the proposed subdivision informs the Board that their department or district does not have adequate capital facilities to service the subdivision, the Board shall require the plan to be divided into two or more sections subject to any conditions the Board deems necessary in order to allow the orderly planning, financing and provision of public services to the subdivision. If the expansion, addition or purchase of the needed facilities is included in the municipality's capital improvements program, the time period of the phasing shall be no longer than the time period contained in the capital improvements program for the expansion, addition or purchase. If the superintendent of schools indicates that there is less than 20% excess classroom capacity existing in the school(s) which will serve the subdivision, considering previously approved but not built subdivisions, the Board shall require the Plan to be divided into sections to prevent classroom overcrowding.
4. No changes, erasures, modification, or revisions shall be made in any Final Plan after approval has been given by the Board and endorsed in writing on the Plan, unless a revised Final Plan is first submitted, and the Board approves any modifications, in accordance with Section 1004. The Board shall make findings that the revised plan meets the standards of Title 30-A, MRSA §4404, and these regulations. In the event that a Plan is recorded without complying with this requirement, it shall be considered null and void, and the Board shall institute proceedings to have the Plan stricken from the records of the Registry of Deeds.
5. The approval by the Board of a subdivision plan shall not be deemed to constitute or be evidence of any acceptance by the municipality of any street, easement, or other open space shown on such plan. When a park, playground, or other

recreation area shall have been shown on the plan to be dedicated to the municipality, approval of the Plan shall not constitute an acceptance by the municipality of such areas. The Board shall require the plan to contain appropriate notes to this effect. The Board may also require the filing of a written agreement between the applicant and the Municipal Officers covering future deed and title, dedication, and provision for the cost of grading, development, equipment, and maintenance of any such dedicated area.

6. Except in the case of a phased development plan, failure to complete substantial construction of the subdivision within five years of the date of approval and signing of the Plan shall render the Plan null and void. Upon determining that a subdivision's approval has expired under this paragraph, the Board shall have a notice placed in the Registry of Deeds to that effect.

#### **1003.4 Mobile Home Parks**

##### **A. Approval, Completion and Compliance**

1. Board approval will be contingent upon finding that all performance standards are met, and that parking lots are definitively drawn.
2. Upon final approval of the Planning Board, the Mobile Home Park site must be 50% complete within 3 years and 100% complete within 5 years.
3. Except as otherwise allowed by this Ordinance, mobile home parks shall comply with all state laws and municipal ordinances and shall meet the requirements of the subdivision law.
4. All Mobile Home Parks shall be classified as either a Minor Subdivision or a Major Subdivision as defined herein and must follow the appropriate procedures for such classification as listed in Section 1003.

##### **B. Submission**

1. The following information must accompany or be shown on the Preapplication Sketch Plan (see Section 1002) for a Mobile Home Park:
  - a. Name of owner
  - b. Name of the applicant (if other than owner)
  - c. If applicant is a corporation, whether the corporation is licensed to do business in Maine and attach a copy of Secretary of State's Registration.
  - d. Name of applicants' authorized representative.
  - e. Name, address, and number of Registered Professional Engineer, Land Surveyor or Planner who prepared the plan, if applicable.
  - f. Address to which all correspondence from the Planning Board should be sent.
  - g. What interest the applicant has in any property abutting the parcel to be Developed.
  - h. What interest the applicant has in the parcel to be developed (option, land, Purchase contract, record ownership, etc.)
  - i. Whether the development covers the entire or contiguous holdings of Applicant or not.
2. The General Application Procedures listed in 1003.1(A) shall be followed for all Applications for Preliminary Plan approval for a Mobile Home Park.

##### **C. Final Plan Approval Submissions**

1. The Final Plan shall consist of that described in 1003.1(C).
2. Three copies of all information accompanying the plan shall be submitted.

3. The application for approval of a Mobile Home Park shall include all of the Information listed in 1003.1(B).

#### **1004 Revisions to Approved Plans**

##### **1004.1 Procedure.**

An applicant for a revision to a previously approved plan shall, at least seven days prior to a scheduled meeting of the Board (note: the day of request or submittal does not count as part of the 7 days), request to be placed on the Board's agenda. If the revision involves the creation of additional lots or dwelling units, the procedures for preliminary plan approval shall be followed. If the revision involves only modifications of the approved plan, without the creation of additional lots or dwelling units, the procedures for final plan approval shall be followed.

##### **1004.2 Submissions.**

The applicant shall submit a copy of the approved plan, as well as three copies of the proposed revisions. The application shall also include enough supporting information to allow the Board to make a determination that the proposed revisions meet the standards of these regulations and the criteria of the statute. The revised plan shall indicate that 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.

##### **1004.3 Scope of Review.**

The Board's scope of review shall be limited to those portions of the plan which are proposed to be changed.

#### **1005 Inspections and Enforcement**

##### **1005.1 Inspection of Required Improvements.**

- A. At least five days prior to commencing each major phase of construction of required improvements, the subdivider or builder shall:
  1. Notify the Code Enforcement Officer in writing of the time when (s) he proposes to commence construction of such improvements, so that the Municipal Officers can arrange for inspections to assure that all municipal 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.
  2. Deposit with the Municipal Officers a check for the amount of 2% of the estimated costs of the required improvements to pay for the costs of inspection. If upon satisfactory completion of construction and cleanup there are funds remaining, the surplus shall be refunded to the subdivider or builder as appropriate. If the inspection account shall be drawn down by 90%, the subdivider or builder shall deposit an additional 1% of the estimated costs of the required improvements.
- B. If the inspecting official finds upon inspection of the improvements that any of the required improvements have not been constructed in accordance with the plans and specifications filed by the subdivider, the inspecting official shall so report in writing to the Municipal Officers, Planning Board, and the subdivider and builder. The Municipal Officers shall take any steps necessary to assure compliance with the

approved plans.

- C. If, at any time before or during the construction of the required improvements, it appears to be necessary or desirable to modify the required improvements, the inspecting official is authorized to approve minor modifications due to unforeseen circumstances such as encountering hidden outcrops of bedrock, natural springs, etc. The inspecting official shall issue any approval under this section in writing and shall transmit a copy of the Board. Revised plans shall be filed with the Board. For major modifications, such as relocation of right-of-way, property boundaries. Change of grade by more than 1%, etc., the subdivider shall obtain permission to modify the plans from the Board.
- D. At the close of each summer construction season the Town shall, at the expense of the subdivider, have the site inspected, not later than October 1, by a qualified individual. Each year during which construction was done on the site, the inspector shall submit a report, within 30 days, to the Board based on that inspection, addressing whether storm water and erosion control measures (both temporary and permanent) are in place, are properly installed, and appear adequate to do the job they were designed properly installed, and appear adequate to do the job they were designed for. The report shall also include a discussion and recommendations on any problems which were encountered.
- E. Prior to the sale of any lot, the subdivider shall provide the Board with a letter from a Registered Land Surveyor, stating that all documentation shown on the plan has been installed.
- F. Upon completion of street construction and prior to a vote by the Municipal Officers to submit a proposed town way to a town meeting, a written certification signed by a professional engineer registered in the State of Maine shall be submitted to the Municipal Officers at the expense of the applicant, certifying that the proposed town way meets or exceeds the design and construction requirements of these regulations. If there are any underground utilities, the servicing utility shall certify in writing that they have been installed in a manner acceptable to the utility.
- G. The subdivider or builder shall be required to maintain all improvements and provide for snow removal on streets and sidewalks with occupied structures until acceptance of the improvements by the municipality or control is placed with a lot owners' association.

#### **1005.2 Violations and Enforcement.**

- A. No plan of a division of land within the municipality which would constitute a subdivision shall be recorded in the Registry of Deeds until a Final Plan has been approved by the Board in accordance with these regulations.
- B. No person, firm, corporation or other legal entity may convey, offer or agree to convey any land in a subdivision which has not been approved by the Board and recorded in the Registry of Deeds.
- C. No person, firm, corporation or other legal entity may convey, offer, or agree to convey any land in an approved subdivision which is not shown on the Final Plan as a separate lot.
- D. No public utility, water district, sanitary district or any utility company of any kind shall serve any lot in a subdivision for which a Final Plan has not been approved by the Board.



- E. Development of a subdivision without Board approval shall be a violation of law. Development includes grading or construction of roads, grading of land or lots, or construction of buildings which require a Final Plan approved as provided in these regulations and recorded in the Registry of Deeds.
- F. No lot in a subdivision may be sold, leased, or otherwise conveyed before the street upon which the lot fronts is completed in accordance with these regulations up to and including the entire frontage of the lot. No unit in a multi-family development shall be occupied before the street upon which the unit is accessed is completed in accordance with these regulations.
- G. Violations of the above provisions of this section are a nuisance and shall be punished in accordance with the provisions of Title 30-A M.R.S.A., §4452.

### **1006 Performance & Design Standards**

The performance and design standards in this article are intended to clarify and expand upon the statutory review criteria found in Section 1001. In reviewing applications for a subdivision, the Board shall review the application for conformance with the following performance and design standards and make findings that each has been met prior to the approval of a Final Plan. In all instances the burden of proof shall be upon the applicant to present adequate information to indicate all performance and design standards and statutory criteria for approval have been or will be met.

#### **1006.1 Conformance with Comprehensive Plan.**

All proposed subdivisions shall be in conformity with the Comprehensive Plan or policy statement of the municipality and with the provisions of all-pertinent state and local codes and ordinances.

#### **1006.2 Basic Subdivision Layout**

##### **A. Blocks.**

Where street lengths exceed 1,000 feet between intersections with other streets, the Board may require a utility/pedestrian easement, at least 20 feet in width, to provide for underground utility crossings and/or a pedestrian pathway of at least five feet in width constructed in accordance with design standards for sidewalks below.

Maintenance obligations of the easement shall be included in the written description of the easement.

##### **B. Lots.**

1. All lots shall meet the minimum requirements of all existing town zoning districts in which they are located. The lot configuration should be designed to maximize access to solar energy on building sites with suitable orientation. (Note: not in Model)
2. Lot configuration and area shall be designed to provide for adequate off-street parking and service facilities based upon the type of development contemplated. Wherever possible, parking areas shall be laid out to coincide with building locations to maximize solar energy gain. (Note: not in Model)
3. Lots with multiple frontages shall be avoided wherever possible. When lots do have frontage on two or more roads, the plan, and deed restrictions shall indicate vehicular access shall be located only on the less traveled way.
4. Wherever possible, side lot lines shall be perpendicular to the street.
5. The subdivision of tracts into parcels with more than twice the required minimum

lot size shall be laid out in such a manner as either to provide for or preclude future division. Deed restrictions and notes on the plan shall either prohibit future divisions of the lots or specify that any future division shall constitute a revision to the plan and shall require approval from the Board, subject to the criteria of the subdivision statute, the standards of these regulations and conditions placed on the original approval. Where public utilities could be extended to the subdivision in the foreseeable future, the subdivision shall be designed to accommodate the extensions of utilities.

If a lot on one side of a stream (as defined in the DEP Minimum Shoreland Zoning Guidelines), tidal water, or road fails to meet the minimum requirements for lot size, it may not be combined with a lot on the other side of the stream, or road to meet the minimum lot size.

6. Where a Subdivision abuts or contains an existing or proposed arterial street, no residential lot may have vehicular access directly onto the arterial street. This requirement shall be noted on the Plan and in the deed of any lot with frontage on the arterial street. (Note: not in Model)
7. In a Mobile Home Park, each individual mobile home lot served by an individual subsurface sewage disposal system, shall be no less than 20,000 square feet in area and have a minimum lot width of 100 feet.
8. The overall density of a Mobile Home Park served by a central subsurface sewage disposal system shall be no greater than one unit per 20,000 square feet of total park area with a minimum lot area of 12,000 square feet for each individual mobile home and a minimum lot width of 75 feet, except that lots within a Shoreland zoning district shall meet the lot area, lot width, setback and shore frontage requirements for that district.
9. Where lots in a Mobile Home Park front on a curved right of way or are served by a driveway, the frontage requirement shall be measured in a straight line perpendicular to the setback line.
10. The ratio of lot length to width, outside of the shoreland zone, shall not be more than three to one. Flag lots and other odd shaped lots in which narrow strips are joined to other parcels in order to meet minimum lot size requirements are prohibited. 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 have a lot depth to shore frontage ratio greater than 5 to 1.
1. In areas served by a postal carrier, lots shall be numbered in such a manner as to facilitate mail delivery. Even numbers shall be assigned to lots on one side of the street, and odd numbers on the opposite side. Where the proposed subdivision contains the extension of an existing street or street approved by the Board, but not yet constructed, the lot numbers shall correspond with the existing lot numbers. The lot numbering shall be reviewed by the E-911 Addressing Officer and the comments shall be considered by the Board.

#### C. Utilities

1. Utilities serving subdivisions in areas designated by the comprehensive plan as growth areas shall be installed underground. Utilities serving lots with a street frontage of 125 feet or less shall be installed underground. The Board may

- approve overhead utilities when the applicant proposes reserved affordable housing and provides evidence that the increased costs of underground utilities will raise the costs of the housing beyond the targets for affordable housing in the comprehensive plan.
2. Any underground utilities shall be installed prior to the installation of the final gravel base of the road.
  3. The size, type and location of streetlights, electric and gas lines, telephone, and other utilities shall be shown on the plan and approved by the Board. (Note: not in Model)
  4. All Mobile Home Parks shall provide permanent electrical, water and sewage disposal connections to each mobile home in accordance with applicable state and local rules and regulations.
- D. Monuments
1. Monuments.
    - a. Monuments shall be set at all street intersections and points of curvature, but no further than 750 feet apart along street lines without curves or intersections.
    - b. Stone or precast concrete monuments shall be set at all corners and angle points of the subdivision boundaries where the interior angle of the subdivision boundaries is 135° or less.
    - c. Shall be a minimum of four inches square at the top and three feet in length and set in the ground at final grade level. After they are set, no requirements for a hole in the monuments are required.
    - d. All other subdivision boundary corners and angle points, as well as all lot boundary corners and angle points shall be marked by suitable monumentation, as required by the Maine Board of Registration of Land Surveyors.

### **1006.3 Sufficient Water**

#### **A. Water Supply**

Any subdivision within the area designated in the comprehensive plan for future public water supply service shall make provisions for connection to the public system. A proposed subdivision shall not generate a demand on the source, treatment facilities or distribution system of the servicing water company or district beyond the capacity of those system components, considering improvements that are planned to be in place prior to occupancy of the subdivision. The applicant shall be responsible for paying the costs of system improvements to the district's or company's system as necessary in order to facilitate connection. When public water supply service will not be available at the time of construction of the subdivision, a "capped system" shall be installed within the subdivision to allow future connection when service becomes available without excavation within the right-of-way of any street within the subdivision

1. When a subdivision is to be served by a public water system, the complete supply system within the subdivision including fire hydrants shall be installed at the expense of the applicant. The size and location of mains, gate valves, hydrants, and service connections shall be reviewed and approved in writing by the

servicing water company or district and the fire chief. Fire hydrants connected to a public water supply system shall be located no further than 500 feet from any building.

2. When a proposed subdivision is not within the area designated for public water Supply service in the comprehensive plan, water supply shall be from individual Wells or a private community water system.
  - a. Individual wells shall be sited and constructed to prevent infiltration of surface water, and contamination from subsurface waste water disposal systems and other sources of potential contamination.
    - 1) Due to the increased chance of contamination from surface water, dug wells shall be prohibited on lots of smaller than one acre. On lots of one acre or smaller, the applicant shall prohibit dug wells by deed restrictions and a note on the plan.
    - 2) Wells shall not be constructed within 100 feet of the traveled way of any street, if located downhill from the street, or within 50 feet of the traveled way of any street, if located uphill of the street. This restriction shall be included as a note on the plan and deed restriction to the effected lots.
  - b. Lot design shall permit placement of wells, subsurface waste water disposal areas, and reserve sites for subsurface waste water disposal areas in compliance with the Maine Subsurface Wastewater Disposal Rules and the Well Drillers and Pump Installers Rules.
  - c. If a central water supply system is provided by the subdivider, the location and protection of the source, and the design, construction and operation of the system and shall conform to the standards of the Maine Rules Relating to Drinking Water (10-144A C.M.R. 231.)
  - d. In areas where the comprehensive plan has identified the need for additional Water storage capacity for firefighting purposes, the applicant shall provide Adequate water storage facilities.
    - i. Facilities may be ponds with dry hydrants, underground storage reservoirs or other methods acceptable to the fire chief.
    - 2) A minimum storage capacity of 10,000 gallons shall be provided for a Subdivision not served by a public water supply. Additional storage of 2,000 gallons per lot or principal building shall be provided. The Board may require additional storage capacity upon a recommendation from the fire chief.
    - 3) Where ponds are proposed for water storage, the capacity of the pond shall be calculated based on the lowest water level less an equivalent of three feet of ice. An easement shall be granted to the municipality granting access to and maintenance of dry hydrants or reservoirs where necessary.
    - 4) Hydrants or other provisions for drafting water shall be provided to the specifications of the fire department. Minimum pipe size connecting dry hydrants to ponds or storage vaults shall be six inches. A suitable access way to the hydrant or other water source shall be constructed.

The Board may waive the requirement for water storage only upon submittal of evidence that the soil types in the subdivision will not permit their construction or installation and that the fire chief has indicated in

writing that alternate method of fire protection is available.

**B. Water Quality.**

Water supplies shall meet the primary drinking water standards contained in the Maine Rules Relating to Drinking Water. If existing water quality 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 plan to be recorded in the Registry of Deeds.

**C. In a Mobile Home Park:**

1. An accessible, adequate, safe and potable supply of water shall be provided in each mobile home park.
2. When a public water supply is not available, a private water supply shall be developed and used subject to approval by the local plumbing inspector and the Department of Human Services.
3. The water supply shall be capable of delivering a minimum of 20 gallons per day to each mobile home with a minimum of 30 pounds per square inch pressure at all times.
  - i. All elements of the water system shall be so designed and constructed to prevent freezing and heaving.

#### **1006.4 Erosion and Sedimentation and Impact on Water Bodies**

- A. The proposed subdivision shall prevent soil erosion and sedimentation from entering waterbodies, wetlands, and adjacent properties.
- B. The procedures outlined in the erosion and sedimentation control plan shall be implemented during the site preparation, construction, and clean-up stages. (Note See 1007.8 A)
- C. Cutting or removal of vegetation along waterbodies shall not increase water temperature or result in shoreline erosion or sedimentation.
- D. Topsoil shall be considered part of the subdivision and shall not be removed from the site except for surplus topsoil from roads, parking areas, and building excavations.

#### **1006.5 Sewage Disposal**

**A. Public System.**

1. Any subdivision within the area designated in the comprehensive plan for future public sewage disposal service shall be connected to the public system.
2. When a subdivision is proposed to be served by the public sewage system, the Complete collection system within the subdivision, including manholes and pump stations, shall be installed at the expense of the applicant.
3. The sewer district shall certify that providing service to the proposed subdivision is within the capacity of the system's existing collection and treatment system or improvements planned to be complete prior to the construction of the subdivision.
4. The sewer district shall review and approve the construction drawings for the sewerage system. The size and location of laterals, collectors, manholes, and

pump stations shall be reviewed and approved in writing by the servicing sewer district or department.

The developer shall submit evidence of soil suitability for subsurface sewage disposal prepared by a Maine Licensed Site Evaluator in full compliance with the requirements of the State of Maine Subsurface Wastewater Disposal Rules.

1. The site evaluator shall certify in writing that all test pits which meet the Requirements for a new system represent an area large enough to a disposal area on soils which meet the 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 so as not to be built upon.
3. In no instance shall a disposal area be permitted on soils or on a lot which requires a New System Variance from the Subsurface Wastewater Disposal Rules.

