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TOWN OF SEARSPORT

ABANDONED BUILDINGS

ORDINANCE

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Section I. Purpose

A. Vacant or abandoned properties, particularly residential properties, create and pose significant and costly problems for the Town. These properties often become a drain on the Town budget and detract from the quality of life of a neighborhood and the Town as a whole. Vacant or abandoned buildings are an impediment to neighborhood redevelopment and rehabilitation, decrease property values, and prevent neighborhood stabilization. These structures are unsightly, often structurally unsound or otherwise dangerous, attract criminal activity, and otherwise create a threat to public health, safety, and welfare of neighboring properties and the general public.

B. A significant obstacle in providing effective and prompt enforcement of Town ordinances or other applicable laws as they relate to a property owner's responsibilities, as they relate to vacant or abandoned buildings, is the inability to contact the owners of abandoned properties. These buildings are often also the subjects of foreclosure actions by lien holders, which take considerable time to resolve.

C. Certain categories of vacant or abandoned properties, such as homes of seasonal residents or members of the armed forces on active duty deployment, are less likely to cause problems and Town costs and are not of concern in this Ordinance.

D. The purpose of this ordinance is to provide a just, equitable and practicable method for identifying, managing and responding to the numerous issues associated with vacant or abandoned buildings. This ordinance is intended to prevent or mitigate dangers to health, safety and welfare, promote responsible management, provide a safe neighborhood for residents, safeguard property values, expedite housing repairs, and provide for prompt contact with owners or managers by Police, Fire, and Code Enforcement when issues or emergencies develop.

Section II. Definitions

A. If a term is not defined in this ordinance or the Land Use Ordinance it shall have its customary dictionary meaning.

B. For the purpose of interpreting this chapter, the following terms, phrases, words and their derivations shall have following meanings:

OWNER shall mean any person, agent, firm, corporation or other legal entity having a legal or equitable interest in a vacant or abandoned building, including but not limited to a mortgagee in possession, the beneficiary of a trust, or the holder of a life estate.

PROPERTY MANAGER shall mean a Maine-based entity, corporation, or individual or the designee of the owner that is responsible for maintaining, securing, and inspecting vacant or abandoned buildings.

VACANT OR ABANDONED BUILDING shall mean any building or other structure that is unoccupied and unmaintained by a person or occupied by unauthorized persons for 90 days, except garages or accessory buildings. Parties identified in Section I.C are not included in this definition.

Section III. Applicability

A. This ordinance applies to all vacant or abandoned buildings located within the Town of Searsport.

B. Notwithstanding any portion of this Ordinance, this Ordinance does not apply to primary residences of members of the armed forces on active duty, vacation or resort facilities, or residences of persons on extended vacations or alternative living arrangements with the intention to make use of the property.

Section IV. Registration required

A. The owner of a vacant or abandoned building must obtain a vacant or abandoned building registration permit for the period during which it is vacant.

B. When a building or structure becomes vacant or abandoned as defined in this Ordinance, the owner of the building must apply for and obtain a vacant building registration permit and pay any fee within 90 days of the building becoming vacant.

C. Standard vacant building registration permit.

(1) The Code Enforcement Officer shall issue a standard vacant or abandoned building registration permit upon being satisfied that the building has been inspected and is in compliance with the vacant building maintenance standards set forth in this ordinance.

(2) A standard vacant or abandoned building registration permit is valid for 1 year from the date of approval.

(3) The Code Enforcement Office, upon issuance of any permit in this ordinance, shall provide a copy of the permit to the Chief of Police, Fire Chief and Town's Health Officer(s).

D. Interim vacant or abandoned building inspection permit.

(1) If a vacant or abandoned building is inspected and determined not to meet one or more of the maintenance standards in this Ordinance, the Code Enforcement Officer shall issue an order for any work needed to bring the property into compliance with this Ordinance.

(2) When issuing orders under Subsection D(1), the Code Enforcement Officer shall specify the time for completion of the work. The order will act as an interim vacant or abandoned building registration permit, the duration of which will be for the time set forth in the order. No interim registration permit may be effective for a period of more than 6 months.

(3) All work done pursuant to this ordinance must be done in compliance with the applicable building, fire prevention, life safety, and zoning codes.

E. Upon the expiration of a vacant or abandoned building registration permit, if the building or structure is still vacant or abandoned, the owner must arrange for an inspection of the building and premises with the appropriate Code Enforcement Officer, Police and Fire Officials, and renew the permit within 10 days of expiration. All permit renewals shall be subject to all conditions and obligations imposed by this Ordinance and any previous permits unless expressly exempted.

Section V. Permit application

A. Application by the owner of a vacant building or structure for a vacant building registration permit must be made on a form provided by the Code Enforcement Officer. Applicants must disclose all measures to be taken to ensure that the building will be kept weather tight and secure from trespassers, safe for entry of police officers and firefighters in times of exigent circumstances or emergency, and together with its premises be free from nuisance and in good order in conformance with vacant building maintenance standards, and other codes adopted by the Town of Searsport.

B. The application shall include a "statement of intent." The statement of intent shall include information as to the expected period of vacancy (including the date of vacancy), the plan for regular maintenance during the vacancy to comply with the maintenance safety requirements of this subsection, and a plan and timeline for the lawful occupancy, rehabilitation, or removal or demolition of the structure.

C. The application shall include a list of persons authorized to be present in the building, along with a statement that any persons not listed shall be considered trespassers. The owner shall update the authorized person list as needed.

D. Contact information. The application shall include the following:

(1) The name, street address, telephone number, and e-mail address of an individual designated by the owner or owners of the vacant or abandoned building as their authorized agent for receiving notices of code violations and for receiving process in any court proceeding or administrative enforcement proceeding in connection with the enforcement of this Ordinance regarding the vacant building.

(2) The name of any property manager responsible for management and maintenance of the property, along with their twenty-four-hour-a-day contact information.

(3) The name of any bank/lender/lien holder with an interest in the property and its contact information, including the mailing address of the bank/lender/lien holder.

(4) If any contact information required under this subsection changes or becomes out-of-date, the owner must notify the Code Enforcement Officer in writing within 30 days of such change.

E. A fee, as established by the Board of Selectmen may be charged for a vacant building registration permit or interim permit. No fee shall also be charged upon the renewal of such permits. A fee must be paid at the time of application. No permit shall be issued prior to payment of the permit. If an owner has secured all the duly required permits to demolish the building or structure, no fee is required if the building or structure is in fact demolished within 90 days of becoming vacant; should this 90 day period expire, a fee becomes due immediately.

Section VI. Inspection

A. Upon and at the time of application, the owner of a vacant building or structure shall arrange for an inspection of the premises by the Code Enforcement Officer. The purpose of such inspections is to determine and ensure compliance with vacant building maintenance standards. The Code Enforcement Officer may bring Fire Officials on the inspection.

Section VII. Maintenance standards

An owner of a vacant building must adequately protect it from intrusion by trespassers and from deterioration by the weather. A vacant building shall be deemed adequately protected from intrusion by trespassers and from deterioration by the weather if it satisfies the following vacant building maintenance standards:

A. Building openings. Doors, windows, areaways and other openings must be weather tight and secured against entry by birds, vermin and trespassers. Missing or broken doors, windows and other such openings must be covered by glass or other rigid materials which are weather protected and tightly fitted and secured to the opening.

B. Roofs. The roof and flashings shall appear to be structurally sound and tight.

C. Drainage. Any building storm drainage system shall be functional and installed in an approved manner, and allow discharge in an approved manner.

D. Public Health. The building and premises shall be free from debris, rubbish, garbage, excessive vegetation, including but not limited to any combustible waste and refuse and the building shall be sanitary.

E. Structural members. The structural members shall be free of deterioration and capable of safely bearing imposed dead and live loads.

F. Foundation walls. The foundation walls shall be structurally sound so as not to pose a threat to public health and safety and shall be capable of supporting the load which normal use may cause to be placed thereon.

G. Exterior walls. The exterior walls shall be free of holes, breaks, and loose or rotting materials. Exposed metal, wood, or other surfaces shall be protected from the elements and against decay or rust.

I. Overhanging extensions. All balconies, canopies, marquees, signs, metal awnings, stairways, fire escapes, standpipes, exhaust ducts and similar features shall be in good repair, anchored, safe and sound.

J. Chimneys and towers. Chimneys, cooling towers, smokestacks, and similar appurtenances shall be structurally safe and in good repair.

K. Walkways. Walkways shall be safe for pedestrian travel.

L. Accessory and appurtenant structures. Accessory and appurtenant structures such as garages, sheds, and fences shall be free from safety, health, and fire hazards and shall comply with these vacant building maintenance standards.

M. The owner of a vacant building or structure must comply with all building, fire, life safety, zoning, and other applicable codes or ordinances and must apply for any building, fire prevention, and zoning permits necessary to perform work required by this ordinance. A sole failure to comply with these standards shall not be grounds for a work order or denial of an application if the other standards of this Ordinance are met.

Section VIII. Violations and Penalties

Any person who is found to be in violation of any provision or requirement of this ordinance shall be subject to a civil penalty as set forth in 30-A M.R.S.A. § 4452. Each violation of a separate provision or requirement, and each day of violation, shall constitute a separate offense.

Section XIV. Effective Date

This ordinance was adopted at Town Meeting on March 7, 2015.

This is a true and attested copy by: Deborah Plourde
Deborah Plourde, Town Clerk

Addressing Ordinance Town of Searsport

Section 1. Purpose

The purpose of this ordinance is to enhance the easy and rapid location of properties by law enforcement, fire, rescue and emergency medical services personnel in the Town of Searsport. This ordinance is part of the implementation of the Statewide Enhanced 911 (E-911) system.

Section 2. Authority

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

Section 3. Administration

This ordinance shall be administered by the Addressing Officer and assisted by an advisory Addressing Committee, each appointed by the Board of Selectmen. The committee shall comprise not less than three nor more than seven residents of the Town for the purpose of implementation of this ordinance. The Addressing Officer is authorized to and shall assign road names and numbers to all properties on both existing and proposed roads in accordance with the criteria in Sections 4 and 5. The Assessor or other designated person shall be responsible for maintaining the following official records of this ordinance:

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

Section 4. Naming System

All roads that serve two or more properties shall be named regardless of whether the ownership is public or private. A “road” refers to any highway, road, street, avenue, land, private way, or similar paved, gravel, or dirt thoroughfare. “Property” refers to any property on which a more or less permanent structure has been erected or could be placed. A road name assigned by the Town of Searsport shall not constitute or imply acceptance of the road as a public way.

The following criteria shall govern the naming system:

- a. No two roads shall be given the same name (e.g., No Pine Road and Pine Lane).
- b. No two roads shall have similar-sounding names (e.g., Beech Street and Peach Street).
- c. Each road shall have the same name throughout its entire length.
- d. After consultation with available property owners and the Addressing Committee, all road names shall be approved by Town Meeting vote.

Section 5. Numbering System

Numbers shall be assigned based on a standard interval determined by the Addressing Officer along both sides of the road, with even numbers appearing on the left side of the road and odd numbers appearing on the right side of the road, ascending from the number origin.

The following criteria shall govern the numbering system:

- a. All number origins shall begin from 1. For dead-end roads, numbering shall originate at the intersection of the adjacent road and terminate at the dead end.
- b. The number assigned to each structure shall be that of the numbered interval falling closest to the front door or the driveway of said structure if the front cannot be seen from the main road.

- c. Every structure with more than one principle use or occupancy shall have a separate number for each use of occupancy. For example, duplexes will have two separate numbers.
- d. Apartments will have one property number followed by an apartment number, such as 235 Maple Street, Apt 2.

Section 6. Compliance

All owners of record of structures shall install or cause to be installed, the assigned building number, by the date of effective use as stipulated in Section 9, and shall display and maintain said number in a conspicuous place on said structure in the following manner:

- a. Number on the Structure. Where the structure is within 50 (fifty) feet of the edge of the right-of-way, the assigned number shall be displayed on the front of the structure in the vicinity of the front door or entry.
- b. Number at the Street Line. Where the structure is over 50 (fifty) feet from the edge of the road right-of-way, the assigned number shall be displayed on a post, fence, wall, the mail box, or on some numbered structure.
- c. Size and Color of Number. Numbers shall be a minimum of 3 (three) inches high and be of a contrasting color to its background.
- d. Any existing different number which might be mistaken for, or confused with, the number assigned in conformance with this ordinance shall be removed.
- e. Interior Location. All residents and other occupants are requested to post their assigned number and road name adjacent to their telephone for emergency reference.
- f. If for any reason non-compliance with above comes about, the Town of Searsport will, within the time limit of 30 (thirty) days, install or

cause to be installed the assigned building number. A fee will be charged to the owner of record of said structure for this service.

Section 7. New Developments and Subdivisions

All new construction and subdivisions shall be named and numbered in accordance with the provisions of this ordinance and as follows:

- a. **New construction.** Whenever any residence or other structure is constructed or developed, it shall be the duty of the new owner to procure an assigned number from the Town of Searsport Assessor. This shall be done at the time of the issuance of the building permit.
- b. **New Subdivisions.** Any prospective subdivider shall show a proposed road name and lot numbering system on the pre-application submission to the Planning Board. Approval by the planning Board, after consultation with the Assessor, shall constitute the assignment of numbers to the lots in subdivisions approved after the effective date of this Ordinance. On the final plan showing proposed roads, the applicant shall mark on the plan, lines or dots, in the center of the streets based on a numbering interval established by the Addressing Officer so as to aid in the assignment of numbers to structures subsequently constructed.

Section 8. Ordinance Effective Date

This Ordinance shall become effective as of March 14, 1998.

Section 9. Enforcement

It shall be the duty of the Addressing Officer to notify by mail each property owner of his/her new address at least 60 (sixty) days prior to the effective date of its use. It shall be the duty of each property owner to post new property numbers in accordance with this ordinance. On new structures, numbering will be installed prior to final inspection or when the structure is first occupied, whichever comes first.

Section 10. Severability

If any provision or clause of this Ordinance is determined to be illegal, that determination shall not affect the legality of any remaining provisions or clauses.

TOWN of SEARSPORT

ADULT ENTERTAINMENT BUSINESS ESTABLISHMENTS

ORDINANCE

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PREAMBLE

We the people of the Town of Searsport choose to regulate the conduct of adult entertainment business establishments to protect safety, property, and to promote the general welfare of residents.

SECTION I. Purpose and Findings

Purpose

The purpose of this Ordinance is to:

1. Regulate adult entertainment business establishments and related activities.
2. Establish reasonable and uniform regulations to prevent the harmful location and concentration of adult entertainment business establishments within the Town.

This Ordinance is not intended to:

1. Restrict the content of any communicative materials, including sexually oriented materials.
2. Restrict or deny access by adults to sexually oriented materials protected by the United States or Maine Constitutions.
3. Deny access by the distributors and exhibitors of sexually oriented entertainment to their intended market.
4. Condone or legitimize the distribution of obscene materials.

B. Findings

1. Studies have shown that adult entertainment business establishments, including but not limited to "strip clubs," "illegitimate massage parlors," and "escort agencies," lead to increased rates of various forms of prostitution, which in turn is related to underage sex, human trafficking, rape, violence and threats of violence. The Town of Searsport has a strong public interest in preventing and investigating these crimes.
2. Studies show that the closer adult entertainment business establishments are to homes and other businesses, the greater the negative impact on the value of the properties.
3. The Town of Searsport has a strong interest in protecting the general welfare of children and minors from the effect of legal and illegal aspects of adult entertainment business establishments.

4. Adult entertainment business establishments have operational characteristics, which should be reasonably regulated in order to protect these substantial governmental concerns.

SECTION II. Definitions

A. ADULT ENTERTAINMENT BUSINESS ESTABLISHMENT means, but is not limited to, any adult bookstore, adult amusement store, adult video store, adult novelty store, adult motion picture theater, adult arcade, on-site video screening establishment, adult cabaret, adult entertainment nightclub or bar, establishments featuring strippers or erotic dancers, escort agency, or other sexually oriented business.

1. ADULT BOOKSTORE means a commercial establishment that, as one of its principal business purposes, offers for sale or rental for any form of consideration any one or more of the following:

a. Books, magazines, periodicals or other printed matter, or photographs, films, motion picture, video cassettes or video reproductions, slides, or other visual representations that are distinguished or characterized by the depicting or describing of "specified sexual activities" or "specified anatomical areas." A principal business purpose exists if materials offered for sale or rental depicting or describing "specified sexual activities" or "specified anatomical areas" occupy 20% or more of total floor space. A commercial establishment may have other principal business purposes that do not involve the offering for sale or rental of material depicting or describing "specified sexual activities" or "specified anatomical areas" and still be categorized as ADULT BOOKSTORE. Such other business purposes will not serve to exempt such commercial establishments from being categorized as an ADULT BOOKSTORE so long as one of its principal business purposes is the offering for sale or rental for consideration the specified materials that depict or describe "specified sexual activities" or "specified anatomical areas."

b. Instruments, devices, or paraphernalia that are designed for use in connection with "specified sexual activities."

2. ADULT AMUSEMENT STORE means the same as ADULT BOOKSTORE.

3. ADULT VIDEO STORE means the same as ADULT BOOKSTORE.

4. ADULT NOVELTY STORE means the same as ADULT BOOKSTORE.

5. ADULT MOTION PICTURE THEATER means a commercial establishment where, for any form of consideration, films, motion pictures, video cassettes, slides, or similar photographic reproductions are regularly, commonly, habitually, or consistently

shown that are distinguished or characterized by the depiction or description of "specified sexual activities" or "specified anatomical areas."

6. ADULT ARCADE means any place to which the public is permitted or invited wherein coin-operated or slug-operated or electronically, electrically, or mechanically controlled still or motion picture machines, projectors, videos, or other image-producing devices are maintained to show images to five or fewer persons per machine at any one time, and where the images so displayed are distinguished or characterized by the depicting or describing of "specified sexual activities" or "specified anatomical areas."

7. ON-SITE VIDEO SCREENING ESTABLISHMENT means the same as **ADULT ARCADE**.

8. ADULT CABARET means a nightclub, bar, restaurant, café, or similar commercial establishment that regularly, commonly, habitually, or consistently features:

a. persons who appear in a state of nudity or semi-nudity; or

b. live performances that are distinguished or characterized by the exposure of "specified anatomical areas" or by "specified sexual activities"; or

c. films, motion pictures, video cassettes, slides, photographic reproductions, or other image producing devices that are distinguished or characterized by the depiction or description of "specified sexual activities" or "specified anatomical areas"; or

d. persons who engage in "exotic" or erotic dancing or performances that are intended for the sexual interests or titillation of an audience or customers.

9. ADULT ENTERTAINMENT NIGHTCLUB OR BAR means the same as **ADULT CABARET**.

10. ESTABLISHMENTS FEATURING STRIPPERS OR EROTIC DANCERS means the same as **ADULT CABARET**.

11. NUDITY or a **STATE OF NUDITY** means the appearance of a human anus, pubic area, male genitals, or female genitals with less than a fully opaque covering; or a female breast with less than a fully opaque covering of any part of the areola; or human male genitals in a discernibly turgid state even if completely and opaquely covered.

12. ESCORT means a person who, for consideration, agrees or offers to act as a companion, guide (differentiated from a licensed Maine guide), or date for another person, or who agrees or offers to privately model lingerie or to privately perform a striptease for another person.

13. ESCORT AGENCY means a person or business association who furnishes, offers to furnish, or advertises to furnish escorts as one of its primary business purposes for a fee, tip, or other consideration.

14. OTHER SEXUALLY ORIENTED BUSINESS includes (but is not limited to) an adult bookstore or adult video store, adult motion picture theater, adult cabaret, escort agency, adult motel, adult theater, nude model studio, sexual encounter center, or any other facility or service that is intended for the sexual interests or titillation of an audience or customers for consideration.

15. ADULT MOTEL means a hotel, motel or similar commercial establishment that:

a. offers accommodation to the public for any form of consideration and provides patrons with closed-circuit television transmissions, films, motion pictures, video cassettes, slides, or other photographic reproductions that are distinguished or characterized by the depiction or description of "specified sexual activities" or "specified anatomical areas;" and has a sign visible from the public right of way that advertises the availability of this adult type of photographic reproductions; or

b. offers a sleeping room for rent for a period of time that is less than ten (10) hours; or

c. allows a tenant or occupant of a sleeping room to sub-rent the room for a period of time that is less than ten (10) hours.

16. ADULT THEATER means a theater, concert hall, auditorium, or similar commercial establishment that regularly, commonly, habitually, or consistently features persons who appear, in person, in a state of nudity and/or semi-nudity, and/or live performances that are distinguished or characterized by the exposure of "specified anatomical areas" or by "specified sexual activities."

17. NUDE MODEL STUDIO means any place where a person who appears in a state of nudity or displays "specified anatomical areas" is provided to be observed, sketched, drawn, painted, sculptured, photographed, or similarly depicted by other persons for prurient interest.

This definition does not include an establishment run by a public school licensed by the State of Maine, a college, junior college, or university supported entirely or partly by taxation.

This definition shall not apply to the artist, art instructor or art school wherein a nude model, male or female, may be employed for the purpose of creating a painting, sculpture, or photograph for artistic purpose, for instruction or for commission, sale or display.

18. SEXUAL ENCOUNTER CENTER means a business or commercial enterprise that, as one of its principal business purposes, offers for any form of consideration:

- a. physical contact in the form of wrestling or tumbling between persons of the opposite sex; or
- b. activities between persons of the opposite sex and/or persons of the same sex when one or more of the persons is in a state of nudity or semi-nudity. A principal business purpose exists if the services offered are intended to generate business income.

B. SPECIFIED ANATOMICAL AREAS means:

1. The human male genitals in a discernibly turgid state, even if fully and opaquely covered.
2. Less than completely and opaquely covered human genitals, pubic region, buttocks, or a female breast below a point immediately above the top of the areola.

C. SPECIFIED SEXUAL ACTIVITIES means and includes any of the following:

1. The fondling or other erotic touching of human genitals, pubic region, buttocks, anus, or female breasts, whether covered or uncovered.
2. Sex acts, normal or perverted, actual or simulated, including intercourse, oral copulation, or sodomy.
3. Masturbation, actual or simulated.
4. Excretory functions as part of or in connection with any of the activities in 1 through 4 above.

D. EMPLOYEE means a person who performs any service on the premises of an adult entertainment business establishment on a full-time, part-time, contract, or independent basis, whether or not the person is denominated an employee, independent contractor, agent, or otherwise, and whether or not the said person is paid a salary, wage, or other compensation by the operator of said business. "Employee" does not include a person exclusively on the premises for repair or maintenance of the premises or equipment on the premises, or for the delivery of goods to the premises, nor does "employee" include a person exclusively on the premises as a patron or customer. The under eighteen (18) years of age restriction of Section XII shall not apply to any person excluded from the above employee classification.

1. PREMISES means the real property upon which the adult entertainment business establishment is located, and all appurtenances thereto and buildings thereon, including, but not limited to, the adult entertainment business establishment, the grounds, private walkways, and parking lots and/or parking garages adjacent thereto, under the ownership, control, or supervision of the responsible party.

E. ESTABLISHMENT OF AN ADULT ENTERTAINMENT BUSINESS

ESTABLISHMENT means and includes any of the following:

1. The opening or commencement of any adult entertainment business establishment as a new business.
2. The conversion of an existing business, whether or not an adult entertainment business establishment, to any adult entertainment business establishment.
3. The addition of any adult entertainment business establishment to any other existing adult entertainment business establishment.
4. The relocation of any adult entertainment business establishment.
5. An adult entertainment business establishment or premises on which the adult entertainment business establishment is located.

F. PERSON means and includes an individual, proprietorship, partnership, corporation, association, or other legal entity.

G. SUBSTANTIAL ENLARGEMENT OF AN ADULT ENTERTAINMENT BUSINESS

ESTABLISHMENT means the increase in floor areas occupied by the business by more than twenty-five (25%) percent, as the floor areas existed on the date of the enactment of this Ordinance.

SECTION III. Location Restrictions

Adult entertainment business establishments shall be permitted in district Mixed Residential (MR), as described in the Town's Comprehensive Plan and Land Use Ordinance, provided that:

A. The adult entertainment business establishment may not be operated within:

1. 1,000 feet of a church, synagogue, mosque, temple or building, which is used primarily for religious worship and related religious activities.
2. 1,000 feet of a public or private educational facility including but not limited to the following:
 - a. child care facilities;
 - b. nursery schools;
 - c. preschools;
 - d. public or private elementary schools;
 - e. public or private secondary schools;

f. junior colleges; and

g. universities.

School includes the facility ground, but does not include the facilities used primarily for administrative purposes.

3. 1,000 feet of a public park or recreational area within the Town which is under the control, operation, or management of the Town park and recreation authorities that has been designated for park or recreational activities including but not limited to the following:

a. park;

b. playground;

c. nature trails;

d. swimming pool;

e. reservoir;

f. athletic field;

g. basketball or tennis courts;

h. skating rink;

i. pedestrian/bicycle paths;

j. wilderness areas; or

k. other similar public land.

4. 1,000 feet of the property line of a lot zoned for residential use and devoted to a residential use as defined in the Land Use Ordinance.

5. 1,000 feet of another adult entertainment business establishment.

B. An adult entertainment business establishment may not be operated in the same building or structure containing another adult entertainment business establishment.

C. For the purpose of this Ordinance, measurement shall be made in a straight line, without regard to intervening structures or objects, from the nearest portion of the building or structure used as an adult entertainment business establishment to the nearest property line of any of the facilities or uses listed in Section III.A.

D. For purposes of subsection C of this section, the distance between any two adult entertainment business establishment uses shall be measured in a straight line, without regard to intervening structures or objects, from the nearest portion of the building or structure used as an adult entertainment business establishment to the nearest property line of the other adult entertainment business establishment.

SECTION IV. Non-Conforming Uses

- A. Any business lawfully operating on the effective date of this Ordinance that is in violation of the location or structural configuration requirements of this Ordinance is a non-conforming use. The non-conforming use will be permitted to continue pursuant to the Land Use Ordinance. Such non-conforming uses shall not be increased, enlarged, extended or altered except that the use may be changed to a conforming use. If two or more adult entertainment business establishments are within 1,000 feet of one another and otherwise in a permissible location, the adult entertainment business establishment that was first established and continually operated at a particular location is the conforming use and the later-established business(es) is non-conforming.
- B. An adult entertainment business establishment lawfully operating as a conforming use is not rendered a non-conforming use by the location of a facility listed in Section III.A within 1,000 feet of the adult entertainment business establishment after rights of the adult entertainment business establishment have vested. Vesting shall have occurred if the owner/applicant for the adult entertainment business establishment has met the following criteria:
1. Exercised due diligence in attempting to comply with the law.
 2. Demonstrated good faith throughout the proceedings.
 3. Expended substantial unrecoverable funds in reliance on the Planning Board's approval.
 4. The period during which an appeal could have been taken from the approval of the application has expired.
 5. There is insufficient evidence to prove that individual property rights or the public health, safety or welfare would be adversely affected by the project as approved.