**B. Private Systems.**

1. When a proposed subdivision is not within an area designated for public sewage disposal service in the comprehensive plan, connection to the public system shall not be permitted. Sewage disposal shall be private subsurface waste water disposal systems or a private treatment facility with surface discharge, licensed by the Department of Environmental Protection.

**1006.6 Solid Waste**

If the additional solid waste from the proposed subdivision exceeds the capacity of the Municipal solid waste facility, causes the municipal facility to no longer be in compliance with its license from the Department of Environmental Protection, or causes the municipality to exceed its contract with a non-municipal facility, the applicant shall make alternate arrangements for the disposal of solid waste. The alternate arrangements shall be at a disposal facility which is in compliance with its license. The Board may not require the alternate arrangement to exceed a period of five years.

**1006.7 Impact on Natural Beauty, Aesthetics, Historic Sites, Wildlife Habitat, Rare Natural Areas or Public Access to the Shoreline.**

**A. Retention of Open Spaces and Natural or Historic Features.**

1. If any portion of the subdivision is located within an area designated by the comprehensive plan as open space or greenbelt, that portion shall be reserved for open space preservation.
2. If any portion of the subdivision is located within an area designated as a unique natural area by the comprehensive plan or the Maine Natural Areas Program the plan shall indicate appropriate measures for the preservation of the values which qualify the site for such designation.
3. If any portion of the subdivision is designated a site of historic or prehistoric Importance by the comprehensive plan, National Register of Historic Places, or the Maine Historic Preservation Commission, appropriate measures for the protection of the historic or prehistoric resources shall be included in the plan. When the historic features to be protected include buildings, the placement

and the architectural design of new structures in the subdivision shall be similar to the historic structures. The Board shall seek the advice of the Maine Historic Preservation Commission in reviewing such plans.

4. The subdivision shall reserve sufficient undeveloped land to provide for the Recreational needs of the occupants. The percentage of open space to be reserved shall depend on the identified needs for outdoor recreation in the portion of the municipality in which the subdivision is located according to the comprehensive plan, the proposed lot sizes within the subdivision, the expected demographic makeup of the occupants of the subdivision, and the site characteristics, but shall constitute no less than 5% of the area of the subdivision. In determining the need for open space, the Board shall consider:
  - a. The proximity of the subdivision to neighboring dedicated open space or recreation facilities;
  - b. The needs identified in the municipal comprehensive plan or recreation plan for open space or recreation facilities in the neighborhood surrounding the subdivision;
  - c. The type of development and demographic characteristics of potential residents in the subdivision; and
  - d. The density of lot sizes of the development.
  - e. Sites selected primarily for scenic or passive recreation purposes shall have such access as the Board may deem suitable and no less than 25 feet of road frontage
5. Subdivisions with an average density of more than three dwelling units per acre shall provide no less than fifty percent of the open space as usable open space to be improved for ball fields, playgrounds or similar active recreation facility.
6. Land reserved for open space purposes shall be of character, configuration and location suitable for the particular use intended.
  - a. A site intended to be used for active recreation purposes, such as a playground or a play field, should be relatively level and dry, have a total frontage on one or more streets of at least 200 feet, and have no major dimensions of less than 200 feet.
  - b. Sites selected primarily for scenic or passive recreation purposes shall have such access as the Board may deem suitable and no less than twenty-five feet of road frontage. The configuration of such sites shall be deemed adequate by the Board with regard to scenic attributes to be preserved, together with sufficient areas for trails, lookouts, etc. Where necessary and appropriate.
7. Reserved land acceptable to the Board and subdivider may be dedicated to the municipality as a condition of approval.
8. Where land within the subdivision is not suitable or is insufficient in amount, and when suggested by the comprehensive plan, a payment-in-lieu of dedication may be substituted for the reservation of some or part of the open space requirement. Payments in lieu of dedication shall be calculated based on the percentage of reserved open space that otherwise would be required and that percentage of the projected market value of the developed land at the

time of the subdivision, as determined by the municipal tax assessor. The payment in lieu of dedication shall be deposited into a municipal land open space or outdoor recreation facility acquisition or improvement fund.

B. Protection of Significant Wildlife Habitat.

If any portion of a proposed subdivision lies within:

1. 250 feet of the following areas identified and mapped by the Department of Inland Fisheries and Wildlife Beginning with Habitat Project or the comprehensive plan as:
  - a. Habitat for species appearing on the official state or federal lists of endangered or threatened species;
  - b. High and moderate value waterfowl and wading bird habitats, including nesting and feeding areas;
  - c. Shorebird nesting, feeding and staging areas and seabird nesting islands.
2. 1,320 feet of an area identified and mapped by the Department of Inland Fisheries and Wildlife as a high or moderate value deer wintering area or travel corridor;
3. Or other important habitat areas identified in the comprehensive plan or in the Department of Inland Fisheries and Wildlife Beginning with Habitat Project; the applicant shall demonstrate that there shall be no adverse impacts on the habitat and species it supports. There shall be no cutting of vegetation within such areas, or within the strip of land extending at least 75 feet from the edge or normal high-water mark of such habitat areas. The applicant must consult with the Maine Department of Inland Fisheries and Wildlife and provide their written comments to the Board. The Board may require a report to be submitted, prepared by a wildlife biologist, selected or approved by the Board, with demonstrated experience with the wildlife resource being impacted. This report shall assess the potential impact of the subdivision on the significant habitat and adjacent areas that are important to the maintenance of the affected species and shall describe any additional appropriate mitigation measures to ensure that the subdivision will have no adverse impacts on the habitat and the species it supports.

C. Protection of Important Shoreland Areas

1. Any existing public rights of access to the shoreline of a water body shall be maintained by means of easements or right-of-way, or should be included in the open space, with provisions made for continued public access.
2. Within areas subject to the state mandated shoreland zone, within a strip of land extending 100 feet inland from the normal high-water line of a great pond or any tributary to a great pond, and 75 feet from any other water body or the upland edge of a wetland, a buffer strip of vegetation shall be preserved. The plan notes, and deeds to any lots which include any such land, shall contain the following restrictions:
  - a. Tree removal shall be limited to no more than 40% of the volume of trees 4 inches or more in diameter measured at 4 1/2 feet above the ground level on any lot in any ten-year period.
  - b. There shall be no cleared opening greater than 250 square feet in the forest canopy as measured from the outer limits of the tree crown.



- c. However, a footpath not to exceed ten feet in width as measured between tree trunks is permitted provided that a cleared line of sight to the water through the buffer strip is not created. Adjacent to a great pond, or a tributary to a great pond, the width of the foot path shall be limited to six feet.
  - d. In order to protect water quality and wildlife habitat adjacent to great ponds, and tributaries to great ponds, existing vegetation under three feet in height and other ground cover shall not be removed, except to provide for a footpath or other permitted uses as described above.
  - e. Pruning of tree branches, on the bottom third of the tree is permitted.
3. Within areas subject to the state mandated shoreland zone, beyond the buffer strip designated above, and out to 250 feet from the normal high water line of a water body or upland edge of a wetland, cleared openings for development, including but not limited to, principal and accessory structures, driveways and sewage disposal areas, shall not exceed in the aggregate, 25% of the lot area or 10,000 square feet, whichever is greater, including land previously developed.

**1006.8 Land Not Suitable for Development.**

The following lands shall not be included in the calculations of lot area for the purpose of meeting the requirements of Minimum Lot Size Law.

- A. Land which is situated below the normal high-water mark of any water body.
- B. Land which is located within the 100-year frequency flood plain as identified by the Federal Emergency Management Agency or the Department of Housing and Urban Development, Flood Insurance Administration, unless the subdivider shows proof through the submittal of materials prepared by a Registered Land Surveyor which show that the property in question lies at least two feet above the 100-year flood level. The elevation of filled or made land shall not be considered.
- C. Land which is part of a right-of-way, or easement, including utility easements.
- D. Land that has been created by filling or draining a pond or wetland.

**1006.9 Land Features.**

- A. Except for normal thinning, landscaping, and cutting trees to provide access to direct sunlight, existing vegetation shall be left intact to prevent soil erosion and to minimize storm water runoff.
- B. To prevent soil erosion in shoreline areas, tree cutting in the strip extending one Hundred feet inland from the normal high-water mark of any water body shall be Limited in accordance with the following:
  - 1. No more than 30% of the total length of the strip on each lot shall be cleared.
  - 2. The removal of trees shall not create any single clear-cut opening greater than thirty feet wide. Adjacent openings shall be separated by a distance of at least 70 feet.
  - 3. In the remaining 70% length of the strip, no trees larger than four inches diameter at breast height shall be cut, and sufficient cover to preserve natural beauty and control erosion shall remain.
- C. Reservation or Dedication and Maintenance of Open Space and Common Land,

**Facilities and Services**

1. All common land, facilities and property shall be owned jointly or in common by the owners of the dwelling units by means of a homeowner's association, by an association which has as its principal purpose the conservation or preservation of land in essentially its natural condition, or by the municipality. Further subdivision of the common land or open space and its use for other than non-commercial recreation, agriculture, or conservation purposes, except for easements for underground utilities, shall be prohibited. Structures and buildings accessory to non-commercial recreational or conservation uses may be erected on the common land. When open space is to be owned by an entity other than the municipality, shall be a conservation easement deeded to the municipality prohibiting future development.
2. The common land or open space shall be shown on the final plan with appropriate notations on the plan to indicate:
  - a. It shall not be used for future building lots; and
  - b. Which portions of the open space, if any, may be dedicated for acceptance by the municipality.
3. The final plan application shall include the following:
  - a. Covenants for mandatory membership in the lot owners' association setting forth the owners' rights, interests, and privileges in the association and the common property and facilities, to be included in the deed for each lot or dwelling.
  - b. Draft articles of incorporation of the proposed lot owners' association as a not-for-profit corporation; and
  - c. Draft by-laws of the proposed lot owners' association specifying the Responsibilities and authority of the association, the operating procedures of the association and providing for proper capitalization of the association to cover the costs of major repairs, maintenance and replacement of common facilities.
4. In combination, the documents referenced in paragraph D above shall provide for the following.
  - a. The homeowners' association shall have the responsibility of maintaining the common property or facilities.
  - b. The association shall levy annual charges against all owners of lots or dwelling units to defray the expenses connected with the maintenance, repair and replacement of common property and facilities and tax assessments.
  - c. The association shall have the power to place a lien on the property of members who fail to pay dues or assessments.
  - d. The developer or subdivider shall maintain control of the common property, and be responsible for its maintenance until development sufficient to support the association has taken place. Such determination shall be made by the Board upon request of the lot owners' association or the developer.

**1006.10 Conformance with Zoning Ordinance and Other Land Use Ordinances.**

All lots, other than those found within cluster developments approved pursuant to Our

Land Use Ordinance, section and shall meet the minimum dimensional requirements of the zoning ordinance for the zoning district in which they are located. The proposed subdivision shall meet all applicable performance standards or design criteria from the zoning ordinance and other land use ordinances.

#### **1006.11 Financial and Technical Capacity.**

##### **A. Financial Capacity.**

The applicant shall have adequate financial resources to construct the proposed Improvements and meet the criteria of the statute and the standards of these regulations. When the applicant proposes to construct the buildings as well as the subdivision improvements, the applicant shall have adequate financial resources to construct the total development. In making the above determinations the Board shall consider the proposed time frame for construction and the effects of inflation.

##### **B. Technical Ability.**

1. The applicant shall retain qualified contractors and consultants to supervise, construct and inspect the required improvements in the proposed subdivision.
2. 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 existence of violations of previous approvals granted to the applicant.

#### **1006.12 Impact on Ground Water Quality or Quantity.**

##### **A. Ground Water Quality.**

##### **B. Ground Water Quantity.**

1. Ground water withdrawals by a proposed subdivision shall not lower the water table beyond the boundaries of the subdivision.
2. A proposed subdivision shall not result in a lowering of the water table at the subdivision boundary by increasing runoff with a corresponding decrease in infiltration of precipitation.
3. When a hydrogeologic assessment is submitted, the assessment shall contain at least the following information:
  - a. A map showing the basic soils types.
  - b. The depth to the water table at representative points throughout the subdivision.
  - c. Drainage conditions throughout the subdivision.
  - d. Data on the existing ground 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 ground water Resources. In the case of residential developments, the evaluation shall, at a Minimum, include a projection of post development nitrate-nitrogen Concentrations 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. For subdivisions within the watershed of a lake, projections of the subdivision's impact on ground water phosphate concentrations shall also be provided.
  - f. A map showing the location of any subsurface wastewater disposal systems and drinking water wells within the subdivision and within 200 feet of the

subdivision boundaries.

4. Projections of ground water quality shall be based on the assumption of drought Conditions (assuming 60% of annual average precipitation).
5. No subdivision shall increase any contaminant concentration in the ground water to more than one half of the Primary Drinking Water Standards. No subdivision shall increase any contaminant concentration in the ground water to more than the Secondary Drinking Water Standards.
6. If ground water contains contaminants in excess of the primary standards, and the Subdivision is to be served by on-site ground water supplies, the applicant shall Demonstrate how water quality will be improved or treated.
7. If ground water contains contaminants in excess of the secondary standards, the Subdivision shall not cause the concentration of the parameters in question to exceed 150% of the ambient concentration.
8. Subsurface wastewater disposal systems and drinking water wells shall be constructed as shown on the map submitted with the assessment. If construction standards for drinking water wells are recommended in the assessment, those standards shall be included as notes on the Final Plan, and as restrictions in the deeds to the affected lots.

#### **1006.13 Floodplain Management.**

When any part of a subdivision is located in a special flood hazard area as identified by the Searsmont Floodplain Management Regulations (see Section 900).

- A. All public utilities and facilities, such as sewer, gas, electrical and water systems shall Be located and constructed to minimize or eliminate flood damages.
- B. Adequate drainage shall be provided so as to reduce exposure to flood hazards.
- C. The plan shall include a statement that structures in the subdivision shall be constructed with their lowest floor, including the basement, at least one foot above the 100-year flood elevation. Such a restriction shall be included in 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 statement 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 the plan.

#### **1006.14 Storm water Management**

- A. For subdivisions that require a DEP review under the Site Location of Development Act (SLDA), a storm water management plan shall be submitted which complies with The SLDA permit and the requirements of DEP Chapter 500 Stormwater Regulations.
- B. For subdivisions that do not require a SLDA permit, but require a DEP permit under the Storm water Law, a storm water management plan shall be submitted which complies with the requirements of DEP Chapter 500 Storm water Regulations.
- C. For subdivisions outside of the watershed of a Great Pond, that neither require a SLDA permit, nor a DEP permit under the Stormwater Law, a storm water management plan shall be submitted which incorporates Low Impact Development techniques on each individual lot, as described in Appendix H.

1. For subdivisions within the watershed of a Great Pond, containing five or more lots or dwelling units created within any five-year period; or any combination of 800 linear feet of new or upgraded driveways and/or streets; a storm water management plan shall be submitted that meet allocation across the entire subdivision in accordance with the methodology described in the DEP Phosphorus Design Manual, Volume II of the Maine Storm water Best Management Practices Manual, 2006.
- D. The Planning Board may require a hydrologic analysis for any site in areas with a History of flooding or in areas with a potential for future flooding, associated with Cumulative impacts of development. This hydrologic analysis would be in the form of a “Downstream Analysis” under conditions of the 10-year, 24-hour storm and the 25-year, 24-hour storm, and the 100-year, 24-hour storm, as described below:  
Downstream Analysis Methodology:

The criteria used for the downstream analysis is referred to as the “10% rule.” Under the 10% rule, a hydrologic and hydraulic analysis for the 10-year, 24-hour storm and the 25-year, 24-hour storm, and the 100-year, 24-hour storm is extended downstream to the point where the site represents 10% of the total drainage area. For example, a 10-acre site would be analyzed to the point downstream with a drainage area of 100 acres. This analysis should compute flow rates and velocities downstream to the location of the 10% rule for Present conditions and proposed conditions. If the flow rates and velocities increase by more than 5% and/or if any existing downstream structures are impacted, the designer should redesign and incorporate detention facilities.

#### **1006.15 Cluster Developments**

- A. Purpose, Mandate for Clustering.
  1. The purpose of these provisions is to allow for flexibility in the design of housing developments to allow for the creation of open space which provides recreational opportunities or protects important natural features from the adverse impacts of development, provided that the net residential density shall be no greater than is permitted in the district in which the development is proposed. Notwithstanding Provisions of the zoning ordinance relating to dimensional requirements, the Board, in reviewing and approving proposed residential subdivisions, may modify the provisions related to dimensional requirements to permit flexibility in approaches to housing and environmental design in accordance with the following guidelines. This shall not be construed as granting variances to relieve hardship, and action of the Zoning Board of Appeals shall not be required.
  2. All subdivisions where \_\_\_ lots or units or more are created within any five year period, and the project is located in the \_\_\_ or \_\_\_\_\_ zoning districts, shall be designed as cluster developments, according to the following standards.  
Subdivisions created in other districts, or containing \_\_\_ lots or units or less, may be designed either utilizing the cluster development approach, or by the traditional subdivision method with little or no common open space.
- B. Basic Standards for Cluster Developments.
  1. Cluster developments shall meet all requirements of these regulations.
  2. Each building shall be an element of an overall plan for site development. Only Developments having a total site plan for structures will be considered. The

application shall illustrate the placement of buildings and the treatment of spaces, paths, roads, service and parking and in so doing shall take into consideration all requirements of this section and of other relevant sections of these regulations.

3. The Planning Board shall allow lots within cluster developments to be reduced in lot area, street frontage and lot width below the minimum normally required by this ordinance in return for provision of common open space, as long as the maximum number of dwelling units is not exceeded, according to the calculations in section \_\_ below.
4. In order to determine the maximum number of dwelling units permitted on a tract of land, the net residential acreage as determined in section 5 shall be divided by the minimum lot size in the district, as required by the zoning ordinance. No building in the cluster development shall be sited on slopes steeper than 25%, within 100 feet of any water body or wetland, or on soil classified as being very poorly drained.
5. The net residential acreage shall be calculated by taking the total area of the lot and subtracting, in order, the following:
  - a. 15% of the area of the lot to account for roads and parking.
  - b. Portions of the lot shown to be in a floodway or a coastal high hazard zone as Designated in the Flood Boundary and Floodway Map prepared by the Federal Insurance Administration.
  - c. Portions of the lot which are unsuitable for development in their natural state due to topographical, drainage or subsoil conditions such as, but not limited to:
    - i. Wetland soils.
    - ii. Portions of the lot subject to rights of way.
    - iii. Portions of the lot located in the resource protection zone.
    - iv. Portions of the lot covered by surface waters.
    - v. Portions of the lot utilized for storm water management facilities.
6. Unless a community sewage collection and treatment system is provided, no lot or area of occupation, in the case of a condominium, shall be smaller in area than 20,000 square feet.
7. The total area of reserved open space within the development shall equal or exceed the sum of the areas by which any building lots are reduced below the minimum lot area normally required by the zoning ordinance. However, at least fifty percent (50%) of the area of the entire parcel or tract shall be included as common open space. Common open space shall not include road rights of way, streets, drives, or parking. No more than fifty percent (50%) of the common open space shall consist of forested or open wetlands of any size.
8. Every building lot that is reduced in area below the amount normally required shall be within 1,000 feet of the common land.
9. The distance between buildings shall not be less than 20 feet.
10. No individual lot or dwelling unit shall have direct vehicular access onto a public road existing at the time of development.
11. Shore frontage for each lot or area of occupation, in the case of a condominium, shall not be reduced below the minimum normally required by the zoning

ordinance.

12. Where a cluster development abuts a body of water, a usable portion of the shoreline, as well as reasonable access to it, shall be a part of the common land.
13. The common open space shall be owned and managed according to the standards of 10.6.E.
14. The subdivider shall be responsible for the maintenance of the common open space and the other common facilities, until development sufficient to support the Neighborhood association has taken place. Or, alternatively, the objectives of clustering have been met. Such determination shall be made the transfer of responsibility shall occur only after review and approval by the Planning Board, upon request by the neighborhood association or the developer or subdivider.

#### **1006.16 Compliance with Timber Harvesting Rules.**

The Board shall ascertain that any timber harvested on the parcel being subdivided, has been harvested in compliance with rules adopted pursuant to Title 12, M.R.S.A section 8869, subsection 14. If a violation of rules adopted by the Maine Forest Service to substantially eliminate liquidation harvesting has occurred, the Planning 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 Planning Board may request technical assistance from the Department of Conservation, Bureau of Forestry to determine whether a rule violation has occurred, or the Board may accept a determination certified by a forester licensed pursuant to Title 32, chapter 76. If the Bureau agrees to provide assistance, it shall make a finding and determination as to whether a rule violation has occurred. If the Bureau notifies the Planning Board that it will not provide assistance, the Board 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, M.R.S.A 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.

#### **1006.17 Mobile Home Park Administration**

- A. The owner or operator of a mobile home park shall be responsible for ensuring the maintenance of all park owned structures and their sites. Park management shall conform to state laws and regulations.
- B. The storage, collection and disposal of refuse in the mobile home park shall be so conducted as to create no health hazards, rodent harborage, insect breeding areas, accidental or fire hazards, or air or water pollution.
- C. The owner or operator shall be responsible for snow removal on the roads within the park.

#### **1006.18 Conversion of Mobile Home Park**

No lot in a mobile home park may be sold or conveyed without the prior approval of the Planning Board. Any such lot sold or conveyed shall meet the lot size requirement of the zoning district in which it is located.

#### **1006.19 Traffic Conditions and Streets.**

- A. General Standards

The proposed subdivision shall meet the following general transportation performance standards:

1. The subdivision transportation system shall provide safeguards against hazards to Vehicles, bicyclists and pedestrians in interior subdivision streets and access Connections to external streets;
2. The subdivision transportation system shall have design standards that avoid traffic Congestion on any street;
3. The subdivision transportation system shall provide safe and convenient circulation for Vehicles, bicyclists and pedestrians on interior subdivision streets and access Connections to external streets;
4. The subdivision transportation system shall have design standards that are compatible With the estimated Average Annual Daily Traffic of the street, the land uses Accommodated by the street, and the lot density of the street; and
5. The subdivision transportation system shall have a positive relationship to the natural Setting of the proposed subdivision site.

B. General Access Standards.

All subdivision accesses connecting with external streets shall meet the following Standards:

1. Accesses connecting to any state or state-aid highway shall meet the minimum Access permitting requirements of the Maine Department of Transportation “Highway Driveway and Entrance Rules”;
2. Accesses that are expected to carry more Than 100 passenger vehicle equivalent trips in the peak hour shall meet the Minimum access permitting requirements of the Maine Department of Transportation “Rules and Regulations Pertaining to Traffic Movement Permits”.
3. The street giving 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. No subdivision shall reduce the Level of Service (LOS) of streets or intersections neighboring the subdivision to a LOS of “E” or below, unless:
  - a. The comprehensive plan has indicated that Levels of Service "E" or "F" are Acceptable for that street or intersection; or
  - b. The level of service of the road or intersection will be raised to D or above Through transportation demand management techniques; or
  - c. The applicant provides evidence that it is not possible to raise the level of service Of the road or intersection to D or above by road or intersection improvements or By transportation demand management techniques, but improvements will be Made or transportation demand management techniques will be used such that the



Proposed development will not increase delay at a signalized or unsignalized Intersection, or otherwise worsen the operational condition of the road or Intersection in the horizon year; or

- d. Improvements cannot reasonably be made because the road or intersection is Located in a central business district or because implementation of the Improvements will adversely affect a historic site as defined in 06-096 CMR 375(11) (Preservation of Historic Sites) and transportation demand management Techniques will be implemented to the fullest extent practical; or
  - e. The development is located in a designated growth area, in which case the Applicant shall be entitled to an exception from the level of service mitigation Requirements set forth under the General Standards in this Section. This Exception applies even if part or all of the traffic impacts of the proposed Development will occur outside the boundaries of the designated growth area. This exception does not exempt the development from meeting safety standards, and greater mitigation measures may be required than otherwise provided in this subsection if needed to address safety issues; or;
  - f. In the case of unsignalized intersections, if traffic with the development in place would not meet the warrant criteria for signalization or turning lanes, as set forth in the Federal Highway Administration's "Manual on Uniform Traffic Control Devices," (1988), then the municipal reviewing authority may reduce the mitigation requirement for those measures so long as the resulting traffic conditions provide for safe traffic movement.
4. Accesses to non-residential subdivisions or to multifamily developments shall be Designed to avoid queuing of entering vehicles on any street. Left lane storage capacity shall be provided to meet anticipated demand. A study or analysis to determine the need for a left- turn storage lane shall be done.
- C. General Internal Subdivision Street Standards
- All internal subdivision streets shall meet the following minimum standards. In cases Where the internal subdivision street standards conflict with the street ordinance of the Municipality, the more stringent rule shall apply.
- 1. The street or street system of the proposed subdivision shall be designed to coordinate with existing, proposed, and planned streets. Wherever a proposed development abuts unplatted land or a future development phase of the same development, street stubs shall be provided as deemed necessary by the municipality to provide access to abutting properties or to logically extend the street system. All street stubs shall be provided with temporary turn around or cul-de-sacs unless specifically exempted by the Public Works Director, and the restoration and expansion of the street shall be the responsibility of any future developer of the abutting land. Minor collector and local streets shall connect with surrounding streets to permit convenient movement of traffic between residential neighborhoods or facilitate emergency access and evacuation, but such connections shall not be permitted where the effect would be to encourage the use of such streets by substantial through traffic.
  - 2. Where necessary to safeguard against hazards to vehicle drivers, bicyclists and pedestrians and/or to avoid traffic congestion, provision shall be made for turning

lanes, traffic directional islands, frontage roads, sidewalks, bicycle ways, transportation demand management techniques, and traffic controls within existing public streets.

3. **Street Names, Signs and Lighting.**

Streets which join and are in alignment with streets of abutting or neighboring Properties shall bear the same name. Names of new streets shall not duplicate, nor bear phonetic resemblance to the names of existing streets within the municipality, and shall be subject to the approval of the Board. No street name shall be the common given name of a person. The developer shall either install street name, traffic safety and control signs meeting municipal specifications or reimburse the municipality for the costs of their installation. Street lighting shall be installed as approved by the Board. Commercial business on a state road is allowed to have a 32sq.ft. Free standing sign at no cost.

4. **During street construction, the entire right of way shall not be cleared unless clearing is necessary for utilities, drainage or other infrastructure necessities beyond the clear zone. Following street construction, the developer or contractor shall conduct a thorough clean-up of stumps and other debris from the entire right of way created during the street construction process. 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.**

**1006.20 Specific Access and Street Design Standards.**

**A. Access Control.**

1. To the maximum extent practical, all subdivision accesses shall be constructed Perpendicular to the external street providing access to the subdivision. No subdivision accesses shall intersect the external street at an angle of less than 60 degrees.
2. Where a subdivision abuts or contains an existing or proposed arterial street, no lot may have vehicular access directly to the arterial street. This requirement shall be noted on the plan and in the deed of any lot with frontage on the arterial street.
3. Where a lot has frontage on two or more streets, the access to the lot shall be provided to the lot across the frontage and to the street where there is lesser potential for traffic congestion and for hazards to traffic and pedestrians. This restriction shall appear as a note on the plan and as a deed restriction to the affected lots. In cases where creating an access to a lesser traveled way is problematical, the Board may allow an access on the higher volume street if the access does not significantly detract from public safety. For accesses on higher volume streets, the Board shall consider the functional classification of the external street, the length of frontage on the external street, the intensity of traffic generated by the proposed subdivision, the geography along the frontage of the public way with lesser potential for traffic, and the distance to the public way with lesser potential for traffic. In cases where the double frontage lot has frontage on two Maine Department of Transportation designated non-compact arterials, the access shall meet the permitting standards of the Maine Department of Transportation "Highway Driveway and Entrance Rules".
4. Lots in subdivisions with frontage on a state or state aid highway shall have shared access points to and from the highway. Normally a maximum of two

- accesses shall be allowed regardless of the number of lots or businesses served. The subdivision access including all radii must be paved from the edge of pavement of the external street to the street right of way or the length of the design vehicle using the subdivision, whichever is greater, unless:
- a. The external street is not paved; or
  - b. The internal subdivision street is an unpaved private street that is expected to carry an Average Daily Traffic capacity of 50 trips or less.
5. Minimum Sight Distance Standards
- Minimum sight distance requirements for all subdivision accesses connecting to external streets shall be contingent on the posted speed of the external street connecting to the subdivision access. For accesses that are expected to carry primarily passenger vehicles, the standards in the second column in Table 10.15-1 shall apply. For accesses that are estimated to carry more than 30% of their traffic in vehicles larger than standard passenger vehicles, the standards in the third column of Table 10.15-1 shall apply. On roads that are designated by the Maine Department of Transportation as Mobility or Retrograde Arterials, the third column in Table 10.15-1 shall apply.
6. Access design shall be based on the traffic volume estimates anticipated to be carried by the internal subdivision street. Traffic volume estimates shall be defined by the latest edition of the *Trip Generation Manual* published by the Institute of Transportation Engineers. The following traffic volume standards shall apply to the design of subdivision accesses connecting to external streets:
- a. Low Volume Access: An access with 50 or less passenger car equivalent trips per day.
  - b. Medium Volume Access: Any access with more than 50 passenger car equivalent trips per day but less than 100 passenger car equivalent trips during the peak hour.
  - c. High Volume Access: Any access with 100 or more passenger car equivalent trips during the peak hour.
7. Basic Access Design Standards for Low and Medium Volume Accesses
- The following minimum access design standards shall apply to all low and medium volume accesses connecting to external streets:
8. Additional Access Requirements for Medium Volume Accesses
- In addition to the basic access standards outlined in 10.15-2., medium volume accesses on state or state-aid highways designated as Major Collectors or Arterials shall also comply with the following standards:
- a. The minimum curb radius on the edge of the access shall exceed the minimum curb radius standard in 10.15-2. If a larger design radius is needed to accommodate a larger design vehicle.
  - b. A throat shall be constructed around the access in order to store vehicles waiting to exit the access. The throat shall be of sufficient length to prevent incoming vehicles from queuing back into the highway. Access from the throat to parking or other areas shall be prohibited.
  - c. A separator strip or strip of land that separates the roadway from the throat or parking area shall be constructed. The access separator strips shall be installed between the parking area and the roadway and along the throat. The

Board shall determine if the separator strip shall include curbing, walkways, ditching, and/or vegetation. The separator strip shall extend away from the highway at a minimum of 9 feet from the traveled way of the external road.

- d. The Board shall determine if one two-way or two one-way access(es) will be required for the proposed subdivision. If a one-way system is required and the predominant traffic volume is truck traffic, the entrance will be configured on the minimum angle that permits the truck to enter or leave the highway safely and conveniently. Otherwise all one-way accesses will be configured perpendicular to the highway for at least the length of the design vehicle. For one-way access systems, the Board shall determine if a physical separation of curbing, ditching, grass or other landscaping must be used between the two one-way accesses. Both portions of a one-way access must be separated from another one-way access by at least 12 feet.

All high-volume accesses shall meet the requirements of the Maine Department of Transportation's "Rules and Regulations Pertaining to Traffic Movement Permits." A copy of the Maine Department of Transportation's required traffic study shall be submitted to the Board. The Board shall develop design standards for the proposed subdivision access based on the findings of the traffic study submitted to the Maine Department of Transportation. The design standards shall be compatible with the Performance standards cited in Section 10.15.B of the Subdivision Regulations.

#### B. Street Design and Construction Standards.

##### 1. General Requirements.

- a. The Board shall not approve any subdivision plan unless proposed streets are designed in accordance with any local ordinance or the specifications contained in these regulations. Approval of the final plan by the Board shall not be deemed to constitute or be evidence of acceptance by the municipality of any street or easement.
- b. Applicants shall submit to the Board, as part of the final plan, detailed construction drawings showing a plan view, profile, and typical cross-section of the proposed streets and existing streets within 300 feet of any proposed intersections. The plan view shall be at a scale of one inch equals no more than fifty feet. The vertical scale of the profile shall be one inch equals no more than five feet. The plans shall include the following information:
  - 1) Date, scale, and north point, indicating magnetic or true.
  - 2) Intersections of the proposed street with existing streets.
  - 3) Roadway and right-of-way limits including edge of pavement or aggregate base, edge of shoulder, clear zone, sidewalks, and curbs.
  - 4) Kind, size, location, material, profile and cross-section of all existing and Proposed drainage structures and their location with respect to the existing natural waterways and proposed drainage ways.
  - 5) Complete curve data shall be indicated for all horizontal and vertical curves.
  - 6) Turning radii at all intersections.
  - 7) Centerline gradients.

- 8) Size, type, vertical clearance and locations of all existing and proposed Overhead and underground utilities, to include but not be limited to water, Sewer, electricity, telephone, lighting, and cable television.
  - c. Upon receipt of plans for a proposed public street the Board shall forward one Copy to the municipal officers, the road commissioner, and the municipal Engineer for review and comment. Plans for streets which are not proposed to Be accepted by the municipality shall be sent to the municipal engineer for Review and comment.
  - d. Where the applicant proposes improvements within existing public streets, the Proposed design and construction details shall be approved in writing by the Road commissioner or the Maine Department of Transportation, as Appropriate.
  - e. Private Roads.  
The following standards shall apply to all proposed private roads:
    - 1) All private roads shall be designated as such and will be required to have adequate signage indicating the road is a private road and not publicly maintained.
    - 2) Except for sidewalk, bicycle provisions and minimum grade requirements stipulated in this Section, all private roads shall adhere to the road design standards of this Section.
    - 3) The Board may approve a reduction of the right of way easement for private roads to a minimum of 30 feet in land use density areas designated as “Rural” in Section 10.15.1.B.2.f.
    - 4) All properties served by the private road shall provide adequate access for Emergency vehicles and shall conform to the approved local street numbering system.
    - 5) All private roads shall have adequate provisions for drainage and storm water runoff as provided in Section 1006.13.
    - 6) Where the subdivision streets are to remain private roads, the following words shall appear on the recorded plan: “All roads in this subdivision shall remain private roads to be maintained by the developer or the lot owners and shall not be accepted or maintained by the Town, until they meet all municipal street design and construction standards.”
    - 7) A road maintenance agreement, prepared by the Town Attorney shall be recorded with the deed of each property to be served by a common private road. The agreement shall provide for a method to initiate and finance a private road and maintain that road in condition, and a method of apportioning maintenance costs to current and future users.
2. Street Design Standards.
    - a. These design guidelines shall control the roadway, shoulders, clear zones, curbs, sidewalks, drainage systems, culverts, and other appurtenances associated with the street, and shall be met by all streets within a subdivision, unless the applicant can provide clear and convincing evidence that an alternate design will meet good engineering practice and will meet the performance standards of this Article.
    - b. Reserve strips controlling access to streets shall be prohibited except where their control is definitely placed with the municipality.

- c. Adjacent to areas zoned and designed for commercial use, or where a change of zoning to a zone which permits commercial uses is contemplated by the municipality, the street right-of-way and/or pavement width shall be increased on each side by half of the amount necessary to bring the road into conformance with the standards for commercial streets in these regulations.
- d. 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 of the zoning ordinance. When such widening or realignment is included in the municipality's capital investment plan, the reserve area shall not be included in any lot but shall be reserved to be deeded to the municipality or State.
- e. Any subdivision expected to generate average daily traffic of 200 trips per day or more shall have at least two street connections with existing public streets, streets shown on an Official Map, or streets on an approved subdivision plan for which performance guarantees have been filed and accepted. Any street with an average daily traffic of 200 trips per day or more shall have at least two street connections leading to existing public streets, streets shown on an Official Map, or streets on an approved subdivision plan for which performance guarantees have been filed and accepted.
- f. The design standards of Table 10.15-3 shall be compatible with the traffic volume Access thresholds referenced in Section 1006.16.1.A.7. In addition, the street Design standards shall be compatible with the estimated Average Daily Traffic Expected to occur on the internal subdivision street, and the land use type and lot Density allowed in the land use zone. The following land use density pattern Requirements shall be required for the following land use zones.
  - 1. Land use density patterns that are Rural (R) shall apply to the following zones:  
( \_\_ )(will determine after comp plan has been voted on)
  - 2. Land use density patterns that are Village/Urban (V/U) shall apply to the Following zones: ( \_\_\_\_\_, \_\_\_\_\_)
  - 3. Land use density patterns that are Commercial/Industrial (C/I) shall apply to The following zones if the proposed development will contain commercial or Industrial uses: ( \_\_\_\_\_)

*Go to Road Design Chart, Table 10.15-3*

- g. The Board shall have authority to increase the minimum standards in Table 10.15-3, if the Board approves a road design that will accommodate travel speeds greater than 30 mph.
- h. On Street Parking.  
The Board shall have authority to require a paved cross section of 26 feet for residential subdivisions with average lot widths between 100 feet and 40 feet wide for on-street spillover parking.
- i. Curbs.

- 1) Curbs shall be installed for storm water purposes and/or to protect the pavement edge from unraveling along parking lanes or in very intensive developments where heavy use may erode the planted area at the edge of the pavement. Curbs for storm water management shall be contingent on the storm water design standards specified in Section 1006.14. If curbs are not necessary for storm water management purposes, they are not required for subdivisions in which the average lot width is 100 feet or greater.
  - 2) If the Board requires a vertical curb and no parking lane is present, a minimum shoulder of 2 feet is recommended from the traveled way to the curb. For sloped curbs where no parking lane is present, a minimum 1 foot shoulder is required from the traveled way to the curb.
  - 3) Granite curbing shall be installed on a thoroughly compacted gravel base of six inches minimum thickness. Bituminous curbing shall be installed on the base course of the pavement.
- j. The Board may require additional shoulder lengths in any situation where the proximity of the proposed subdivision to future or existing neighborhood businesses, schools, community facilities, or other bicycle traffic generators suggest that additional shoulder lengths will be needed for bicycle traffic. In situations where additional shoulder lengths are required for bicyclists, the minimum width of a paved shoulder shall be 1 foot on either side of the traveled way for all low and medium volume streets in Rural (R) designated zones defined in Section \_\_\_\_ . Paved shoulder widths for low and medium volume streets in Village/Urban (V/U) designated zones shall be a minimum of 2 feet on either side of the traveled way.
- k. The centerline of the roadway shall be the centerline of the right-of-way.
- l. Dead End Streets.  
In addition to the design standards in Table 10.15-3, dead-end streets shall be constructed to provide a cul-de-sac turn-around with a travel lane and width equal to the minimum width required for the internal subdivision street. For all residential cul-de-sacs the minimum radius shall be 38 feet. For commercial/industrial cul-de-sacs the minimum radius shall be 50 feet. Where the cul-de-sac is in a wooded area prior to development, a stand of trees shall be maintained within the center of the cul-de-sac. The Board shall require the reservation of a twenty-foot easement in line with the street to provide continuation of pedestrian traffic or utilities to the next street. The Board may also require the reservation of a right-of-way easement equal to the right of way width of the internal subdivision street in line with the street to provide continuation of the road where future subdivision is possible. A T-turn around is permissible for residential subdivisions carrying an ADT of 100 or less. The turnaround area shall have a width equal to the street width, a 5-foot turning radius, and a total length of 50 feet centered above the street.
- m. Sidewalks.  
The Board may require sidewalks in any situation where the proximity of the Proposed subdivision to future or existing neighborhood businesses, schools, Community facilities, or other pedestrian traffic generators suggest sidewalks Will be needed. The Board shall determine if sidewalks will be installed on one

Side or both sides of the street, and if the sidewalk shall be a bituminous or Portland cement concrete sidewalk.