SECTION V. Additional Regulations for Adult Motels

- A. Evidence that a sleeping room in a hotel, motel, or a similar commercial enterprise has been rented and vacated two or more times in a period of time that is less than ten (10) hours creates a rebuttable presumption that the enterprise is an adult motel as that term is defined in this Ordinance.
- B. It is a violation of this Ordinance for a person, as the person in control of a sleeping room in a hotel, motel, or similar commercial enterprise to rent or sub-rent a sleeping room to a person and, within ten (10) hours from the time the room is rented, he/she rents or sub-rents the same sleeping room again.

- C. For purposes of subsection B of this section, the terms "rent" or "sub-rent," mean the act of permitting a room to be occupied for any form of consideration.

SECTION VI. Additional Regulations for Escort Agencies

- A. An escort agency shall not employ any person under the age of eighteen (18) years.
- B. It is a violation of this Ordinance for any person to act or agree to act as an escort for any person under the age of eighteen (18) years.

SECTION VII. Additional Regulations For Nude Model Studios

- A. A nude model studio shall not employ any person under the age of eighteen (18) years.

SECTION VIII. Regulations Pertaining to Exhibition of Sexually Explicit Films and Videos

- A. A person who operates, or causes to be operated, an adult entertainment business establishment, other than an adult motel, which exhibits on the premises in a viewing room of less than one hundred fifty (150) square feet of floor space, a film, videocassette, or other video reproduction, that depicts specified sexual activities or specified anatomical areas, shall comply with the following requirements:
1. The owner and operator of the premises shall ensure that at least one employee is on duty and situated in each manager's station at all times that a patron is present inside the premises.
 2. The interior of the premises shall be configured such that there is an unobstructed view from a manager's station of the entire area of the premises to which any patron is permitted access, except restrooms. Restrooms may not contain video reproduction equipment. The view required in this subsection must be by direct line of sight from the manager's station.
 3. The operator, and/or any agents and employees present on the premises shall ensure that the view area specified in subsection (2) of this section remains unobstructed at all times.
 4. No viewing room or booth may be occupied by more than one person at any time.
 5. No opening of any kind shall exist between viewing rooms or booths.

SECTION IX. Regulations Pertaining to Obscene Materials and Performances

A. Definitions

1. Obscene means material that the average person, applying contemporary community standards, would find that taken as a whole appeals to the prurient interest in sex. Depicts or describes either patently offensive representations or descriptions of sexual acts. Patently offensive representations of excretion, masturbation, sadism, masochism and nudity, and devices used for masturbation. Taken as a whole lacks serious literary, artistic, political or scientific value.
2. Patently offensive means so offensive on its face as to be intolerable to the average person in the community.
3. Prurient interest means shameful or morbid interest.

B. Sales of obscene materials, obscene performances and the instruments, devices and paraphernalia are limited to adult entertainment business establishments regulated by this Ordinance.

SECTION X. Exterior Portions of Adult Entertainment Business Establishments

The owner or operator of an adult entertainment business establishment shall ensure that:

- A. The merchandise or activities of the establishment are not visible from a point outside the establishment.
- B. The exterior portion of the adult entertainment business establishment does not have flashing lights, or any words, lettering, photographs, silhouettes, drawings, or pictorial representations of any manner except to the extent permitted by the provisions of this Ordinance.

SECTION XI. Signage

An adult entertainment business establishment shall have only one non-changeable sign with no more than two (2) display surfaces. Each such display surface shall:

1. Not contain any flashing lights.
2. Be a flat plane, rectangular in shape.

3. Not to exceed forty (40) square feet in area.
4. Contain no photographs, silhouettes, drawings or pictorial representations in any manner.
5. May contain only the name of the enterprise.

SECTION XII. Persons Younger Than Eighteen Prohibited From Entry; Attendant Required

- A. No person who is younger than eighteen (18) years of age shall enter or be on the premises of an adult entertainment business establishment at any time.
- B. The operator of each adult entertainment business establishment shall ensure that an attendant is stationed at each public entrance to the adult entertainment business establishment at all times during such adult entertainment business establishment's regular business hours. The attendant shall prohibit any person under the age of eighteen (18) years from entering the adult entertainment business establishment.

SECTION XIII. Enforcement

Any violation of this Ordinance shall be punishable by a civil fine of not less than \$500.00 and not more than \$2,000.00 as well as a civil fine in the same amount for every day a violation is not remedied by the adult entertainment business establishment after the fine is ordered by a court or agreed upon by the adult entertainment business establishment and the Town.

SECTION XIV. Hours of Operation

No adult entertainment business establishment, except for an adult motel, shall remain open at any time between the hours of 11:00 p.m. and 9:00 a.m.

SECTION XV. Severability

If any section, subsection, or clause of this Ordinance is deemed to be unconstitutional or otherwise invalid, the validity of the remaining sections, subsections, and clauses shall not be affected thereby.

SECTION XVI. Conflicting Ordinances

In the event that any ordinance or part of any ordinance is found to be in conflict with this Ordinance, this Ordinance shall supersede with the exception of the Town's Land Use Ordinance, in which case Town's Land Use Ordinance shall supersede.

SECTION XVII. Effective Date

This Ordinance was adopted at Town Meeting on March 8, 2014.

This is a true and attested copy by:

Deborah Plourde
Deborah Plourde, Town Clerk

Budget Advisory Committee Ordinance

An Ordinance relating to the creation and administration of a Budget Advisory Committee for the Town of Searsport.

ARTICLE I GENERAL

1.1 Short Title

This Ordinance, prepared in accordance with the provisions of Title 30-A, MRSA section 3001, as amended, shall be known as and may be cited as the "Town of Searsport Budget Advisory Committee Ordinance" and shall be referred to herein as the "Ordinance".

1.2 Purpose

The purpose of this Ordinance is to establish the rules and regulations for the administration of the Town of Searsport Budget Advisory Committee, and to formally prescribe guidelines and procedures to be followed by the Committee in the performance of its function.

1.2.1 The purpose of the Budget Advisory Committee is to consider proposed revenues and expenditures and to act in an advisory capacity to the citizens of Searsport.

1.3 Definitions

For the purpose of this Ordinance, the following definitions shall be observed in the administration of this Ordinance. All single references to gender shall include both sexes; wherever a male gender is used, it shall be construed to include either male or female.

1.3.1 "Committee" shall mean the Town of Searsport Budget Advisory Committee.

1.3.2 "Department Representatives" shall mean the various department heads, supervisors or other Town of Searsport staff so designated by the Town Manager.

ARTICLE II BUDGET ADVISORY COMMITTEE

2.1 Committee Membership

2.1.1 The Committee shall be composed of 18 members.

2.1.2 Membership on the Committee shall be determined by a general election to be held annually. Each year at least one-half of the Committee membership shall be subject to election.

2.1.3 Members shall be elected to serve a two-year term and may be re-elected at the pleasure of the voters of the Town. Municipal officers and officials are not eligible to serve. Should a vacancy occur following annual election, the Board of Selectmen shall appoint a replacement to serve until the next immediate annual election.

2.1.4 The Board of Selectmen shall solicit interest from the registered voters of Searsport and submit a list of nominees to voters of the Town of Searsport for annual election. Any registered Searsport voter, regardless of race, creed, color, sex, age, marital status, handicap, religion or national origin may express an interest in being considered for the Committee membership.

ARTICLE III COMMITTEE OFFICERS

3.1 Election of Officers

3.1.1 At the first annual meeting, the Committee shall elect a chairman, vice chairman and secretary for the ensuing budget year. These officers may be re-elected annually at the discretion of the Committee. Other officers may be elected as deemed necessary by the Committee.

3.2 Duties

3.2.1 The chairman shall serve as the chief spokesman for the Committee and shall conduct all business actions before the Committee. The Chairman shall be a voting member of the committee.

- 3.2.2 The secretary shall be the official recorder of Committee meetings. A copy of all minutes shall be available to the Committee, Board of Selectmen, and Town Manager at the next scheduled meeting. The votes of the Committee shall be recorded and published with the pertinent articles in any Town Meeting warrant. The secretary shall be a voting member of the Committee.

ARTICLE IV COMMITTEE MEETINGS

4.1 First Annual Meeting

- 4.1.1 The Board of Selectmen shall call the first annual meeting of the Committee at the start of the budget process, but no later than the first Thursday, of the first full week, of January. The Committee chairman shall call subsequent meetings.

4.2 Public Notice

- 4.2.1 The Town Manager shall cause public notices to be made informing the public as to the location, date, time and purpose of the scheduled Committee meetings.

4.3 Public Access & Participation

- 4.3.1 All Committee meeting shall be open to the public, who may, at the behest of the Committee, offer pertinent comments or testimony at the meetings.

4.4 Municipal Officials Attendance's

- 4.4.1 The Board of Selectmen, Town Manager and municipal department representatives shall attend committee meetings when requested by the Committee.

4.5 Quorum

- 4.5.1 A minimum of nine voting members must be present throughout any meeting in order to constitute a quorum. Failure to achieve or maintain a quorum shall constitute an informal meeting and no formal action may be undertaken.

4.6 Committee Attendance

- 4.6.1 All members of the Committee are required to attend all meetings. Members are expected to notify the chair when they are unable to attend any scheduled meeting. In the event of two consecutive unexplained absences, the chair will contact that member to ascertain their interest in continuing to serve on the Budget Advisory Committee. Should a member have two or more unexcused absences during any one term, the same member will not be submitted by the Board of Selectmen for voter consideration for at least two years following expiration of that term.

4.7 Budget Hearings

- 4.7.1 No later than the first Thursday, of the first full week of January of each year, the Committee shall hold an organizational meeting, and schedule further meetings to review the municipal budget as proposed by the Board of Selectmen. The Committee's recommendations shall be reported separately from the Board of Selectmen's recommendations in the Annual Town Meeting Warrant.
- 4.7.2 To facilitate the Committee's review of the proposed annual municipal budget, the Town Manager shall cause copies of the proposed budget be distributed to the Committee members as soon as practicable prior to any Committee meeting.

ARTICLE V SPECIAL TOWN MEETINGS

5.1 Committee Action

- 5.1.1 In those instances where the Board of Selectmen initiates a Special Town Meeting, at which municipal funds may be sought, the funding proposal shall be presented to the Committee

in a manner consistent with the foregoing process of reviewing the annual municipal budget. Votes taken will be included in the warrant for such special meeting in the same manner that they appear in a regular town meeting warrant.

ARTICLE VI CONSTRUCTION

6.1 Severability

6.1.1 Severability is intended throughout and within the provisions, including interalia, any exceptions, parts, phrases or terms or the application thereof, to any person or circumstances be held invalid, the application of other provisions of this Ordinance shall not be affected thereby and the validity of this Ordinance in any and all other respects shall not be adversely affected.

6.2 Supersession

6.2.1 This Ordinance supersedes and replaces any and all like or comparable Ordinances, policies or decisions previously enacted and in force within the Town of Searsport, and shall remain in effect until, or unless, revoked or superseded by action of the voters of the Town of Searsport.

6.3 Amendments

6.3.1 From time to time, circumstances may require that portions or sections of this Ordinance be amended, revised or deleted. Such actions shall be proposed at Town Meeting to the voters of Searsport by the Board of Selectmen. Approval of any amendments, revisions, or deletions rest exclusively with the voters of the Town of Searsport.

ARTICLE VII ADOPTION

7.1 This Ordinance was submitted to the voters of the Town and adopted at a Town Meeting held on the Eighth day of March 1986.

Attest: Judith A. Stauffer, Town Clerk


Amended at a Special Town Meeting on 6/4/96

Amended at a Town Meeting on 3/13/99

Amended at a Special Town Meeting on 1/31/2006

Amended at a Town Meeting on 3/7/2015

This is a true and attested copy by:


Deborah Plourde, Town Clerk

Town of Searsport
Cemetery Ordinance

Section 1. Preamble/Purpose

Since it is the desire of the Town of Searsport to make its cemeteries a quiet, beautiful resting place for the deceased where a sense of repose will be obtained by the dignified landscape effects of a well maintained lawn, the Town has spent and will continue to expend considerable amounts of money to secure these effects. It is to achieve this end that this ordinance is effected.

Section 2. Cemeteries/Definition

The term cemeteries, as used in this ordinance, shall be construed to all lands now or hereafter deeded to and accepted by the Town of Searsport for burial purposes including the following locations:

- A. Bowditch
- B. Elmwood
- C. Gordon
- D. Village
- E. Merithew
- F. Evergreen

Section 3. Definitions

- A. Grave: an area suitable for the interment of one body except in the case of parent and child or two infants buried in one casket simultaneously.
- B. Gravestone: any stone which marks a cemetery lot grave site.
- C. Lot: a plot of land approximately 4' x 11', sufficient for one traditional grave site, or 2 or more cremains. Each lot may have one upright monument/stone and flat markers as appropriate.
- D. Resident: a person who has lived in the Town of Searsport for at least two (2) years during some point in his/her life or the dependant child of any resident or a person who has lived in Searsport for at least six (6) consecutive months immediately prior to his/her death.
- E. Interment: Entombment, or burial of the remains or cremains of a deceased person.

Section 4. Ownership and Title of Lots

- A. The term "Lot Owner" or "Ownership" shall be construed to mean the rights to use a lot as purchase from the Town for a consideration for burial purposes only and under the rules and regulations as prescribed for the Town for such use.
- B. Upon full payment of the purchase price of a lot and its attendant perpetual care, the town will issue a cemetery deed under its seal, and the deed will be recorded in the records of the Town as evidence of ownership of the lot.
- C. Reassignment of lots will be made only to residents of Searsport and/or to members of their Immediate family.

- D. The title to a cemetery lot invests in the owner the right to use such lot for burial purposed only, for him/herself, his or her heirs or for any such persons as they choose to admit, provided that such admission is free of charge and without compensation and in accordance with any Rules and Regulations as may be promulgated by the municipal officers.

Section 5. Care of Cemetery

A. Perpetual care - Any person who purchases a lot is required to pay the Town Treasurer the sum established in accordance with this ordinance as a reasonable amount for the care of said lot. The care of cemeteries shall include the cutting of the grass on the lot at reasonable intervals, the raking and cleaning of the lot, and after mowing, cleaning grass and debris from monuments and especially flat stones and such other work as may be necessary to keep the Cemetery in a neat condition. The Town will perform repair to stones as necessary and as budget will allow.

Section 6. Regulations for Improving Lots

- A. Enclosures: no enclosures of any nature, such as fences, copings, hedges or ditches shall hereafter be erected on any lot.
- B. Memorabilia: at grave sites shall be limited to a number and size that does not interfere with routine maintenance.
- C. Grade: grave mounds shall not be allowed. No lots shall be raised above the established grade.
- D. Care of shrubs, etc,: Shrubs may be planted in close proximity to the stone marker, reserving the right of the Town to trim or remove if necessary to facilitate maintenance. The planting of shrubs must have prior approval by the Sexton of Cemeteries. See (Appendix C).
- E. The Town reserves the right for its workmen and those persons necessary for the performance of normal operations to enter upon or cross over any lots in the cemeteries.
- F. Upright gravestones shall have a suitable foundation depending on grave size. All flat markers shall be no more than three and one half feet by two feet and shall be flush with the surface of the ground.
- G. Caskets shall be enclosed in a permanent, outside container. Only concrete or metal vaults will be permitted to be used.

Section 7. General Regulations

- A. Cemeteries will be open between the hours of sunrise and sunset. Permission to enter the cemeteries at any other time must be obtained from the Town Manager. . Any person found on the grounds after dark will be considered to be a trespasser.
- B. The bringing of intoxicating beverages into the cemeteries is strictly forbidden.
- C. No dogs shall be permitted in the cemeteries, only on a leash. The owner/keeper must conform to the Animal Control Ordinance with respect to waste
- D. Firearms will be allowed in the cemeteries only at military funerals and at official celebrations such as Memorial Day, Veteran's Day, etc.
- E. No off-highway vehicles are allowed in the cemeteries. i.e., snowmobiles, ATV's, dirt bikes, or BMX bicycles.

- F. Speeds of more than ten (10) miles per hour are not permitted, and no person shall drive his/her vehicle upon the lawns.
- G. All persons are reminded that the grounds are sacredly devoted to the burial of the dead and that the provisions and penalties of the law, as provided by statute will be enforced all cases of wanton injury; disturbance and/or disregard of the rules.
- H. The Town reserves the right to remove all flowers, potted plants, winter and summer wreathes or baskets of flowers when they become withered or for any other reason deemed to be in the best interest of the cemeteries.
- I. The person responsible for the interment of remains or cremains shall be responsible for filing The Interment Notification Form with the Town Clerk in a within 14 days.

Section 8. Fees, Charges and Payments

- A. The Treasurer shall make the sale of lots in the public cemeteries at the price established by the Board of Selectmen (see Appendix A), and, when the lot, including perpetual care, is paid for in its entirety, shall provide the purchaser with a good and sufficient deed for the same.
- B. The Board of Selectmen is authorized to make changes to the fee schedule as it deems appropriate.

Section 9. Severability

Should any provision of this ordinance be held invalid, the application of the other provisions of this ordinance shall not be affected thereby and the validity of this ordinance in any and all other respects shall not be affected.

Section 10. Violations

Any person who violates any of the provisions of this ordinance commits a civil infraction, punishable by a fine of \$ 100 for the first offense and \$ 200 for the second and subsequent offenses.

Adopted March 14, 1995

Revised March 2006

Revised March 5, 2011

Attest: Deborah Plourde
Deborah Plourde, Town Clerk

Appendix A

Fees for lots and perpetual care in all of Searsport's public cemeteries shall be as follows:

Lot Size	Price	Perpetual Care	Total
Single	\$ 75	\$ 100	\$ 175
Double	100	200	300
Four	200	300	500

Appendix B
Town of Searsport
Interment Notification

Full Name: _____
(Include maiden name if applicable)

DOB: _____ **DOD:** _____ **Veteran:** _____
(War)

Vault: _____ **Casket:** _____ **Cremains:** _____

Cemetery: _____ **Range:** _____ **Lot:** _____ **Grave:** _____

Person providing information: _____

Business or Relationship to Deceased: _____

Address/Phone: _____

Date: _____

Appendix C

Shrub: Plants that grow to about 2 feet in diameter and four feet tall or less. e.g. arborvitae, dwarf pine, etc.

The family of the owner of the plot is responsible to prune shrubs to within the standard. Shrubs that are grossly over the standard will be removed by the Town of Searsport.

TOWN OF SEARSPORT CHANGEABLE SIGNS ORDINANCE

1. AUTHORITY.

The Town of Searsport hereby enacts this "Changeable Signs Ordinance" (hereinafter the "Ordinance") pursuant to 23 M.R.S.A. §1914 (11-A), 30-A M.R.S.A. §3001.

2. PURPOSE.

The purpose of this Ordinance is to regulate the frequency and manner of change of display on each side of a changeable sign in a manner contrary to that provided by State law, and to do so in a manner that promotes highway safety.

3. DEFINITIONS.

- a. Changeable Sign – "Changeable sign" means an on-premises sign created, designed, manufactured or modified in such a way that its message may be electronically, digitally or mechanically altered by the complete substitution or replacement of one display by another on each side.
- b. Display – "Display" means that portion of the surface area of a changeable sign that is, or is designed to be or is capable of being periodically altered for the purpose of conveying a message.
- c. Message – "Message" means a communication conveyed by means of a visual display of text.

4. REGULATIONS.

- a. The display on each side of the changeable sign may be changed no more frequently than once every twenty (20) seconds.
- b. The display on each side of the changeable sign must change as rapidly as technologically practicable, but the display may change through phasing, rolling, scrolling or blending; provided, however, that the display on each side of a changeable sign shall not flash.

5. ADMINISTRATION.

Pursuant to 23 M.R.S.A § 1914 (11-A), the changeable signs within the municipality and displays on each side of those changeable signs shall comply with all other requirements of State law. The Town shall notify the Maine Department of Transportation in writing that it has adopted this Ordinance and shall send it a copy of the same. The Maine Department of Transportation shall administer the provisions of this Ordinance.

DATE OF ENACTMENT: March 9, 2013.

FLOODPLAIN MANAGEMENT ORDINANCE

FOR THE

TOWN OF SEARSPORT, MAINE

ENACTED: March 7, 2015
Date

EFFECTIVE: March 7, 2015
Date

CERTIFIED BY: Deborah Plourde
Signature

CERTIFIED BY: Deborah Plourde
Print Name

Town Clerk
Title

Affix Seal

FLOODPLAIN MANAGEMENT ORDINANCE

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ARTICLE I-PURPOSE AND ESTABLISHMENT

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

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

The areas of special flood hazard, Zones A, AE, and VE for the Town of Searsport, Waldo County, Maine, identified by the Federal Emergency Management Agency in a report entitled "Flood Insurance Study - Waldo County" dated July 6, 2015 with accompanying "Flood Insurance Rate Map" dated July 6, 2015 with panels: 305E, 315E, 316E, 318E, 319E, 455E, 456E, 457E, 458E, 459E, 462E, 464E, 466E, 467E, 476E, 478E, and 486E derived from the county wide digital Flood Insurance Rate Map entitled "Digital Flood Insurance Rate Map, Waldo County," are hereby adopted by reference and declared to be a part of this Ordinance.

ARTICLE II - PERMIT REQUIRED

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

ARTICLE III - APPLICATION FOR PERMIT

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

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

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

[Items H-K.3. apply only to new construction and substantial improvements.]

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

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

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

ARTICLE IV - APPLICATION FEE AND EXPERT'S FEE

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

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

ARTICLE V - REVIEW STANDARDS FOR FLOOD HAZARD DEVELOPMENT PERMIT APPLICATIONS

The Code Enforcement Officer shall:

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

but that meet the floodproofing standards of Article VI.G.1.a., b., and c. The application for this permit shall include a Floodproofing Certificate signed by a registered professional engineer or architect; or,

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

For development that requires review and approval as a Conditional Use, as provided for in this Ordinance, the Flood Hazard Development Permit Application shall be acted upon by the Planning Board as required in Article VII.

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

ARTICLE VI - DEVELOPMENT STANDARDS

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

A. All Development - All development shall:

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

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

- C. **Sanitary Sewage Systems** - All new and replacement sanitary sewage systems shall be designed and located to minimize or eliminate infiltration of flood waters into the system and discharges from the system into flood waters.
- D. **On Site Waste Disposal Systems** – On-site waste disposal systems shall be located and constructed to avoid impairment to them or contamination from them during floods.
- E. **Watercourse Carrying Capacity** - All development associated with altered or relocated portions of a watercourse shall be constructed and maintained in such a manner that no reduction occurs in the flood carrying capacity of the watercourse.
- F. **Residential** - New construction or substantial improvement of any residential structure located within:
1. Zone AE shall have the lowest floor (including basement) elevated to at least one foot above the base flood elevation.
 2. Zone A shall have the lowest floor (including basement) elevated to at least one foot above the base flood elevation utilizing information obtained pursuant to Article III.H.1.b.; Article V.B.; or Article IX.D.
 3. Zone VE shall meet the requirements of Article VI.P.
- G. **Non Residential** - New construction or substantial improvement of any non-residential structure located within:
1. Zone AE shall have the lowest floor (including basement) elevated to at least one foot above the base flood elevation, or together with attendant utility and sanitary facilities shall:
 - a. be floodproofed to at least one foot above the base flood elevation so that below that elevation the structure is watertight with walls substantially impermeable to the passage of water;
 - b. have structural components capable of resisting hydrostatic and hydrodynamic loads and the effects of buoyancy; and,
 - c. be certified by a registered professional engineer or architect that the floodproofing design and methods of construction are in accordance with accepted standards of practice for meeting the provisions of this section. Such certification shall be provided with the application for a Flood Hazard Development Permit, as required by Article III.K. and shall include a record of the elevation above mean sea level to which the structure is floodproofed.
 2. Zone A shall have the lowest floor (including basement) elevated to at least one foot above the base flood elevation utilizing information obtained pursuant to Article III.H.1.b.; Article V.B.; or Article IX.D., or

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

3. Zone VE shall meet the requirements of Article VI.P.

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

1. Zone AE shall:

- a. be elevated such that the lowest floor (including basement) of the manufactured home is at least one foot above the base flood elevation;
- b. be on a permanent foundation, which may be poured masonry slab or foundation walls, with hydraulic openings, or may be reinforced piers or block supports, any of which support the manufactured home so that no weight is supported by its wheels and axles; and,
- c. be securely anchored to an adequately anchored foundation system to resist flotation, collapse, or lateral movement. Methods of anchoring may include, but are not limited to:
 - (1) over-the-top ties anchored to the ground at the four corners of the manufactured home, plus two additional ties per side at intermediate points (manufactured homes less than 50 feet long require one additional tie per side); or by,
 - (2) frame ties at each corner of the home, plus five additional ties along each side at intermediate points (manufactured homes less than 50 feet long require four additional ties per side).
 - (3) all components of the anchoring system described in Article VI.H.1.c.(1) & (2) shall be capable of carrying a force of 4800 pounds.

3. Zone A shall:

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

3. Zone VE shall meet the requirements of Article VI.P.

I. Recreational Vehicles - Recreational Vehicles located within:

1. Zones A and AE shall either:

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

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

2. Zone VE shall meet the requirements of either Article VII.L.a. and b., or Article VI.P.

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

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

K. Floodways -

- 1. In Zone AE riverine areas, encroachments, including fill, new construction, substantial improvement, and other development shall not be permitted within a regulatory floodway which is designated on the community's Flood Insurance Rate Map unless a technical evaluation certified by a registered professional engineer is provided demonstrating that such encroachments will not result in any increase in flood levels within the community during the occurrence of the base flood discharge.
- 2. In Zones AE and A riverine areas, for which no regulatory floodway is designated, encroachments, including fill, new construction, substantial improvement, and other development shall not be permitted in the floodway as determined in Article VI.K.3. unless a technical evaluation certified by a registered professional engineer is provided demonstrating that the cumulative effect of the proposed development, when combined with all other existing development and anticipated development:

- a. will not increase the water surface elevation of the base flood more than one foot at any point within the community; and,
 - b. is consistent with the technical criteria contained in FEMA's guidelines and standards for flood risk analysis and mapping.
 3. In Zones AE and A riverine areas, for which no regulatory floodway is designated, the regulatory floodway is determined to be the channel of the river or other water course and the adjacent land areas to a distance of one-half the width of the floodplain as measured from the normal high water mark to the upland limit of the floodplain.
- L. Enclosed Areas Below the Lowest Floor** - New construction or substantial improvement of any structure in Zones AE and A that meets the development standards of Article VI, including the elevation requirements of Article VI, paragraphs F, G, or H and is elevated on posts, columns, piers, piles, "stilts," or crawl spaces 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 XIV;
 2. Enclosed areas shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of flood water. Designs for meeting this requirement must either:
 - a. be engineered and certified by a registered professional engineer or architect; or,
 - b. meet or exceed the following minimum criteria:
 - (1) a minimum of two openings having a total net area of not less than one square inch for every square foot of the enclosed area;
 - (2) the bottom of all openings shall be below the base flood elevation and no higher than one foot above the lowest grade; and,
 - (3) openings may be equipped with screens, louvers, valves, or other coverings or devices provided that they permit the entry and exit of flood waters automatically without any external influence or control such as human intervention, including the use of electrical and other non-automatic mechanical means;
 3. The enclosed area shall not be used for human habitation; and,
 4. The enclosed areas are usable solely for building access, parking of vehicles, or storage.
- M. Bridges** - New construction or substantial improvement of any bridge in Zones AE, A, and VE shall be designed such that:

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

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

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

O. Wharves, Piers and Docks - New construction or substantial improvement of wharves, piers, and docks are permitted in Zones AE, A, and VE, 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.