- 1) Location.

Sidewalks may be located adjacent to the curb or shoulder, but it is Recommended to locate sidewalks a minimum of 2 1/2 feet from the curb facing or edge of shoulder if the street is not curbed. If no should is required, the sidewalk shall be located a minimum of 4 feet from the edge of the traveled way.
- 2) Bituminous Sidewalks.
  - a) The “subbase” aggregate course shall be no less than twelve inches thick after compaction.
  - b) The hot bituminous pavement surface course shall be MDOT plant Mix Grade D constructed in two lifts, each no less than one inch after compaction.
- 3) Portland Cement Concrete Sidewalks.
  - a) The “subbase” aggregate shall be no less than twelve inches thick after compaction.
  - b) The Portland cement concrete shall be reinforced with six-inch square, number 10 wire mesh and shall be no less than four inches thick.
3. Street Construction Standards.
  - a. The minimum thickness of material after compaction shall meet the Specifications in Table 10.15-4.
  - b. Preparation.
    - 1) Before any clearing has started on the right-of-way, the center line and side of the new road shall be staked or flagged at fifty-foot intervals.
    - 2) Before grading is started, the entire area within the right-of-way necessary for traveled way, shoulders, clear zones, sidewalks, drainage-ways, and utilities shall be cleared of all stumps, roots, brush, and other objectionable material. All shallow ledge, large boulders and tree stumps shall be removed from the cleared area.
    - 3) All organic materials or other deleterious material shall be removed to a depth of two feet below the subgrade of the roadway. Rocks and boulders shall also be removed to a depth of two feet below the subgrade of the roadway. On soils which have been identified by the municipal engineer as not suitable for roadways, either the subsoil shall be removed from the street site to a depth of two feet below the subgrade and replaced with material meeting the specifications for gravel aggregate sub-base below, or a Maine Department of Transportation approved stabilization geotextile may be used.
    - 4) Except in a ledge cut, side slopes shall be no steeper than a slope of three feet horizontal to one foot vertical, and shall be graded, loamed, limed, fertilized, and seeded according to the specifications of the erosion and sedimentation control plan. Where a cut results in exposed ledge a side slope no steeper than one foot horizontal to four feet vertical is permitted.
    - 5) All underground utilities shall be installed prior to paving to avoid cuts in the pavement. Building sewers and water service connections shall be



installed to the edge of the right-of-way prior to paving.

c. Bases and Pavement.

1) Bases/Subbase.

- a) The Aggregate subbase course shall be sand or gravel of hard durable particles free from vegetative matter, lumps or balls of clay and other deleterious substances. The gradation of the part that passes a three-inch square mesh sieve shall meet the grading requirements of Table 10.15-5.

Aggregate for the subbase shall contain no particles of rock exceeding six inches in any dimension.

- b) If the Aggregate Subbase Course is found to be not fine-gradable because of larger stones, then a minimum of three inches of Aggregate Base Course shall be placed on top of the subbase course. The Aggregate Base Course shall be screened or crushed gravel of hard durable particles free from vegetative matter, lumps or balls of clay and other deleterious substances. The gradation of the part that passes a three-inch square mesh sieve shall meet the grading requirements of Table 10.15-6.

Aggregate for the base shall contain no particles of rock exceeding two inches in any dimension.

2) Pavement Joints.

Where pavement joins an existing pavement, the existing pavement shall be cut along a smooth line and form a neat, even, vertical joint.

3) Pavements.

- a) Minimum standards for the base layer of pavement shall be the Maine Department of Transportation specifications for plant mix grade B with an

Aggregate size no more than 1 inch maximum and a liquid asphalt content

Between 4.8% and 6.0% by weight depending on aggregate characteristics.

The pavement may be placed between April 15 and November 15, provided the air temperature in the shade at the paving location is 35°F or higher and the surface to be paved is not frozen or unreasonably wet.

- b) Minimum standards for the surface layer of pavement shall be the Maine Department of Transportation specifications for plant mix grade C or D with an aggregate size no more than 3/4 inch maximum and a liquid asphalt content between 5.8% and 7.0% by weight depending on aggregate characteristics. The pavement may be placed between April 15 and October 15, provided the air temperature in the shade at the paving location is 50°F or higher.

4) Surface Gravel.

The Board may approve an aggregate road base for any internal subdivision Public street in which zoning requires a minimum of one dwelling unit per 7 acres, or any private way with a maximum estimated

Average Daily Traffic of 50 ADT or less. The surface gravel shall meet the gravel grading requirements of Table 10.15-7.

**Table 10.15-1 Minimum Sight Distance Standards for Subdivision Accesses**

<b>Posted Speed</b>	<b>Sight Distance Standard Vehicles</b>	<b>Sight Distance Larger Vehicles</b>	<b>Mobility Sight Distance</b>
<b>(MPH)</b>	<b>(Feet)</b>	<b>(Feet)</b>	<b>(Feet)</b>
20	155	230	Not applicable
25	200	300	Not applicable
30	250	375	Not applicable
35	305	455	Not applicable
40	360	540	580
45	425	635	710
50	495	740	840
55	570	855	990
60	645	965	1,150

**Table 10.15-2. Access Design Standards for Low and Medium Volume Accesses**

<i>Basic Standards</i>	<i>Low Volume</i>	<i>Medium Volume</i>
	(feet)	(feet)
Minimum Access Width:*		
	<i>Majority Passenger Vehicles</i>	22
	<i>&gt;30% Larger Vehicles</i>	30
Minimum Curb Radius:		
	<i>Majority Passenger Vehicles</i>	15
	<i>&gt;30% Larger Vehicles</i>	15
Minimum Corner Clearance to:**		
	<i>Unsignalized Intersection</i>	100
	<i>Signalized Intersection</i>	125
Minimum Access Spacing***:		
	<i>MPH of External Road</i>	
	<i>No Require-ment</i>	<i>No Requirement</i>
	35 or less:	175
	40	175
	45	265
	50	350
	55 or more	525

\*Minimum widths for low or medium volume accesses shall be either the minimum cross section width of the internal subdivision street or the minimum access width in Table 12.2.-2, whichever width is greater.

\*\*Minimum corner clearance shall be the distance measured from the edge of an internal subdivision access excluding radii to the edge of an external street excluding radii.

\*\*\*Minimum access spacing shall be the distance measured from the edge of an internal subdivision access excluding radii to the edge of a neighboring access excluding radii.

Table 10.15-3 Street Design Guidelines

Access Category	Low Volume						Medium Volume						High Volume					
	1-50 ADT			50-100 ADT			100-400 ADT			400-1500			1500+			100 PCE+		
Traffic Volume Level	R	V/U	I/C	R	V/U	I/C	R	V/U	I/C	R	V/U	I/C	R	V/U	I/C	R	V/U	I/C
Density Pattern	40'	40'	40'	40'	40'	40'	50	50	50	50	50	60	60	60	60	60	60	60
Minimum Right of Way	14'	16'	16'	18'	18'	24'	18'	20'	28'	18'	20'	30'	20'	22'	30'	22'	24'	30'
Minimum Traveled Way Width	0'	0'	4'	0'	1'	2'	2'	1'	2'	2'	2'	4'	3'	4'	5'	3'	4'	5'
Minimum Shoulder Width (each side)*	7'	7'	7'	7'	7'	7'	7'	7'	7'	7'	8'	8'	8'	8'	8'	8'	8'	8'
Clear Zone Width (each side)	14'	14'	14'	14'	14'	14'	14'	14'	14'	14'	14'	14'	14'	14'	14'	14'	14'	14'
Minimum Vertical Clearance**	0.50%	0.50%	0.50%	0.50%	0.50%	0.50%	0.50%	0.50%	0.50%	0.50%	0.50%	0.50%	0.50%	0.50%	0.50%	0.50%	0.50%	0.50%
Minimum Grade	8%	8%	5%	8%	8%	5%	8%	8%	5%	8%	8%	5%	8%	8%	5%	8%	8%	5%
Maximum Grade***	100'	100'	350'	100'	100'	350'	100'	100'	350'	100'	100'	350'	140'	140'	350'	350'	350'	350'
Minimum Centerline Radius****	25'/ft	25'/ft	25'/ft	25'/ft	25'/ft	25'/ft	25'/ft	25'/ft	25'/ft	25'/ft	25'/ft	25'/ft	25'/ft	25'/ft	25'/ft	25'/ft	25'/ft	25'
Roadway Crown Asphalt Surface	.5'/ft	N/A	N/A	.5'/ft	N/A	N/A	.5'/ft	N/A	N/A	.5'/ft	N/A	N/A	.5'/ft	N/A	N/A	.5'/ft	N/A	N/A
Roadway Crown Aggregate Surface	155'	155'	230'	155'	155'	230'	155'	155'	230'	155'	155'	230'	155'	155'	230'	155'	155'	230'
Minimum Internal Sight Distance	25'	25'	40'	25'	25'	40'	25'	25'	40'	25'	25'	40'	25'	25'	40'	25'	25'	40'
Minimum Internal Spacing Standards*****	30'	30'	75'	30'	30'	75'	30'	30'	75'	30'	30'	75'	30'	30'	75'	30'	30'	75'
Minimum Internal Access to Street Corner Clearance*****																		

\*The Board may require an increase in shoulder width for stormwater management purposes or road stabilization.

\*\*The minimum vertical clearance is the vertical clearance over the entire roadway width, including any shoulders.

\*\*\*Maximum grade may be exceeded for a length of

\*\*\*\*Superelevation is not recommended for any subdivision street, unless recommended by Town engineer or Town-hired consultant.

\*\*\*\*\*Internal spacing distances are measured from the edge of one internal subdivision access to another, excluding curb radii.

\*\*\*\*\*Internal access to street corner clearances are measured from the edge of an internal subdivision access to an intersecting public road, excluding curb radii.

<b>Table 10.15-4. Minimum Pavement Materials Thicknesses</b>	
<b>Street Materials</b>	<b>Thickness Standards</b>
<b>Aggregate Subbase Course</b>	
(Max. sized stone 6")	
Without base gravel	18"
With base gravel	15"
<b>Crushed Aggregate Base Course</b>	
(if necessary)	3"
<b>Hot Bituminous Pavement</b>	
Total Thickness	3"
Surface Course	1 1/4"
Base Course	1 3/4"
<b>Surface Gravel</b>	
(if permissible)	3"

<b>Table 10.15-5 Aggregate Subbase Grading Requirements</b>	
<u>Sieve Designation</u> <u>Sieves</u>	<u>Percentage by</u> <u>Weight Passing</u> <u>Square Mesh</u>
1/4 inch	25-70%
No. 40	0-30%
No. 200	0-7%

<b>Table 10.15-6. Base Course Grading Requirements</b>	
<u>Sieve Designation</u>	<u>Percentage by Weight</u> <u>Passing</u> <u>Square Mesh Sieves</u>
1/2 inch	45-70%
1/4 inch	30-55%
No. 40	0-20%
No. 200	0-5%

<b>Table 10.15-7 Surface Gravel Grading Requirements</b>	
<u>Sieve Designation</u>	<u>Percentage by Weight Passing</u> <u>Square Mesh Sieves</u>
2 inch	95-100%
1/2 inch	30-65%
No. 200	7-12%

#### **1006.21 Parking, Sidewalks and Fire Protection**

A. The Planning Board may require that the subdivider shall construct ponds and dry

hydrants to provide for adequate water storage for fire-fighting purposes. See Section 1007.2(B).

B. Fire Protection in a Mobile Home Park

1. The Mobile Home Park shall be subject to any and all existing and future town fire prevention regulations.
2. Each lot shall be legibly marked for identification and easily accessible to Emergency vehicles (permitting fire apparatus to approach within 100 feet).
3. A fire pond with a 15,000-gallon capacity will be required in a development of more than 5 mobile homes.

C. Parking in a Mobile Home Park

1. On street parking shall be prohibited unless an eight-foot parking lane is provided, in which case on street parking may be permitted on the side of the road where the Parking lane is located.
2. For each mobile home lot there shall be provided and maintained at least 2 off-street parking spaces. Each parking space shall contain a minimum area of 200 square feet with minimum dimensions of 10 feet by 20 feet. This requirement may be waived if an equivalent number of spaces are provided by a parking lane.
3. In addition to occupant parking, off-street guest and service parking shall be Provided within the boundaries of the park at a ratio of 1 space for each 4 mobile Home lots. Such parking shall be hard surfaced, and the space shall be reserved for  
That sole use. This requirement shall be waived if a parking lane provides an Equivalent number of spaces.

D. Sidewalks/Walkways in a Mobile Home Park

The Mobile Home Park shall contain pedestrian walkways that link all units with all Service and recreational facilities. Such walkways shall be adequately surfaced and lit. Walkways shall be a minimum width of 3 feet.

E. Storm Water Management Design Standards.

1. Adequate provision shall be made for disposal of all storm water generated within The subdivision, and any drained ground water through a management system of Swales, culverts, under drains, and storm drains. The storm water management System shall be designed to conduct storm water flows to existing watercourses or Storm drains.
  - a. Where a subdivision is traversed by a stream, river, or surface water drainage Way, or where the Board feels that surface water runoff to be created by the Subdivision should be controlled, there shall be provided easements or drainage rights-of-way with swales, culverts, catch basins or other means of channeling surface water within the subdivision and over other properties. This storm water management system shall be designed by a Registered Professional Engineer.
  - b. Drainage easements for existing water-courses or proposed drainage ways shall be provided at least thirty feet wide, conforming substantially to the lines of existing natural drainage.
  - c. All components of the storm water management system shall be designed to limit peak discharge to predevelopment levels for every storm between the 2-year and the 25-year, 24-hour duration, frequencies, based on rainfall data for

Portland, Maine. When the subdivision discharges directly to a major water body, peak discharge may be increased from predevelopment levels provided downstream drainage structures are suitably sized.

- d. The minimum pipe size for any storm drainage pipe shall be twelve inches. Maximum trench width at the pipe crown shall be the outside diameter of the pipe plus, two feet. Pipe shall be bedded in a fine granular material, containing no stones larger than 3 inches, lumps of clay, or organic matter, reaching a minimum of six inches below the bottom of the pipe extending to six inches above the top of the pipe.
  2. The storm water management system shall be designed to accommodate upstream Drainage, taking into account existing conditions and approved or planned developments not yet built and shall include a surplus design capacity factor of 25% for potential increases in upstream runoff.
  3. Downstream drainage requirements shall be studied to determine the effect of the Proposed subdivision. The storm drainage shall not over load existing or future planned storm drainage systems downstream from the subdivision. The subdivider shall be responsible for financing any improvements to existing drainage systems required to handle the increased storm flows.
  4. Catch basins shall be installed where necessary and located at the curb line.
  5. Outlets shall be stabilized against soil erosion by stone riprap or other suitable materials to reduce storm water velocity. Wherever the storm drainage system is not within the right-of-way of a public street, perpetual easements shall be provided to the Town allowing maintenance and improvement of the system.
  6. Where soils require a subsurface drainage system, the drains shall be installed and Maintained separately from the storm water drainage system.
- F. Storm Drainage Construction Standards.
1. Materials.
    - a. Reinforced Concrete Pipe. Reinforced Concrete Pipe shall meet the requirements of ASTM Designation C-76 (AASHTO M 120). Pipe classes shall be required to meet the soil and traffic loads with a safety factor of 1.2 on the .01 inch crack strength with a Class B bedding. Joints shall be of the rubber gasket type meeting ASTM Designation C 443-70, or of an approved preformed plastic jointing material such as "Ramnek". Perforated Concrete Pipe shall conform to the requirements of AASHTO 175 for the appropriate diameters.
    - b. Corrugated Metal Pipe. Corrugated Metal Pipe shall be bituminous coated meeting the requirements of AASHTO Designation M 190 Type C for iron or steel pipe AASHTO Designation M 196 for aluminum alloy pipe for sectional dimensions and type of bituminous coating. Pipe gauge shall be as required to meet the soil and traffic loads with a deflection of not more than 5%.
    - c. ABS Pipe. ABS (Acrylonitrile-butadiene-styrene) composite pipe and fittings shall conform to the requirements of AASHTO M 264 and ASSHTO M 265. Perforated pipe shall conform to the requirements of ASSHTO M-252.
    - d. Corrugated Plastic Pipe. Corrugated Plastic Pipe shall conform to the requirements of AASHTO M-252.
  - Manholes. Manholes shall be of precast concrete truncated cone section

construction meeting the requirements of ASTM Designation C 478 or precast concrete manhole block construction meeting the requirements of ASTM Designation C 139, radial type. Bases may be cast in place 3,000 psi 28-day strength concrete or may be of precast concrete, placed on a compacted foundation of uniform density. Metal frames and traps shall be set in a full mortar bed and with tops shall conform to the requirements of AASHTO M 103 for carbon steel castings, AASHTO M 105, Class 30 for gray iron castings or AASHTO M 183 (ASTM A 283, Grade B or better) for structural steel.

- e. Catch Basins. Catch Basins shall be of precast concrete truncated cone section construction meeting the requirements of ASTM Designation C 478 or precast concrete manhole block construction meeting the requirements of ASTM Designation C 139, radial type. Castings shall be square cast iron sized for the particular inlet condition with the gratings per perpendicular to the curb line. Bases may be cast in place 3,000 psi 28-day strength concrete or may be of precast concrete, placed on a compacted foundation of uniform density. Metal frames and traps shall be set in a full mortar bed and with tops shall conform to the requirements of AASHTO M 103 for carbon steel castings, AASHTO M 105, Class 30 for gray iron castings or AASHTO M 183 (ASTM A 283, Grade B or better) for structural steel.
2. Drain inlet alignment shall be straight in both horizontal and vertical alignment unless specific approval of a curvilinear drain is obtained in writing from the Board, after consultation with the Municipal Engineer.
3. Manholes shall be provided at all changes in vertical or horizontal alignment and at all junctions. On straight runs, manholes shall be placed at a maximum of 400-foot intervals.
4. Upon completion each catch basin or manhole shall be cleaned of all accumulation of silt, debris, or foreign matter and shall be kept clean until final acceptance.

#### **1006.22 Additional Improvements**

##### **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. (Note Move to 1006.4

##### **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.**

1. Streets which join and are in alignment with streets of abutting or neighboring Properties shall bear the same name. Names of new streets shall not duplicate, nor Bear phonetic resemblance to the names of existing streets within the Municipality, and shall be subject to the approval of the Board.
2. Street lighting shall be installed as approved by the Board.

- a. Outdoor lighting in a Mobile Home Park shall be provided to illuminate Internal streets and pedestrian walkways. Lights shall be sized and directed to Avoid adverse impact on adjacent properties.
  3. Signs and advertising devices shall be prohibited in a Mobile Home Park except:
    - a. One identifying sign at each entrance of the mobile home park no larger than 16 square feet which may be indirectly lit, but not flashing.
    - b. Directional and informational signs for the convenience of tenants and the public, relative to parking, office, traffic movements, etc.
    - c. Mobile/manufactured home "for sale" signs, provided that such signs that face a public road shall be no more than 6 square feet and shall be limited to two signs per mobile home park.
    - d. Mobile/manufactured home address signs.
  4. The developer shall reimburse the Municipality for the costs of installing street name, traffic safety and control signs.
- D. Storage in a Mobile Home Park  
At least 300 cubic feet of enclosed tenant storage facilities shall be conveniently Provided on or near each mobile home lot for the storage of materials and Equipment.

#### **1006.23 Certification of Construction**

"As built" plans shall be submitted to the Municipal Officers. Upon completion of street construction and prior to a vote by the Municipal Officers to submit a proposed public way to the legislative body, a written certification signed by a professional engineer registered in the State of Maine shall be submitted to the Municipal Officers at the expense of the applicant, certifying that the proposed way meets or exceeds the design and construction requirements of these regulations.

#### **1006.24 Buffer Strip**

In a Mobile Home Park:

- A. A 50-foot-wide buffer strip shall be provided along all property boundaries that abut Residential land which has a gross density of less than half of that proposed in the Park.
- B. No structures, streets or utilities may be placed in the buffer strip except they may Cross the buffer strip to provide services in the park.
- C. Within 25 feet of any property line and within the buffer strip visual screening And/or landscaping shall be provided. This visual screening may consist of Landscaping (such as shrubs and trees) and/or natural existing vegetation. This Screening shall effectively screen at least 80% of the homes from view from the Adjacent property and shall be maintained throughout the life of the park.

#### **1006.25 Lot Coverage**

In a Mobile Home Park:

- A. All buildings on the lot, including accessory buildings and structures, but excluding open decks and parking spaces, shall not cover more than 50% of the lot area.
- B. No mobile home shall be located less than 15 feet from the side and rear lot lines of an individual mobile home lot and there shall be a minimum side and end clearance



of 40 feet between adjacent mobile homes.

- C. No mobile homes shall be located closer than 10 feet to the right-of-way line of a street and the average distance shall be at least 20 feet for all units.

#### **1006.26 Mobile Home Stand/Pad**

In a Mobile Home Park:

- A. Each mobile home lot shall be provided with a pad or foundation of suitable Construction as to prevent heaving, shifting, or settling due to frost action.
- B. All individual mobile homes shall be equipped with skirting or other type of enclosure.

#### **1007 Performance Guarantees**

##### **1007.1 Types of Guarantees.**

With submittal of the application for Final Plan approval, the subdivider shall provide one of the following performance guarantees for an amount adequate to cover the total construction costs of all required improvements, taking into account the time-span of the construction schedule and the inflation rate for construction costs:

- A. Either a certified check payable to the Town or a savings account or certificate of Deposit naming the Town as owner, for the establishment of an escrow account;
- B. A performance bond payable to the Town issued by a surety company, approved by the Municipal Officers, or Town Manager; or
- C. 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 Municipal Officers, or Town Manager; or
- D. An offer of conditional approval limiting the number of units built or lots sold until all required improvements have been constructed.

The conditions and amount of the performance guarantee shall be determined by the Board with the advice of the Town Engineer, Road Commissioner, Municipal Officers, and/or Town Attorney.

##### **1007.2 Contents of Guarantee.**

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

##### **1007.3 Escrow Account.**

A cash contribution to the establishment of an escrow account shall be made by either a certified check made out to the municipality, the direct deposit into a savings account, or the purchase of a certificate of deposit. For any account opened by the subdivider, the municipality shall be named as owner or co-owner, and the consent of the municipality shall be required for a withdrawal. Any interest earned on the escrow account shall be returned to the subdivider unless the municipality has found it necessary to draw on the account, in which case the interest earned shall be proportionately divided between the amount returned to the subdivider and the amount withdrawn to complete the required improvements.

**1007.4 Performance Bond.**

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

**1007.5 Letter of Credit.**

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.

**1007.6 Conditional Agreement.**

The Board, at its discretion may provide for the subdivider to enter into a binding Agreement with the municipality in lieu of the other financial performance guarantees. More than four lots may be sold or built upon until either:

- A. It is certified by the Board, or its agent, that all of the required improvements have been installed in accordance with these regulations and the regulations of the appropriate utilities, or
- C. A performance guarantee, acceptable to the municipality, is submitted in an amount necessary to cover the completion of the required improvements at an amount adjusted for inflation and prorated for the portions of the required improvements already installed.

Notice of the agreement and any conditions shall be on the Final Plan which is recorded at the Registry of Deeds. Release from the agreement shall follow the procedures for release of the performance guarantees contained in Section 1007.8.

**1007.7 Phasing of Development.**

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

**1007.8 Release of guarantee.**

Prior to the release of any part of the performance guarantee, the Board shall determine to its satisfaction, in part upon the report of the Town Engineer or other qualified individual retained by the municipality and whatever other agencies and departments may be 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.

**1007.9 Default.**

If, upon inspection, the Town Engineer or other qualified individual retained by the municipality finds that any of the required improvements have not been constructed in accordance with the plans and specification filed as part of the application, (s)he shall so report in writing to the Code Enforcement Officer, the Municipal Officers, the Board, and the subdivider or builder. The Municipal Officers shall take any steps necessary to preserve the Town's rights.

**1007.10 Improvements Guaranteed.**

Performance guarantees shall be tendered for all improvements required to meet the standards of these regulations and for the construction of the streets, storm water management facilities, public sewage collection or disposal facilities, public water systems, and erosion and sedimentation control measures.

**1008 Waivers****1008.1 Waivers of Certain Submission Requirements Authorized.**

Where the Board makes written findings of fact that there are special circumstances of a particular parcel proposed to be subdivided, or that the application is simple and minor in Nature, it may waive portions of the submission requirements, unless prohibited by these Regulations or Maine statutes, provided the applicant has demonstrated that the performance standards of these regulations and the criteria of the subdivision statute have been or will be met, the public health, safety, and welfare are protected, and provided the waivers do not have the effect of nullifying the intent and purpose of the comprehensive plan, the zoning ordinance, or these regulations.

**1008.2 Waivers of Certain Improvements Authorized.**

Where the Board makes written findings of fact that due to special circumstances of a particular lot proposed to be subdivided, the provision of certain required improvements is not requisite to provide for the public health, safety or welfare, or are inappropriate because of inadequate or lacking connecting facilities adjacent to or in proximity of the proposed subdivision, it may waive the requirement for such improvements, subject to appropriate conditions, provided the waivers do not have the effect of nullifying the intent and purpose of the comprehensive plan, the zoning ordinance, or these regulations, and further provided the performance standards of these regulations and the criteria of the subdivision statute have been or will be met by the proposed subdivision.

**1008.3 Waiver of Procedural Steps.**

The Board may allow an applicant to combine the final plan and preliminary plan Application steps into one procedure, upon making all of the following written findings of

Fact:

1. No new streets are proposed;
2. No approvals are required from the Maine Department of Environmental Protection Under the Site Location of Development Act, Stormwater Law, or Natural Resources Protection Act, other than a "Permit by Rule;"
3. The Board agrees to approve a waiver from the requirement to submit a storm water Management plan and sedimentation and erosion control plan, as ordinarily required by sections 6 or 7; and
4. The application contains all other applicable submissions required for both the preliminary and final plan steps, except for those items for which a waiver of a required submission has been requested and granted.

**1008.4 Conditions for Waivers**

Waivers may only be granted in accordance with Sections 1008.1, 1008.2, and 1008.3 And the town of Searsmont LUO. The Board shall require such conditions as will assure Objectives of these regulations are met.

**1008.5 Waivers to be shown on Final Plan.**

When the Board grants a waiver to any of the improvements required by these Regulations, the Final Plan, to be recorded at the Registry of Deeds, shall indicate the Waivers granted and the date on which they were granted.

## **Section 1100 - Site Plan Review**

### **1101 Purpose, Applicability and Classification**

#### **1101.1 Purpose**

- A. To provide a level of municipal review that would not otherwise occur of projects that Potentially could impact the community;
- B. To promote and protect the health, welfare and safety of the residents of the Town of Searsmont;
- C. To provide local protection from those particular nuisances which are not governed by State law or regulation;
- D. To balance the rights of landowners to use their land with the corresponding right of Abutting and neighboring landowners to live without undue disturbance from noise, Smoke, fumes, dust, odor, glare, traffic, storm water runoff or the pollution of ground or Surface waters;
- E. To reduce the off-site effects of the development, thereby decreasing the cost of Maintaining or improving municipal services; and
- F. To protect the scenic and visual resources of the community.

#### **1101.2 Applicability**

- A. Site plan approval by the Planning Board in conformity with the criteria and standards of  
This ordinance shall be required for the following:
  - 1. All proposals for new development of:
    - a. Commercial uses,
    - b. Retail uses,
    - c. Industrial uses,
    - d. Institutional uses, and
    - e. Multiple family dwelling units consisting of three or more attached dwelling units and their accessory uses and structures, and
    - f. Commercial and non-commercial motorized vehicle race track or drag strip.
    - g. Changes of use unless the change is one in which a commercial use of the existing Structures or land is a change to a single family residential.
- B. Site plan approval is not required for the following:
  - 1. This ordinance does not apply to
    - a. Detached and two-family dwelling units or to
    - b. Agricultural land management practices and forest management practices and Home occupations.
  - 2. Nothing in this ordinance shall be construed to prevent ordinary repair, maintenance  
Or replacement of any part of an existing building or landscaping within an approved Site Plan.
- C. Minor field changes to Approved Site Plans---see Section 1102.6

D. Amendments or Additions to approved plans—see Section 1102.7

### **1101.3 Classification of Projects**

Projects subject to site plan review shall be divided into two classes, minor Developments and major developments.

- A. Minor developments shall include those projects involving the construction or addition of less than 5,000 sq. Ft. Of gross nonresidential floor area, and/or projects involving the installation of less than 5,000 sq. Ft. Of impervious surfaces, or projects involving the conversion of existing buildings or structures from one use to another use which requires site plan approval.
- B. Major developments shall include projects involving the construction or addition of 5,000 or more square feet of gross nonresidential floor area, and/or projects involving The installation of more than 10,000 sq. Ft. Of impervious surfaces, projects involving the establishment or expansion of motorized vehicle race tracks or drag strips, a Telecommunication facility, campground or other projects requiring review which are Not classified as a minor development. The Planning Board shall classify each project as a minor or major development. If the applicant is uncertain as to the classification of the project, he/she may request a Determination.

## **1102 Application**

### **1102.1 Preapplication Meeting**

Applicants shall schedule a meeting with the Planning Board prior to formal submission for review, to present a sketch plan and make a verbal presentation regarding the site and the proposed project. Prior to the pre-application meeting, the applicant must meet with the Code Enforcement Officer to review the application process and requirements.

Applicants shall make a written request to be placed on the Planning Board's agenda at least seven (7) days prior to a regularly scheduled meeting by contacting the Code Enforcement Officer (note: the day of request or submittal does not count as part of the 7 days).

Submission.

- The Preapplication Sketch Plan should show, in simple sketch form, the proposed Development area, and other features in relation to existing conditions. The Sketch Plan, which may be a free hand penciled sketch, should be supplemented with General information to describe or outline the existing conditions of the site and the Proposed development. It is recommended that the sketch plan be superimposed on Or accompanied by a copy of the Property Tax Maps(s) on which the land is located.
- A. Contour Interval and On-Site Inspection.  
Within 30 days, the Board shall determine and inform the applicant, in writing, of The required contour interval on the site plan, and determine whether or not to hold an On-site inspection of the property at this phase. For a motorized vehicle race track or Drag strip the Board will require an on-site inspection that is open to the public.
  - B. Ownership Interest.  
The developer will furnish written evidence showing his interest (option, contract for Sale, etc.) In the property to be developed to the Planning Board.

C. Waiver.

The Board may waive the requirements of the preapplication meeting, contours, and On-site inspection when it finds that the proposed development activity is of such scale

And intensity that a thorough review can be conducted without the preapplication Meeting. The Board may not waive these requirements for motorized vehicle race track or drag strip proposals.

### **1102.2 Application Procedure**

A. Applications

All applications for site plan approval shall be made in writing to the Board on the Forms provided for this purpose. All applications shall be made by the owner of the Property or his agent, as designated in writing by the owner. Applicants shall request to be placed on the Planning Board's agenda at least seven (7) days (note: the day of Request or submittal does not count as part of the 7 days) prior to a regularly scheduled meeting by contacting the Planning Board Clerk.

B. Fees.

1. Shall be paid in accordance with Section 402 of this ordinance.
2. This application fee shall be made by cash or a check payable to the Town. This fee shall not be refundable.
3. No application shall be deemed complete and the Planning Board shall not Substantively consider an application until the fees have been received by the Town.

### **1102.3 Planning Board Agenda.**

The application for site plan review together with the documentation required in these Regulations shall be placed on the Planning Board's agenda for consideration within 30 days.

A. Notice to Abutters.

The applicant shall certify to the Board that all owners of abutting property have been Notified that an application for site plan approval has been submitted to the Board. This notice shall indicate the time, date and place of Planning Board consideration of the application (A form is available from the Planning Board Clerk at the Town Office).

B. The applicant, or his duly appointed representative, shall attend the meeting of the Board to discuss the application. The Board shall provide the applicant a dated receipt of a Site Plan Review application at the Board meeting where the application is first presented and heard by the Board.

C. Within 30 days of receipt of a Site Plan Review application form and fee, the Board shall notify the applicant in writing whether or not the application is complete, and what, if any, additional submissions are required for a complete application. The Board shall determine whether to hold a public hearing on the Site Plan Review application. A public hearing is mandatory for all motorized vehicle race track or drag strip proposals.

1. If the Board decides to hold a public hearing, it shall hold the hearing within 30 days of receipt of a complete application, and shall publish notice of the date, time, and place of the hearing in a newspaper of general circulation in the

municipality at least two times, the date of the first publication to be at least 7 days prior to the hearing (note: the day of the hearing does not count as part of the 7 days). Notice of the public hearing shall be mailed to all abutters of the proposed development 7 days prior to the hearing by the Town of Searsmont.

2. Within 30 days of a public hearing, or within 60 days of receipt of a complete application, if no hearing is held, or within another time limit as may be otherwise mutually agreed to by the Board and the applicant, the Board shall make findings of fact on the application and approve, approve with conditions, or deny the Development Plan. The Board shall specify, in writing, its findings of fact and reasons for any conditions or denial.

D. Professional Review.

The Planning Board may retain at the applicant's expense independent professional Consultant or consultants to review one or more submissions of an application and Report as to compliance or noncompliance with this Ordinance, and advise if Necessary, of procedures which will result in compliance. The consultant shall Estimate the cost of such review and the applicant shall deposit with the Town the Full estimated cost which the Town shall place in an escrow account. The Town Shall pay the consultant from the escrow account and reimburse the applicant if Funds remain after payments are completed.

E. Additional Studies.

The Planning Board may require the applicant to undertake any study which it deems reasonable and necessary to insure that the requirements of the Ordinance are met. The costs of all such studies shall be borne by the applicant.

F. Financial Guarantee.

Prior to final approval or any site plan review application, the Board may require the posting of a bond or escrow agreement in such amount as is approved by the Board. This amount shall be sufficient to ensure completion of all improvements required as conditions of approval of such plan, in such form as approved by the Board and Town Selectmen. The Town shall have access to the site at all times to review the progress of the work. The Board shall require the posting of an escrow agreement or irrevocable letter of credit for the closure or removal of wireless telecommunication facilities which have been inactive for a continuous period of twelve months. This financial surety shall be subject to approval by the Board of Selectmen.

G. Conditions.

The Board may attach reasonable conditions to the Site Plan Review approvals to ensure conformity with the standards and criteria of this Ordinance.

H. Expiration of Approvals.

All Site Plan Review approvals shall expire within one (1) year of the date of issuance unless work thereunder is substantially commenced. If work is not completed within two years from the date of issuance, a new application must be made. The town may charge for additional cost if incurred.

#### **1102.4 Site Plan Review Application Requirements**

- A. Applications for all Site Plan Reviews (major and minor developments) shall be submitted on application forms provided by the Town. The completed application form, required fees and the required plans and related information shall be submitted to the Board no less than seven (7) days prior to the meeting (note: the day of request



or submittal does not count as part of the 7 days).

- B. In addition, for major developments one copy of the plan(s) and all accompanying information shall be provided to the Planning Board clerk to be distributed to each Board member by the Planning Board Clerk no less than seven (7) days prior to the meeting (note: the day of request or submittal does not count as part of the 7 days).
- C. The submission shall contain at least the following exhibits and information:
  - 1. A fully executed and signed copy of the application for Site Plan Review.
  - 2. The Planning Board clerk shall provide the Road Commissioner and Fire Chief with an application and development plan to obtain these officials' written comments upon the adequacy of their department's existing capacities to service the proposed development.
  - 3. General Information
    - a. Name of owner of record and address and applicant's name and address, if Different;
    - b. The name of the proposed development.
    - c. Names and addresses of all abutting property owners;
    - d. Sketch map showing general location of the site within the Town;
    - e. Boundaries of all contiguous property under the control of the owner or applicant regardless of whether all or part is being developed at this time;
    - f. The tax map and lot number of the parcel or parcels;
    - g. A copy of the deed to the property, option to purchase the property or other Documentation to demonstrate right, title or interest in the property on the part of the applicant.
    - h. The name, registration number and seal of the land surveyor, architect, engineer and/or similar professional, if any, who prepared the plan.
  - 4. Existing Conditions
    - a. Zoning classification(s) of the property and the location of zoning district boundaries if the property is located in two (2) or more zoning districts or abuts a different district.
    - b. The bearings and distances of all property lines of the property to be developed and the source of this information.
    - c. Location and size of any existing sewer and water mains, culverts and drains on the property to be developed and of any that will serve the development from abutting streets or land.
    - d. Location, names, and present widths of existing streets and rights-of-way within or adjacent to the proposed development.
    - e. The location and dimensions of all existing buildings on the site.
    - f. The location and dimensions of existing driveways, streets, parking and loading areas and walkways on the site.
    - g. Location of intersecting roads or driveways within two hundred (200) feet of the site.
    - h. The location of open drainage courses, stands of trees, and other important natural features, with an identification of such features to be retained. Wetlands shall be identified by the Town of Searsmont's Water Resources Map.
    - i. The direction of existing surface water drainage across the site.

- j. The general location, front view and dimensions of existing signs.  
A general description of soils in the area of the proposed development or expansion. This information can be taken from the Soil Survey of Waldo County or provided by a certified soil scientist.
  - k. Location and dimensions of any existing easements and copies of existing covenants or deed restrictions.
  - l. If any portion of the property is in the 100-year flood plain its elevation shall be delineated on the plan, if it impacts on any proposed building or area of fill.
  - m. Upon receipt of data from the applicant a licensed plumbing inspector will describe the existing subsurface wastewater disposal system and determine its viability.
5. Proposed Development Activity
- a. The location, dimensions and ground floor elevations of all proposed buildings and structures on the site.
  - b. The location of all existing and proposed setback dimensions and buffers required by this ordinance.
  - c. The location and dimensions of proposed driveways, parking and loading areas, and walkways.
  - d. The type of water supply to be used, the location and dimensions of all provisions for water supply.
  - e. The size, location, direction, and intensity of illumination and method of installation of all major outdoor lighting apparatus and signs.
  - f. The type, size, and location of all incineration devices.
  - g. The type, size and location of all machinery likely to generate appreciable noise at the lot lines.
  - h. A report from a licensed site evaluator describing any proposed subsurface sewage disposal systems. This report shall identify the parameters for any proposed systems as well as a replacement area.
  - i. The amount and type of any raw, finished, or waste materials to be stored outside of roofed buildings, including their physical and chemical properties, if appropriate.
  - j. Proposed landscaping and buffering.
  - k. Copies of applicable State approvals and permits. The Board may approve Development plans subject to the issuance of specified State approvals and permits where it determines that it is not feasible for the applicant to obtain them at the time of development review.
  - l. A schedule of construction including anticipated beginning and completion dates.
6. Applications for major developments shall include the following additional information.
- a. Development Plan  
A Development Plan that shall consist of one or more reproducible original(s), to be filed at the Town Office. Space shall be provided on the Plan for the signatures of the Board and date with the following words:  
Approved: Town of Searsmont Planning Board  
The required documents shall be submitted to and reviewed by the Board and

shall be approved by the Board before any building permit may be issued. In the case of proposed resumption of uses which have been discontinued for at least one year, Board approval shall be required before such uses may be resumed.