P. Coastal Floodplains -

1. All new construction located within Zones AE and VE shall be located landward of the reach of mean high tide except as provided in Article VI.P.6.
2. New construction or substantial improvement of any structure located within Zone VE shall:
 - a. be elevated on posts or columns such that:

- (1) the bottom of the lowest horizontal structural member of the lowest floor (excluding the pilings or columns) is elevated to one foot above the base flood elevation;
- (2) the pile or column foundation and the elevated portion of the structure attached thereto is anchored to resist flotation, collapse, and lateral movement due to the effects of wind and water loads acting simultaneously on all building components; and,
- (3) water loading values used shall be those associated with the base flood. Wind loading values used shall be those required by applicable state and local building standards.

b. have the space below the lowest floor:

- (1) free of obstructions; or,
- (2) constructed with open wood lattice-work, or insect screening intended to collapse under wind and water without causing collapse, displacement, or other structural damage to the elevated portion of the building or supporting piles or columns; or,
- (3) constructed to enclose less than 300 square feet of area with non-supporting breakaway walls that have a design safe loading resistance of not less than 10 or more than 20 pounds per square foot.

c. require a registered professional engineer or architect to:

- (1) develop or review the structural design, specifications, and plans for the construction, which must meet or exceed the technical criteria contained in the *Coastal Construction Manual*, (FEMA-55); and,
- (2) certify that the design and methods of construction to be used are in accordance with accepted standards of practice for meeting the criteria of Article VLP.2.

3. The use of fill for structural support in Zone VE is prohibited.

4. Human alteration of sand dunes within Zone VE is prohibited unless it can be demonstrated that such alterations will not increase potential flood damage.

5. The area below the lowest floor shall be used solely for parking vehicles, building access, and storage.

6. Conditional Use - Lobster sheds and fishing sheds may be located seaward of mean high tide and shall be exempt from the elevation requirement in Article VI.G. only if permitted as a Conditional Use following review and approval by the Planning Board, as provided in Article VII, and if all the following requirements and those of Article VI.A., VI.K., and VII.L. are met:

- a. The conditional use shall be limited to low value structures such as metal or wood sheds 200 square feet or less and shall not exceed more than one story.

- b. The structure shall be securely anchored to the wharf or pier to resist flotation, collapse, and lateral movement due to the effect of wind and water loads acting simultaneously on all building components.
- c. The structure will not adversely increase wave or debris impact forces affecting nearby buildings.
- d. The structure shall have unfinished interiors and shall not be used for human habitation.
- e. Any mechanical, utility equipment and fuel storage tanks must be anchored and either elevated or floodproofed to one foot above the base flood elevation.
- f. All electrical outlets shall be ground fault interrupt type. The electrical service disconnect shall be located on shore above the base flood elevation and when possible outside the Special Flood Hazard Area.

ARTICLE VII - CONDITIONAL USE REVIEW

The Planning Board shall hear and decide upon applications for conditional uses provided for in this Ordinance. The Planning Board shall hear and approve, approve with conditions, or disapprove all applications for conditional uses. An applicant informed by the Code Enforcement Officer that a Conditional Use Permit is required shall file an application for the permit with the Planning Board.

A. Review Procedure for a Conditional Use Flood Hazard Development Permit

- 1. The Flood Hazard Development Permit Application with additional information attached addressing how each of the conditional use criteria specified in the Ordinance will be satisfied, may serve as the permit application for the Conditional Use Permit.
- 2. Before deciding any application, the Planning Board shall hold a public hearing on the application within thirty days of their receipt of the application.
- 3. If the Planning Board finds that the application satisfies all relevant requirements of the ordinance, the Planning Board must approve the application or approve with conditions within 45 days of the date of the public hearing.
- 4. A Conditional Use Permit issued under the provisions of this Ordinance shall expire if the work or change involved is not commenced within 180 days of the issuance of the permit by the Planning Board.
- 5. The applicant shall be notified by the Planning Board in writing over the signature of the Chairman of the Planning Board that flood insurance is not available for structures located entirely over water or seaward of mean high tide.

B. Expansion of Conditional Uses

1. No existing building or use of premises may be expanded or enlarged without a permit issued under this section if that building or use was established or constructed under a previously issued Conditional Use Permit or if it is a building or use which would require a Conditional Use Permit if being newly-established or constructed under this Ordinance.

ARTICLE VIII - 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:
 1. an Elevation Certificate completed by a Professional Land Surveyor, registered professional engineer, or architect, for compliance with Article VI, paragraphs F, G, H, or P and,
 2. for structures in Zone VE, certification by a registered professional engineer or architect that the design and methods of construction used are in compliance with Article VI.P.2.
- 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 required certificate(s) and the applicant's written notification; and,
 2. upon determination that the development conforms to the provisions of this ordinance, shall issue a Certificate of Compliance.

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

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

ARTICLE X - APPEALS AND VARIANCES

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

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

ARTICLE XI - 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 other actions, the Code Enforcement Officer (CEO may, upon identifying a violation, submit a declaration to the Administrator of the Federal Insurance Administration requesting a flood insurance denial. The valid declaration shall consist of;
 1. the name of the property owner and address or legal description of the property sufficient to confirm its identity or location;
 2. a clear and unequivocal declaration that the property is in violation of a cited State or local law, regulation, or ordinance;
 3. a clear statement that the public body making the declaration has authority to do so and a citation to that authority;
 4. evidence that the property owner has been provided notice of the violation and the prospective denial of insurance; and,
 5. a clear statement that the declaration is being submitted pursuant to Section 1316 of the National Flood Insurance Act of 1968, as amended.

ARTICLE XII - VALIDITY AND SEVERABILITY

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

ARTICLE XIII - CONFLICT WITH OTHER ORDINANCES

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

ARTICLE XIV - DEFINITIONS

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

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

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

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

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

Basement - area of a building that includes a floor that is subgrade (below ground level) on all sides.

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

Building - see Structure.

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

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

Conditional Use - a use that, because of its potential impact on surrounding areas and structures, is permitted only upon review and approval by the Planning Board pursuant to Article VII.

Containment Wall – wall used to convey or direct storm water or sanitary water from the initial source to the final destination.

Development – a manmade change to improved or unimproved real estate. This includes, but is not limited to, buildings or other structures; mining, dredging, filling, grading, paving, excavation, drilling operations or storage of equipment or materials; and the storage, deposition, or extraction of materials.

Digital Flood Insurance Rate Map (FIRM) – see **Flood Insurance Rate Map**

Elevated Building - a non-basement building that is:

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

In the case of Zones AE or A, **Elevated Building** also includes a building elevated by means of fill or solid foundation perimeter walls with hydraulic openings sufficient to facilitate the unimpeded movement of flood waters, as required in Article VII.L. In the case of Zone VE, **Elevated Building** also includes a building otherwise meeting the definition of elevated building, even though the lower area is enclosed by means of breakaway walls, if the breakaway walls meet the standards of Article VI.P.2.b.(3).

Elevation Certificate - an official form (FEMA Form 81-31, as amended) that:

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

Flood or Flooding

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

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

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

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

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

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

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

Floodproofing - 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 floodways on federal, state, and local floodplain maps.

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, which could contribute to flood heights greater than the height calculated for a selected size flood and floodway conditions.

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

Historic Structure - means any structure that is:

- a. Listed individually in the National Register of Historic Places (a listing maintained by the Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;
- b. Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary of the Interior to qualify as a registered historic district;

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

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

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

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

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

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

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

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

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

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

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

Recreational Vehicle - a vehicle that is:

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

Regulatory Floodway –

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

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

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

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

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

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

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

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

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

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

ARTICLE XV - ABROGATION

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

60.3 (e) Rev. 01/15
Prepared by DACF/SB

Searsport Historic Preservation Commission Ordinance

I. TITLE

This Ordinance shall be known as the *Searsport Historic Preservation Commission Ordinance*. It shall be referred to herein as the "Ordinance".

II. AUTHORITY

This Ordinance is adopted in accordance with the legislative authority granted to the Town by Maine State Law, Title 30-A M.R.S.A., §§ 3001.

III. PURPOSE

This Ordinance establishes the Searsport Historic Preservation Commission as a municipal body. For the purposes of preserving, protecting and enhancing the historic, architectural and cultural heritage of historically significant areas, landmarks and sites in the community while accepting compatible new construction. The heritage and economic well-being of Searsport will be strengthened by preserving its architectural and historic setting, conserving property values in unique areas, fostering civic beauty, and promoting the use of historic or architecturally significant buildings for the education and welfare of the citizens of Searsport.

IV. MEMBERSHIP

A. ESTABLISHMENT A Historic Preservation Commission shall be established consisting of five (5) regular commissioners and two (2) alternate commissioners, who shall be residents of Searsport. An alternate commissioner shall become a voting commissioner only when so designated by the Commission Chairperson due to the absence of a regular commissioner. Members of the Commission shall have a demonstrated interest, knowledge, or training in historic preservation or closely related fields, the historical and architectural development of Searsport and shall be appointed with due regard to the proper representation of such fields as history, architectural history, architecture, landscape architecture, planning, engineering, archeology, law and building construction to the extent that such professionals are available in the community.

B. TERMS OF OFFICE Commissioners shall be appointed by the Selectmen for a term of three (3) years, except that the initial appointments shall be staggered so that subsequent appointments shall not recur at the same time.

C. TRAINING All Commissioners are encouraged to maintain and develop their knowledge of historic preservation and are required to attend at least one informational or educational meeting per year, sponsored by the Maine Historic Preservation Commission, pertaining to the work and functions of the Searsport Historic Preservation Commission or to historic preservation.

D. VACANCIES A vacancy shall be created when a commissioner or alternate commissioner moves his/her residence from the town, resigns, death, or is removed by the Town Selectmen. Should a vacancy occur, within sixty (60) days the Board of Selectmen will appoint a replacement to serve the unexpired term of that Commissioner, whether regular or alternate commissioner. In the event of an absence of a regular Commissioner from a meeting, the chairperson shall designate an alternate Commissioner, who shall have full authority to sit in the place of the absent member.

E. CONFLICTS OF INTEREST In the event of a direct or indirect personal or financial interest in the subject of review, the Commission member will refrain from all deliberations and voting on the subject. The remaining members of the Commission shall decide by vote when a conflict is present.

F. OFFICERS Annually and normally at the first meeting after the annual town meeting or the first meeting after a vacancy, the Commission shall elect a Chairperson, Vice-Chairperson and Secretary by majority vote of its members. The secretary shall keep the minutes of the proceedings of the Commission and shall record the vote of each Commissioner on each question decided by the Commission. All records maintained and/or prepared by the secretary are public records and may be inspected during normal business hours at the town office. The Chairperson, Vice-Chairperson and Secretary shall serve until the next meeting directly after the next annual town meeting. All elections shall be held in a public meeting.

G. REMOVAL FROM OFFICE The Board of Selectmen may dismiss, prior to the expiration of his/her term, a regular or alternate commissioner for just cause, upon written charges and after notice and hearing.

H. QUORUM To conduct the business of the Commission, at least three (3) Commissioners (regular or alternate) must be present. Regardless of the number of Commissioners present and voting, a majority of at least three (3) affirmative votes is required to decide every question.

I. RULES OF PROCEDURE The Commission shall be governed by the most recent revision of Robert's Rules of Order.

J. MEETINGS AND PUBLIC HEARING NOTICE All proceedings of the Commission shall be conducted in accordance with the provisions of the Freedom of Access Law, Title 1 M.R.S.A., § 401-410. Public notice and agenda shall be posted at the municipal office seven (7) days prior to the meeting. A notice of Public Hearings shall be posted in a newspaper of general circulation in the municipality at least seven (7) days prior to the Hearing. This notice shall include the date, time, and place of the hearing. In addition, the notice of the hearing shall be posted in at least three prominent places within the municipality at least seven (7) 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 (10) days prior to the hearing.

K. EXPERTS AND CONSULTANTS on the recommendation of the Commission, the Board of Selectmen may appoint expert persons to serve in an advisory or on a consultant basis to assist the Commissioners.

V. DUTIES AND POWERS

- A.** Assist, advise and educate residents, property owners, and officials of the various departments of the Town of Searsport concerning the physical and financial aspects of preservation, renovation rehabilitation and re-use of historic and/or archaeological sites, structures, buildings or landmarks.
- B.** Assist, advise and educate residents, property owners, and officials of the various departments of the Town of Searsport on the requirements of this Ordinance and the protection of local cultural resources.
- C.** Promote and conduct an educational and interpretive program on historic preservation and historic properties and sites in Searsport.
- D.** Review and process applications for Historic Preservation Certificates, Historic Preservation Certificates for Demolition, alterations, new construction, relocation and other actions affecting designated historic and prehistoric properties and/or districts in Searsport. Issue Certificates of Appropriateness.
- E.** Serve as an advisor to the Town regarding historical and cultural resources.
- F.** Recommend to the Board of Selectmen the establishment and/or revision of historic and archaeological sites, historic landmarks, historic buildings, local landmarks, and historic districts.
- G.** Review all proposed National Register nominations for properties within the Town of Searsport.
- H.** Conduct a continuing survey of local historic and cultural resources in accordance with the guidelines of the Maine Historic Preservation Commission.
- I.** Solicit grants, fees, appropriations and gifts of money and service dedicated to its functions, to hire clerical and technical assistance, publish educational materials, conduct surveys of properties or otherwise carry out its duties.
- J.** Request reports and recommendations from the Town departments and other organizations and sources that may have information or advice with respect to an application.
- K.** Submit an annual report of activities of the Commission to the Maine Historic Preservation Commission.
- L.** Establish and use written guidelines for the preservation of designated local landmarks and historic districts in decisions on requests for permits for new construction, alterations, demolition, relocation, additions to, or other actions affecting listed landmarks and buildings with in historic districts.
- M.** Act as a liaison on behalf of the local government to individuals and organizations concerned with historic preservation.

VI. APPEALS

The Board of Appeals shall hear appeals from final decisions of the Searsport Historic Preservation Commission to grant or deny permits or approvals pursuant to this Ordinance in accordance with the Town's Board of Appeals Ordinance. Appeals shall be filed within 30 days of the written decision of the Searsport Historic Preservation Commission. All appeals shall be reviewed as limited appellate reviews of decisions of the Searsport Historic Preservation Commission. The Board of Appeals shall restrict its review to the record developed by the Searsport Historic Preservation Commission and may only reverse or modify the decision or failure to act of the Searsport Historic Preservation Commission if that decision or failure to act, was clearly contrary to the specific provisions of the applicable ordinance or law, was based upon a misinterpretation of an ordinance or law, was based upon findings of fact unsupported by substantial evidence in the record or was based on an abuse of discretion.

VII. SEVERABILITY

In the event that any section or any portion of this ordinance shall be declared by any court of competent jurisdiction to be invalid for any reason, such decision shall not be effected to affect the validity of any other section or portion of this ordinance. The provisions of this ordinance are hereby declared to be severable.

Effective Date

The effective date of this ordinance is 3/9/19

This is a true and attested copy by: _____

Deborah Plourde, Town Clerk

TOWN OF SEARSPORT HOLDING TANK ORDINANCE

Section 1. Purpose. The purpose of this Ordinance is to establish procedures for the use and maintenance of holding tanks designed to receive and retain wastewater from residential or commercial uses. It is hereby declared that the enactment of this Ordinance is necessary for the protection, benefit, and preservation of the health, safety, and welfare of the inhabitants of this municipality.

Section 2. Definitions. Unless the context specifically and clearly indicates otherwise, the meaning of terms used in this Ordinance is as follows:

"Holding tank" means: 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 constructed to facilitate ultimate disposal of wastewater at another site.

"Improved property" means 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 wastewater may be discharged.

"LPI" means Local Plumbing Inspector.

"Municipality" means Town of Searsport, Waldo County, Maine.

"Owner" means any person vested with ownership, legal or equitable, sole or partial, of any property located in the municipality.

"Person" means any individual, partnership, company, association, corporation, or other group or entity.

"Wastewater" means any domestic wastewater, or other wastewater from commercial, industrial, or residential sources which has constituents similar to that of domestic wastewater. This term specifically excludes industrial, hazardous, or toxic wastes and materials.

Section 3. Rights and privileges granted. The Licensed Plumbing Inspector (LPI) is hereby authorized and empowered to undertake, within the municipality, the control of, and methods of, disposal of holding tank wastewater and the collection and transportation thereof.

Section 4. Rules and regulations to be in conformity with applicable law. All such rules and regulations adopted by the Town of Searsport must be in conformity with the provisions herein, all other ordinances of the Town of Searsport, all applicable laws, and applicable rules and regulations of the administrative agencies of the State of Maine. Holding tanks can not be used for seasonal conversion or new construction within the shoreland zone of a major water course.

Section 5. Rates and charges. The Searsport Board of Selectmen 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.

Section 6. Exclusiveness of rights and privileges. The collection and transportation of all wastewater from any improved property utilizing a holding tank must be done solely by, or under the direction and control of, the Local Plumbing Inspector, and the disposal thereof must be made at such site or sites as may be approved by the Maine Department of Environmental Protection.

Section 7. Duties of owner of improved property. The owner of an improved property that utilizes a holding tank must:

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

B. Permit only the Maine Department of Environmental Protection licensed septage waste haulers to collect, transport, and dispose of the contents therein and provide the LPI a copy of the disposal manifest within 14 days.

Section 8. Violations. Any person who violates any provisions of Section 7 must, upon conviction thereof by summary proceedings, be sentenced to pay a fine of not less than One Hundred and not more than Three Hundred dollars, plus costs. Each act of violation and every day upon which any such violation shall occur shall constitute a separate offense. If the Town of Searsport is the prevailing party in any action brought to enforce this ordinance, the Town of Searsport must be awarded reasonable attorney's fees, expert witness fees, and costs, unless the court finds that special circumstances make the award of these fees and costs unjust.

Section 9. Abatement of nuisances. In addition to any other remedies provided in this ordinance, any violation of Section 7 above constitutes a nuisance and must be abated by the Town of Searsport by seeking appropriate equitable or legal relief from a court of competent jurisdiction.

Section 10. Alternative disposal. An alternative means of wastewater disposal must meet first time system criteria. Replacement system criteria must not be considered.

Section 11. Repeal. All ordinances or resolutions, or parts of ordinances or resolutions, insofar as they are inconsistent herewith, are hereby repealed.

Section 12. Severability. If any sentence, clause, Section, or part of this ordinance is for any reason found to be unconstitutional, illegal, or invalid, such unconstitutionality, illegality, or invalidity must not affect or impair any of the remaining provisions, sentences, clauses, sections, or parts of this ordinance.

Section 13. Water Use Monitoring. The Local Plumbing Inspector may require the installation of a water meter to monitor the flow to the holding tank.

Section 14. Effective date. This ordinance becomes effective five days after its adoption.

Adopted March 8, 2014

This is a true and attested copy by:

Deborah Plourde
Deborah Plourde, Town Clerk

TOWN OF SEARSPORT LAND USE ORDINANCE

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TOWN OF SEARSPORT LAND USE ORDINANCE

SECTION I:

A. TITLE

This Ordinance shall be known as and may be cited as the "Land Use Ordinance of the Town of Searsport, Maine", and will be referred to herein as the "Ordinance".

B. AUTHORITY

This Ordinance is adopted pursuant to Home Rule Powers as provided for in Article VIII of the Maine Constitution and Title 30-A, Section 4352 and Section 3001 of the Maine Revised Statutes Annotated.

C. PURPOSES

The purposes of the Ordinance are as follows:

1. **COMPREHENSIVE PLAN IMPLEMENTATION:** To implement the policies and recommendations of the Searsport Comprehensive Plan;
2. **PROTECTION OF THE GENERAL WELFARE:** To assure the comfort, convenience, safety, health and welfare of the present and future inhabitants of the Town of Searsport;
3. **PRESERVATION OF THE TOWN CHARACTER:** To preserve and protect the character of Searsport by dividing the Town into districts according to the use of land and buildings and the intensity of such uses;
4. **PROTECTION OF THE ENVIRONMENT:** To protect and enhance the natural, cultural, and historic resources of the Town from unacceptable adverse impacts and to integrate new development harmoniously into the Town's natural environment;
5. **PROMOTION OF COMMUNITY DEVELOPMENT:** To promote the development of an economically sound and stable community;
6. **REDUCTION OF TRAFFIC CONGESTION:** To lessen the danger and congestion of traffic on roads and highways, limit excessive numbers of intersections, driveways, and other friction points, minimize hazards, and ensure the continued usefulness of all elements of the existing transportation systems for their planned function;

7. **BALANCING OF PROPERTY RIGHTS:** To protect property rights and values by balancing the rights of landowners to use their land with the corresponding rights of abutting and neighboring landowners to enjoy their property without undue disturbance from abutting or neighboring uses;

8. **REDUCTION OF FISCAL IMPACT:** To provide a means of evaluating development proposals to determine their fiscal impacts on the municipality's ability to provide and improve necessary public facilities and services; and

9. **ESTABLISHMENT OF PROCEDURES/STANDARDS:** To establish procedures whereby the Town Officials may review the developments regulated by this Ordinance by providing fair and reasonable standards for evaluating such developments; to provide a public hearing process through which interested persons may raise questions and receive answers regarding how such developments may affect them; and to provide procedures whereby aggrieved parties may appeal decisions made under this Ordinance.

D. APPLICABILITY

This Ordinance shall apply to all land areas within the Town of Searsport except for those areas to which the Searsport Shoreland Zoning Ordinance applies. All buildings or structures hereinafter constructed, reconstructed, altered, enlarged, or moved, and the uses of buildings and land, including the division of land, shall be in conformity with the provisions of this Ordinance. Existing or future buildings, structures, or land areas can be used for any purpose or in any manner as provided for in this Ordinance. A non-conforming use, lot of record or structure as of the effective date of this Ordinance may continue.

E. CONFLICT WITH OTHER ORDINANCES

Whenever the requirements of this Ordinance are in conflict with the requirements of any other lawfully adopted rule, regulation, or ordinance, the provision that imposes the most restrictive or higher standards shall govern.

F. SEVERABILITY

In the event that any section, subsection, or any provision of this Ordinance shall be declared by any court of competent jurisdiction to be invalid for any reason, such decision shall not be deemed to affect the validity of any other section, subsection, or other portion of this Ordinance; to this end, the provisions of this Ordinance are hereby declared to be severable.

G. AMENDMENTS

1. INITIATION

An amendment to this Ordinance may be initiated by one of the following:

- a. The Planning Board, provided a majority of the board has so voted.
- b. Request of Board of Selectpersons to the Planning Board.

c. Written petition of 10% of the number of registered voters who voted in the most recent gubernatorial election, in accordance with 30-A M.R.S.A. § 2522 or 2528.

d. An individual may initiate an amendment through any of the above methods.

2. HEARINGS

All proposed amendments shall be referred to the Planning Board for their recommendation. The Planning Board shall hold a public hearing at least 30 days before the town meeting vote on any proposed amendment, and shall make a written recommendation to the Board of Selectmen within 30 days from the public hearing.

3. MAJORITY VOTE

After receiving the recommendation of the Planning Board, the amendment may be adopted or rejected by majority vote of the voters at an Annual Town Meeting.

H. EFFECTIVE DATE

This Ordinance, when adopted, and any amendments thereto, shall be effective immediately following its/their adoption or approval at an Annual Town Meeting. A copy of this Ordinance, certified by the Town Clerk shall be filed with the Town Clerk and the Waldo County Registry of Deeds.

I. EFFECT OF THIS ORDINANCE

This Ordinance is a substantial revision of the Land Use Ordinance dated March 10, 2012. It is the intention and direction of this Section that if any revision set forth in this Ordinance is held to be invalid or void in its entirety, then the previously enacted provision shall be automatically revived.

SECTION II: NON-CONFORMING STRUCTURES, USES AND LOTS

The intent of this Ordinance is to allow continued use of property and not to cause harm or undue hardship to property owners.

A. BURDEN OF PROOF

When an owner of any non-conforming structure, use or lot seeks to establish that such structure, use or lot is a lawfully existing non-conforming structure, use or lot as defined in this Ordinance, the burden of proof shall be upon said owner.

B. CONTINUANCE

Any building, structure, or parcel of land, which is made non-conforming by reason of the enactment of this Ordinance, or which shall be made non-conforming by reason of a subsequent amendment, may be continued, subject to the following provisions:

1. EXISTING NON-CONFORMING STRUCTURES

Continuance of non-conforming structures shall be subject to the following provisions:

- a. No non-conforming structure shall be enlarged or altered in any way that increases its non-conformity except as noted in Paragraph 2 below;
- b. Should any non-conforming structure be destroyed or damaged by any means, exclusive of an intentional demolition, said structure may be rebuilt on the existing footprint to the dimensions of the structure which was destroyed provided rebuilding is begun within eighteen months; and
- c. A non-conforming structure may be moved within a lot in a manner that would decrease its non-conformity in terms of setback requirements, provided that the Planning Board finds that the change in location is appropriate in regards to:
 - i. Location and character;
 - ii. Fencing and screening;
 - iii. Landscaping, topography, and natural features;
 - iv. Traffic and access;
 - v. Signs and lighting; and
 - vi. Potential nuisance.

2. EXISTING NON-CONFORMING USE OF STRUCTURES AND/OR LAND

Continuance of non-conforming use of structures and/or land shall be subject to the following provisions:

- a. No structure devoted to a non-conforming use shall be enlarged or extended by more than a total of 50% of the existing square footage as of March 10, 2007 or the date the structure was built, if after March 10, 2007.
- b. Any non-conforming use may be extended throughout any parts of a building which were manifestly arranged or designed for such use at the time of the adoption or amendment of this Ordinance, but no such uses shall be extended to occupy any land outside such building other than in conformance with (a) above.
- c. Any non-conforming use of a structure or premises may be changed to another nonconforming use provided that the Planning Board shall find that the proposed use is at least as consistent with the District's purpose as the existing non-conforming use. At no time shall a use be permitted which is less conforming than the previous non- conforming use;
- d. If a non-conforming use of a structure or premises is superseded by a permitted use, the non-conforming use shall not thereafter be resumed;

e Should any use, subject to the provisions of this Ordinance, be discontinued for two continuous years, such same use may not commence again without an approval of the Code Enforcement Officer-

f. A non-conforming use of land or a structure housing an existing non-conforming use may be moved to a different location within the same lot, provided that the Planning Board finds that the change in location is appropriate in regards to:

- i. Location and character;
- ii. Fencing and screening;
- iii. Landscaping, topography, and natural features;
- iv. Traffic and access;
- v. Signs and lighting; and
- vi. Potential nuisances.

3. CONSTRUCTION BEGUN PRIOR TO ORDINANCE

This Ordinance shall not require any change in the plans, construction, size, or designated use for any building, structure, or part thereof for which a completed application for a local permit has been made, provided application has been subject to substantive review, or a permit has been issued and upon which construction has been lawfully commenced prior to the adoption or amendment of the Ordinance. In such instances construction must start within one year after the issuance of the permit.

C. NON-CONFORMING LOTS OF RECORD

A single parcel of land, the legal description of which or the dimensions of which are recorded on a document or map recorded in the Registry of Deeds, which at the effective date of adoption or subsequent amendment of this Ordinance does not meet the lot area or width requirements or both, of the district in which it is located, may be built upon as an existing non-conforming lot of record provided that all other provisions of this Ordinance are met.

D. TRANSFER OF OWNERSHIP

Ownership of lots, uses and structures that remain lawful but become non-conforming by the adoption or amendment of the Ordinance may be transferred and the new owner may continue to occupy or use the same subject to the provisions of this Ordinance.

SECTION III: ESTABLISHMENT OF DISTRICTS

A. DISTRICTS ESTABLISHED

For the purposes of this Ordinance, the Town of Searsport is hereby divided into the following districts:

- Commercial District (C)
- Commercial 2 District (C2)
- Commercial 3 District (C3)
- Conservation District (CD)
- Halfmoon Pond Watershed Overlay District (HPOD)
- Historic Overlay District
- Industrial District (I)
- Marine District (M)

- Mixed Residential District (MR)
- Residential District (R)
- Residential District 1 (R1)
- Residential 2 District (R2)
- Residential 3 District (R3)
- Rural Agricultural Residential District (RAR)

B. DISTRICTS SUBJECT TO THIS ORDINANCE

Details of the following Districts are contained in Section IV

- Commercial District
- Commercial 2 District
- Commercial 3 District
- Industrial District
- Marine District
- Mixed Residential District
- Residential District
- Residential District 1
- Residential District 2
- Residential District 3
- Rural Agricultural District

C. DISTRICTS NOT DESCRIBED IN SECTION IV

1. CONSERVATION DISTRICT (CD)

a. PURPOSE

The purpose of the Conservation District is to encompass areas of the community that are currently owned by the State of Maine and are designated as a state park, and areas of . The Conservation District is not subject to regulation by the Town.

b. AREAS INCLUDED

The location of the Conservation District is illustrated on the Official District Boundary Map of the Town of Searsport.

2. HALFMOON POND WATERSHED OVERLAY DISTRICT (HPOD)

a. PURPOSE

The purpose of the Halfmoon Pond Watershed District is to prevent deterioration of the pond's water quality which has been experienced in the past.

b. AREAS INCLUDED

The location of the Halfmoon Pond Watershed Overlay District is illustrated on the Official District Boundary Map of the Town of Searsport.

c. PROHIBITED USES:

The following uses are prohibited:

Campgrounds

Commercial or retail uses

Mineral extraction industry

Furniture stripping and wood preserving

Golf courses

Industrial uses

Junkyards

Landfills

Manufacture, use, storage, or disposal of solid waste, hazardous materials

Commercial motor vehicle service, repair, storage, or salvage

Operation of gas or diesel equipment on Halfmoon Pond

Truck Terminals

Underground storage of petroleum or hazardous materials

Use of chemical pesticides or herbicides

Warehouses, storage units

Uses similar to prohibited uses

- d. In the Halfmoon Pond Watershed Overlay District, in order to minimize phosphorous runoff and other deleterious impact on water quality, the following additional resource protection measures will be required:**

Tilling is not permitted within 500 feet of the normal high water mark of Halfmoon Pond or within 250 feet of its tributaries.

Land application of sludge and other process wastes is prohibited in the Watershed Overlay District.

3. HISTORIC OVERLAY DISTRICT (H)

a. PURPOSE

The purpose of the Historic Overlay District is to acknowledge and ensure the long-term preservation of historical structures listed on the National Register of Historic Places and not to regulate land use. Please refer to the appropriate "overlay" district. This district applies only to properties listed on the National Register of Historic Places and designated on the Official District Boundary Map of the Town of Searsport.

b. The following described lands, buildings or structures or areas of the Town which are designated historic districts, historic sites or historic landmarks, as follows:

Historic Districts.

Penobscot Marine Museum Historic District

Congregational Church Vestry
Old Searsport Town Hall
Captain Merithew House
Nickel-Colcord, Duncan House
Fowler-True-Ross House

Searsport Downtown Historic District

Bank Building Map 12 Lot 36
Sargent Block Map 12 Lot 35
Nichols Block Map 12 Lot 34
Ice Cream Parlor Map 12 Lot 32
Richard Smart Building Map 12 Lot 31
Marrithe Block Map 12 Lots 27 & 26
Methodist Church Map 12 Lot 23
Smart Block Map 15 Lot 23
Leach Block Map 15 Lot 44
Pendleton Block Map 15 Lot 45 & 47
Whitcomb Block Map 15 Lot 47

East Main Street Historic District

Captain John Nichols House
Captain John McGilvery House
Captain William McGilvery House
Captain John P. Nichols
Captain A.V. Nichols

Historic Landmark- Reserved

Historic Site

Union Hall
Mortland Family Home
Union School, Mt. Ephraim Rd.
Carver Memorial Library
James G. Pendleton House, 81 West Main St.
College Club Inn, 190 West Main St.

c. CRITERIA FOR ESTABLISHMENT OF HISTORIC DISTRICTS, HISTORIC SITES, INDIVIDUAL HISTORIC PROPERTIES AND HISTORIC LANDMARKS

GENERAL

One (1) or more of the following characteristics, without limitation as to cultural or chronological period, shall serve to qualify an historic district, historic site, individual historic property, historic landmark or archaeological site, as defined in Section VIII of this Ordinance, to be established in accordance with this Ordinance:

Structures or sites at which events occur or have occurred that contribute to and are identified with or significantly represent or exemplify the broad cultural, political, economic, military, social or sociological history of Searsport and the nation, including sites and buildings at which the public may gain insight.

Structures or sites importantly associated with historic personages.

Structures or sites importantly associated with historic examples of a great idea or ideal.
Structures or structural remains and sites embodying examples of architectural types of specimens valuable for study or representation of a period, style, or method of building construction, of community organization and living or of landscaping; or a single notable structure or a single site representing the work of a master builder, designer, architect or landscape architect.

Structures contributing to the visual continuity of an historic district.

Structures or sites listed on or eligible for listing on the National Register of Historic Places and structures or sites listed as or eligible for listing as a National Historic Landmark.

d. DISTRICT STANDARDS

Where any property included within the Historic Overlay District is the subject of a land use approval under this or any other Searsport ordinance, the application may be referred to the Historic Preservation Committee, which may make findings as to whether the following standards will be met by the development. On the recommendation of the Planning Board or the Code Enforcement Officer, the Board of Selectmen may appoint expert persons to serve in an advisory position or on a consultant basis to assist the Planning Board or Code Enforcement Officer in the performance of their functions. Such person or persons need not be residents of the Town and may, by authorized prearrangement with the Planning Board or Code Enforcement Officer and Selectmen, receive compensation. Such findings shall be advisory to the Code Enforcement Officer or Planning Board, which shall make final determinations and may place reasonable conditions related to these standards.

i. Every reasonable effort shall be made maintain the integrity of existing buildings, structures or grounds, giving due consideration to the economic feasibility of maintaining such buildings, structures or grounds.

ii. The distinguishing original qualities of character of a building, structure or site shall not be destroyed. The removal or alteration of any historical material or distinctive architectural features should be avoided when reasonably possible.

iii. All buildings, structures and sites shall be recognized as products of their own time. Alterations that have no historical basis should be avoided when reasonably possible.

iv. Distinctively stylistic features or examples of skilled craftsmanship which characterize a building, structure, or site shall be retained wherever feasible.

v. Deteriorated architectural features shall be repaired rather than replaced, wherever feasible. In the event replacement is necessary, the new material should match the material being replaced in composition, design, texture, color, and other visual qualities. Repair or replacement of missing

architectural features should be based on accurate duplication of features, substantiated by historic, physical, or pictorial evidence rather than on conjectural designs or the availability of different architectural elements from other buildings or structures.

vi. The surface cleaning of structures shall be undertaken with the gentlest means possible. Sandblasting and other cleaning methods that will damage the historic building materials shall be avoided when possible.

e. PLANNING BOARD APPROVAL NEEDED

i. The following changes to buildings, structures and sites in the Historic Overlay District or listed on the National Register of Historic Places will require Planning Board approval.

ii. Any change in the exterior appearance of an historic landmark, an historic site or any building in an historic district if such change requires a building or sign permit from the Code Enforcement Officer.

iii. New construction of a principal or accessory building or structure visible from a public street where such building or structure will be located in an historic district.

iv. Moving of an historic landmark or any building in an historic district.

v. Any change, except minor repair, in siding materials, roofing materials, door and window sash and integral decorative elements, such as, but not limited to, cornices, brackets, window architraves, doorway pediments, railing, balusters, columns, cupolas and cresting and roof decorations.

vi. Other improvements or alterations to the site where a historic landmark, historic site or building in a historic district is located which require Planning Board approval.

f. STANDARDS OF EVALUATION

The standards and requirements contained in this section and the Secretary of the Interior's Standards for Rehabilitation (1990 Edition) and the Secretary of the Interior's Standards for the Treatment of Historic Properties (1995 Edition) shall be used in review of applications.

i. Construction of new buildings and structures in historic district. The construction of a new building or structure within an historic district shall be generally of such design, form, proportion, mass, configuration, building material, texture, color and location on a lot as will be compatible with other buildings in the historic district and with streets and open spaces to which it is visually related and in keeping with the area.

ii. Visual compatibility factors for new construction and additions. Within historic districts, historic sites or historic landmarks, all new construction and all new additions shall be visually related generally in terms of the following factors:

(1). Height. The height of proposed buildings shall be compatible with adjacent buildings.

- (2). Proportion of building's front facade. The relationship of the width of the building to the height of the front elevation shall be visually compatible with buildings, structures and open spaces where it is visually related.
 - (3). Proportion of openings within the facade. The relationship of the width of the windows to the height of windows and doors in a building shall be visually compatible with that of windows and doors of buildings to which the building is visually related.
 - (4). Rhythm of solids to voids in front facades. The relationship of solids to voids in the front facade of a building shall be visually compatible with that of the buildings to which it is visually related.
 - (5). Rhythm of spacing of buildings on streets. The relationship of the building to the open space between it and adjoining buildings shall be visually compatible with that prevailing in the area to which it is visually related.
 - (6) Rhythm of entrance and/or porch projection. The relationship of entrances and porch projections to sidewalks of a building shall be visually compatible with that of buildings to which it is visually related.
 - (7) Relationship of materials and textures. The relationship of the materials and textures of the facade of a building shall be visually compatible with that of the predominant materials used in the buildings to which it is visually related.
 - (8) Roof shapes. The roof shape of a building shall be visually compatible with that of the buildings to which it is visually related.
 - (9) Scale of building. The size of the building, the building mass of a building in relation to open spaces, the windows, door openings, porches and balconies shall be visually compatible with those characteristics of buildings and spaces to which it is visually related.
 - (10) Directional expression of front elevation. A building shall be visually compatible with the building, squares and places to which it is visually related in its directional character, whether this shall be vertical character, horizontal character or nondirectional character.
- iii. Standards for renovations, alterations and repairs of existing buildings, structures and appurtenances thereof.

(1) Within historic districts, historic sites and historic landmarks, the Board shall use the standards listed below in the evaluation of an application for all renovations, alterations and repairs of existing buildings, structures and appurtenances thereof:

- (a) Every reasonable effort shall be made to provide a compatible use which will require minimum alteration to the structure and its environment.
- (b). Rehabilitation work shall not destroy the distinguishing qualities nor character of the structure and its environment. The removal or alteration of any historic material or architectural features should be held to a minimum.
- (c). Deteriorated architectural features should be repaired rather than replaced, wherever possible. In the event that replacement is necessary, the new material should match the material being replaced in composition, design, texture and other visual qualities. Repair or replacement of missing architectural features should be based on physical or pictorial evidence rather than on conjectural designs or the availability of different architectural features from other buildings.
- (d). Distinctive stylistic features or examples of skilled craftsmanship which characterize historic structures and often predate the mass production of building materials shall be treated with sensitivity.

- (e). Changes which may have taken place in the course of time are evidence of the history and development of the structure and its environment, and these changes shall be recognized and respected.
- (f). All structures shall be recognized as products of their own time. Alterations to create an earlier appearance shall be discouraged.
- (g). Contemporary design for additions to existing structures shall be encouraged if such design is compatible with the size, scale, material and character of the neighborhood, structures or its environment.
- (h). Wherever possible, new additions or alterations to structures shall be done in such a manner that if they were to be removed in the future the essential form and integrity of the original structure would be unimpaired.

(2). In determining compliance with these standards, the Board shall be guided, although not bound, by the Guidelines for Applying the Secretary of the Interior's Standards for Rehabilitation and the Secretary of the Interior's Standards for the Treatment of Historic Properties.

g. Exceptional circumstances.

The Board may approve an application where the standards otherwise set forth in this section are not met but where the Board determines that failure to approve the application would result in undue hardship to the owner of the property. Before the Board may issue a certificate under this subsection, the records must show the following:

The property cannot yield a reasonable economic return or the owner cannot make any reasonable use of the property. Reasonable economic return shall not be construed to mean a maximum return, and any reasonable use shall not be construed to mean the highest and best use.

h. Ordinary maintenance permitted; public safety.

Ordinary maintenance permitted. Nothing in this section shall be construed to prevent the ordinary maintenance or repair of any exterior feature in an historic district or of any historic landmark which does not involve a change in the design, material or outer appearance thereof.

Safety. Nothing in this section shall prevent the construction, reconstruction, alteration, restoration or demolition of any feature which the Code Enforcement Officer shall certify is required by the public safety because of an unsafe or dangerous condition.

D. OFFICIAL DISTRICT BOUNDARY MAP

Districts established by this Ordinance are bounded and defined as shown on the official "District Boundary Map of Searsport, Maine". The following rules of interpretation shall apply:

The official copy of the map shall be that map which bears the certification that it is true and correct, signed by the Chairman of the Planning Board and attested by the Town Clerk and on file in the office of the Town Clerk. The official "District Boundary Map of Searsport, Maine" shall be given precedence over any District description in this Ordinance.

E. INTERPRETATION OF DISTRICT BOUNDARIES

Where uncertainty exists as to boundary lines of Districts as shown on the official "District Boundary Map of Searsport", the following rules of interpretation shall apply:

1. Boundaries indicated as approximately following the center lines of streets, highways, public utilities or right of ways shall be construed as following such center lines
2. Boundaries indicated as being approximately following shorelines of any lake or pond shall be construed as following the normal high water mark;
3. Boundaries indicated as being the extension of centerlines of streets shall be construed to be the extension of such centerlines;
4. Boundaries indicated as approximately following the centerlines of streams, rivers or other continuous flowing watercourses shall be construed as following the channel center line of such watercourses;
5. Boundaries indicated as being parallel to or extension of features listed above shall be so construed. Distances not specifically indicated on the official map shall be determined by the scale of the map;
6. Where physical or cultural features existing on the ground are at variance with those shown on the official map, or in other circumstances where uncertainty exists with respect to the location of a boundary, the Planning Board shall interpret the district boundaries.

F. AMENDMENTS TO DISTRICT BOUNDARIES

The Board of Selectmen, of its own initiative, and the Planning Board or any property owner may petition for a change in the boundary of any District. No change in a District boundary shall be approved without a duly authorized majority vote at an Annual Town Meeting. A warrant article shall not be presented for consideration without written findings of fact from the Planning Board, upon substantial evidence, that:

1. The change would be consistent with: the standards of the District boundaries in effect at the time; the Comprehensive Plan; and the purpose, intent, and provisions of this Ordinance; and
2. The change in District boundaries will satisfy a demonstrated need in the community and will have no undue adverse impact on existing uses or resources; or that a new District designation is more appropriate for the protection and management of existing uses and resources within the affected area. The Planning Board will not act upon petition for a change in District boundaries unless notice is first given to all owners of land abutting or located within 1000 feet of the parcel for which a change in boundaries is sought. The Planning Board may require, as a part of any petition for a change in District boundaries, that the petitioner submit the names and addresses of all such surrounding landowners as well as notify all registered voters if the change is deemed to have a potential town-wide impact.

SECTION IV - DISTRICT ATTRIBUTES

This section contains District descriptions, permitted uses and dimensional requirements applicable to new construction or uses.

A. ACTIVITIES DESCRIBED

The various land uses contained herein are organized according to the following seven (7) activity classifications:

1. Resource Management Activities
2. Resource Extraction Activities
3. Residential Activities
4. Institutional Activities
5. Commercial Activities
6. Industrial Activities
7. Transportation Activities

B. CATEGORIES OF USES

1. Uses Allowed without a Permit
2. Use Requires Code Enforcement Review/Permit
3. Use Requires Planning Board Review/Permit

C. USES SUBSTANTIALLY SIMILAR TO PERMITTED USES SHALL BE PERMITTED

1. **USES ALLOWED WITHOUT A PERMIT:** Uses substantially similar to those allowed without a permit but are not listed herein shall be permitted upon a ruling by the Code Enforcement Officer that such use is substantially similar to uses listed.
2. **USES REQUIRING A CODE ENFORCEMENT OFFICER PERMIT:** Uses substantially similar to those requiring a Code Enforcement Officer permit but which are not listed herein shall be permitted by the Code Enforcement Officer.
3. **USES REQUIRING A PLANNING BOARD PERMIT:** Uses substantially similar to those requiring a Planning Board permit but which are not listed herein shall be permitted by the Planning Board.
4. In determining whether a use is substantially similar to a permitted use, the reviewing authority shall consider the nature of the use and its intensity, in terms of traffic, noise, odor, type of goods manufactured or sold or services offered (if applicable).

D. COMPLIANCE WITH PERFORMANCE STANDARDS REQUIRED

All uses permitted must occur and be maintained in compliance with the applicable requirements and performance standards contained in Section V.

COMMERCIAL DISTRICT (C): The Purpose of the Commercial District is to encourage development of commercial uses while planning carefully to avoid conflicts with residential and other uses, and to inhibit strip development and dense sprawl along Route One. The location of the Commercial District is illustrated on the Official District Boundary Map of the Town of Searsport.

The following uses/activities are allowed in the Commercial District.

RESOURCE MANAGEMENT

Uses allowed without review/permit:

- a) Forest and agricultural management activities
- b) Non-commercial uses for scientific, educational, or nature observation purposes, which are not of a size or nature which would adversely affect the resources protected
- c) Surveying and other resource analysis
- d) Wildlife/fishery management practices

RESOURCE EXTRACTION

Uses allowed without review/permit:

- a) Commercial timber harvesting

Code Enforcement Officer review/permit required:

- a) Filling, grading, draining, dredging or alteration of water table or water level, not including wells
- b) Production of commercial agricultural products.

RESIDENTIAL

Uses allowed without review/permit:

- a) In-Law apartment

Police Department review/permit:

- a) Yard, porch, barn, garage sale
 - (a) Each sale no more than 3 consecutive days
 - (b) 1 sale per year to a residence
- b) On-Site auction sale
 - (a) Each sale no more than 2 consecutive days
 - (b) 1 sale per year to a residence

Code Enforcement Officer review/permit required

- a) Dwelling – single-family detached
- b) Dwelling – multi-family: two unit or duplex.
- c) Home occupations

Planning Board review required

- a) Boarding care

INSTITUTIONAL

Planning Board review required

- a) Churches
- b) Day care centers
- c) Fraternal Orders and Service Clubs
- d) Government Facilities and Services
- e) Medical Clinic
- f) Museum
- g) Nursing Homes
- h) Public and private schools, post-secondary education facilities

COMMERCIAL

Police Department review/permit:

Outdoor Yard, porch, barn, garage sale

Planning Board review required

- a) Apartment Complex 3+ units
- b) Auction hall, flea market
- c) Automobile body repair, service, sales and supplies
- d) Bait & tackle sales, sporting goods sales
- e) Banks/credit unions
- f) Bar/pub
- g) Beauty shops
- h) Bed & breakfast, motel/hotel/inns
- i) Boat storage facilities, yard
- j) Campground
- k) Commercial fishing operations
 - l) Commercial & non-commercial vessel berthing
- m) Craft/gift, tradesman shop, art gallery, antique shop
- n) Fishing, diving, and sailing shop/instruction
- o) Florist shop, greenhouse
- p) Fuel sales – commercial & motor vehicle retail fuels
- q) Funeral home
- r) Grocery store, supermarket
- s) Marina, marine office, harbor supply & services, chandlery
- t) Marine vessel repair, service, sales & rental

b) Dwelling unit: in a commercial establishment c) Dwelling - multi-family; 3 or more families, including apartments	u) Professional offices, office complex v) Radio station (Continued -- next page)
<p><u>COMMERCIAL</u> (Continued) Planning Board review required w) Recreation facilities x) Recreation vehicles sales and service y) Redemption center z) Research & Development facilities aa) Restaurant bb) Retail establishments cc) Shipbuilding dd) Seafood distribution ee) Tugboat, fireboat, pilot boat & similar services ff) Veterinary clinic/hospital gg) Video rentals hh) Warehouse/storage facility</p> <p><u>INDUSTRIAL</u></p> <p>Planning Board review required a) Light Manufacturing Assembly Plant up to 10,000 sq. ft. b) Wholesale business facility up to 10,000 sq. ft</p> <p><u>TRANSPORTATION AND UTILITIES</u></p> <p>Code Enforcement Officer review/permit required: a) Land management roads and water crossings of standing waters and of minor and major flowing waters</p> <p>Planning Board review required a) Inter modal transportation facilities b) Major utility facilities, such as transmission lines, water supply and sewage treatment facilities, but not including service drops c) Road construction projects, other than land management roads, which are part of projects requiring Planning Board review</p> <p>Note: Accessory uses and structures related to the exercise of listed uses are permitted, with Code Enforcement Officer Review.</p>	<p><u>DIMENSIONAL REQUIREMENTS</u></p> <p>Minimum Lot Size o 5,000 s.f. with public sewer/water o 20,000 s.f. without public sewer/water</p> <p>Minimum Lot Size per Principle Structure – o 5,000 s.f. with public sewer/water o 20,000 s.f. without public sewer/water</p> <p>Minimum Road Frontage o State maintained roads (including Route 1) subject to MDOT's Access Mgmt Standards o Lots not on state maintained roads – 25 ft.</p> <p>Setbacks from property line o Downtown* Front, Side and Rear – 0 ft. o Other locations Front, Side and Rear – 10 ft. Maximum building height at ridge line – 40'</p> <p>* For these purposes, the downtown area is defined as follows:</p> <p>On the south side of Route 1 from Elm Street to Mosman Street</p> <p>On the north side of Route 1 from Church Street to Goodell Street</p>

COMMERCIAL 2 DISTRICT (C2): The Purpose of the Commercial 2 District is to encourage development of low impact commercial uses that will prevent overdevelopment and sprawl. The location of the Commercial 2 District is illustrated on the Official District Boundary Map of the Town of Searsport.

The following uses/activities are allowed in the Commercial 2 District.

RESOURCE MANAGEMENT

Uses allowed without review/permit:

- a) Forest and agricultural management activities
- b) Non-commercial uses for scientific, educational, or nature observation purposes, which are not of a size or nature which would adversely affect the resources protected
- c) Surveying and other resource analysis
- d) Wildlife/fishery management practices

RESOURCE EXTRACTION

Uses allowed without review/permit:

- a) Commercial timber harvesting.

Code Enforcement Officer review/permit required:

- a) Filling, grading, draining, dredging or alteration of water table or water level, not including wells
- b) Production of commercial agricultural products.

RESIDENTIAL

Uses allowed without review/permit:

- a) In-Law apartment

Police Department review/permit:

- c) Yard, porch, barn, garage sale
 - (a) Each sale no more than 3 consecutive days
 - (b) 3 sales per year to a residence
- d) On-Site auction sale
 - (a) Each sale no more than 2 consecutive days
 - (b) 1 sale per year to a residence

Code Enforcement Officer review/permit required

- a) Dwelling – single-family detached
- b) Dwelling – multi-family: two unit or duplex.
- c) Home occupations

Planning Board review required

- a) Boarding care
- b) Dwelling unit: above or behind a commercial establishment
- c) Dwelling - multi-family; 3 or more families, including apartments

INSTITUTIONAL

Planning Board review required

- a) Cemeteries
- b) Churches
- c) Day care centers
- d) Fraternal Orders and Service Clubs
- e) Government Facilities and Services
- f) Medical Clinic
- g) Museum
- h) Nursing Homes
- i) Public and private schools, post secondary education facilities

COMMERCIAL

Police Department review/permit:

Outdoor Yard, porch, barn, garage sale

Planning Board review required

- a) Apartment Complex 43+ units
- b) Auction hall, flea market
- c) Automobile body repair, service, sales and supplies
- d) Bait & tackle sales, sporting goods sales
- e) Banks/credit unions
- f) Bar/pub
- g) Beauty shops
- h) Bed & breakfast, motel/hotel/inns, maximum 10 rooms
- i) Boat storage facilities, yard
- j) Campground
- k) Craft/gift, tradesman shop, art gallery, antique shop
- l) Fireworks Store
- m) Fishing, diving, and sailing shop/instruction
- n) Florist shop, greenhouse
- o) Fuel Sales
- p) Funeral home
- q) Grocery store
- r) Marine construction & salvage
- s) Marine office, harbor supply & services, chandlery
- t) Professional offices, office complex
- u) Radio station
- v) Recreation facilities
- w) Recreation vehicles sales and service
- x) Redemption Center
- y) Research & development facilities
- z) Restaurant, take-out restaurant
- aa) Retail establishments of less than or equal to 10,000 square feet (Continued – next page)

COMMERCIAL 2 DISTRICT (C2) (Continued)

COMMERCIAL (Continued)

Planning Board review required

- bb) Sales & Rentals of marine Vessels and Related Marine Equipment
- cc) Seafood distribution
- dd) Shipbuilding
- ee) Veterinary clinic/hospital
- ff) Video rentals
- gg) Warehouse/storage facility

INDUSTRIAL

Planning Board review required

- a) Light Manufacturing Assembly Plant up to 10,000 sq. ft.
- b) Lumber Yard/Sawmill
- c) Wholesale business facility up to 10,000 sq. ft

TRANSPORTATION AND UTILITIES

Code Enforcement Officer review/permit required:

- a) Land management roads and water crossings of standing waters and of minor and major flowing waters

Planning Board review required

- a) Inter modal transportation facilities
- b) Major utility facilities, such as transmission lines, water supply and sewage treatment facilities, but not including service drops
- c) Road construction projects, other than land management roads, which are part of projects requiring Planning Board review

Note: Accessory uses and structures related to the exercise of listed uses are permitted, with Code Enforcement Officer Review.

DIMENSIONAL REQUIREMENTS

Minimum Lot Size

- o 60,000 s.f.

Minimum Lot Size per Dwelling Unit

- o 60,000 s.f.

Minimum Road Frontage

- o Rte 1 subject to MDOT's Access Mgmt Standards
- o Lots not on state maintained roads – 100 ft.

Setbacks from property line

- o Front – 30 ft.
- o Side and Rear – 10 ft.

Maximum Building Height – 40 ft.

COMMERCIAL 3 DISTRICT (C3): The Purpose of the Commercial 3 District is to encourage development of low impact commercial uses that will prevent overdevelopment and sprawl. The location of the Commercial 3 District is illustrated on the Official District Boundary Map of the Town of Searsport

The following uses/activities are allowed in the Commercial 3 District.