- b. 2 copies of an accurate scale plan of the parcel at a scale of not more than one hundred (100) feet to the inch showing at a minimum;
  - i. The name of the development, north arrow, date and scale.
  - ii. The boundaries of the parcel;
  - iii. The topography of the site at an appropriate contour interval (2 foot to 5 foot) depending on the nature of the use and character of the site.
- c. A storm water drainage and erosion control plan showing:
  - i The existing and proposed method of handling storm water runoff;
  - ii The direction of flow of the runoff through the use of arrows;
  - iii The location, elevation and size of all catch basins, dry wells, drainage ditches, swales, retention basins and storm sewers;
  - iv Engineering calculations used to determine drainage requirements based upon the 25-year, 24-hour storm frequency, if the project will significantly alter the existing drainage pattern due to such factors as the amount of new impervious surfaces (such as paving and building area) being proposed;
  - v Methods of controlling erosion and sedimentation during and after construction; and
  - vi A ground water impact analysis prepared by a qualified professional for projects involving common on-site water supply or sewage disposal facilities with a capacity of 2,000 or more gallons per day.
- d. A utility plan showing, in addition to provisions for water supply and waste water disposal, the location and nature of electrical, telephone and any other utility services to be installed on the site.
- e. A planting schedule keyed to the site plan and indicating the general varieties and sizes of trees, shrubs and other plants to be planted on the site.
- f. Traffic Data A traffic impact analysis demonstrating the impact of the proposed project on the capacity, level of service and safety of adjacent streets.
- g. The location, width, typical cross-section, grades and profiles of all proposed streets and sidewalks.
- h. Construction drawings for streets, sanitary sewers, water and storm drainage systems, designed and prepared by a professional engineer registered in the State of Maine.

The location of any pedestrian ways, lots, easements, open spaces and other areas to be reserved for or dedicated to public use and/or ownership. For any proposed easement, the developer shall submit the proposed easement language with a signed statement certifying that the easement will be executed upon approval of the development. In the case of any streets or other ways dedicated to public ownership, the developer shall submit a signed statement that he will maintain such streets or ways year-round until they are accepted by the Town.
- i. A copy of such covenants or deed restrictions, if any, as are intended to cover

all or part of the tract. Such covenants or deed restrictions shall be referenced on the plan.

- j. Written offers of dedication or conveyance to the municipality, in a form satisfactory to the Town Attorney, of all land included in the streets, highways, easements, parks or other open space dedicated for public use, and copies of agreements or other documents showing the manner in which open spaces, title to which is reserved by the developer, are to be maintained.
- k. Cost of the proposed development and evidence financial capacity to complete it. This evidence should be in the form of a letter from a bank or other source of financing indicating the name of the project, amount of financing proposed, and interest in financing the project.
- l. Telecommunications facilities, Design for Co-location. A new wireless telecommunications facility and related equipment must be designed and constructed to accommodate expansion for future co-location of at least three additional wireless telecommunications providers. The owner of a wireless telecommunications facility and his or her successors and assigns shall allow shared use of the wireless telecommunications facility if an applicant agrees in writing to pay reasonable charges for co-location.

A Scenic Resources Plan Designed to Avoid or Minimize Impacts to the Scenic Resources of the Town. A structure and related equipment must be designed to avoid or minimize, to the greatest extent practicable, impacts to the scenic resources of the Town. A visual impact study, by a qualified professional, shall be submitted to the Town including photo simulations of the proposed structure(s) taken from perspectives determined by the Planning Board. Each photo must be labeled with the line of sight, elevation, distance to the structure, and the date of the photo. The photo must show the color of the structure and any methods for screening. In addition the study will show and discuss the extent to which the proposed development would be visible from or within a designated scenic resource and discuss alternatives to the proposed height, construction, coloring, and screening and why the alternatives are not appropriate or practicable.

- 7. Motorized vehicle race track or drag strip developments.

Motorized vehicle race track or drag strip developments are required to follow state criteria and standards described in Chapter 375, “No Adverse Environmental Effect Standard” of the Site Location Law – 38 M.R.S.A. §§ 481-490 as amended on September 22, 2001 (see Appendix H). The Planning Board is free to request any of the impact studies listed therein be made at the expense of the applicant in order to protect not only abutters but the town at large from impacts that extend beyond the immediate boundaries of such development.

- 8. Submission Waivers.

Where the Board makes written findings of fact that there are special circumstances of a particular application, it may waive portions of the submission requirements, unless otherwise indicated in this Ordinance, provided the applicant has demonstrated that the standards of this Ordinance have been or will be met, the public health, safety and welfare are protected, and provided the waivers do not have the effect of nullifying the intent and purpose of the Comprehensive Plan

and Zoning Ordinance.

### **1102.5 General Review Standards**

- A. The following criteria and standards shall be utilized by the Board in reviewing applications for Site Plan Review approval. The standards are not intended to discourage creativity, invention, and innovation. The Board may waive the criteria presented in this section upon a determination by the Board that the criteria are not applicable to the proposed action or upon a determination by the Board that the application of these criteria are not necessary to carry out the intent of this Ordinance.
- B. The Board shall approve the site plan for a minor or major development unless the Plan does not meet one or more of the following criteria provided that the criteria were not first waived by the Board.

- 1. Preserve and Enhance the Landscape

The landscape shall be preserved in its natural state in so far as practical by Minimizing tree removal, disturbance of soil, and by retaining existing vegetation during construction. After construction is completed, landscaping shall be designed and planted to define, soften, or screen the appearance of off-street parking areas from the public right-of-way and abutting properties to minimize the encroachment of the proposed use on neighboring land uses. Environmentally sensitive areas such as significant wildlife habitat, wetlands, steep slopes, flood plains, historic buildings, existing archeological sites and unique natural features will be maintained and preserved to the maximum extent as deemed by the Board. Natural drainage ways will be preserved to the maximum extent as deemed by the Board.

- 2. Access to the Site Roads/driveways into the development shall provide for safe and convenient access.
    - a. Any exit driveway or proposed street shall be so designed as to provide a Minimum sight distance of ten times the posted speed limit in each direction, as measured from the point at which the driveway or street meets the public or Private right-of way.
    - b. Points of access shall be located to avoid hazardous conditions or conflicts with existing turning movements and traffic flows.
    - c. The grade of any exit driveway or proposed street for a distance of one hundred feet from its intersection with any existing street shall be a maximum of three (3) percent.
    - d. The intersection of any access drive or proposed street shall function at a Level of Service of C following development if the project will generate four Hundred (400) or more vehicle trips per twenty-four (24) hour period or at a Level which will allow safe access into and out of the project if less than four Hundred (400) trips are generated.
    - e. Projects generating four hundred (400) or more vehicle trips per twenty-four (24) hour period shall provide two (2) or more separate points of vehicular Access into and out of the site.
  - 3. Internal Vehicular Circulation
    - a. Circulation and Parking. The proposed development shall provide safe interior Circulation within its site by separating pedestrian and vehicular traffic and Providing adequate parking and loading areas.

- b. A use shall not be extended, and no structure shall be constructed or enlarged Unless sufficient off- street automobile parking space is provided. The location of parking the to the side or rear of buildings is encouraged.
  - c. Where the development will abut an existing or potential parking area provisions shall be made for internal vehicular connections.
  - d. The layout and design of parking areas shall provide for safe and convenient Circulation of vehicles throughout the lot and shall prohibit vehicles from Backing out onto a street.
4. Conservation, Erosion and Sediment Control. Erosion of soil and sedimentation of Watercourses and water bodies shall be minimized. The following measures shall be included, where applicable, as part of any Site Plan Review and approval.
- a. Stripping of vegetation, regrading or other development shall be done in such a way as to minimize erosion.
  - b. Development shall preserve salient natural features, keep cut-fill operations to a minimum and ensure conformity with topography so as to create the least erosion potential and so as to adequately handle the surface water runoff.
  - c. The disturbed area and the duration of exposure of the disturbed area shall be kept to a practical minimum.
  - d. Disturbed soils shall be stabilized as quickly as practical.
  - e. Temporary vegetation or mulching shall be used to protect exposed critical areas during development.
  - f. The permanent (final) vegetation and mechanical erosion control measures shall be installed as soon as practical on the site.
  - g. Until the disturbed area is stabilized, sediment in the runoff water shall be trapped by the use of debris basins, sediment basins, silt traps or other acceptable methods.
  - h. Whenever sedimentation is caused by stripping vegetation, regrading or other Development, it shall be the responsibility of the developer causing such Sedimentation to remove it from all adjoining streams, drainage systems and Watercourses and to repair any damage at his or her expense as quickly as possible.
  - i. No storage of fill materials within 50 feet of the banks of any stream, intermittent or perennial , or water body;
  - j. No removal of topsoil from any lot, except for that removed from areas to be Occupied by buildings, paving, or other surfaces that will not be re-vegetated.
  - k. Any activity on a stream, watercourse or swale or upon a floodway or right-of-way shall comply with the State's Natural Resources Protection Act, Title 38, MRSA, Sections 480(A)-480(S). Any such activity shall also be conducted in such a manner so as to maintain as nearly as possible the present state of the stream, watercourse, swale, floodway or right-of-way for the duration of the activity and shall be returned to its original or equal condition after such activity is completed.
  - l. Maintenance of drainage facilities or watercourses originating and completely on private property is the responsibility of the owner to the point of open discharge at the property line or at a communal watercourse within the property.

5. Site Conditions

During construction, the site shall be maintained and left each day in a safe and sanitary manner.

- a. Developed areas shall be cleared of all stumps, litter, rubbish, brush, weeds, Dead and dying trees, roots and debris, and excess or scrap building materials. Shall be removed or destroyed immediately upon the request and to the Satisfaction of the Code Enforcement Officer prior to issuing an occupancy Permit.
- b. No significant change shall be made in the elevation or contour of any lot or Site by the removal of earth to another lot or site other than as shown on an Approved Site Review Plan.

6. Advertising Features

The size, location, design, lighting and materials of all exterior signs and outdoor Advertising structures or features shall not detract from the design of proposed Buildings and structures and the surrounding properties. No permanent sign shall Have visible moving parts, have blinding, moving, or glaring illumination, or be Erected at a location where, by reason of shape, color or wording, it interferes with vehicular traffic or may be confused with any authorized traffic sign, signal or device. A commercial business on a state road is allowed to have a 32 sq. Ft. Free standing sign at no cost.

7. Special Features of Development

Exposed storage areas, exposed machinery installation, service areas, truck loading areas, utility buildings and similar structures shall have setbacks and screening to provide a buffer to sight and sound sufficient to minimize their adverse impact on other land uses within the development area and on surrounding properties.

8. Exterior Lighting

All exterior lighting shall be designed to encourage energy efficiency, to ensure safe Movement of people and vehicles, and to minimize adverse impact on neighboring properties and public ways. Adverse impact is to be judged in terms of hazards to people and vehicle traffic and potential damage to the value of adjacent properties. Lighting shall be arranged to minimize glare and reflection of adjacent properties and the traveling public. Exterior lighting shall be limited to illuminating the immediate premises, and direct light shall not project onto adjacent residential properties or be directed skyward. If necessary, direct light shall be shielded by blinders and additional buffering/screening.

9. Emergency Vehicle Access

Provisions shall be made for providing and maintaining convenient and safe emergency vehicle access to all buildings and structures.

10. Municipal Services

The development will not have an unreasonable adverse effect on the municipal Services including municipal road systems, fire department, emergency medical unit, Solid waste program, schools, open spaces, recreational programs and facilities and Other municipal services and facilities.

11. Surface Water Drainage

The proposed facility will not result in undue surface water pollution. In making this Determination, the Board shall consider the elevation of the land and its relation to

the Flood plains as well as the nature and properties of soils. Soils shall be considered for Their ability to adequately treat wastewater or other licensed discharge. Adequate Provisions shall be made for the slope of the land and its effect on effluents.

12. Phosphorous Export

When a proposed development is within the direct watershed of Levenseller Pond, Lawry Pond, Little Pond or Quantabacook Lake, the phosphorous export from development shall be equal to or less than that which is calculated using the methodology established by the Maine Department of Environmental Protection using the data provided by the Department.

13. Ground Water Protection

The proposed site development and use shall not adversely impact either the quality or quantity of ground water available to abutting properties or public water supply systems. Projects involving common on-site water supply or sewage disposal systems with a capacity of two thousand (2000) gallons per day or greater shall demonstrate that the ground water at the property line will comply, following development, with the standards for safe drinking water as established by the State of Maine.

14. Air Pollution

The proposed development shall not create an emission of dust, dirt, fly ash, fumes, Vapors or gases which damages human health, animals, vegetation or property, or Which soils or stains persons or property, at any point beyond the lot line of the Commercial or industrial establishment creating that emission. All such activities shall Also comply with applicable federal and State regulations.

15. Odor

The proposed development shall not produce offensive or harmful odors perceptible beyond their lot lines, either at ground or habitable elevation.

16. Noise

The proposed development will not cause unreasonable levels or types of noise. The Intermittent source of sound produced by any activity shall be limited by the time period and the time of day.

17. Sewage Disposal

The development shall provide for a suitable sewage disposal. All individual on-site Systems will be designed by a licensed soil evaluator in full compliance with the Maine Subsurface Wastewater Disposal Rules. Upon the recommendation of the Local Plumbing Inspector, the Board may require the location of reserved areas for Replacement systems.

18. Waste Disposal

The proposed development will provide for adequate disposal of solid wastes and Hazardous wastes.

- a. All solid waste will be disposed of at a licensed disposal facility having adequate capacity to accept the project's wastes.
- b. All hazardous waste will be disposed of at a licensed hazardous waste disposal facility and evidence of a contractual arrangement with the facility shall be submitted.

19. Setbacks and Screening

The proposed development will provide adequate setbacks and screening. In addition to the setbacks required by this Ordinance, the Board shall consider the following:



- a. Exposed storage areas, exposed machinery installation, sand and gravel extraction Operations, and areas used for the storage or collection of discard automobiles, auto parts, metal or any other articles of salvage or refuse, shall have sufficient setbacks and screening to provide a visual buffer sufficient to minimize their adverse impact on other land uses within the development area and surrounding properties (such as a stockade fence or dense evergreen hedge 6 feet or more in height). Where a potential safety hazard to children would be likely to arise, physical screening sufficient to deter small children from entering the premises shall be provided and be maintained in good condition.

20. Financial and Technical Capacity

The applicant has adequate financial and technical capacity to meet these standards.

21. Telecommunications facilities, Co-location. New wireless telecommunications Facilities must be co-located on an existing tower unless the applicant can demonstrate that the existing tower cannot reasonably accommodate the applicant's proposed structure.

22. Scenic Resources.

The proposed development or substantial expansion will have no unreasonable adverse impact upon designated scenic resources within the Town, as identified either in the municipally adopted comprehensive plan, this Land Use Ordinance, or by a State or federal agency. In determining the potential unreasonable adverse impact of the proposed development (or substantial expansion) upon the designated resources, the Planning Board shall consider the following factors:

- a. The extent to which the proposed development is visible above the tree line, from the viewpoint(s) of the impacted designated scenic resource(s) or
- b. The extent to which the proposed development is visible above the tree line, within the impacted designated scenic resource(s)
- c. The type, number, height, and proximity of existing structures and features, and the background features within the same line of sight as the proposed structure;
- d. The extent to which the proposed development would be visible from the viewpoint(s);
- e. The amount of vegetative screening;
- f. The distance of the proposed structure from the viewpoint and the development's location within the designated scenic resource; and
- g. G the presence of reasonable alternatives that allow the structure to function consistently with its purpose.

- C. The Board shall approve the site plan for a motorized vehicle race track or drag strip development proposals unless the Plan does not meet the criteria for a major development and the criteria and standards described in Chapter 375, "No Adverse Environmental Effect Standard" of the Site Location Law – 38 M.R.S.A. §§481-490 as amended on September 22, 2001 (see Appendix H).

#### **1102.6 Minor Field Changes to Approved Site Plans**

- A. The Code Enforcement Officer may approve and allow minor field changes to an approved Site Plan if, upon review of proposed change and prior findings documented in the approved Site Plan on file in Searsmont Town Office, the CEO is satisfied:
1. That such changes do not alter the essential nature of the project,

2. Such changes do not adversely affect compliance with the standards, criteria or Conditions of the approved plan,  
Such changes will be endorsed by the CEO, in writing, on the approved plan.
- B. If any approval criteria or conditions might be compromised by such changes, resulting in possible non-compliance with review standards, such changes shall require review of and approval by the Planning Board.
- C. The Board's scope of review shall be limited to those portions of the plan which are Proposed to be changed and those standards that would be impacted.

**1102.7 Amendments or Additions/Expansions to Approved Site Plans**

- A. Approval of site plans are dependent upon and limited to the proposals and plans Contained in the application and supporting documents submitted and affirmed to by The applicant. Any variation from the plans, proposals, or supporting documents, Except approved minor field changes, is subject to review and approval as follows:
  1. The Planning Board may approve an amendment if, upon review, it is satisfied by Majority vote that such amendment does not alter the essential nature of the Approved plan or affect compliance with current standards, criteria or conditions of approval.  
The Board's scope of review shall be limited to those portions of the plan which are proposed to be changed and those standards that would be impacted.
- B. Notice of the consideration of a request for an amendment to a Site Plan by the Planning Board shall be accomplished by posting the agenda and publication at least seven (7) days prior to the Planning Board meeting (note: the day of request or submittal does not count as part of the 7 days).
- C. It is the responsibility of the Site Plan Review permit holder to present to the Planning Board the original application materials, existing permit, and proposed amendments, additions or expansions.

## **Section 1200 – Amendment and Availability of This Ordinance**

### **1201 Amendment**

#### **1201.1 Majority Vote**

This Ordinance may be amended by majority vote of the Town of Searsmont legislative body.

#### **1201.2 Amendments Affecting Shoreland Zone to be Submitted**

Copies of amendments, to this ordinance that affect the Shoreland Zone, 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 of the Department of Environmental Protection. If the Commissioner of the Department of Environmental Protection fails to act on any amendment within forty- five (45) days of the Commissioner's 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.

### **1202 Availability**

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



## **Section 1300 - Appeals, and Variances**

### **1301 Appeals**

If the Board disapproves an application or grants approval with conditions that are objectionable to the applicant or to any abutting landowner or any aggrieved party, who can demonstrate a direct negative impact, or when it is claimed that the provisions of this section do not apply, or that the true intent and meaning of the Ordinance has been misconstrued or wrongfully interpreted, the applicant, an abutting landowner, or aggrieved party may appeal the decision of the Board, as follows:

#### **1301.1**

A written appeal must be filed within 30 days of the time the applicant receives a written notice of the Board's decision. If the Board's decision involves land or structures within the Shoreland Zone the Board of Appeals shall submit a copy of the variance request, and other supporting information supplied by the applicant, to the Commissioner of the Department of Environmental Protection at least 20 days prior to action on the variance by the Board of Appeals.