RESOURCE MANAGEMENT

Uses allowed without review/permit:

- a) Forest and agricultural management activities
- b) Non-commercial uses for scientific, educational, or nature observation purposes, which are not of a size or nature which would adversely affect the resources protected
- c) Surveying and other resource analysis
- d) Wildlife/fishery management practices

RESOURCE EXTRACTION

Uses allowed without review/permit:

- a) Commercial timber harvesting.

Code Enforcement Officer review/permit required:

- a) Filling, grading, draining, dredging or alteration of water table or water level, not including wells
- b) Production of commercial agricultural products.

Planning Board review required

- a) Mineral extraction operations for any purpose affecting an area 2 acres or greater in size

RESIDENTIAL

Uses allowed without review/permit:

- a) In-Law apartment

Police Department review/permit:

- e) Yard, porch, barn, garage sale
 - (a) Each sale no more than 3 consecutive days
 - (b) 3 sales per year to a residence
- f) On-Site auction sale
 - (a) Each sale no more than 2 consecutive days
 - (b) 1 sale per year to a residence

Code Enforcement Officer review/permit required:

- a) Dwelling – single-family detached
- b) Dwelling – multi-family: two unit or duplex.
- c) Home occupations

Planning Board review required :

- a) Boarding care
- b) Dwelling unit: above or behind a commercial establishment
- c) Dwelling - multi-family; 3 or more families, including apartments
- d) Mobile home park

INSTITUTIONAL

Planning Board review required:

- a) Cemeteries
- b) Churches
- c) Day care centers
- d) Fraternal Orders and Service Clubs
- e) Government Facilities and Services
- f) Medical Clinic
- g) Museum
- h) Nursing Homes
- i) Public and private schools, post-secondary education facilities

COMMERCIAL

Police Department review/permit:

Outdoor Yard, porch, barn, garage sale

Planning Board review required:

- a) Apartment Complex 3+ units
 - b) Auction hall
 - c) Automobile body repair, service, sales and supplies
 - d) Bait & tackle sales, sporting goods sales
 - e) Banks/credit unions
 - f) Bar/pub
 - g) Beauty shops
 - h) Bed & breakfast, motel/hotel/inns, maximum 10 rooms
 - i) Boat storage facilities, yard
 - j) Campground
 - k) Craft/gift/antique/tradesman shop, art gallery
 - l) Fireworks Store
 - m) Fishing & commercial vessel berthing
 - n) Fishing, diving, and sailing shop/instruction
 - o) Florist shop, greenhouse
 - p) Fuel Sales
 - q) Funeral home
 - r) Grocery store, supermarket
 - s) Marine office, harbor supply & services, chandlery
 - t) Marine transport & excursion services
 - u) Professional offices, office complex
 - v) Radio station
 - w) Recreation facilities
 - x) Recreation vehicles sales and service
 - y) Research & development facilities
 - z) Restaurant, take-out restaurant
 - aa) Retail establishments of less than or equal to 10,000 square feet
- (Continued – next page)

COMMERCIAL 3 DISTRICT (C3) (Continued)

<p><u>COMMERCIAL</u> (Continued)</p> <p>Planning Board review required:</p> <ul style="list-style-type: none">bb) Sales & Rentals of marine Vessels and Related Marine Equipmentcc) Seafood distributiondd) Shipbuildingee) Sporting Cabinsff) Veterinary clinic/hospitalgg) Video rentalshh) Warehouse/storage facility <p><u>INDUSTRIAL</u></p> <p>Planning Board review required:</p> <ul style="list-style-type: none">a) Light Manufacturing Assembly Plant up to 10,000 sq. ft.b) Wholesale business facility up to 10,000 sq. ft <p><u>TRANSPORTATION AND UTILITIES</u></p> <p>Code Enforcement Officer review/permit required:</p> <ul style="list-style-type: none">a) Land management roads and water crossings of standing waters and of minor and major flowing waters <p>Planning Board review required:</p> <ul style="list-style-type: none">a) Inter modal transportation facilitiesb) Road construction projects, other than land management roads, which are part of projects requiring Planning Board review <p>Note: Accessory uses and structures related to the exercise of listed uses are permitted, with Code Enforcement Officer Review.</p>	<p><u>DIMENSIONAL REQUIREMENTS</u></p> <p>Minimum Lot Size</p> <ul style="list-style-type: none">o 60,000 s.f. <p>Minimum Lot Size per Dwelling Unit –</p> <ul style="list-style-type: none">o 60,000 s.f. <p>Minimum Road Frontage</p> <ul style="list-style-type: none">o Rte 1 subject to MDOT's Access Mgmt Standardso Lots not on state maintained roads – 100 ft. <p>Setbacks from property line</p> <ul style="list-style-type: none">Front – 30 ft.Side and Rear – 10 ft. <p>Maximum Building Height – 40 ft.</p>
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INDUSTRIAL DISTRICT (I): The Purpose of the Industrial District is to accommodate industrial and large commercial development. The location of the Industrial District is illustrated on the Official District Boundary Map of the Town of Searsport.

The following uses/activities are allowed in the Industrial District.

RESOURCE MANAGEMENT

Uses allowed without review/permit:

- a) Forest and agricultural management activities
- b) Non-commercial uses for scientific, educational, or nature observation purposes, which are not of a size or nature which would adversely affect the resources protected
- c) Surveying and other resource analysis
- d) Wildlife/fishery management practices

RESOURCE EXTRACTION

Uses allowed without review/permit:

- a) Commercial timber harvesting

Code Enforcement Officer review/permit required:

- a) Filling, grading, draining, dredging or alteration of water table or water level, not including wells
- b) Production of commercial agricultural products.

Planning Board review required :

- a) Mineral extraction operations for any purpose affecting an area 2 acres or greater in size

INSTITUTIONAL

Planning Board review required:

- a) Day Care Centers
- b) Government Facilities and Services
- c) Medical Clinic
- d) Museum

COMMERCIAL

Planning Board review required:

- a) Auction Hall
 - b) Automobile body repair, service, sales and supplies
 - c) Bait & tackle sales
 - d) Banks/credit unions
- (Continued)

COMMERCIAL (Continued)

Planning Board review required:

- a) Bar/pub
- b) Beauty shops
- c) Boat storage facilities, yard
- d) Cargo Handling Facilities
- e) Commercial fishing operations
- f) Fishing & commercial vessel berthing
- g) Fishing, diving, and sailing shop/instruction
- h) Fuel sales – commercial & motor vehicle retail fuels
- i) Marina, marine office, harbor supply & services, chandlery
- j) Marine construction & salvage, pollution control facilities
- k) Marine vessel repair, service, sales & rental
- l) Professional offices, office complex
- m) Radio station
- n) Research & development facilities
- o) Seafood processing/packaging/distribution
- p) Shipbuilding
- q) Towers
- r) Tradesman Shop
- s) Tugboat, fireboat, pilot boat & similar services
- t) Warehouse/storage facility
- u) Windmills

INDUSTRIAL

Planning Board review required:

- a) Automotive graveyard/Automobile recycling business/Junkyard
- b) Bulk Fuel Distribution Facility - Wholesale
- c) Chemical Manufacturing and/or Distribution
- d) Concrete Plant
- e) Disposal of Hazardous/Leachable Materials
- f) Disposal of Solid Waste other than agriculture
- g) Light Manufacturing Assembly Plant up to 10 k sq. ft.
- h) Lumber Yard/Sawmill
- i) Pulp Mill
- j) Sewage Treatment Facility
- k) Storage/Transport of Leachable Materials

(Continued – next page)

INDUSTRIAL DISTRICT (I) (Continued)

Planning Board review required (already in effect):

- l) Transportation Facility and Terminal Yard
- m) Wholesale business facility up to 10,000 sq. ft.

TRANSPORTATION AND UTILITIES

Code Enforcement Officer review/permit required:

- a) Land management roads and water crossings of standing waters and of minor and major flowing waters

Planning Board review required:

- a) Inter modal transportation facilities
- b) Major utility facilities, such as transmission lines, water supply and sewage treatment facilities, but not including service drops
- c) Road construction projects, other than land management roads, which are part of projects requiring Planning Board review

Note: Accessory uses and structures related to the exercise of listed uses are permitted, with Code Enforcement Officer Review.

DIMENSIONAL REQUIREMENTS

Minimum Lot Size

- o 3 acres

Minimum Lot Size per Dwelling Unit

- o 3 acres

Minimum Road Frontage

- o 200 ft Setbacks from property line
- o Front 60 ft.
- o Side and Rear 40 ft.

Maximum Structure Height

- o 60 ft. for principal structures
- o 150 ft. for Cranes, Bulk Fuel Storage Tanks, Silos, Grain Elevators, and similar Structures.

MARINE DISTRICT (M): The Purpose of the Marine District is to accommodate marine and commercial marine related activities. The location of the Marine District is illustrated on the Official District Boundary Map of the Town of Searsport

The following uses/activities are allowed in the Marine District.

RESOURCE MANAGEMENT

Uses allowed without review/permit:

- a) Forest and agricultural management activities
- b) Non-commercial uses for scientific, educational, or nature observation purposes, which are not of a size or nature which would adversely affect the resources protected
- c) Surveying and other resource analysis.
- d) Wildlife/fishery management practices

RESOURCE EXTRACTION

Code Enforcement Officer review/permit required:

- a) Filling, grading, draining, dredging or alteration of water table or water level, not including wells

INSTITUTIONAL

Planning Board review required:

- a) Government Facilities and Services
- b) Museum
- c) Marine themed public and private schools, post-secondary education facilities, school dormitory

COMMERCIAL

Planning Board review required:

- a) Bait & tackle sales
- b) Boat Storage Facilities, Boat yard
- c) Campgrounds
- d) Cargo Handling Facilities
- e) Commercial Fishing Operations
- f) Commercial & non-commercial vessel berthing g) Conference/Education Center up to 150 person capacity
- h) Craft, tradesman shop, art gallery, antique shop i) Fishing, diving, and sailing shop/instruction
- j) Marina, marine office, harbor supply & services, chandlery
- k) Marine construction & salvage, pollution control facilities
- l) Marine transport & excursion services
- m) Marine vessel repair, service, sales & rental

COMMERCIAL (continued)

Planning Board review required:

- a) Motel, hotel and inns
- b) Recreation facilities
- c) Research & development facilities
- d) Restaurant, take-out restaurant establishments of
- e) Retail less than or equal to 10,000 square feet
- f) Seafood processing/packaging/distribution
- g) Shipbuilding
- h) Tugboat, fireboat, pilot boat & similar services
- i) Warehouse/storage facility
- j) Windmills
- k) Yacht Clubs

TRANSPORTATION AND UTILITIES

Code Enforcement Officer review/permit required:

- a) Land management roads and water crossings of standing waters and of major flowing waters

Planning Board review required:

- a) Intermodal transportation facilities
- b) Major utility facilities, such as transmission lines, water supply and sewage treatment facilities, but not including service drops
- c) Road construction projects, other than land management roads, which are part of projects requiring Planning Board review

Note: Accessory uses and structures related to the exercise of listed uses are permitted, with Code Enforcement Officer Review.

DIMENSIONAL REQUIREMENTS

Minimum Lot Size

- o 1 acre

Minimum Lot Size per Principle Structure

- o 1 acre Minimum Road Frontage
- o 100 ft.

Setbacks from property line

- o Front 40 ft.
- o Side and Rear 10 ft.

Maximum Building Height

- o 40 ft.

MIXED RESIDENTIAL DISTRICT (MR): The purpose of the Mixed Residential District is to provide an additional area of the community for light industrial growth and expansion of residential and commercial development. The location of the Mixed Residential District is illustrated on the Official District Boundary Map of the Town of Searsport.

The following uses/activities are allowed in the Mixed Residential District.

RESOURCE MANAGEMENT

Uses allowed without review/permit:

- a) Forest and agricultural management activities
- b) Non-commercial uses for scientific, educational, or nature observation purposes, which are not of a size or nature which would adversely affect the resources protected
- c) Surveying and other resource analysis
- d) Wildlife/fishery management practices

- c) Surveying and other resource analysis
- d) Wildlife/fishery management practices

RESOURCE EXTRACTION

Uses allowed without review/permit:

- a) Commercial timber harvesting

Code Enforcement Officer review/permit required:

- a) Filling, grading, draining, dredging or alteration of water table or water level, not including wells
- b) Production of commercial agricultural products.

Planning Board review required:

- a) Mineral extraction operations for any purpose affecting an area 2 acres or greater in size

RESIDENTIAL

Uses allowed without review/permit:

- a) In law apartment

Police Department review/permit:

- g) Yard, porch, barn, garage sale
 - (a) Each sale no more than 3 consecutive days
 - (b) 4 sales per year to a residence
- h) On-Site auction sale
 - (a) Each sale no more than 2 consecutive days
 - (b) 1 sales per year to a residence

Code Enforcement Officer review/permit required:

- a) Single-family detached dwelling
 - b) Multi-family dwelling: two unit or duplex Planning Board review required (already in effect):
 - c) Dwelling unit above or behind a commercial establishment
 - d) Multi-Family dwelling; 3 or more families, including apartments
 - e) Mobile home park
- (continued)

RESIDENTIAL (continued)

- f) Boarding care
- g) Home occupations

INSTITUTIONAL

Planning Board Review required:

- a) Cemeteries
- b) Churches
- c) Day care centers
- d) Fraternal Orders and Service Clubs
- e) Nursing homes
- f) Public and private schools, post-secondary education facilities

COMMERCIAL

Police Department review/permit:

Outdoor Yard, porch, barn, garage sale

Planning Board review required:

- a) Adult entertainment
- b) Apartment Complex 3+ units
- c) Auction hall
- d) Automobile body repair, service, sales and supplies
- e) Bait & tackle sales, sporting goods sales
- f) Banks/credit unions
- g) Beauty shops
- h) Bed & breakfast
- i) Boat storage facilities, yard
- j) Campground
- k) Cargo Handling Facilities
- l) Commercial fishing operations
- m) Commercial & non-commercial vessel berthing n) Craft/gift, tradesman shop, art gallery, antique shop
- o) Fishing, diving, and sailing shop/instruction
- p) Florist shop, greenhouse
- q) Fuel sales
- r) Funeral home
- s) Grocery store
- t) Marine construction & salvage
- u) Marine office, harbor supply & services, & chandlery
- v) Marine vessel repair, service, sales & rental w) Professional offices
- w) A single (1) medical marijuana dispensary as regulated by the Maine Medical Use of Marijuana Act, 22 M.R.S. § 2428 (10) (2009)
- x) Recreation facilities

y) Recreation vehicles sales and service
z) Redemption Center
MIXED RESIDENTIAL DISTRICT (MR):
(Continued)

cc) Retail establishments of less than or equal to 10,000 square feet
dd) Sporting goods
ee) Towers up to and including 195 feet in height
ff) Veterinary clinic/hospital
gg) Video rentals
hh) Warehouse/storage facility

INDUSTRIAL

Planning Board review required:

A Automotive graveyard/Automobile recycling business/Junkyard
b) Bulk Fuel Distribution Facility - Wholesale
c) Concrete Plant
d) Disposal of Solid Waste other than agriculture
e) Light Manufacturing Assembly Plant up to 10 k sq. ft.
f) Lumber Yard/Sawmill
g) Storage/Transport of Leachable Materials
h) Transportation Facility and Terminal Yard
i) Wholesale business facility up to 10,000 sq. ft.

TRANSPORTATION AND UTILITIES

Code Enforcement Officer review/permit required:

a) Land management roads and water crossings of standing waters and of minor and major flowing waters

Planning Board review required:

a) Inter modal transportation facilities
b) Major utility facilities, such as transmission lines, water supply and sewage treatment facilities, but not including service drops
c) Road construction projects, other than land management roads, which are part of projects requiring Planning Board review

Note: Accessory uses and structures related to the exercise of listed uses are permitted, with Code Enforcement Officer Review.

aa) Research & development facilities
bb) Restaurant, take-out restaurant

DIMENSIONAL REQUIREMENTS

Minimum Lot Size

o 20,000 s.f.

Minimum Lot Size per Principle Structure

o 7,500 s.f. with public sewer/water
o 20,000 s.f. without public sewer/water

Minimum Road Frontage

o 100 ft.

Setbacks from property line

o Front 20 ft.
o Side and Rear 10 ft.

Maximum Building Height

o 40 ft.

RESIDENTIAL DISTRICT (R): The purpose of the Residential District is to encompass existing development and to provide areas for growth for future residential housing needs and small businesses. The location of the Residential District is illustrated on the Official District Boundary Map of the Town of Searsport

The following uses/activities are allowed in the Residential District.

RESOURCE MANAGEMENT & EXTRACTION

Uses allowed without review/permit:

- a) Wildlife/fishery mgmt practices
- b) Surveying & other resource analysis
- c) Forest and Agricultural mgmt activities.
- d) Non-commercial uses for scientific, educational or nature observation purposes, which are not of a size or nature which would adversely affect the resources protected
- e) Commercial timber harvesting

Code Enforcement Officer review/permit required:

- a) Filling, grading, draining, dredging or alteration of water table or water level, not including individual wells.

Planning Board review required (already in effect):

- a) Mineral extraction operations for any purpose, affecting an area 2 acres or greater in size.

RESIDENTIAL

Uses allowed without review/permit:

- a) In law apartment

Police Department review/permit:

- i) Yard, porch, barn, garage sale
 - (a) Each sale no more than 3 consecutive days
 - (b) 4 sales per year to a residence
- j) On-Site auction sale
 - (a) Each sale no more than 2 consecutive days
 - (b) 1 sale per year to a residence

Code Enforcement Officer review/permit required:

- a) Single-family detached dwelling
- b) Multi-family dwelling: two unit or duplex
- c) Home occupations

Planning Board review required:

- a) Dwelling unit above or behind a commercial establishment
 - b) Multi-Family dwelling; 3 or more families, including apartments
- (Continued)

Note: Accessory uses and structures related to the exercise of listed uses are permitted, with Code Enforcement Officer Review.

RESIDENTIAL (continued)

Planning Board review required

- c) Mobile home park
- d) Boarding care

INSTITUTIONAL

Planning Board Review required:

- a) Cemeteries
- b) Churches
- c) Day care centers
- d) Nursing homes

COMMERCIAL

Police Department review/permit:

Outdoor Yard, porch, barn, garage sale

Planning Board review required:

- a) Apartment complex 3+ units
- b) Beauty shops
- c) Bed & Breakfasts
- d) Craft shop/art gallery, antique shop
- e) Florist shop, greenhouse
- f) Funeral home
- g) Professional offices
- h) Recreational facilities
- i) Research & development facilities
- j) Veterinary clinic/hospital

TRANSPORTATION & UTILITIES

Code Enforcement Officer review/permit required:

- a) Land Management roads and water crossings of standing waters, minor and major flowing waters

Planning Board review required (already in effect):

- a) Intermodal transportation facilities
- b) Major utility facilities, such as transmission lines, water supply and sewage treatment facilities, but not including service drops
- c) Road construction projects, other than land management roads, which are part of projects requiring Planning Board review

DIMENSIONAL REQUIREMENTS

Minimum Lot Size

- o 10,000 s.f. with public sewer/water
- o 20,000 s.f. without public sewer/water

Lot Size per Principle Structure

- o 7,500 s.f. with public sewer/water
- o 20,000 s.f. without public sewer/water

Minimum Road Frontage

- o Rte 1 & other state maintained roads subject to MDOT's Access Mgmt Standards;
- o Lots not on Rte. 1 – 100 ft.

Setbacks from property line

front 15'; side & rear 10' Maximum building height at ridge line – 40'

RESIDENTIAL 1 DISTRICT (R1): The purpose of the Residential 1 District is to encompass existing development and minimize the potential for commercial sprawl while maintaining the historical character of these portions of the community. The location of the Residential 1 District is illustrated on the Official District Boundary Map of the Town of Searsport

The following uses/activities are allowed in the Residential 1 District.

RESOURCE MANAGEMENT & EXTRACTION

Uses allowed without review/permit:

- a) Wildlife/fishery mgmt practices
- b) Surveying & other resource analysis
- c) Forest and Agricultural mgmt activities.
- d) Non-commercial uses for scientific, educational or nature observation purposes, which are not of a size or nature which would adversely affect the resources protected
- e) Commercial timber harvesting

Code Enforcement Officer review/permit required:

- a) Filling, grading, draining, dredging or alteration of water table or water level, not including individual wells.

Planning Board review required (already in effect):

- a) Mineral extraction operations for any purpose, affecting an area 2 acres or greater in size.

RESIDENTIAL

Uses allowed without review/permit:

- a) In law apartment

Police Department review/permit:

- a) Yard, porch, barn, garage sale
 - (a) Each sale no more than 3 consecutive days
 - (b) 4 sales per year to a residence
- b) On-Site auction sale
 - (a) Each sale no more than 2 consecutive days
 - (b) 1 sale per year to a residence

Code Enforcement Officer review/permit required:

- a) Single-family detached dwelling
- b) Multi-family dwelling: two unit or duplex
- c) Home occupations

Planning Board review required:

- a) Dwelling unit above or behind a commercial establishment
 - b) Multi-Family dwelling; 3 or more families, including apartments
- (Continued)

Note: Accessory uses and structures related to the exercise of listed uses are permitted, with Code Enforcement Officer Review.

RESIDENTIAL (continued)

Planning Board review required

- c) Mobile home park
- d) Boarding care

INSTITUTIONAL

Planning Board Review required (already in effect):

- a) Cemeteries
- b) Churches
- c) Day care centers
- d) Nursing homes
- e) Medical Clinic
- f) Museum
- g) Public and private schools, post-secondary education facilities, school dormitory

COMMERCIAL

Police Department review/permit:

Outdoor Yard, porch, barn, garage sale

Planning Board review required (already in effect):

- a) Bed & Breakfasts
- b) Craft shop/art gallery, antique shop
- c) Florist shop, greenhouse
- d) Professional offices
- e) Restaurants

TRANSPORTATION & UTILITIES

Code Enforcement Officer review/permit required:

- a) Land Management roads and water crossings of standing waters, minor and major flowing waters

Planning Board review required (already in effect):

- a) Intermodal transportation facilities
- b) Major utility facilities, such as transmission lines, water supply and sewage treatment facilities, but not including service drops
- c) Road construction projects, other than land management roads, which are part of projects requiring Planning Board review

DIMENSIONAL REQUIREMENTS

Minimum Lot Size

- o 5,000 s.f. with public sewer/water
- o 20,000 s.f. without public sewer/water

Lot Size per Principle Structure

- o 5,000 s.f. with public sewer/water
- o 20,000 s.f. without public sewer/water

Minimum Road Frontage

- o Rt.1 & other state maintained roads subject to MDOT's Access Mgmt. Standards;
- o Lots not on state maintained roads **25 50 ft.**

Setbacks from property line
front, side, & rear 10'

Maximum building height at ridge line – 40'

RESIDENTIAL 2 DISTRICT (R2): The purpose of the Residential 2 District is to minimize the potential for sprawl and retain the unique character of these portions of the community. The location of the Residential 2 District is illustrated on the Official District Boundary Map of the Town of Searsport.

The following uses/activities are allowed in the Residential 2 District.

RESOURCE MANAGEMENT & EXTRACTION

Uses allowed without review/permit:

- a) Wildlife/fishery management practices
- b) Surveying and other resource analysis
- c) Forest and agricultural management activities
- d) Non-commercial uses for scientific, educational, or nature observation purposes, which are not of a size or nature which would adversely affect the resources protected
- e) Commercial timber harvesting

Code Enforcement Officer review/permit required:

- a) Filling, grading, draining, dredging or alteration of water table or water level, not including individual wells.

RESIDENTIAL

Uses allowed without review/permit:

- a) In law apartment

Police Department review/permit:

- c) Yard, porch, barn, garage sale
 - (a) Each sale no more than 3 consecutive days
 - (b) 2 sales per year to a residence
- d) On-Site auction sale
 - (a) Each sale no more than 2 consecutive days
 - (b) 1 sales per year to a residence

Code Enforcement Officer review/permit required:

- a) Single-family detached dwelling
- b) Multi-family dwelling: two unit or duplex
- c) Home occupations

Planning Board review required:

- a) Dwelling unit above or behind a commercial establishment
- b) Multi-Family dwelling; 3 or more families, including apartments
- c) Boarding care

COMMERCIAL

Police Department review/permit:

Outdoor Yard, porch, barn, garage sale

Planning Board review required:

- a) Bed & Breakfasts
- b) Craft shop/art gallery, antique shop
- c) Florist shop, greenhouse
- d) Professional offices
- e) Veterinary clinic/hospital

TRANSPORTATION & UTILITIES

Code Enforcement Officer review/permit required:

- a) Land Management roads and water crossings of standing waters, minor and major flowing waters

Planning Board review required:

- a) Intermodal transportation facilities
- b) Road construction projects, other than land management roads, which are part of projects requiring Planning Board review

Note: Accessory uses and structures related to the exercise of listed uses are permitted, with Code Enforcement Officer Review.

DIMENSIONAL REQUIREMENTS

Minimum Lot Size

o 60,000 s.f.

Minimum Lot Size per Dwelling Unit

o 60,000 s.f.

Minimum Road Frontage

- o State maintained roads (including Route 1) subject to MDOT's Access Mgmt Standards
- o Lots not on state maintained roads – 100 ft.

Setbacks from property line – front 30'; side & rear 10'

Maximum building height at ridge line – 40'

RESIDENTIAL 3 DISTRICT (R3): The purpose of the Residential 3 District is to maintain the unique historic character of this downtown residential neighborhood. The location of the Residential 3 District is illustrated on the Official District Boundary Map of the Town of Searsport.

<p>The following uses/activities are allowed in the Residential 3 District.</p> <p><u>RESOURCE MANAGEMENT & EXTRACTION</u> Uses allowed without review/permit: a) Surveying and other resource analysis b) Forest and agricultural management activities c) Non-commercial uses for scientific, educational, or nature observation purposes, which are not of a size or nature which would adversely affect the resources protected d) Commercial timber harvesting</p> <p>Code Enforcement Officer review/permit required: a) Filling, grading, draining, dredging or alteration of water table or water level, not including individual wells.</p> <p><u>RESIDENTIAL</u> Uses allowed without review/permit: a) In law apartment</p> <p>Police Department review/permit: e) Yard, porch, barn, garage sale (a) Each sale no more than 3 consecutive days (b) 2 sales per year to a residence f) On-Site auction sale (a) Each sale no more than 2 consecutive days (b) 1 sales per year to a residence</p> <p>Code Enforcement Officer review/permit required: a) Single-family detached dwelling b) Home occupations</p> <p>Planning Board review required: a) Boarding care</p> <p><u>COMMERCIAL</u> Police Department review/permit: Outdoor Yard, porch, barn, garage sale Planning Board review required: a) Bed & Breakfasts b) Commercial fishing operations c) Fishing & commercial vessel berthing d) Noncommercial Vessel Berthing</p>	<p><u>TRANSPORTATION & UTILITIES</u> Code Enforcement Officer review/permit required: a) Land Management roads and water crossings of standing waters, minor and major flowing waters</p> <p>Planning Board review required: a) Intermodal transportation facilities b) Road construction projects, other than land management roads, which are part of projects requiring Planning Board review</p> <p>Note: Accessory uses and structures related to the exercise of listed uses are permitted, with Code Enforcement Officer Review.</p> <p><u>DIMENSIONAL REQUIREMENTS</u> Minimum Lot Size o 10,000 s.f.</p> <p>Minimum Lot Size per Principle Structure o 7,500 s.f.</p> <p>Minimum Road Frontage o 100 ft.</p> <p>Setbacks from property line o 10 ft. front, side & rear</p> <p>Maximum building height 40ft.</p>
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RURAL AGRICULTURAL RESIDENTIAL DISTRICT (RAR): The purpose of the Rural Agricultural Residential District is to maintain the rural character of the town, to protect agricultural and forestry uses, to provide open spaces and to provide for lower density residential dwellings. The location of the Rural Agricultural Residential District is illustrated on the Official District Boundary Map of the Town of Searsport.

The following uses/activities are allowed in the Rural Agricultural District.

RESOURCE MANAGEMENT

Uses allowed without review/permit:

- a) Forest and agricultural management activities
- b) Non-commercial uses for scientific, educational, or nature observation purposes, which are not of a size or nature which would adversely affect the resources protected
- c) Surveying and other resource analysis
- d) Wildlife/fishery management practices

RESOURCE EXTRACTION

Uses allowed without review/permit:

- a) Commercial timber harvesting

Code Enforcement Officer review/permit required:

- a) Filling, grading, draining, dredging or alteration of water table or water level, not including wells
- b) Production of commercial agricultural products

Planning Board review required:

- a) Mineral extraction operations for any purpose affecting an area 2 acres or greater in size

RESIDENTIAL

Uses allowed without review/permit:

- a) In-Law apartment

Police Department review/permit:

- g) Yard, porch, barn, garage sale
 - (a) Each sale no more than 3 consecutive days
 - (b) 4 sales per year to a residence
- h) On-Site auction sale
 - (a) Each sale no more than 2 consecutive days
 - (b) 1 sales per year to a residence

Code Enforcement Officer review/permit required:

- a) Dwelling – single-family detached
- b) Dwelling – multi-family: two unit or duplex
- c) Home occupations

Planning Board review required:

- a) Boarding care
- b) Dwelling unit: above or behind a commercial establishment

RESIDENTIAL (continued)

Planning Board review required:

- c) Dwelling - multi-family; 3 or more families, including apartments

INSTITUTIONAL

Planning Board review required:

- a) Cemeteries
- b) Churches
- c) Day Care Centers
- d) Fraternal Orders and Service Clubs
- e) Medical Clinic
- f) Museum
- g) Nursing Homes
- h) Public and private schools, post-secondary education facilities

COMMERCIAL

Police Department review/permit:

Outdoor Yard, porch, barn, garage sale

Planning Board review required:

- a) Auction hall, flea market
- b) Bait & tackle sales
- c) Beauty Shops
- d) Bed and Breakfast
- e) Boarding Kennels
- f) Boat storage facilities
- g) Campgrounds
- h) Craft, tradesman shop, art gallery, antique shop i) Florist shop, greenhouse
- j) Funeral home
- k) Golf course
- l) Grocery Store
- m) Professional Offices
- n) Recreation facilities
- o) Research & development facilities
- p) Sporting Cabins
- q) Towers
- r) Veterinary Clinic/Hospital
- s) Windmills

(Continued on next page)

RURAL AGRICULTURAL RESIDENTIAL DISTRICT (RAR) (Continued)

INDUSTRIAL

Planning Board review required:

- a) Lumber Yard/Sawmill

TRANSPORTATION AND UTILITIES

Code Enforcement Officer review/permit required:

- a) Land Management roads and water crossings of standing waters, minor and major flowing waters

Planning Board review required:

- a) Inter modal transportation facilities
- b) Major utility facilities, such as transmission lines, water supply and sewage treatment facilities, but not including service drops
- c) Road construction projects, other than land management roads, which are part of projects requiring Planning Board review

Note: Accessory uses and structures related to the exercise of listed uses are permitted, with Code Enforcement Officer Review.

DIMENSIONAL REQUIREMENTS

Minimum Lot Size

- o 3 acres

Minimum Lot Size per Dwelling Unit

- o 1 acre (less if cluster housing provisions are met)

Minimum Road Frontage

- o 200 ft.

Setbacks from property line

- o Front 25 ft.
- o Side and Rear 10 ft.

Maximum Building Height – 40 ft.

SECTION V: LAND USE STANDARDS

SECTION USERS GUIDE: This section contains general performance standards with which all new development proposals submitted for approval pursuant to this Ordinance must comply. The purpose of the regulations contained in this section is to allow maximum utilization of land while protecting against adverse impacts on the environment, neighboring properties, and the public interest. This assurance is provided by separating the areas of the Town of Searsport into districts and permitting specific land uses within each, provided that a use meets all the additional criteria specified in this Ordinance. This regulatory approach has been termed "performance zoning" because it permits a use to be developed on a particular parcel only if the use on that parcel meets "performance standards".

The following Land Use Standards shall govern all Land Use Permits issued by the Code Enforcement Officer and the Planning Board. In reviewing applications submitted pursuant to this Ordinance, the Code Enforcement Officer or the Planning Board shall consider the following performance standards and make written findings that each applicable standard has been met prior to issuing final approval. In all instances, the burden of proof shall be upon the applicant.

A. GENERAL PERFORMANCE STANDARDS

The following provisions shall apply to all permitted uses, and failure to comply with any of these standards shall be considered a violation of this Ordinance:

1. Danger - No material which is dangerous due to explosion, extreme fire hazard, chemical hazard or radioactivity shall be used, stored, manufactured, processed or assembled except in accordance with applicable State and Federal codes and regulations.
2. Vibration - With the exception of vibration necessarily involved in the construction or demolition of buildings, no unreasonable vibration shall be transmitted outside the lot where it originates.
3. Wastes - No offensive wastes shall be discharged or dumped into any river, stream, watercourse, storm drain, pond, lake, or swamp. Industrial wastewater may be discharged to municipal sewers only and in such quantities and quality as to be compatible with existing municipal facilities as proscribed by the Wastewater Superintendent.
4. Noise – The level of sound, inherently and recurrently generated from industrial or commercial facilities shall not exceed 70 dBA between 7:00 a.m. and 7:00 p.m. (the "daytime hourly limit"), and 60 dBA between 7:00 p.m. and 7:00 a.m. (the 'nighttime hourly limit') at or within the boundaries of any lot used for a residential purpose, except for sound from construction activities, sound from traffic on public streets, sound from temporary activities, and sound created as a result of, or relating to, an emergency, including sound from emergency warning signal devices.

In addition to the sound level standards otherwise established, commercial or industrial facilities or operations shall employ best practicable sound abatement techniques to prevent tonal sounds and impulse sounds or, if such tonal and impulse sounds cannot be prevented, to minimize the impact of such sounds in residential zones. Tonal sound is defined as a sound wave usually perceived as a hum or which because its instantaneous sound pressure varies essentially as a simple sinusoidal function of

time. Impulse sounds are defined as sound events characterized by brief excursions of sound pressure, each with a duration of less than one (1) second.

Determination of noise violation: A noise violation shall be considered to exist when the Code Enforcement Officer or their designee is able to confirm the complaint from the same residential lot within two (2) separate twenty-four-hour periods. The Code Enforcement Officer shall only respond to a complainant who confirms that the noise is detectable at the time of the actual complaint. In order to confirm a complaint, the Code Enforcement Officer or their designee shall first determine that a noise is detectable in the area of the complaint. The Code Enforcement Officer or their designee shall interview the complainant to verify that the detectable noise is in fact the noise that resulted in the complaint. If the complainant verifies the noise as the source of the complaint, then the Code Enforcement Officer shall notify the owner or operator of the alleged noise source either in person or by telephone within one (1) working day, with a written confirmation within seven (7) working days of the complaint. The Code Enforcement Officer shall work with the operator of the alleged noise source to identify the source of the noise and any means by which the noise may be reduced to an acceptable level. If such informal means do not remedy the violation, the Code Enforcement Officer may, in his or her discretion, issue a Notice of Violation in accordance with this Ordinance.

5. Lighting - All exterior lighting shall minimize adverse impact on neighboring properties.

B. SPECIFIC PERFORMANCE STANDARDS

No permit shall be approved unless the standards set forth below (if applicable to the type of use) are met.

1. ADULT ENTERTAINMENT

Refer to Adult Entertainment Ordinance

2. CLUSTER DEVELOPMENT

If 25% to 50% of the site is permanently preserved as open space a corresponding reduction in the minimum lot area per dwelling unit shall be allowed. This approach is an incentive to preserve open space. In no case shall lots served by subsurface sewage disposal systems be less than 20,000 square feet.

3. HOME OCCUPATIONS

The purpose of the Home Occupation provision is to permit the conduct of those activities that are otherwise allowed within the Districts in which they are located. Home occupations are limited to those uses which may be conducted within a residential dwelling, accessory structure or on the property without substantially changing the appearance or condition of the residence or accessory structure, or materially injuring the usefulness of the residence or accessory structure for normal residential purposes. Home occupations initiated after the Effective Date of this Ordinance shall be approved by the Code Enforcement Officer in accordance with the general approval standards set forth in this Ordinance as well as the standards below.

Any home occupation or profession which is accessory to, subordinate to and compatible with a residential use may be permitted by the Code Enforcement Officer if it conforms to the following

conditions. If any activities carried out on otherwise residential premises are not incidental or subordinate to the residential use, they shall be treated as an independent non-residential use and subject to the same permit requirements, review procedure and standards as would be applicable to the category of use if not connected with a residence.

- a. The home occupation shall be principally carried on within the dwelling or accessory structure. Necessary parking areas or incidental storage of equipment shall be permitted.
- b. The home occupation shall be conducted only by a person or persons residing in the dwelling unit, and/or not more than two employees;
- c. Objectionable conditions such as noise, vibration, smoke, dust, electrical disturbance, odors, heat, glare, or activity at unreasonable hours, shall not be permitted;
- d. The traffic generated by such home occupation shall not increase the volume of traffic so as to create a traffic hazard or disturb the residential character of the immediate neighborhood, and
- e. The home occupation may utilize for public access:
 - i. Basement spaces;
 - ii. One accessory structure;
 - iii. Unfinished attic spaces to be used for storage only;
 - iv. Home occupations which involve use or storage of hazardous or leachable materials in excess of normal residential use are not permitted, and
 - v. In no case shall the home occupation be open to the public at times earlier than 7:00 A.M. nor later than 9:00 P.M.

Any home occupation which does not meet one or more of the above performance standards shall be considered in violation of this Ordinance and may be subject to prosecution or required to be permitted as a commercial use.

4. JUNKYARDS / AUTOMOBILE GRAVEYARDS / AUTOMOBILE RECYCLING BUSINESSES

Refer to the Maine State Statutes Title 30, M.R.S.A. Section 3751 et. seq. to Regulate Junkyards, Automobile Graveyards and Automobile Recycling Businesses

5. MANUFACTURED HOUSING

All manufactured housing sited within the Town of Searsport after the adoption of this ordinance must meet the standards of the Manufactured Home & Construction Safety Standards of the Department of Housing & Urban Development adopted in 1976.

6. SIGNS

No sign shall be hereafter erected, altered or maintained, within the limits of the Town of Searsport except in conformance with the provisions of this section.

- a. Signs Prohibited: No sign, whether new or existing, shall be permitted within the Town of Searsport which causes a traffic sight, health or welfare hazard, or results in a nuisance, due to illumination, placement, display, or obstruction of existing signs.
- b. Off Premise Signs: No off premise sign shall be erected or maintained in the Town of Searsport except in conformity with Title 23 MRSA, Section 1901-1925, and The Maine Traveler Information Services Law. Off premises official business directional signs may be located in the Town of Searsport in such a location and in such a manner as allowed under Title 23, Section 1901-1925 and under the rules and regulations of the Department of Transportation of the State of Maine.

c. Exempt Signs: Traffic control signs, signals, and/or devices regulating or enhancing public safety erected by a governmental body are exempt from the provisions of this section except as otherwise provided for herein:

d. Changeable Signs: Changeable signs shall not be permitted except in conformance with the Town of Searsport Changeable Signs Ordinance.

e. A Bed and Breakfast shall be limited to two signs, each not to exceed 9 square feet.

7. TOWERS – Refer to Searsport Wireless Facilities Ordinance

8. TRANSIENT ACCOMMODATIONS: “BED AND BREAKFAST” “Bed and Breakfast” accommodations shall be permitted in the private residence of the host family who live on the premises provided that:

- a. The maximum number of guests at any time is sixteen (16) persons;
- b. The maximum number of beds is eight (8);
- c. Meals are only served to registered guests;
- d. Two (2) signs, each not to exceed nine (9) square feet, are permitted on the premises.

9. WINDMILLS – Refer to Searsport Wind Energy Ordinance

10. WIRELESS FACILITIES – Refer to Searsport Personal Wireless Facilities Ordinance

11. ACTIVITIES REQUIRING SITE PLAN REVIEW

Any new commercial, retail, industrial, institutional use, or any residential use comprising three or more dwelling units, shall require approval pursuant to the Site Plan Review Ordinance. The specific types of uses subject to the Site Plan Review Ordinance shall be as provided therein.

SECTION VI: ADMINISTRATION OF THIS ORDINANCE SECTION USERS GUIDE: This section contains provisions for the administration of this Ordinance including specific provisions for certificates of compliance, conditions of approval, and public hearings.

A. CREATION OF ADMINISTERING BODIES AND AGENTS

1. CODE ENFORCEMENT OFFICER

The Code Enforcement Officer shall approve, approve with conditions, or deny those applications over which he/she has jurisdiction as provided in this Ordinance. Approval shall be granted only if the proposed use is in conformance with the provisions of this Ordinance.

2. PLANNING BOARD

The Planning Board of the Town of Searsport is hereby designated as the Planning Board heretofore, established in accordance with Article VIII, Pt.2, Section 1, of the Maine Constitution and Title 30-A MRSA, Section 3001. The Planning Board shall be appointed by the Selectmen of the Town of Searsport. The Planning Board is empowered to approve, approve with conditions, or deny applications over which it has jurisdiction as provided in this Ordinance. Approval shall be granted only if the proposed use is in conformance with the provisions of this Ordinance.

3. BOARD OF APPEALS

The Board of Appeals for the Town of Searsport shall be established and governed in accordance with the Town's Board of Appeals Ordinance.

B. APPROVAL REQUIRED

After the effective date of this Ordinance, no person shall construct any building or structure or engage in any activity requiring a permit under this Ordinance without first obtaining the approval of the Planning Board or Code Enforcement Officer, as provided herein.

C. APPLICATION REQUIRED

Applications for approval shall be submitted in writing, on forms provided, to the Code Enforcement Officer, who shall oversee the permitting process and record keeping, and determine compliance with the submission requirements set forth herein. The Code Enforcement Officer or Planning Board may require the submission of additional information deemed necessary to determine conformance with the provisions of this Ordinance.

D. CODE ENFORCEMENT OFFICER PERMIT

In addition to any other permits or approvals required, a permit issued by the Code Enforcement Officer shall be required before beginning or undertaking any of the following activities:

1. ACTIVITIES REQUIRING PERMIT

a. **FLOOD HAZARD AREAS:** All construction or earth moving activities or other improvements within the 100-year flood plain designated on the Flood Insurance Rate Maps published by the Federal Emergency Management Agency.

b. **NEW CONSTRUCTION:** New construction of buildings or structures.

c. **ALTERATION:** Alteration of a building, structure, or land, or parts thereof. The permitting authority shall be as designated in Section V of this Ordinance. Site Plan Review may also be required – see the Site Plan Review Ordinance.

d. **PLACEMENT OF SIGNS:** Placement of signs except temporary signs, except where approved by the Planning Board as part of a site plan review.

e. **MOVING:** All buildings or structures which are removed from or moved onto, or moved around within a lot.

f. **DEMOLITION:** No demolition of a building or structure or portion thereof, shall commence until after the issuance of a Demolition Permit by the Code enforcement Officer.

g. **CHANGE OF USE:** The change of use any premises. The Code Enforcement Officer shall determine whether a particular activity constitutes a Change of Use as defined in this Ordinance. If

the change is to a type of use for which Site Plan Review is required, a Site Plan approval shall be obtained from the Planning Board.

h. SECTION IV; F. SCHEDULE OF USES. Any activity requiring a Land Use Permit issued by the Code Enforcement Officer, in accordance with the Land Use Ordinance Schedule of Uses.

E. APPLICATION AND REVIEW PROCEDURES

1. APPLICATION:

All applications for a permit required by this Ordinance shall be submitted, with fee if applicable, in writing to the Code Enforcement Officer on forms provided.

2. SUBMISSIONS:

All applications for a permit shall be accompanied by a sketch plan, accurately drawn to scale and showing actual dimensions or distances, and showing:

- a. The actual shape and dimensions of the lot for which a permit is sought;
- b. The location and size of all buildings, structures, and other significant features currently existing on the lot, as well as all water bodies and wetlands within two hundred fifty feet (250') of the property lines;
- c. The location and building plans of new buildings, structures or portions thereof to be constructed. Plans to be submitted if deemed necessary by the Code Enforcement officer;
- d. The existing and intended use of each building or structure;
- e. Where applicable, the location of soil test pits, subsurface sewage disposal system, parking lots and driveways, signs, buffers, private wells; and
- f. Where Site Plan Review is required under the Site Plan Review Ordinance, the application shall include a site plan and other materials required by the Site Plan Review Ordinance.
- g. Such other information as may be reasonably required by the Code Enforcement Officer or Planning Board to provide for the administration and enforcement of this Ordinance.

3. TO WHOM ISSUED:

A permit shall be issued to none other than the applicant or his authorized agent. Written proof of authorization shall be required from the owner of record, if not the applicant.

4. COMPLIANCE WITH LAND USE ORDINANCE:

All activities undertaken pursuant to a permit issued under this Section shall comply with all applicable standards set forth in Section V of this Ordinance.

5. DEADLINE FOR ACTION:

The Code Enforcement Officer shall, within thirty (30) days of receipt of a complete application: (1) issue the permit, if the Code Enforcement Officer has jurisdiction over the application and all proposed construction and uses meet the provisions of the Ordinance; (2) refer the application to the Planning Board for its review; or (3) deny the application. All decisions of the Code Enforcement Officer shall be in writing. The Planning Board in its review of any application shall follow the procedures outlined in the Site Plan Review Ordinance.

6. COPIES:

One (1) copy of the application, with the permit or other written decision, shall be returned to the applicant, and one (1) copy, with a copy of the permit or written decision, shall be retained by the Code Enforcement Officer as a permanent public record.

7. POSTING:

The applicant shall cause any permit issued to be conspicuously posted on the lot on which the activity will occur at a location clearly visible from the street.

8. COMMENCEMENT AND COMPLETION OF WORK:

Construction and alteration activities on projects for which a permit has been granted under this Section shall be completed within twenty-four (24) months of the date of issuance of that permit. Activities may be extended for up to twelve (12) months by the Code Enforcement Officer, for good cause, if an application for an extension is submitted not later than thirty days prior to the expiration of the prior permit and a substantial portion has been completed. If an application for extension is not submitted, then activities which are not commenced or completed within the time limits provided above shall be subject to new application and the permit issued under this Section shall be considered void.

F. OTHER PERMITS REQUIRED BEFORE APPROVAL

Applications for approval under this Ordinance will not be considered complete for processing until all other required local, state, and federal permits and licenses have been secured and evidence that they have been secured has been provided, unless state or federal regulations require local approval first.

G. POSITIVE FINDINGS REQUIRED

Approval shall be granted by the Code Enforcement Officer or Planning Board, after receipt of a complete application, only upon a positive finding by the Code Enforcement Officer or Planning Board that the proposed use:

1. Is a permitted use in the district in which it is proposed to be located;
2. Is in conformance with the applicable performance standards of Section V of this Ordinance;
3. Has received, or as a condition of approval, will receive all other permits or approvals required under other applicable Town of Searsport Ordinances related to the use of property, including but not limited to the Site Plan Review Ordinance, Shoreland Zoning Ordinance, Subdivision Ordinance, Halfmoon Pond Watershed Protection Ordinance and Floodplain Management Ordinance;
4. Will provide safe access and egress from existing or proposed public and private roads.

H. CERTIFICATE OF OCCUPANCY REQUIRED

A certificate of occupancy is required prior to occupying any structure or commencing any use granted approval under the provisions of this ordinance and shall be obtained from the CEO. A certificate of occupancy shall be granted if the CEO finds that the structure or use has received all applicable Town-issued permits, is in compliance with any conditions imposed by said permits, and conforms to provisions of the Land Use Ordinance, electrical code, plumbing code, Americans with Disabilities Act, Life Safety 101 and NFPA 31 and may be safely used or occupied. Such a certificate shall be required for new construction or for alteration or additions to existing structures. Unless such a certificate is issued, a structure cannot be lawfully occupied.

I. VIOLATIONS AND ENFORCEMENT

1. VIOLATION.

Any construction of buildings or structures, and any use of land, buildings or structures except in conformance with the provisions of this Ordinance shall be deemed a violation of this Ordinance and a nuisance.

2. CODE ENFORCEMENT OFFICER.

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/she shall notify in writing the person responsible for such violation, indicating the nature of the violation and ordering the action necessary to correct the violation, including discontinuance of illegal use of land, buildings, structures, and abatement of nuisance conditions. A copy of such notices shall be maintained as a permanent record.

3. LEGAL ACTIONS.

When the above does not result in the correction or abatement of the violation or nuisance condition, the Selectmen, upon notice from the Code Enforcement Officer, are hereby authorized 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 the Ordinance in the name of the municipality.

4. PENALTIES.

Any person or persons who violate any provision(s) of this Ordinance or any permit issued under the provisions of this Ordinance, shall be subject to civil penalties in accordance with the provisions of Title 30-A MRSA § 4452.

5. CONTRACTOR LIABILITY.

Any contractor involved in any activity regulated by the provisions of this Ordinance may be held liable for violating this Ordinance if the necessary permits for said activity have not been obtained or if work performed by the contractor does not conform to all conditions of approval of the permit or the terms of this Ordinance.

J. APPEALS

1. APPEALS.

The Board of Appeals shall hear appeals from final decisions of the Code Enforcement Officer and Planning Board on decisions to grant or deny permits or approvals pursuant to this Ordinance in accordance with the Town's Board of Appeals Ordinance. Appeals shall be filed within 30 days of the Code Enforcement Officer or Planning Board's official, written decision on the application.

2. VARIANCES.

The Board of Appeals shall authorize variances in accordance with the procedures set forth in the Town's Board of Appeals Ordinance. Variances may be granted only under the following conditions:

- a. Variances may be granted only from the dimensional requirements including, but not limited to, lot size, structure height and setback requirements.
- b. Variances shall not be granted for establishment of any uses otherwise prohibited by this Ordinance.
- c. The Board of Appeals shall not grant a variance unless it finds that:
 - i. The proposed structure or use would meet the requirements of the Ordinance except for the specific provision from which relief is sought; and
 - ii. The strict application of the terms of this Ordinance would result in undue hardship. The term "undue hardship" shall mean:
 1. That the land in question cannot yield a reasonable return unless a variance is granted;
 2. That the need for a variance is due to the unique circumstances of the property and not to the general conditions in the neighborhood;
 3. That the granting of a variance will not alter the essential character of the locality; and
 4. That the hardship is not the result of actions taken by the applicant or a prior owner.
- d. Notwithstanding Section J(2) above, the Board of Appeals may grant a variance to an owner of a residential dwelling for the purpose of making that dwelling accessible to a person with a disability who resides in or regularly uses the dwelling. The board shall restrict any variance granted under this subsection solely to the installation of equipment or the construction of structures necessary for access to or egress from the dwelling by the person with the disability. The board may impose conditions on the variance, including limiting the variance to the duration of the disability or to the time that the person with the disability lives in the dwelling. The term "structures necessary for access to or egress from the dwelling" shall include railing, wall or roof systems necessary for the safety or effectiveness of the structure.
- e. The Board of Appeals shall limit any variances granted as strictly as possible in order to ensure conformance with the purposes and provisions of this Ordinance to the greatest extent possible, and in doing so may impose such conditions to a variance as it deems necessary. The party receiving the variance shall comply with any conditions imposed.

K. FEE SCHEDULE. All application fees for permits shall be paid to the Town of Searsport in accordance with the fee schedule as promulgated by the municipal officers upon recommendation of the Planning Board. Fees shall be for the cost of processing the permits and shall not be refundable regardless of the final decision to issue or deny a permit. Advertising costs, technical or legal assistance and associated costs deemed necessary by the Town for the review of applications shall be the responsibility of the applicant.

SECTION VII: DEMOLITION

Demolition Delay

Purpose: While the Demolition Delay cannot and does not prohibit anyone from demolishing or altering historically significant or sensitive homes, it does at least give the town and the Searsport Historic Preservation Committee (HPC) the chance to preserve the architectural and historical features as a record for the future. This section is presented in furtherance of the policy set forth in the Growth Management Act, the Maine State goal, to preserve the State's historic and archaeological resources, and the Searsport Comprehensive Plan.

No applications for the act of demolition as allowed by a building permit or demolition permit for a structure 50 years or older shall be approved by the Code Enforcement Officer (CEO) until the Historic Preservation Committee (HPC) makes a determination as to its historic or architectural significance, and has the opportunity to pursue alternatives to demolition that will preserve, rehabilitate, or restore it or properly record it. Alternatives must be mutually agreeable to the Committee and the applicant. The Demolition Delay shall apply to all structures in the Town, not limited to those previously landmarked or included in a Historic District or on the National Register.

1. Upon receiving a request to demolish a structure 50 years old or older, the CEO shall date the application and promptly forward a copy of the application to the Chairman of the HPC.
2. The HPC will conduct a Public Hearing within 60 days of the HPC's receipt of the applicant's request to demolish, unless an extension is agreed to by both the Committee and the applicant. The purpose of the Public Hearing shall be to determine whether the structure is of sufficient historical or architectural significance for the HPC to pursue alternatives to demolition. Written notice of the public hearing shall be given by first class mail to the applicant and to owners of abutting properties of the applicant's lot at least 7 days prior to the hearing date. The CEO and any consultants or professional advisors of the HPC shall also be notified. The HPC shall post the meeting notice in the Town Hall and publish notice of the date, time, and place of the hearing in a newspaper of general circulation in Searsport at least 7 days prior to the Hearing.
3. Should the HPC make a determination of historical or architectural significance, they shall seek alternatives to demolition. The period for pursuing alternatives to demolition shall not be more than 60 days beyond the determination of significance, or a total of 120 days from the date of the HPC's receipt of request for demolition, unless an extension is agreed to by both the HPC and the applicant.
4. There shall be a notice posted of intent to demolish visible on the property throughout the period of HPC review in order to encourage public awareness and input into the review process.
5. Following the Public Hearing, and at the same meeting, the HPC shall determine if the building or structure, or the portion of the building or structure to be demolished is significant enough to warrant pursuit of alternatives to demolition. The following actions may be taken following the Public Hearing:
 - a. If it is determined to be not significant, the HPC shall transmit this decision to the CEO, who shall be authorized to issue the permit to demolish immediately.

b. If it is determined to be significant, the HPC shall transmit this decision to the CEO, who shall be prohibited from issuing the permit to demolish until the 120 day delay is fulfilled. Criteria for determining structure significance shall be based upon one or more of the following:

i. Structures or archaeological sites at which events occur or have occurred that contribute to and are identified with or significantly represent or exemplify the broad cultural, political, economic, military, social, or sociological history of Seaside or nation.

ii. Structures or archaeological sites associated with Town historic personages, great ideas or ideals.

iii. Structures or archaeological sites on or eligible for listing on the National Register of Historic Places or in the Local Historic District.

iv. Structures or archaeological sites embodying examples of architectural types or specimens valuable for study of a period, style, or method of building construction.

c. Failure to make a determination of significance within 60 days shall also constitute HPC approval of the application for demolition.