#### **1301.2**

Appeals involving administrative procedures or interpretation of this Ordinance may be Heard and decided by the Board of Appeals as detailed below.

- A. When errors of administrative procedures are found by the Appeals Board, the case shall be referred back to the Board for rectification.
- B. When errors of interpretation are found, the Board of Appeals may modify the interpretation or reverse the order of the Board but may not alter the conditions attached by the Board. All changes in conditions, other than changes made by the granting of a variance, shall be made by the Board in accordance with the Board of Appeals' interpretation.
- C. Appeals involving administrative procedure or interpretation shall lie from the decision of the Board to the Board of Appeals and from the Board of Appeals to the Superior Court according to the State Law.

#### **1301.3**

Appeals involving conditions imposed by the Board, or a decision to deny or approve, shall be made from the Board to the Superior Court when such appeals do not involve administrative procedures or interpretation.

#### **1301.4**

A decision of the Code Enforcement Officer to take enforcement action for violations of this ordinance or of any permit issued pursuant to this ordinance is not appealable to the Board of Appeals. This ordinance shall be enforced in accordance with 30-A MRSA §4452.

### **1302 Variances**

The Board of Appeals shall grant a request for a variance from the requirements of this ordinance if it finds that the applicant has proved "undue hardship" as defined by 30-A MRSA §4353.

**1302.1 Variance recorded.**

If the board grants a variance under this section, a certificate indicating the name of the current property owner, identifying the property by reference to the last recorded deed in its chain of title and indicating the fact that a variance, including any conditions on the variance, has been granted and the date of the granting, shall be prepared in recordable form. This certificate must be recorded in the local registry of deeds within 90 days of the date of the final written approval of the variance or the variance is void. The variance is not valid until recorded as provided in this subsection. For the purpose of this subsection, the date of the final written approval shall be the date stated on the Written approval.

**1302.2 Variance.**

Except as provided in subsections 1302.3, 4, and 5 the board may grant a variance only when strict application of the ordinance to the petitioner and the petitioner's property would cause undue hardship. The term "undue hardship" as used in this subsection means:

- A. The land in question cannot yield a reasonable return unless a variance is granted;
- B. The need for a variance is due to the unique circumstances of the property and not to the general conditions in the neighborhood;
- C. The granting of a variance will not alter the essential character of the locality; and
- D. The hardship is not the result of action taken by the applicant or a prior owner.

**1302.3 Disability variance.**

The board may grant a variance to an owner of a dwelling for the purpose of making That dwelling accessible to a person with a disability who resides in or regularly uses The dwelling.

- A. 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.
- B. 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.

For the purposes of this subsection, a disability has the same meaning as a physical or mental handicap under Title 5, MRSA, section 4553 and the term "structures necessary for access to or egress from the dwelling" is defined to include railing, wall or roof systems necessary for the safety or effectiveness of the structure.

**1302.4 Setback variance for single-family dwellings.**

- A. The board may grant a variance from a setback requirement only when strict application of the zoning ordinance to the petitioner and the petitioner's property would cause undue hardship. The term "undue hardship" as used in this subsection means:
  - 1. The need for a variance is due to the unique circumstances of the property and not to the general conditions in the neighborhood;
  - 2. The granting of a variance will not alter the essential character of the locality;
  - 3. The hardship is not the result of action taken by the applicant or a prior owner;

4. The granting of the variance will not substantially reduce or impair the use of abutting property; and
  5. That the granting of a variance is based upon demonstrated need, not convenience, and no other feasible alternative is available.
- B. This ordinance is strictly limited to permitting a variance from a setback requirement for a single-family dwelling that is the primary year-round residence of the petitioner.
1. A variance under this subsection may not exceed 20% of a setback requirement and may not be granted if the variance would cause the area of the dwelling to exceed the maximum permissible lot coverage.
  2. The board may allow a variance under this subsection to exceed 20% of a setback requirement, except for minimum setbacks from a wetland or water body required within Shoreland zones by rules adopted pursuant to Title 38, MRSA, chapter 3, subchapter I, article 2-B, if the petitioner has obtained the written consent of an affected abutting landowner.

#### **1302.5 Variance from dimensional standards.**

The board may grant a variance from the dimensional standards of this ordinance when strict application of this ordinance to the petitioner and the petitioner's property would cause a practical difficulty and when the following conditions exist:

- A. The need for a variance is due to the unique circumstances of the property and not to the general condition of the neighborhood;
- B. The granting of a variance will not produce an undesirable change in the character of the neighborhood and will not unreasonably detrimentally affect the use or market value of abutting properties;
- C. The practical difficulty is not the result of action taken by the petitioner or a prior owner;
- D. No other feasible alternative to a variance is available to the petitioner;
- E. The granting of a variance will not unreasonably adversely affect the natural environment; and
- F. The property is not located in whole or in part within Shoreland areas as described in Title 38, MRSA, section 435. As used in this subsection, "dimensional standards" means and is limited to ordinance provisions relating to lot area, lot coverage, frontage and setback requirements. As used in this subsection, "practical difficulty" means that the strict application of the ordinance to the property precludes the ability of the petitioner to pursue a use permitted in the zoning district in which the property is located and results in significant economic injury to the petitioner.





## **Section 1400 – 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.

### **Abutters**

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.

### **Accessory apartment**

A small self-contained second living unit which is built into or attached to an existing single-family dwelling or an existing garage or barn and which has one bedroom and its own kitchen.

### **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.

### **Adjacent Grade**

The natural elevation of the ground surface prior to construction next to the proposed walls of a 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 due to the granting or denial of such permit or variance.

### **Agriculture**

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

### **Alterations**

Any change or modification in construction or change in the structural members of a building or structure such as bearing walls, columns, beams, or girders, or in the use of a building. The term shall also include change, modification, or addition of a deck, dormer, staircase, or roof of the building.

### **Amendment or Addition to Approved Site Plans**

Any new projects or expansions proposed within a previously approved Site Plan.

**Amusement Facility**

Any private, commercial premises, which are maintained or operated primarily for the amusement, patronage, or recreation of the public, containing four (4) or more table sports, pinball machines, video games, or similar mechanical or electronic games, whether activated by coins, tokens, or discs, or whether activated through remote control by the management.

**Animal Breeding or Care**

The keeping or raising of four or more animals, including domestic animals and pets, for any commercial use. This definition also includes kennels.

**Aquaculture**

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

**Area of Special Flood Hazard**

The land in the floodplain having a one percent or greater chance of flooding in any given year, as specifically identified in the Flood Insurance Rate Map or Flood Hazard Boundary Map cited in Section 800 of this ordinance.

**Authority**

The Selectmen of the Town of Searsmont, Waldo County, Maine.

**Authorized Agent**

An individual or a firm having written authorization to act on behalf of a property owner. The authorization shall be signed by the property owner(s).

**Automobile Repair Shop**

A business establishment engaged in general repair, engine rebuilding, or parts replacement. Automotive repair shall not mean body, frame, or fender straightening and repair or painting and undercoating, nor the sale of gasoline, other motor fuels or motor oil.

**Automobile Graveyard, Junkyard**

A yard, field or other area used to store 3 or more unserviceable, discarded, worn-out or junked motor vehicles as defined in Title 29-A, MRSA §101, subsection 42, or parts of such vehicles.

- A. "Automobile graveyard" does not include any area used for temporary storage by an establishment or place of business that is primarily engaged in doing auto body repair work to make repairs to render a motor vehicle serviceable.
- B. "Automobile graveyard" includes an area used for automobile dismantling, salvage and recycling operations.

**Back Lot**

A parcel of land which does not have any frontage on a Town accepted road.

**Base Flood**

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

**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 existing ground level.

- Section 900 Floodplain Ordinance: Any area of the building having its floor subgrade (below ground level) on all sides.

**Basal Area**

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

**Bed and Breakfast**

Any dwelling in which transient lodging or boarding and lodging are provided and offered to the public by the owner for compensation for less than one week. This dwelling shall also be the full-time, permanent residence of its owner; otherwise, it shall be classified as a hotel/motel. There shall be no provisions for cooking in any individual guestroom.

**Boarding, Lodging Facility**

Any residential structure where lodging and/or meals are provided for compensation for a period of at least one week, and where a family residing in the building acts as proprietor or owner. When the criteria for a family residing in the building cannot be met, the building shall be classified as a hotel/motel. There shall be no provisions for cooking in any individual guestroom.

**Boat Launching Facility**

A facility designated primarily for the launching and landing of watercraft, and which may include an access ramp, docking area, and parking spaces for vehicles and trailers.

**Breakaway Wall**

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

**Buffer strip**

A strip of land of designated width along the property line separating a neighboring lot designed to minimize the noise and light of different land uses by means of a stockade fence or a dense planting of shrubbery.

**Building**

See Structure.

**Bureau of Forestry**

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

**Business and Professional Offices**

The place of business of doctors, lawyers, accountants, financial advisors, architects, surveyors, real estate and insurance businesses, psychiatrists, counselors, and the like or in which a business conducts its administrative, financial or clerical operations including banks and other financial services, but not retail sales nor activities utilizing trucks as part of the business operation.

**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.

**Cemetery**

Property used for the interring of the dead.

**Certificate of Compliance**

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

**Change of use**

A change in the type or intensity of business use of an existing structure or on a property. For example, a gift shop to a restaurant is a change of use. One gift shop to another gift shop is not a change of use, provided the intensity of use is unchanged. Intensity of use is assessed by the Planning Board Based on conditions such as operating hour's, noise, lighting, customer traffic, and all other standards listed in the Site Plan Review section of this ordinance.

**Church**

A building or structure, or group of buildings or structures, designed, primarily intended and used for the conduct of religious services.

**Civic, Convention Center**

A building or complex of buildings that house municipal offices and services, and which may include cultural, recreational, athletic, convention and entertainment facilities owned and/or operated by a governmental agency.

**Cluster Development or Subdivision**

A development consisting exclusively of residential dwelling units, planned, developed as a whole or in a programmed series of developments, and controlled by one developer on a tract of 5 or more lots which contemplates an innovative, more compact grouping of dwelling units, with efficient use of land; a reduction in the size of road and utility systems; the creation of permanent, common open space owned in common by lot/unit owners, the Town, or a land conservation organization; and the permanent retention of the natural characteristics of the land.

**Code Enforcement Officer**

- Any person or board responsible for performing the inspection, licensing, and enforcement duties required by a statute or ordinance.
- Section 900 Floodplain Ordinance: any person certified under Title 30-A MRSA, §4451 (including exceptions in subsection 4451, par.1) and employed by a municipality to enforce all applicable comprehensive planning and land use laws and ordinances.

**Commercial Recreation**

Any commercial enterprise which receives a fee in return for the provision of some recreational activity including but not limited to: campgrounds, racquet and tennis clubs, health facility, amusement parks, golf courses, gymnasiums and swimming pools etc., but not including bowling alleys or amusement facilities, as defined herein.

**Commercial School**

An institution which is operated for profit but is not authorized by the State to award baccalaureate or high degrees, which offers classes in various skills, trades, professions, or fields of knowledge.

**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.

**Community Center**

A building which provides a meeting place for local, nonprofit community organizations on a regular basis. The Center shall not be engaged in activities customarily carried on by a business.

**Complete Application**

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

**Comprehensive Plan or Policy Statement**

Any part or element of the plan or policy for development of the municipality as defined in Title 30-A MRSA, § 4301.

**Conforming**

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

**Congregate Housing**

Residential housing consisting of private apartments and central dining facilities and within which a congregate housing supportive services program serves functionally impaired elderly or disabled occupants; the individuals are unable to live independently yet do not require the constant supervision or intensive health care available at intermediate care or skilled nursing facilities. Congregate housing shall include only those facilities which have been certified by the State of Maine as meeting all certification standards and guidelines for congregate housing facilities as promulgated by the Department of Human Services pursuant to the provisions of Maine State Statutes.

**Constructed**

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

**Contiguous Lots**

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

**Cross-sectional area**

The cross-sectional area of a stream or tributary stream channel is determined by

multiplying the stream or tributary stream channel width by the average stream or tributary stream channel depth. The stream or tributary stream channel width is the straight-line distance from the normal high-water line on one side of the channel to the normal high-water line on the opposite side of the channel. The average stream or tributary stream channel depth is the average of the vertical distances from a straight line between the normal high-water lines of the stream or tributary stream channel to the bottom of the channel.

**Day Care**

Homes and Centers licensed as such by the Maine Department of Human Services.

**DBH**

The diameter of a standing tree measured 4.5 feet from ground level.

**Density**

The number of dwelling units per area of land.

**Developed Areas**

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

**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
- Any man-made change - to improved or unimproved real estate, including but not limited to the construction of buildings or other structures; the construction of additions or substantial improvements to buildings or other structures; mining, dredging, filling, grading, paving, excavation, drilling operations or storage of equipment or materials.

**Dimensional requirements**

Numerical standards relating to spatial relationships including but not limited to setback, lot area, shore frontage and height.

**Disability**

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

**Disruption of shoreline integrity**

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

**District**

A specified portion of the municipality, delineated on the land use map, within certain regulations and requirements or various combinations thereof apply under the provisions

of this Ordinance.

**Driveway**

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

**Dwelling**

Any building or structure or portion thereof designed or used for residential purposes.

1. Single-Family Dwelling- Any structure containing only one (1) dwelling unit for occupation by not more than one (1) family.
2. Two-Family Dwelling- A building containing only two (2) dwelling units, for occupation by not more than two (2) families.
3. Multi-Family Dwellings- A building containing three (3) or more dwelling units, such buildings being designed exclusively for residential use and occupancy by three (3) or more families living independently of one another, with the number of families not exceeding the number of dwelling units.
4. 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.

**Dwelling Unit**

See Dwelling.

**Elevated Building**

A non-basement building:

1. Built, in the case of a building in Zones A on the Floodplain Map, to have the top of the elevated floor, elevated above the ground level by means of pilings, columns, post, piers, or “stilts”; and
2. Adequately anchored so as not to impair the structural integrity of the building during a flood of up to one foot above the magnitude of the base flood.

In the case of Zone A, Elevated Building also includes a building elevated by means of fill or solid foundation perimeter walls less than three feet in height with openings sufficient to facilitate the unimpeded movement of flood waters, as required in Section 806 L.

**Elevation Certificate**

An official form (FEMA Form 81-31 as amended) that:

1. Is used to verify compliance with the floodplain management regulations of the National Flood Insurance Program; and
2. Is required for purchasing flood insurance.

**Emergency operations**

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

**Essential Services**

Gas, electrical or communication facilities; steam, fuel, electric power or water

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

**Expansion of a Structure**

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

**Expansion of use**

The addition of one or more months to a use's operating season; or the use of more floor area or ground area devoted to a particular use.

**Extractive Industries**

The excavation, processing or storage of soil, topsoil, peat, loam, sand, gravel, rock or other mineral deposits, not including:

1. The excavation of material incidental to and at the site of approved construction of buildings, driveways or parking areas;
2. The excavation of material incidental to and at the site of construction or repair of streets; and
3. The excavation, processing or storage of less than ten (10) cubic yards of material on a lot within a one-year period.

**Family**

One or more persons occupying a premise and living as a single housekeeping unit.

**Fill**

Depositing or dumping any matter on, or into the ground or water.

**Filling**

Depositing or dumping any matter on or into the ground or water.

**Final Plan**

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

**Flood or Flooding**

1. A general and temporary condition of partial or complete inundation of normally dry land areas from:
  - A. The overflow of inland or tidal waters.
  - B. The unusual and rapid accumulation or runoff of surface waters from any source.
2. The collapse or subsidence of land along the shore of a lake or other body of water as a result of erosion or undermining caused by waves or currents of water exceeding anticipated cyclical levels or suddenly caused by 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 (1a) 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)**

An official map of a community, on which the Administrator of the Federal Insurance Administration has delineated both the special hazard areas and the risk premium zones applicable to the community.

**Flood Plain Floodplain or Flood-prone Area**

The lands area susceptible to being inundated by water from any source (see Flood or Flooding).

**Floodplain Management**

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

**Floodplain Management Regulations**

Zoning ordinances, subdivision regulations, building codes, health regulations, special purpose ordinances (such as 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 flood damage prevention and reduction.

**Flood proofing**

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**

The lines marking the limits of flood ways on federal, state, and local floodplain maps.

**Floor Area**

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

**Footprint**

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

**Forest management activities**

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

**Forested wetland**

An area dominated by woody vegetation that is six (6) meters tall (approximately twenty (20) feet) or taller that is 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. Forested wetlands may contain small stream channels or inclusions of land that do not conform to the criteria of this definition.

**Forest stand**

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

**Forestry**

The operation of timber tracks, tree farms, forest nurseries, the gathering of forest products, or the performance of forest services.

**Foundation**

The supporting substructure of a building or other structure, excluding wooden sills and post supports, but including basements, slabs, frost walls, or other base consisting of concrete, block, brick or similar material.

**Freeboard**

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

**Freshwater wetland**

Freshwater swamps, marshes, bogs, and similar area, other than forested wetlands, which are:

1. Of ten or more contiguous acres; or 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 more than 10 acres; and
2. Inundated or saturated by surface or ground water at a frequency and for a duration sufficient to support, and which under normal circumstances do support, a prevalence of wetland vegetation typically adapted for life in saturated soils.

Freshwater wetlands may contain small stream channels or inclusions of land that do not conform to the criteria of this definition.

**Frontage, Road**

The horizontal, straight-line distance between the intersections of the side lot lines with the road right-of-way.

**Frontage, Shore**

See Shore Frontage.

**Functionally water-dependent uses**

- Those uses that require, for their primary purpose, location on submerged lands, or

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

- 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.

**Garage**

An accessory building, or part of a principal building, including a carport, used primarily for the storage of motor vehicle, regardless of any other business on the premises.

**Gasoline Service Station**

Any place of business at which gasoline, other motor fuels or motor oil are sold to the public for use in a motor vehicle, regardless of any other business on the premises.

**Great Pond**

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

**Great Pond classified GPA**

Any great pond, pursuant to 38 M.R.S.A., Article 4-A, § 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.

**Hardship**

See Undue Hardship.

**Harvest area**

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

**Hazardous Material**

Any gaseous, liquid or solid materials, either in pure form or incorporated into other materials, designated as hazardous by the Maine Department of Environmental Protection.

**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.

**High Intensity Soil Survey**

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

**Historic Structure**

Any structure that is:

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

**Holding tank**

A closed, watertight structure designed and used to receive and store wastewater or septic

tank effluent. A holding tank does not discharge wastewater or septic tank effluent to surface or ground water or onto the surface of the ground. Holding tanks are designed and constricted to facilitate ultimate disposal of wastewater at another site.

**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.

**Hospital**

An institution providing, but not limited to, overnight health services, primarily for inpatients, and medical or surgical care for the sick or injured, including as an integral part of the institution such related facilities as laboratories, outpatient departments, training facilities, central services facilities, and staff offices.

**Hotel/Motel**

A commercial building or group of buildings built to accommodate for a fee travelers and other transient guests who are staying for a limited duration with sleeping rooms without cooking facilities, each rental unit having its own private bathroom and its own separate entrance leading either to the outdoors or to a common corridor or hallway. A hotel may include restaurant facilities where food is prepared, and meals served to its guests and other customers.

**Impervious surface**

The total area of a parcel that consists of building and associated constructed facilities or areas that will be covered with a low-permeability material, such as asphalt or concrete, and areas such as gravel roads and unpaved parking areas that will be compacted through design or use to reduce their permeability. Common impervious areas include, but are not limited to, rooftops, driveways, parking lots, concrete or asphalt paving, gravel roads, and macadam or other surfaces which similarly impede the natural infiltration of storm water.