6. Any alternative to structure demolition must be mutually agreed upon in writing by the applicant and the HPC.

7. The HPC shall be authorized to obtain photographic or professional documentation of a structure determined to be significant at no expense to the applicant.

8. In the event a structure is demolished before the review process is completed, no building permits shall be issued to the applicant, for construction on the lot the demolished building occupied for a period of 2 years. Any permits current for the applicant shall be revoked.

9. In the event a structure is deemed a danger to life or property by the CEO, the CEO may allow demolition before the review deadline.

10. Waivers. The HPC may, upon the applicant's request, waive any part of the 120-day delay period procedures. Such action shall be taken only upon:

a. A finding of the HPC that the strict application of the demolition delay provisions to the applicant and his property would cause undue hardship that could not be reasonably avoided. Undue hardship shall not include mere inconveniences or incidental financial loss;

b. The HPC finds that the goals and objectives of the demolition delay can be achieved in less than (120) days.

11. All demolition work shall be completed within thirty days of permit issuance. When circumstances beyond the permittee's control prevent completion of the work, the permittee may request an extension in writing to the CEO prior to expiration of the permit. Requests for extension must indicate why additional time is necessary to complete the work.

12. A demo delay decision by the HPC is not transferrable to a new owner of the property. If the property is sold during the demo delay period, then the demo delay will restart at the date of closing. Once a demo delay has expired, but before a demolition permit is issued by the CEO, and the property is sold to a new owner, the demo delay application process begins again.

13. Appeals. Any action of the Historic Preservation Committee may be appealed in writing directly to the Board of Appeals, by the affected party.

SECTION VIII: DEFINITIONS

A. CONSTRUCTION OF LANGUAGE

1. In this Ordinance, certain terms or words should be interpreted as follows:

- a. The word "person" includes a firm, association, organization, partnership, trust, company, or corporation, as well as an individual;
- b. The present tense includes the future tense, the singular number includes the plural and plural includes the singular;
- c. The word "shall" is mandatory;
- d. The word "may" is permissive;
- e. The words "used" or "occupied" includes the words "intended", "designed", or "arranged to be used or occupied"; and
- f. The word "dwelling" includes the word "residence."

2. In the case of any difference or meaning or implication between the text of this Ordinance and any map or illustration, the text shall control.

3. Terms not defined shall have the customary dictionary meaning.

B. DEFINITIONS

For the purposes of interpreting this Ordinance, the following terms, phrases, words and their derivations shall have the meaning given herein.

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

Access: A means of approach or entry to or exit from property.

Accessory Structure: A building which (1) is subordinate in area, extent and purpose to the principal building or use served, (2) is located on the same lot as the principal building or use served except as otherwise expressly authorized by the provisions of this Ordinance, and (3) is customarily incidental to the principal building or use. Any portion of a principal building devoted or intended to be devoted to an accessory use is not an "accessory building".

Accessory Use: A use subordinate to a permitted use located on the same lot, and related to the permitted use.

Acre: A measure of land containing forty-three thousand, five hundred and sixty (43,560) square feet.

Adult Entertainment: Any business in any use category which meets the definition of an "Adult Entertainment Business Establishment" as defined in the Town of Searsport Adult Entertainment Business Establishments Ordinance.

Aggrieved Person: A person whose interests are damaged or adversely affected by a decision, an action, or the failure to act by the Planning Board or Code Enforcement Officer.

Agricultural Activity: Land clearing, tilling, fertilizing, including spreading and disposal of animal manure and manure sludge, liming, planting, pesticide application, harvesting of cultivated crops, pasturing of livestock and other similar or related activities, but not the construction, creation or maintenance of land management roads.

Alteration: As applied to a building or structure, a change or rearrangement in the structural parts or in the means of ingress or egress; or an enlargement, whether by extending on a side or by increasing height; or in moving from one location or position to another.

Amusement Park: A commercially operated park with a predominance of outdoor games and activities for entertainment, including motorized rides, water slides, miniature golf, batting cages, and the like.

Antenna, Accessory Use: An antenna that is an accessory use to a residential dwelling unit.

Appeal: A means for obtaining review of a decision, determination, order or failure to act pursuant to the terms of this Ordinance as expressly authorized by this Ordinance.

Apartment: A room or group of rooms designed and equipped exclusively for use as living quarters for only one (1) family, including provisions for living, sleeping, cooking and eating.

Archaeological Site a place (or group of physical sites) in which evidence of past activity is preserved (either prehistoric or historic or contemporary), and which has been, or may be, investigated using the discipline of archaeology and represents a part of the archaeological record. These sites may include but are not limited to, those with few or no remains visible above ground, buildings and other structures still in use, artifacts, terrain features, graphics (paintings or drawings, etc.) and the evidence of plants or animals.

Attic: That part of a building that is immediately below, and wholly or partly within, the roof framing.

Automobile graveyard: A yard, field or other outdoor area used to store 3 or more unregistered or uninspected motor vehicles, as defined in Title 29-A, section 101, subsection 42, or parts of the vehicles. "Automobile graveyard" includes an area used for automobile dismantling, salvage and recycling operations.

A. "Automobile graveyard" does not include:

(1) An area used for temporary storage of vehicles or vehicle parts by an establishment or place of business that is primarily engaged in doing vehicle repair work to make repairs to render a motor vehicle serviceable. In order for a vehicle's storage to be considered temporary, it must be removed from the site within 180 calendar days of its receipt;

(2) An area used by an automobile hobbyist to store, organize, restore or display antique autos, antique motorcycles, classic vehicles, horseless carriages, reconstructed vehicles, street rods or parts of these vehicles as these vehicles are defined in Title 29-A, section 101 as long as the hobbyist's activities comply with all applicable federal and state statutes and rules and municipal ordinances, other than ordinances that are more restrictive than this subsection regarding the storage of vehicles or vehicle parts that are collected by a hobbyist, except that a municipal ordinance may require areas used by an automobile hobbyist to comply with the screening requirements in section 3754-A, subsection 1, paragraph A and the standards in section 3754-A, subsection 5, paragraph A, paragraph B, subparagraph (1) and paragraph C. For the purposes of this subparagraph, an automobile hobbyist is a person who is not primarily engaged in the business of selling any of those vehicles or parts from those vehicles;

(3) An area used for the parking or storage of vehicles, vehicle parts or equipment intended for use by a municipality, quasi-municipal entity or state or federal agency;

(4) An area used for the storage of operational farm tractors and related farm equipment, log skidders, logging tractors or other vehicles exempted from registration under Title 29-A, chapter 5;

(5) An area used for the parking or storage of vehicles or equipment being offered for sale by a dealer, equipment dealer, trailer dealer or vehicle auction business as defined in Title 29-A, section 851;

(6) An area used for the storage of vehicles by an establishment or place of business that is primarily engaged in business as a new vehicle dealer as defined in Title 29-A, section 851;

(7) An area used for temporary storage of vehicles by an establishment or place of business that is primarily engaged in business as an insurance salvage pool. In order for a vehicle's storage to be considered temporary under this subparagraph, the vehicle must be removed from the site within 180 days of receipt of title by the business; or

(8) An area used for the parking or storage of operational commercial motor vehicles, special equipment or special mobile equipment as defined in Title 29-A, section 101 that is temporarily out of service but is expected to be used by the vehicle or equipment owner or by an operator designated by the owner. This subsection does not exempt an area used for the parking or storage of equipment or vehicles that are not operational while stored or parked in the area.

Automobile recycling business: The business premises of a dealer or a recycler licensed under Title 29-A, sections 851 to 1112 who purchases or acquires salvage vehicles for the purpose of reselling the vehicles or component parts of the vehicles or rebuilding or repairing salvage vehicles for the purpose of resale or for selling the basic materials in the salvage vehicles, as long as 80% of the business premises specified in the site plan in section 3755-A, subsection 1, paragraph C is used for automobile recycling operations.

A. "Automobile recycling business" does not include:

(1) Financial institutions as defined in Title 9-B, section 131, subsections 17 and 17-A;

(2) Insurance companies licensed to do business in the State;

(3) New vehicle dealers, as defined in Title 29-A, section 851, licensed to do business in the State; or

(4) That portion of the business premises that is used for temporary storage of vehicles by an establishment or place of business that is primarily engaged in business as an insurance salvage pool. In order for a vehicle's storage to be considered temporary under this subparagraph, the vehicle must be removed from the site within 180 days of receipt of title by the business.

Automobile Sales: A lot arranged, designed, or used for the storage and display for sale of any motor vehicle and where no repair work is done except minor incidental repair of automobiles or trailers displayed and sold on the premises.

Automobile Repair Service: A place where, with or without the attendant sale of engine fuels, the following services may be carried out: general repair, engine rebuilding, rebuilding or reconditioning of motor vehicles; collision service, such as body, frame, or fender straightening and repair; over-all painting and undercoating of automobiles.

Basement: The substructure of a building that is partially or wholly below ground level which may or may not be used for living spaces.

Bed and Breakfast: Accommodations provided for compensation as a business in the private residence of the host family, consisting of a maximum of eight guest beds and 16 guests at any one time. Meals may be served only to overnight guests.

Boarding Care/House: A facility for the care of individuals where meals are provided.

Buffers: Units of land, together with specified types and amounts of planting thereon and any structures which may be required between land uses to eliminate or minimize conflicts between them.

Building: Any structure having a roof or partial roof, supported by columns or walls, used for the shelter or enclosure of persons, animals, goods or property of any kind. Where independent units with separate entrances are divided by walls, each unit is a building.

Building Front Line: Line parallel to the front lot line transecting that point in the building face which is closest to the front lot line. This face includes porches whether enclosed or unenclosed but does not include steps.

Building Height: The height measured to roof ridge or peak, excluding accessories such as cupolas, steeples, etc.

Building, Principal: A building (structure) in which is conducted or in which is intended to be conducted, the main or primary use of the lot on which it is located.

Campground: Any land area specifically designed and developed, containing two or more individual campsites which accommodate that segment of the traveling public seeking temporary camping accommodations for tents, recreational vehicles and/or towed travel trailers for compensation. Accessory uses include camper services and facilities such as shower and laundry facilities, electricity, fresh water, propane and gas sales, ice, outlet for camping supplies and equipment, recreational services etc.

Change of Use: The change in the type or intensity of business use. 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 an assessment by the reviewing authority of conditions

such as, but not limited to, operating hours, noise, exterior lighting, amount of customer traffic, or signage. If the Code Enforcement Officer finds as a preliminary matter that the overall intensity of use will be increased by 25% or more, the activity shall be reviewed as a change of use.

Cluster Development: The development, according to an approved plan, of a large tract of land where three (3) or more residential buildings are constructed on lots smaller than normally required in the district where located, provided the overall density of the development of the tract does not exceed the density or requirements of the district; and land not built upon is permanently preserved as common "open space". The term also refers to a Planned Unit Development.

Code Enforcement Officer: A person appointed by the Board of Selectmen to administer and enforce this Ordinance.

Commercial: The buying or selling of goods or services or the provision of facilities for a fee.

Condominium: Portions of real estate which are designated for separate ownership and the remainder of which is designated for common ownership solely by the owners of those portions under a declaration, or an amendment to a declaration and duly recorded. Real estate is not a condominium unless the undivided interests in the common elements are vested in the unit owners. Any real estate development consisting exclusively of clustered, detached, single family residences is not a condominium, unless so designated in the declaration.

Conference Center: A building constructed for the purpose of educational and/or recreational meetings, seminars or performances.

Day Care Center: A house or place in which a person or combination of persons maintains or otherwise carries out a regular program, for consideration, for any part of a day, providing care and protection for 3 or more children under the age of 16 unrelated to the operator, not to include nursery schools, summer camps, formal public or private schools, and further defined by the Department of Human Services as follows: Day Care Center: A Day Care Facility as defined in State statutes for 13 or more children on a regular basis; and Day Care Home: A Day Care Facility as defined in State statutes for 3 to 12 children on a regular basis.

Demolition: The destruction, removal, or relocation of a structure not classified as an incidental structure, or the permanent or temporary removal of more than fifty percent or more of the roof area as measured in the plan view; or fifty percent or more of the perimeter walls of a building as measured contiguously around the building or any exterior wall facing a public street. Incidental structures are accessory buildings such as sheds, fences, play structures, and so forth.

District: A specified portion of the Town, delineated on the Official District Boundary Map, within which certain regulations and requirements or various combinations thereof, apply under the provisions of this Ordinance.

Dwelling: A building or portion thereof, used exclusively for residential occupancy.

Dwelling, Single Family Detached: A dwelling designed for and occupied by not more than one (1) family and having no roof, wall or floor in common with any other dwelling unit. The term shall include manufactured and prefabricated homes.

Dwelling, Two Family: A detached or semi-detached building containing two (2) Dwelling Units.

Dwelling, Multiple Family: A building or structure containing three (3) or more Dwelling Units.

Easement: Legally binding authorization by a property owner of the use by another and for a specified purpose of any designated part of his property.

Educational Facility: Any building consisting primarily of classroom space which is used for offering courses, lectures, training seminars or other similar use, including, but not limited to, private nursery, kindergarten, elementary, middle, secondary and post-secondary schools.

Enlargement or To Enlarge: An "enlargement" is an addition to an existing building, an increase in the size of any other structure, or an increase in that portion of a tract of land occupied by an existing use. To "enlarge" is to make an enlargement.

Essential Services: The construction, alteration, maintenance of gas, electrical, communication facilities, steam, fuel or water transmission or distribution systems, collection supply or disposal systems. Such systems include towers (with exception of cellular towers), poles, wires, mains, drains, sewers, pipes, conduits, cables, fire alarm and police call boxes, traffic signals, hydrants and similar accessories. These systems are exempt from definition of a structure.

Extension or To Extend: An increase in the amount of existing floor area used for an existing use within an existing building. To "extend" is to make an extension.

Family: Two (2) or more persons related by blood, marriage, adoption or guardianship, or not more than five (5) persons not so related occupying a dwelling unit and living as a single housekeeping unit; such a group to be distinguished from a group occupying a boarding house, lodging house, club, or fraternity, or hotel.

Flea Market: An outdoor market selling antiques, used household goods, curios, and the like, at a frequency of four or more days in any six-month period.

Golf Course: An outdoor area laid out for the purpose of playing the game of golf, including golf-related and appurtenant structures and uses. This definition excludes miniature golf courses and golf driving ranges (see "Recreation Facility").

Grocery Store: An establishment retailing food and related commodities.

Guest Room: A room in a hotel, motel, tourist home or "bed and breakfast" residence offered to the public for compensation in which no provision is made for cooking.

Highway: Any public way.

Historic District: A geographically definable area possessing a significant concentration or linkage of sites, structures or objects united by past events or aesthetically by plan or physical development and designated in accordance with the requirements of this Ordinance as appropriate for historic preservation. Such historic districts may also comprise individual elements separated geographically, but linked by historical association.

Historic Integrity: The authenticity of a property's historic identity as evidenced by the survival of physical characteristics (location, design, setting, materials, workmanship and association) that existed during the property's prehistoric or historic period.

Historic Landmark: Any site feature or structure of particular historic or architectural significance to the Town relating to its heritage, cultural, social, economic or political history, or which is associated with historic personages or important events in local, state or national history which has been designated in accordance with this Ordinance.

Historic Overlay District: A geographically definable area possessing a significant concentration or linkage of sites, structures or objects united by past events or aesthetically by plan or physical development and designated in accordance with the requirements of this Ordinance as appropriate for historic preservation. Such historic districts may also comprise individual elements separated geographically, but linked by historical association.

Historic Site: A parcel of land of special significance in the history or prehistory of the Town and its inhabitants, or upon which an historic event has occurred, or an historic site by virtue of usage and which has been designated as such in accordance with this Ordinance. The term "historic site" shall also include any improved parcel or part of it on which is situated an historic landmark, and any abutting parcel or part of it used as and constituting part of the premises on which the historic landmark is situated as may be designated in accordance with this Ordinance.

Home Occupation:

Any occupation or profession which is accessory to a dwelling unit or residence, and:

1. Is customarily carried on wholly within a dwelling unit or wholly within a structure accessory to a dwelling unit; and
2. Is carried on exclusively by a member or members of the family residing in the dwelling unit, except, however, two additional employees, not residents of the dwelling unit nor members of the family, shall be permitted; and
3. Is clearly incidental and secondary to the use of the dwelling for residential purposes.

Home occupations shall include, without limitation, such uses as antique and/or gift shops, art studios, beauty shops, dressmaking, teaching, television repair, woodworking, studios, or the office of a broker, physician, dentist, attorney, surveyor, engineer, architect, accountant or insurance agent, but only if the specific type of use is otherwise allowed in the district in which it is located.

Hospital: An institution providing health services, primarily for in-patients, and medical or surgical care of the sick or injured, including as an integral part of the institution, such related facilities as laboratories, out-patient departments, training facilities, central service facilities and staff offices.

Hotel: An establishment that provides lodging and usually meals, entertainment and various personal services for the public.

Individual Historic Property: A property that is worthy of preservation because it possesses historic integrity and local, regional, state, or national significance. Important properties may include structures, sites, and objects significant in American history, archaeology, architecture, engineering, or culture, which have been designated as such in accordance with this Ordinance.

Industry/Industrial: Use of premises for assembling, fabricating, finishing, manufacturing, distilling, packaging, or processing. These include but are not limited to assembly plants, laboratories, power plants, pumping stations, repair shops and the extraction of minerals.

In-Law Apartment: The portion of a home, with or without separate entrance, plumbing and cooking facilities which serves the purpose of providing living space to relatives or caretakers of the people residing in the principal dwelling.

Inn: An establishment for lodging and entertaining of travelers.

Institutional: A building or use devoted to some public, governmental, educational, charitable medical or similar use.

Intermodal: The shipment of cargo involving more than one mode of transportation.

Junkyard: A yard, field or other outside area used to store, dismantle or otherwise handle:

A. Discarded, worn-out or junked plumbing, heating supplies, electronic or industrial equipment, household appliances or furniture.

B. Discarded, scrap and junked lumber; and

C. Old or scrap copper, brass, rope, rags, batteries, paper trash, rubber debris, waste and all scrap iron, steel and other scrap ferrous or nonferrous material.

Kennel, Commercial: Any place in or at which any number of dogs or cats are kept for the purpose of sale or in connection with boarding, care, training or breeding, for which a fee is charged.

Kennel, Non-Commercial: An accessory building to a residence designed or used for the accommodation of dogs or cats owned by the occupants of the residence.

Land Use Permit: A permit for proposed land use activity as defined in this Ordinance and issued by the Planning Board or Code Enforcement Officer in accordance with the provisions of this Ordinance.

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

Lot: A parcel of land undivided by any street or public road and occupied by, or designated to be developed for, one (1) building or principal use and the accessory buildings or uses incidental to such building, use or development, including such open spaces and yards as are designed, and arranged or required by this Ordinance for such building, use or development. **Lot Area:** The area contained within the boundary lines of a lot.

Lot, Corner: A lot abutting two or more streets at their intersection.

Lot Depth: The mean horizontal distance between the front and rear lot lines measured within the lot boundaries.

Lot Frontage: Lot width measured at the street lot line. When a lot has more than one street lot line, lot width shall be measured, and the minimum lot width required by the Ordinance shall be provided, on at least one street.

Lot Line: A line bounding a lot which divides one lot from another, or from a street or any other public or private space, as defined below:

Front Lot Line: In the case of a lot abutting only one street, the street line separating such lot from such street; in the case of a double frontage lot, each street line separating such lot from a street shall be considered to be the front lot line, except where the rear yard requirement is greater than the front yard requirement in which case one of two opposing yards shall be a rear yard. In the case of a lot with no road frontage, the front lot line shall be considered to be the lot line in front of the building.

Rear Lot Line: That lot line which is parallel to and most distant from the front lot line of the lot; in the case of an irregular, triangular, or gore-shaped lot, a line twenty (20) feet in length, entirely within the lot, parallel to and at the maximum possible distance from, the front lot line shall be considered to be the rear lot line. In the case of lots that have frontage on more than one road or street, the rear lot line shall be opposite the lot line along which the lot takes access to a street.

Side Lot Line: Any lot line other than a front or rear lot line. **Lot of Record:** Any validly recorded lot that at the time of its recordation complied with all applicable laws, ordinances, and regulations.

Lumberyard/Sawmill: A permanent facility having regular business hours, sawlog specifications and price list; sells lumber wholesale and/or retail at the site.

Manufactured Housing: A structural unit or units designed for occupancy, and constructed in a manufacturing facility and then transported by the use of its own chassis, or placed on an independent chassis, to a building site. For the purposes of this Ordinance, three (3) types of manufactured housing will be referred to:

1. NEWER MOBILE HOME: Those units constructed after June 15, 1976, which the manufacturer certifies are constructed in compliance with the United States Department of Housing and Urban Development standards and complies with the Manufactured Housing Construction and Safety Standards Act of 1974, et. seq., which in the traveling mode are 14 body feet or more in width and are 750 or more square feet and are constructed on a permanent chassis and designed to be used as a dwelling, with or without permanent foundation;

2. OLDER MOBILE HOMES: Those units constructed before June 15, 1976, and not in compliance with the Manufactured Housing Construction and Safety Standards Act of 1974, which are constructed on a permanent chassis and designed to be used as a dwelling, with or without a permanent foundation, but does not include those smaller units commonly called "travel trailers"; and

3. MODULAR HOMES: Those units which the manufacturer certifies are constructed in compliance with the State's manufactured Housing Act and regulations, meaning structures, transportable in one or more sections, which are not constructed on a permanent chassis and area designed to be used as dwellings on foundations when connected to required utilities, including the plumbing, heating, air conditioning or electrical systems contained herein.

Marina: A business establishment having frontage on navigable water within the Town and providing for hire off-shore mooring or docking facilities for boats and accessory services and facilities such as: boat sales, rental and storage, marine supplies and equipment, marina engine and hull repairs, construction and outfitting for pleasure craft, fuel and oil, electricity, fresh water, ice, shower and laundry facilities and on-premises restaurant.

Marine Railways: A parallel set of rails running from a marine related facility to the water for the purposes of launching, repairing, and retrieving boats and vessels onto land to which said set of rails is connected.

Medical Clinic: An office building used by members of the medical profession for the diagnosis and outpatient treatment of human ailments.

Medical Marijuana Dispensary: a state registered dispensary as described, authorized and regulated by the Maine Medical Use of marijuana Act, 22 M.R.S. § 2241 et seq. (2009).

Mineral Extraction: The removal of sand, gravel, bedrock or soil from its natural site of geologic deposition or formation; the screening, sorting, crushing or other processing of any part of the geologic material so removed; the storage of sand, gravel, crushed stone, or soil in stock piles or other forms.

Mobile Home Park: A parcel of land under unified ownership approved by the Town of Searsport for the placement of three (3) or more manufactured homes.

Motel: An establishment that provides lodging and parking and in which rooms are accessible from an outdoor parking area.

Motor Vehicle: Every vehicle that is self-propelled and designed for carrying persons or property or which is used for the transportation of persons and not operated exclusively on tracks.

Motor Vehicle, Unserviceable: Any motor vehicle which is wrecked, dismantled, cannot be operated legally on any public highway, or which is not being used for the purposes for which it was manufactured.

Municipal Facilities: Buildings or land that is owned by a Public entity and operated under its supervision for a public purpose.

National Register of Historic Places: A register assigned by The National Historic Preservation Act of 1966 as amended that recognizes buildings, sites, districts, structures, and objects significant in American history, archaeology, architecture, engineering, or culture, and identifies them as worthy of preservation.

National Register-Eligible Property: An historic property that is eligible for inclusion in the Register because it meets the National Register criteria, which are specified in the Department of the Interior regulations at 36 CFR 60.4.

National Register-Listed Property: An historic property that has been formally listed in the National Register of Historic Places and accepted by the Secretary of the Interior, who is represented for purposes of the decision by the Keeper of the National Register.

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 permitted in the district in which it is situated, but which is allowed to remain solely because it was in lawful existence at the time this Ordinance or subsequent amendments took effect.

Normal Maintenance and Repair: Any work necessary to maintain an improvement or structure in its original or previously improved state or condition. Normal maintenance and repair shall not include reconstruction, change in design, change in structure, change in use, change in location, change in size or capacity.

Nuisance: A person, structure or act that causes harm, annoyance or inconvenience; any violation of this Ordinance.

Nursing Home: A facility where maintenance and personal or nursing care are provided for persons who are unable to care for themselves.

Open Space: A use that does not disturb the existing state of the land except to restore this land to a natural condition.

Outdoor Recreation: Outdoor recreation activities that are operated by an entity other than a unit of government and which are available for use for a fee, including but not limited to standard golf courses, ice skating, tennis courts, cross-country ski trails, and alpine ski trails and the rental of non-motorized sports equipment, but excluding games and activities common to amusement parks. Private outdoor recreation facilities serving exclusively a residential use shall be considered accessory to the residential use.

Owner: The person or persons having the right of legal title to, beneficial interest in, or a contractual right to purchase a lot or parcel of land.

Parcel: The entire area of a tract of land subject to division or development; may include more than one Lot.

Parking Facility: An area used for the parking of motor vehicles where that use is a primary use or where a separate fee is charged for the privilege of parking. The term "facility" shall also include a commercial parking lot but shall not include a commercial parking garage.

Parking Lot: An open area other than a street used for the parking of more than two automobiles and available for public use whether free, for compensation, or an accommodation for clients or customers.

Parking Space: An enclosed or unenclosed area, sufficient in size to store one automobile together with a driveway connecting the parking space with a street, road or alley and permitting ingress and egress of that automobile without the necessity of moving any other automobile.

Party: The applicant(s), his or her authorized agent, all abutting property owners, and such other individuals or organizations as the Planning Board, at its discretion, finds to have a reasonable and identifiable interest in the proposed project.

Performance Standard: A criterion established to control the use of land and structures. The purpose of performance standards is to provide detailed regulations and restrictions by means of minimum criteria which must be met by users in order to protect neighbors from adverse impacts of adjoining land uses and to protect the general health, safety and welfare of citizens of Searsport.

Permitted Use: A use that may be lawfully established in a particular district, provided it conforms to all the requirements, standards and regulations of such district.

Person: Any person, firm, association, partnership, corporation, municipal or other local government entity, quasi-municipal entity, educational or charitable organization or institution or legal entity.

Principal Use: The specific primary purpose for which land is used.

Private Road: A thoroughfare or way designated for private use and maintained by a property owner or group of property owners.

Professional Office: An office of a professional such as an architect, accountant, dentist, doctor of medicine, lawyer, etc., but not including any manufacturing, commercial or industrial activity.