**Improved property**

Any property within the municipality upon which there is a structure intended for continuous or periodic habitation, occupancy, or use by humans or animals and from which structure waste water shall or may be discharged.

**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 non-conforming structure. Hence, a structure may be expanded laterally provided that the expansion extends no closer to the water body, tributary stream, or wetland than the closest portion of the existing structure from that water body, tributary stream, or wetland. Included in this allowance are expansions which in-fill irregularly shaped structures.

**Individual Private Campsite**

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

**Industrial**

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

**Industrial Park of Development**

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

**In-law apartment**

See Accessory apartment.

**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.

**Intermittent stream**

Any stream mapped as intermittent on the United States Geological Survey Topographical Maps. Any streams not shown on USGS maps, consult Code Enforcement Officer.

**Kennel**

An establishment in which 5 or more dogs are kept in a single location under one ownership for breeding, hunting, show, training, field trials, sledding, competition or exhibition purposes.

**Land Management Road**

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

**Level of Service**

A description of traffic conditions along a given roadway or at an intersection ranging from A, which is best, to F which is worst. It reflects factors such as speed, travel time, freedom to maneuver, traffic interruptions and delay.

**Licensed Forester**

A forester licensed under 32 M.R.S.A. Chapter 76.

**Locally Established Datum**

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

**Lot**

See Lot of Record.

**Lot Area**

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

**Lot, Corner**

A lot with at least two contiguous sides abutting upon a street or right-of-way.

**Lot, Coverage**

The percentage of a lot covered by all buildings.

**Lot Lines**

The lines bounding a lot as defined below:

1. Front Lot Line-Interior lots: the line separating the lot from the street right-of-way.
2. Corner Lot or Through Lot: The line separating the lot from either street right-of-way. Where a right-of-way does not exist or cannot be determined, the front lot line shall be the edge of the paved or graveled area of the road.
2. Rear Lot Line: The lot line opposite the front lot line. On a lot pointed at the rear, the rear lot line shall be an imaginary line between the side lot lines parallel to the front lot line, not less than ten (10) feet long, lying farthest from the front lot line. On a corner lot, the rear lot line shall be opposite the front lot line of least dimension.
3. Side Lot Line: Any lot line other than the front lot line, or the rear lot line.

**Lot, Minimum Area**

The required lot area within a district for a single use. The lot area shall be determined based on the "Net Residential Acreage Calculation," contained in the Performance Standards section of this Ordinance.

**Lot of Record**

A parcel of land, a legal description of which, or the dimensions of which are recorded on a document or map on file with the County Register of Deeds.

**Lot width**

The distance between the side boundaries of the lot measured at the front setback line.

**Lowest Floor**

The lowest floor of the lowest enclosed area (including basement). An unfinished or flood resistant enclosure, usable solely for parking of vehicles, building access or storage in an area other than a basement area is not considered a building's lowest floor, provided that such enclosure is not built to render the structure in violation of the applicable non-

elevation design requirements described in Section 806-K of this ordinance.

**Manufactured Home**

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. See also: Mobile Home.

**Manufactured Home Park or Subdivision**

A parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale. See also: Mobile Home Park.

**Manufactured Housing**

See Manufactured Home

**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 the prevailing price levels.

**Meadow, Freshwater**

An area of moist, low lying grassland often along a water course or an area of open swampy or marshy land predominantly in grass.

**Mean Sea Level**

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

**Mineral exploration**

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

**Mineral Extraction**

Any operation within any twelve (12) month period which removes more than one hundred (100) cubic yards of soil, topsoil, loam, sand, gravel, clay, rock, peat, or other like material from its natural location and 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.

**Minor Development**

All development that is not new construction or a substantial improvement, such as repairs, maintenance, renovations, or additions, whose value is less than 50% of the market value of the structure. It also includes, but is not limited to: accessory structures as provided for in Section 906.I., mining, dredging, filling, grading, paving, excavation, drilling operations, storage of equipment or materials, deposition or extraction of materials, public or private sewage disposal systems or water supply facilities that do not involve structures; and non-structural projects such as bridges, dams, towers, fencing, pipelines, wharves and piers.

**Minor field change**

Any change due to field conditions during the execution of an approved site plan that does not change the essential nature of the project or adversely affect compliance with review standards, criteria or conditions of approval.

**Mobile Home**

1. A structure unit or units designed for occupancy and constructed in a manufacturing facility and transported, using its own chassis or an independent chassis, to a building site. The term includes any type of building which is constructed at a manufacturing facility and transported to a building site where it is used for housing and may be purchased or sold by a dealer in the interim.
2. Those units constructed after June 15, 1976 commonly called "newer mobile homes," which the manufacturer certifies are constructed in compliance with the United States Department of Housing and Urban Development standards, meaning structures, transportable in one or more sections, which, in the traveling mode, are 14 body feet or more in width and are 750 or more square feet, and which are built on a permanent chassis and designed to be used as dwellings without permanent foundations, when connected to the required utilities, including the plumbing, heating, air conditioning and electrical systems contained therein; except that the term shall include any structure which meets all requirements of this paragraph except the size requirements and with respect to which the manufacturer voluntarily files a certification required by the Secretary of the United States Department of Housing and Urban Development and complies with the standards established under the National Manufactured Housing Construction and Safety Standards Act of 1974, United States Code, Title 42, §5401, et. Seq.
3. Excluded are travel trailers, units not suitable for year-round occupancy and mobile homes that do not meet minimum safety standards for occupancy as principal residences.
4. For floodplain management purposes the term mobile or manufactured home also includes park trailers, travel trailers, and other similar vehicles placed on a site for greater than 180 consecutive days.

**Mobile Home Park**

A parcel of land under unified ownership approved by the municipality for the placement

of 3 or more mobile homes for permanent residential use.

**Mobile Home Park Lot**

The area of land on which an individual home is situated within a mobile home park and which is reserved for use by the occupants of that home. The municipality requires lots to be designated on a mobile home park plan.

**Motorized vehicle race track or drag strip**

Any development where contests of speed, power or endurance occur between mechanical apparatus (such as: cars, trucks, motorcycles) that carry a driver on or within the apparatus. This is not intended to include exhibitions of vehicles such as antique cars/trucks/motorcycles or antique tractors.

**Multi-unit residential**

See “Multi-Family Dwellings” in the definition of Dwelling.

**Municipality**

The Town of Searsmont, Waldo County, Maine.

**National Geodetic Vertical Datum (NGVD)**

The national vertical datum, whose standard was established in 1929, which is used by the National Flood Insurance Program(NFIP). NGVD was based upon mean sea level in 1929 and also has been called “1929 Mean Sea Level (MSL)”.

**Native**

Indigenous to the local forests.

**Neighborhood “Convenience” Stores**

A store of less than 1,500 square feet of floor space intended to service the convenience of a residential neighborhood primarily with the sale of merchandise, including such items as, but not limited to, basic foods, newspapers, emergency home repair articles, and other household items, but not to include “sit-down” dining or “eat-in” foods to take out windows.

**Net Acreage or Net Residential Acreage**

The total area of a lot or lots which is useable for determining allowable densities, as set forth in the Net Acreage Calculations standard contained in the Performance Standards sections of this Ordinance.

**Net Residential Density**

The number of dwelling units per net acreage.

**New Construction**

Structures for which the “start of construction” commenced on or after the effective date of floodplain management regulations adopted by a community and includes any subsequent improvements to such structures.

**Non-conforming condition**

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

**Non-conforming lot**

A single lot of record which, at the effective date of adoption or amendment of this

Ordinance, does not meet the area, frontage, or width requirements of the district in which it is located.

**Non-conforming structure**

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

**Non-conforming use**

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

**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**

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. In the case of freshwater wetlands adjacent to rivers and great ponds, the normal high-water line is the upland edge of the wetland, and not the edge of the open water. 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

**Nursing Home**

A privately-operated establishment where maintenance and personal or nursing care are provided for persons who are unable to care for themselves.

**Official Submittal Date**

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

**100-year flood**

See Base Flood.

**Outlet stream**

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

**Owner**

Any person vested with ownership, legal or equitable, sole or partial, or any property located in the municipality.

**Parking Space**

A parking space will normally be ten (10) feet wide and twenty (20) feet long.

**Parks and Recreation**

Non-commercially operated recreation facilities open to the general public including, but not limited to playgrounds, parks, monuments, green strips, open space, mini-parks, athletic fields, boat launching ramps, piers and docks, picnic grounds, swimming pools, and wildlife and nature preserves, along with any necessary accessory facilities, rest rooms, bath houses, and the maintenance of such land and facilities. The term shall not include campgrounds, or commercial recreation and amusement centers.

**Permitted Use**

Uses which are listed as permitted uses in the various districts set forth in this Ordinance. The term shall not include prohibited uses.

**Person**

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

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

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

**Planned Unit Development**

A development controlled by a single developer for a mix of residential, commercial, and industrial uses. A PUD is undertaken in a manner that treats the developed areas in its entirety to promote the best use of land, including the creation of open space, a reduction in the length of road and utility systems, and the retention of the natural characteristics of the land.

**Planning Board**

The Planning Board of the Town of Searsmont.

**Preliminary Subdivision Plan**

The preliminary drawings indicating the proposed layout of the subdivision to be submitted to the Board for its consideration.

**Principal structure**

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

**Principal Use**

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

**Private Right-Of-Way**

See Right-of-Way.

**Private road**

A 5 feet wide or greater route or track: in private ownership and used for vehicular travel by the owner and those who have expressed or implied permission from the owner, but

not by other persons: 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.

**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.

**Public and Private Schools**

Primary and secondary schools, or parochial schools, which satisfy either of the following requirements:

1. The school is not operated for a profit or as a gainful business; or
2. The school teaches courses of study which are sufficient to qualify attendance in compliance with State compulsory education requirements.

**Public Utility**

Any person, firm, corporation, municipal department, board or commission authorized to furnish gas, steam, electricity, waste disposal, communication facilities, transportation or water to the public.

**Recent flood plain soils**

The following soil series as described and identified by the National Cooperative Soil Survey:

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

**Recording Plan**

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

**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. To be considered as a vehicle and not as a structure, the unit must remain with its tires on the ground and must be registered with the State Division of Motor Vehicles.

**Recreational Vehicle**

A vehicle which is

- a. Built on a single chassis.
- b. 400 square feet or less when measures at the largest horizontal projection, not including slideouts;

- c. Designated to be self-propelled or permanently towable by a motor vehicle; and
- d. Designed primarily not for use as a permanent dwelling but as a temporary living quarters for recreational, camping, travel, or seasonal use.

**Regulatory Floodway**

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

**Regulatory Floodway -**

- a. The channel of a river or other water course and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one foot, and
- b. In Zone A riverine areas, the floodway is the channel of a river or other water course and the adjacent land areas to a distance of one-half the width of the floodplain, as measured from the normal high-water mark to the upland limit of the floodplain.

**Replacement System**

A system intended to replace:

- 1. An existing system which is either malfunctioning or being upgraded with no significant change of design flow or use of the structure, or
- 2. Any existing overboard wastewater discharges.

**Residential Dwelling Unit**

See definition of “Dwelling Unit” under Dwelling.

**Residual basal area**

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

**Residual stand**

A stand of trees remaining in the forest following timber harvesting and related activities

**Restaurant**

An establishment where meals are prepared and served to the public for consumption on the premises entirely within a completely enclosed building; and where no food or beverages are served directly to occupants of motor vehicles or directly to pedestrian traffic from an exterior service opening or counter, or any combination of the foregoing; and where customers are not permitted or encouraged by the design of the physical facilities, by advertising, or by the servicing or packaging procedures, to take food or beverage for consumption outside the enclosed building.

**Resubdivision**

The division of an existing subdivision or any change in the plan for an approved subdivision which effects the lot lines, including land transactions by the subdivider not indicated on the approved plan.

**Retail Business**

A business establishment engaged in the sale, rental, or lease of goods or services to the ultimate consumer for direct use of consumption and not for resale.

**Right-of-way**

- 1. All public or private roads and streets, State and Federal highways, private ways (now

called public easements), and public land reservations for public access, including utility rights-of-way.

2. A vehicular or pedestrian access way serving no more than two dwelling units which is not proposed to be dedicated to the Town.

**Riprap**

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

**River**

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

**Riverine**

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

**Road**

An existing State, County, or Town way or a street dedicated for public use and shown upon a plan duly approved by the Planning Board and recorded in the County Registry of Deeds or a road dedicated for public use and shown on a plan duly recorded in the County Registry of Deeds prior to the establishment of the Planning Board and the grant to the Planning Board of its power to approve plans. The term shall also include private, undedicated roads which are described in a recorded document. The term "road" shall not include those ways which have been discontinued or abandoned. In the Shoreland Zone, a road is defined as 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.

**Scenic resource**

That specific location, view, or corridor, as identified as a scenic resource in the municipally adopted comprehensive plan, this ordinance, or by a State or federal agency, that consists of:

1. A three-dimensional area extending out from a viewpoint on a public way or within a public recreational area, focusing on a single object, such as a mountain, resulting in a narrow corridor, or a group of objects, such as a downtown skyline or mountain range, resulting in a panoramic view corridor; or
2. Lateral terrain features such as valley sides or woodland as observed to either side of the observer, constraining the view into a narrow or particular field, as seen from a viewpoint on a public way or within a public recreational area.

**Self-Service Storage Facility**

A building or group of buildings consisting of individual, small self-contained units that are leased or owned for the storage of business and household goods or contractor supplies.

**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 in less than one thousand (1,000) feet in length.

**Setback**

The minimum horizontal distance from a lot line or 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 or building (including porches, steps, and railings), road, parking space or other regulated object or area.

**Shopping Center**

Any concentration of four or more retail stores or service establishments under one ownership or management containing 15,000 square feet or more of gross floor space.

**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 of the normal high-water line of a stream.

**Shoreline**

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

**Sign**

Any structure, display, logo device or representation which is designed or used to advertise or call attention to anything, person, business activity or place and is visible from any public way.

**Significant River Segments**

See 38 M.R.S.A. §437. [NOTE: There are none in Searsmont.]



**Site Plan Review**

A review of the land use under the authority of the Town of Searsmont's Site Plan Review Ordinance.

**Skid road or skid trail**

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

**Slash**

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

**Solar Collector**

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

**Solar Energy System**

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

**Special Flood Hazard Area**

See "Area of Special Flood Hazard."

**Start of Construction**

The date the building permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition, placement, substantial improvement or other improvement was within 180 days of the permit date.

1. 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.
2. 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.
3. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building.

**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.

**Street**

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

**Street Classification**

1. Arterial Street: A major thoroughfare which serves as a major traffic way for travel between and through the municipality. The following roadways shall be considered arterial streets. State Roads #s 3, 131, and 173.
2. Collector Streets: A street servicing at least fifteen lots or dwelling units, or streets, which serve as feeders of arterial streets, and collectors of traffic from minor streets.
3. Industrial Commercial Street: Streets servicing industrial or commercial uses.
4. Minor Street: A street servicing less than fifteen lots or dwelling units.
5. Private Right of Way: A vehicular access way serving no more than eight dwelling units, which is not intended to be dedicated as a public way.

**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, § 4201, subsection 5; geothermal heat exchange wells as defined in Title 32, § 4700-E, subsection 3-C; or wells or water wells as defined in Title 32, § 4700-E, subsection 8. For floodplain management purposes, a walled and roofed building. A gas or liquid storage tank that is principally above ground is also a structure.

**Subdivision**

The division of a tract or parcel of land into 3 or more lots within any 5-year period, that begins 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.

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 third lot, unless:

1. Both divisions are accomplished by a subdivider who has retained one of the lots for the subdivider's own use as a single-family residence or for open space land as

defined in Title 36 M.R.S.A., §1202 for a period of at least 5 years before the second dividing occurs; or

2. The division of the tract or parcel is otherwise exempt under this definition.

A lot of 40 or more acres shall not be counted as a lot, except where the lot or parcel from which it was divided is located entirely or partially within any shoreland area as defined in Title 38 M.R.S.A., §435, or the municipality's shoreland zoning.

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 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 these regulations, unless the intent of the transferor in any transfer or gift is to avoid the objectives of these regulations. If 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 the previously exempt division creates a lot or lots for the purposes of this definition. The 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 these regulations.

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.

### **Subdivision, Major**

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

### **Subdivision, Minor**

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

### **Substantial Damage**

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

### **Substantial Improvement**

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

1. Any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions or
2. Any alteration of a historic structure provided that the alteration will not preclude the structure's continued designation as a historic structure.

**Substantial Start or Commencement**

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. §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 reference percent grade is substantially maintained or exceeded throughout the measured area.

**Swimming Pool**

An outdoor man-made receptacle or excavation designed to hold water to a depth of at least twenty-four (24) inches, primarily for swimming or bathing, whether in the ground or above the ground.

**Timber harvesting**

The cutting and removal of timber for the primary purpose of selling or processing forest products. "Timber harvesting" does not include the cutting or removal of vegetation within the shoreland zone when associated with any other land use activities. The cutting or removal of trees in the shoreland zone on a lot that has less than two (2) acres within the shoreland zone shall not be considered timber harvesting. Such cutting or removal of trees shall be regulated pursuant to Section 15 (P), *Clearing or Removal of Vegetation for Activities Other Than Timber Harvesting*.

**Timber harvesting and related activities**

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

**Tract, or Parcel, or Land**

All contiguous land in the same ownership, whether or not the tract is separated at any point by: an intermittent or not-navigable stream, tidal waters where there is no flow at low tide, or a private road established by the abutting landowners.

**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.

**Undue Hardship**

As used in this Ordinance, the words “undue hardship” shall mean all the following:

1. That the land in question cannot yield a reasonable return unless a variance is granted; and
2. That the need for a variance is due to the unique circumstances of the property and not to the general conditions in the neighborhood; and
3. That the granting of a variance will not alter the essential character of the locality; and
4. That the hardship is not the result of action taken by the applicant or a prior owner.

**Use**

The way land or a structure is arranged, designed or intended, or is occupied.

**Upland Edge of a wetland**

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

**Variance**

- A relaxation of the terms of this ordinance where such relaxation will not be contrary to the public interest where, owing to conditions peculiar to the property, and not the result of the actions of the applicants, a literal enforcement of the Ordinance would result in undue hardship.
- For floodplain management purposes, a grant of relief by a community from the terms of a floodplain management regulation.

**Vegetation**

All live trees, shrubs, and other plants including, without limitation, trees both over and under 4 inches in diameter, measured at 4½ feet above ground level.

**Velocity Zone**

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

**Violation**

The failure of a structure or development to comply with this ordinance.

**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.

**Warehousing and Distribution Facility**

A use engaged in storage, wholesale, and distribution of manufactured products, supplies and equipment.

**Waste Water**

Any liquid waste containing animal or vegetable matter in suspension or solution, or the water-carried wastes for the discharge of water closets, laundry tubs, washing machines, sinks, dishwashers, or other source of water-carried wastes of human origin. This term specifically excludes industrial, hazardous, or toxic wastes and materials.

**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.

**Wetlands**

A freshwater wetland.

**Windfirm**

The ability of a forest stand to withstand strong winds and resist windthrow, wind rocking, and major breakage.

**Wireless telecommunications facility**

Any structure, antenna, tower, or other device which provides radio/television transmission, commercial mobile wireless services, unlicensed wireless services, cellular phone services, specialized mobile radio communications (SDMR), common carrier wireless exchange phone services, and personal communications service (PCS) or pager services. This shall not apply to ham radio antennas, parabolic antennas, emergency wireless telecommunication facilities, or antennas that are an accessory use to a residential dwelling unit.

**Woody vegetation**

Live trees or woody, non-herbaceous shrubs