Public Road: A public thoroughfare, way, or easement permanently established for passage of persons or vehicles.

Radio Station: An establishment engaged primarily in the use of electromagnetic waves for the wireless transmission of electric impulses into which sound is converted for the purposes of entertainment, education, news or weather.

Recreation Facility: A place designed and equipped for the conduct of sports and/or leisure time activities including regulation size miniature golf courses and driving ranges, water slides, outdoor amusement centers, spectator sports facilities, race tracks or other similar facilities.

Restaurant: An establishment whose principal business is the sale of food and/or beverages to consumers in a ready-to-consume state

Retail: Connected with the sale of goods to the ultimate consumer for direct use and consumption and not for trade.

Road: A thoroughfare or way 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. Includes a Private or Public Road.

Sawmill: See Lumberyard/Sawmill

Setback: The minimum distance from any lot line to the nearest part of a structure.

Sign: A device, model, banner, pennant, insignia, flag, or other representation, which is used as, or is in the nature of an advertisement, announcement or direction.

Sporting Cabin(s): A series of cottages or structures that provide lodging for the public typically associated with a sporting or nature activity.

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

Subdivision – see “Subdivision Ordinance for the Town of Searsport, Maine.”

Tradesman’s Shop: The shop of a self-employed craftsman or person in a skilled trade.

Tower: A building or structure typically higher than its diameter and high relative to its surroundings that may stand apart or be attached to a larger structure and that may be fully walled in or of skeleton framework.

Use: The purpose or activity for which land or any building thereon is designed, arranged, or intended, or for which it is occupied or maintained.

Variance: A relaxation of the terms of this Ordinance where such a variance would not be contrary to the public interest and where, owing to conditions peculiar to the property and not the result of the actions of the applicant, a literal enforcement of this Ordinance would result in unnecessary or undue hardship. Refer to the Board of Appeals Ordinance for criteria.

Warehouse and Storage Facility: A commercial structure for the storage of personal items merchandise or commodities, including bulk storage and bulk sales outlet.

Windmill: a mill powered by the wind usually acting on oblique vanes or sails that radiate from a horizontal shaft.

Windmills, Commercial: Wind Energy Systems that produce energy for sale, not personal use or credit.

Wholesale Business Establishment: Any business, housed in a permanent structure, engaged in the sale of goods in large amounts to retailers or jobbers, rather than directly to consumers.

Yard: The area of land on a lot not occupied by buildings.

Front Yard: The open, unoccupied space on the same lot with the principal building between the front lot line and nearest part of any building on the lot, and extending the entire width of the lot.

Rear Yard: The open, unoccupied space on the same lot with the principal building between a rear lot line and the nearest part of any building on the lot, and extending the entire width of the lot.

Side Yard: The open, unoccupied space on the same lot with the principal building between a side lot line and the nearest part of any building on the lot, extending from the front yard to the rear yard.

TOWN OF SEARSPORT LAND USE ORDINANCE

Revised 3/8/08, 3/7/09, 3/5/10, 3/10/12, 3/7/2015

Amended at the Town Meeting on March 11, 2017

Amended at the Town Meeting on March 10, 2018

This is a true and attested copy by: _____
Deborah Plourde, Town Clerk

**Ordinance Prohibiting Retail Marijuana Establishments and Retail Marijuana Social Clubs
in the Municipality of Searsport**

Section 1. Authority.

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

Section 2. Definitions.

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

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

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

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

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

Section 4. Effective date; duration.

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

Section 5. Penalties.

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

EFFECTIVE DATE: March 11, 2017

This is a true and attested copy by:


Deborah Plourde, Town Clerk

Town of Searsport, Maine

An Ordinance for the Control and Regulation of Vehicle Parking and Traffic Control within the Town of Searsport, Maine

ARTICLE 1. GENERAL

1.1 Short Title

This Ordinance, prepared in accordance with the provisions of the Constitution of Maine, Article VIII, Part 2.; 5 MRSA ss 4593, 4594 and 4594A; 30-A MRSA ss 3001 and 3009, as amended, shall be known as and may be cited as the "Ordinance for the Control and Regulation of Vehicle Parking and Traffic Control within the Town of Searsport, Maine" and shall be referred to herein as the "Ordinance."

1.2 Purpose

The purpose of this Ordinance is to control and regulate the parking and traffic movement of vehicles within the Town of Searsport.

1.3 Definitions

For the purposes of this Ordinance, the following definitions shall be observed. All terms, not specifically defined herein, shall have their ordinary or customary meanings. Words used in the present tense shall include the future and the plural shall include the singular.

1.3.1 "Commercial Establishment" shall mean any commercial or industrial enterprise which operates more than two successive calendar days in any given year for the purpose of providing retail and/or wholesale service or trade with the public.

1.3.2 "Emergency Vehicles" shall mean police vehicle, firefighting equipment, ambulances and other emergency response vehicles on official duty.

1.3.3 "Municipal" shall mean those activities, areas or items under the control and jurisdiction of the Town of Searsport.

1.3.4 "Municipal Officers" shall mean the Selectmen of the Town of Searsport.

1.3.5 "Police Officers" shall mean officers of the Searsport Police Department, including Traffic Control Officers so assigned by the Chief of Police.

1.3.6 "Public Service Vehicles" shall mean those vehicles which are operated by the Town of Searsport Public Works Department, the Town of Searsport Wastewater Division, the Searsport Water District, the Verizon and successors, the Central Maine Power Company, Time Warner Cable and successors, and the Maine Department of Transportation.

1.3.7 "Recreation Vehicle" shall mean a motor-driven, wheeled vehicle designed and used for recreational purposes and licensed for use upon any public road, street or way.

1.3.8 "Town" shall mean the Town of Searsport, Maine.

1.3.9 "Traffic Control Device" shall mean any traffic signs, traffic lights, traffic cones or barricades, and emergency or public service road signs.

1.3.10 "Traffic Control" shall mean the direction and manner in which vehicle traffic shall travel or flow within the town.

1.3.11 "Traffic Parking Control Device" shall mean any parking signs, curb and/or street markings or painting.

1.3.12 "Trailer" shall mean any wheeled vehicle customarily attached to and transported by a vehicle, and licensed for use upon any public road, street or way.

1.3.13 "Vehicle" shall mean any motor-driven, wheeled vehicle, recreational vehicle or trailer licensed for use upon any public road, street or way.

ARTICLE 2. ADMINISTRATION, VEHICLE PARKING

2.1 General Rules

No person or obstruction(s), unless in compliance with the law, or at the direction of a police officer, or traffic control officer shall stop, stand or park a vehicle, except when necessary to avoid conflict with other traffic or other control device, in any of the following:

- a. On a sidewalk
- b. In front of a public or private drive or alleyway
- c. Within a road, street or way intersection
- d. Within 15 feet of a fire hydrant, unless otherwise directed by a traffic parking control device
- e. On a crosswalk
- f. Within 15 feet of the near corner of a curb or road edge of an intersecting road, street or way, unless otherwise directed by a traffic parking control device
- g. Within 15 feet upon the approach of any stop sign located at the side of any public road, street or way, unless otherwise directed by a traffic parking control device.
- h. Within 20 feet of any drive entrance/exit of any fire station, and on the side of any road, street or way opposite any entrance/exit of a fire station.
- i. Adjacent to or opposite any road, street or way excavation or obstruction, when stopping, standing or parking would obstruct traffic.
- j. On the roadway side of vehicle stopped, standing or parked at the curb or road edge of a road, street or way.
- k. At any place where official signs and/or yellow-painted curbing or roadway so prohibits

2.2 Specific Parking Restrictions

2.2.1 Municipal Parking Lots

Public parking in any municipal parking lot shall be regulated by Traffic Parking Control Devices, but in no event shall exceed 24 continuous hours. Vehicles parked more than 24 continuous hours may be cited and/or removed by a police officer. Cost of removal to be borne by the vehicle owner.

2.2.2 Town Wharf Parking Lot

Parking at the town wharf parking lot is limited to the general public who may wish to use the facilities offered at the town wharf, adjacent wharf park, boat launching ramp, and the waters of Penobscot Bay adjacent thereto.

2.2.3 Town Wharf

Except for emergency or public service vehicles, no vehicles shall be allowed upon the wharf except to load or unload goods, supplies or equipment. In no case shall vehicles be left parked or unattended upon the town wharf without written approval of a police officer.

2.2.4 Town Wharf Boat Launching Ramp

Except for emergency or public service vehicles, no vehicles shall be parked upon or at the approach to the town wharf boat launching ramp. Vehicles using this facility shall be immediately removed upon the launching or retrieval of boats.

2.2.5 Handicapped Parking

There shall be parking spaces designated for handicapped persons set aside in adequate numbers and clearly marked or signed for use in accordance with 26 MRSA §1411A. Vehicles must display appropriate handicapped vehicle license plates or official placards thereon or therein.

2.2.6 Parking Direction

Except for emergency or public service vehicles, or when other-wise directed by a police officer or traffic control parking device, and with the exception of municipal parking lots, including the town wharf parking lot, all vehicles shall only park on the driver's right hand side of the road, street or way, parallel with and facing in the same direction as the adjacent traffic flow.

2.2.7 Distance from Curb, Road Edge

Except for emergency or public service vehicles, no vehicle shall be parked more than twelve (12) inches from an adjacent road, street or way curb. In the absence of curbs, the vehicles shall be parked as far as it is practical, or safe, off the travel surface of a road, street or way.

2.2.8 Unlawful Parking

No person shall park a vehicle on any public road, street or way for any of the following purposes:

- a. Displaying vehicle or affixed items for sale
- b. Advertising
- c. Washing or cleaning of vehicle
- d. Servicing or repairing vehicle, other than repairs necessitated by an emergency

2.2.9 Snow Removal

Except for emergency or public service vehicles, no vehicle shall be parked upon any public road, street or way so as to interfere with or hinder the plowing of snow or removal of same. Such illegally parked vehicles may be cited and removed by order of a police officer, the cost of removal to be borne by the registered owner of said vehicle.

2.2.10 Unregistered/Unlicensed Vehicle

Any unregistered or unlicensed vehicle found parked upon any public road, street or way, municipal parking lot or the town wharf parking lot, may be impounded and removed at the direction of a police officer.

2.2.11 Congested Parking

Except for emergency and public service vehicles, on-street parking shall be limited to one side of a road, street or way, that side being immediately adjacent to the area(s) wherein such commercial establishments are located, unless otherwise directed by traffic control or parking control devices, or at the direction of a police officer.

EXCEPTION: Because of reduced traffic speed, conspicuous vehicle parking and pedestrian crosswalk controls, the commercial area on U.S. Route 1 (Main Street) from Goodell Street easterly to Reservoir Street, shall be exempted from the foregoing one-side-only parking restrictions.

Hereafter, any newly constructed commercial establishment shall provide suitable off-road, -street, or -way parking to accommodate patron parking.

2.2.12 Parking Adjacent to Corsswalks and Intersections

All parking spaces immediately adjacent to a crosswalk or an intersection shall be limited to passenger motor vehicles only. No commercially licensed trucks shall be allowed to park in these designated spaces.

2.3 Parking Control Devices

2.3.1 Yellow-Painted Curbs

Except for emergency or public service vehicles, parking along or adjacent to yellow-painted curbs or roadsides is prohibited. Specifically, the following shall be so designated:

- a. On the south side of East Main Street (U.S. Route 1) from 1 East Main Street (~~Jordan's Restaurant~~), easterly to and including, the east corner of its intersection with Mosman Street.
- b. On the south side of East Main Street (U.S. Route 1) at its intersection with Leach Street.
- c. On the south side of East Main Street (U.S. Route 1) at its intersection with Elm Street
- d. On the north side of East Main Street (U.S. Route 1) from Pike Avenue to Mt. Ephraim Road, except for one designated parking spaces immediately adjacent to the curb in front of 24 and 26 East Main St.
- e. On the north side of East Main Street (U.S. Rt. 1) at its intersection with Mt. Ephraim Rd.

- f. On the north side of East Main Street (U.S. Route 1) at its intersection with Knox Brothers Ave.
- g. On the north side of East Main Street (U.S. Route 1) at its intersection with Church Street
- h. On the north side of East Main Street (U.S. Route 1) at its intersection with Reservoir Street.
- i. On both sides of Mortland Road from its intersection with East Main Street (U.S. Route 1) to the upper or northern-most boundary of the entrance/exit roads to the SAD 56 school complex.

2.3.2 Timed Parking Zones

Timed parking zones shall be those areas where, except for emergency and public services vehicles, vehicle parking shall be regulated, either hourly or daily. Specifically:

- a. The town wharf parking lot shall be closed to public use from 12:00 midnight until 4:00 a.m. local time daily. Vehicles parked more than 24 continuous hours, without prior police approval, shall *may* be cited and/or removed. Cost of removal to be borne by the vehicle owner.
- b. Public parking on East Main Street (U.S. Route 1) from Mosman Street to Reservoir Street on the south side, shall be limited to one (2) hours between the hours of 6a.m. to 6 p.m. On the north side of (U.S. Route 1) between Goodell Street and the Penobscot Marine Museum it shall be 1 hour between the hours of 6:a.m. and 6 p.m..
- c. Public parking on the remainder of East and West Main Street (U.S. Route 1) and all other public roads, streets and ways shall be limited to two continuous hours.

2.3.3 Designated Controlled Parking Areas

Designated “NO PARKING” Areas

South side of Route 1 from Water St. to Norris St.
 North side of Route 1 from Old Route One to Mortland Rd.
 North side of Route 1 between Goodell St. and Pike Ave.
 South side of Route 1 between Water St. and Mosman St.
 North side of Route 1 between Church St. and Knox Bros. Ave.
 North side of Route 1 in front of what is currently known as Primrose Antiques, East Main St., Map 7, Lot 106 and the two easterly adjacent lots shown on Map 7, Lot 107 and 107A
 South side of Route One in front of Gregs Auto, Map 9, Lot 19
 South side of Route 1 across from the intersection of Prospect St. to Norris St.
 Both sides of Leach St.
 Both sides of Knox Bros. Ave.
 West side of Church St. from the Church to the intersection with Reservoir St.
 West side of Reservoir St. to approx. 40 feet back from Route 1
 East side of Mortland Rd. from Route 1 to the North end of the sidewalk curb
 In front of the North Searsport Fire Station and the Public Safety Building
 South side of Route 1 between Trundy Rd. and easterly to a point midway between telephone Poles #16 and #15
 Reservoir Street extension, at the south end of the existing school building.
 Cottage Street
 Water Street from Howard Street to Beach Stairs

Designated “NO PARKING ON SIDEWALK” Areas

East side of Church St. from the intersection of Reservoir St. to the driveway of the Penobscot Marine Museum office (Map 16, Lot 15-5)

Designated “NO PARKING 9:00 A.M. TO 5:00 P.M.” Area

South side of Route 1 from Elm St. to the convenience store/gas station located at Map 12, Lot 7

Designated “HANDICAP PARKING ONLY” Area

West side of Church St. adjacent to the ramp in front of the First Congregational Church (Map 16, Lot 9)

Other

No unauthorized vehicle parking at the North Searsport Fire Station or the Public Safety Building.

2.4 Public Safety

2.4.1 Roads, Streets, Ways and Parking Lots

In those instances when a storm or other natural or man-made disaster occurs, or threatens, and therefore public activities in, around, and upon any road, street, way or municipal parking lots may result in personal injury, loss of life or damage to property, police officers shall have full authority to restrict or prohibit vehicle movement, access or parking upon any road, street, way or municipal parking lot until the storm subsides, or the disaster is abated and the police officers deem the road, streets, ways or municipal parking lots safe for public use. Exceptions to this section may include emergency or public services personnel and vehicles responding to emergencies.

2.4.2 Town Wharf Parking Lot

In those instances when a storm or other natural or man-made disaster occurs, or threatens, and therefore public activities in, around and upon the town wharf parking lot may result in personal injuries, loss of life or damage to property, police officers shall have full authority to secure the town wharf parking lot from public access and may prohibit any public use or trespass around or upon the town wharf parking lot until the storm subsides or the disaster, or threat of same, has abated and the police officers deem the town wharf parking lot safe for public use. Exceptions to this section may include emergency and public service personnel and vehicles responding to an emergency.

ARTICLE 3. ADMINISTRATION, TRAFFIC CONTROL

3.1 General Rules

Except for such restrictions or prohibitions as may be included within this Article, or such restrictions or prohibitions as may be separately enacted by the State of Maine, the public shall have free and unencumbered vehicular use of any public road, street or way within the town.

3.1.1 One-way Traffic Control

Leach Street shall be limited to "one-way" traffic in a generally southerly direction only from its intersection with East Main Street (U.S. Route 1) to its intersection with Park Street, where it shall become "two-way" traffic thereafter to its terminus at Howard Street.

3.1.2 Traffic Control Signs

"Stop" and "Yield" signs are regulatory and shall be placed at road, street and way intersections for the purpose of controlling traffic flow and preventing traffic accidents.

All drivers shall cause their vehicles to be fully stopped at all "Stop" signs before entering upon or crossing an intersecting road, street or way. When encountering a "Yield" sign, all drivers shall yield the right of travel to any crossing or merging traffic.

Stop and Yield signs shall be installed at the following locations within the town:

URBAN AREA

Signed Street

- a. Jackson Avenue
- b. Cross Street
- c. Cross Street
- d. Steamboat Avenue
- e. Water Street
- f. Mosman Street
- g. Mosman Street
- h. Howard Street
- i. Park Street
- j. Park Street

Intersection

Norris Street
Norris Street
Steamboat Avenue
West Main Street
East Main Street
East Main Street
Howard Street
Water Street
Leach Street
Elm Street

- k. Elm Street
- l. Pike Street
- m. Otis Street
- n. Goodell Street
- o. Mt. Ephraim Road
- p. Mt. Ephraim Road
- q. Knox Bros. Avenue
- r. Reservoir Street
- s. Reservoir Street
- t. Union Street
- u. Union Street
- v. Union Street
- w. Mortland Road
- x. Warren Street
- y. Nichols Street
- z. Black Road (South)
- aa. Summer Street
- ab. Navy Street
- ac. Navy Street
- ad. Osprey Lane
- ae. All MSAD #56 School Parking Lot Exits

- East Main Street
- East Main Street
- Goodell Street
- East Main Street
- East Main Street
- Otis Street
- East Main Street
- East Main Street
- Church Street
- Reservoir Street
- Mortland Road
- Black Road (South)
- East Main Street
- East Main Street
- East Main Street
- East Main Street
- East Main Street
- East Main Street
- Trundy Road
- Prospect Street
- Mortland Road (4)

SUBURBAN/RURAL AREAS

Signed Street

- a. Banks Terrace
- b. Cobb Road
- c. Savage Road
- d. Prospect Street
- e. Bayview Street
- f. Resh Road
- g. Dump Road
- h. Trundy Road
- i. Station Avenue
- j. Old Route One
- k. Porter Street
- l. Sears Island Road
- m. Kidder Point Road
- n. Turnpike Road
- o. Pendleton Road
- p. Brock Road
- q. Old County Road
- r. Old County Road
- s. Mortland Road
- t. Partridge Road
- u. Bowen Road
- v. Savery Road
- w. Seekins Road
- x. Seekins Road
- y. Merithew Road
- z. Bog Hill Road
- aa. Nickels Road
- ab. Nickerson Road
- ac. Black Road (North)

Intersection

- West Main Street
- West Main Street
- West Main Street
- West Main Street
- Prospect Street
- Back Searsport Road
- Back Searsport Road
- East Main Street
- East Main Street
- East Main Street (2)
- Old Route One
- East Main Street
- East Main Street
- East Main Street
- East Main Street
- Back Searsport Road
- Brock Road
- Mt. Ephraim Rd.
- Old County Road
- Mt. Ephraim Rd.
- Mt. Ephraim Rd.
- Mt. Ephraim Rd.
- Mt. Ephraim Rd.
- Savery Road
- Bog Hill Road
- Mt. Ephraim Rd.
- Mt. Ephraim Rd.
- Mt. Ephraim Rd.
- Mt. Ephraim Rd.
- Nickels Road

ad. Loop Road
 ae. Dickey Hill Road
 af. Dwelley Road
 ag. Mt. Ephraim Road
 ah. Monroe Road
 ai. Cains Pond Road
 aj. Brigadiers Lane

Mt. Ephraim Rd.
 Black Road (North)
 Loop Road
 North Searsport Road
 North Searsport Road
 Bowen Road
 West Main Street

“Do Not Enter” signs are regulatory and prohibit wrong-way vehicle traffic upon “one-way” roads, street and ways, and shall be installed as follows:

<u>Street</u>	<u>Intersection</u>
a. Leach St.	Park St.

“One-way” traffic signs are regulatory and indicate the direction in which vehicle must travel upon roads, streets and ways, and shall be installed as follows:

<u>Street</u>	<u>Intersection</u>
a. Leach St.	East Main St.
b. Leach St.	Park St.

“Two-way Ahead” traffic signs are regulatory and indicate that two-way vehicle traffic is permitted immediately beyond the posted sign(s), and shall be installed as follows:

<u>Street</u>	<u>Intersection</u>
a. Leach Street	Park Street

“No Thru Traffic” signs are regulatory and prohibit uninterrupted passage of a vehicle from a point immediately beyond the sign to a designated terminus of the restriction, and shall be installed as follows:

<u>Street</u>	<u>Intersection</u>
a. Pike St.	Otis St.
b. Otis St.	Mt. Ephraim Rd.

3.1.3 Closures/Vehicle Weight Limitations

In accordance with the provisions of 29-A MRSA ss 2395, as amended, the municipal officers may temporarily close to public use, and/ or limit vehicle weight upon, any road, street or way so as to insure the proper use and prevent abuse during such seasons as said roads, streets or ways may require special attention. The municipal officers may delegate responsibility for the designation, weight limits and pertinent signing or posting of said roads, streets or ways, to an appropriate municipal employee.

ARTICLE 4. ADMINISTRATION, VIOLATION AND PENALTIES

4.1 Penalties and Fees

Violations of the provisions of this Ordinance shall be addressed through the issuance of a police traffic citation, or ticket, indicating thereon the specific traffic or parking violation.

Violations of section 3.1.3 of this Ordinance shall be addressed in accordance with the provisions of 29-A MRSA ss 2388, as amended.

In the instance of a parking violation, the citation shall state thereon that payment of waiver fee to the town within seven (7) days following the date of issuance of the citation, will avoid the need for a subsequent court appearance.

The waiver fees shall be as follows:

- a. Any vehicle cited for parking violations in excess of two (2) times may be towed at the owner's expense and released upon full payment of prior violation(s).
- b. For illegal parking in prohibited areas, unauthorized overnight parking, and parking within 15 feet of a fire hydrant (see 2.I.d. for exceptions), the waiver fee shall be \$20.00 U.S. for each cited offense.
- c. For violation of all other parking provisions of this Ordinance, the waiver fee shall be \$10.00 U.S. for each cited offense.

Failure to pay the waiver fee(s) for parking violations cited above, or for any other parking or traffic violations cited within this Ordinance, save 3.1.3, shall result in a citation for the vehicle owner of record to appear in District Court wherein the cited violation(s) shall be adjudged in accordance with the provisions of 29-A MRSA ss 2602; 30-A MRSA ss 3009D(3) as amended.

ARTICLE 5. PROHIBITION AGAINST USING ENGINE COMPRESSION BRAKE. DYNAMIC BRAKE. ENGINE RETARDER, WITHIN THE LIMITS OF THE TOWN OF SEARSPORT

5.1 Purpose

The purpose of this ordinance is to prohibit excess noise created when vehicles traveling within the limits of the Town of Searsport use dynamic brakes, engine compression brake, or engine retarders to slow a vehicle down to protect the general health and welfare of residents of the Town.

5.2 Prohibition

No person, except in an emergency situation, shall operate or use a dynamic brakes, engine compression brake, or engine retarders on any vehicle within any 35mile per hour zone or less in the Town of Searsport.

5.3 Penalty

Any person violating the Ordinance shall be subject to the following penalties:

- (a) A penalty of One Hundred Dollars (\$100) for the first violation;
- (b) a penalty of Two Hundred Dollars (\$200) for the second violation;
- (c) a penalty of Five Hundred Dollars (\$500) for the third and subsequent violations of this ordinance.

5.4 Waiver

Any person accused of a violation of any portion of this section may voluntarily waive his or her right to appeal and defend before any court the charges against him or her, for such violaion, by paying to the Town of Searsport a waiver fee as follows:

Payment within thirty (30) calendar days from the date that the violation was committed: Seventy-five Dollars (\$75) for the first offense;

Payment within thirty (30) calendar days from the date that the violation was committed: Two hundred - twentyfive Dollars (\$225) for the second offense;

Payment within thirty (30) calendar days from the date of the third or subsequent violation was committed: Four hundred - seventyfive Dollars (\$475);

No waiver fee will be allowed after thirty(30) days from the date such alledged violation or violations was or were committed and the operator or operators of the vehicle or vehicles involved in the alleged offense or offenses will be summonsed to District Court.

5.5 Attorney Fees and Costs

If a person found to have violated this ordinance, except in the event of a waiver as described in section 5.4, the Town of Searsport shall be entitled to recover from said person its reasonable attorney fees and costs to prosecute any violation hereof.

5.6 Prosecutioun

All violations of this ordinance can be prosecuted by any police officer.

5.7 Exception

This ordinance shall not apply to the operation of any vehicle owned by a governmental or quasi-governmental entity.

ARTICLE 5. CONSTRUCTION

5.1 Severability

Severability is intended throughout and within the provisions of this Ordinance. Should any provision, including interalia, any exceptions, part(s), phrase(s) or term(s) or the application thereof, to any person, or circumstances, be held invalid, the application of the other provisions of this Ordinance shall not be affected thereby and the validity of this Ordinance in any and all other respects shall not be adversely affected.

5.2 Supersession

This Ordinance supersedes and replaces any and all like or comparable ordinances, policies, or decisions previously enacted by the municipal officers, and shall remain in effect until or unless revoked or superseded by action of the municipal officers.

5.3 Amendments

If circumstances dictate, the municipal officers may amend, revise or delete portions or sections of this Ordinance, following public notice and hearing.

ARTICLE 6. ADOPTION

Following public notice and hearing, this Ordinance was adopted by the municipal officers on November 7, 1989.

Following public notice and hearing, this Ordinance was amended by the municipal officers on the following dates:

February 4, 1992

June 4, 1996

June 15, 1999

July 24, 2001

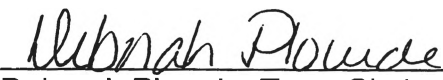
April 15, 2003

September 17, 2003

August 7, 2007

May 25, 2010

Attest:


Deborah Plourde, Town Clerk

Town of Searsport

An Ordinance for the Establishment, Organization, and Administration of the Planning Board for the Town of Searsport.

ARTICLE 1. General

1.1 Short Title

This Ordinance shall be known as, and may be cited as the "Planning Board Ordinance for the Town of Searsport" and shall be referred to herein as the "Ordinance".

1.2 Authority

Establishment; Reestablishment. Pursuant to Art. VIII, Pt. 2, Sec. 1 of the Maine Constitution and 30-A M.R.S.A. § 3001, the Town of Searsport hereby establishes a planning board. The board which has been acting as a planning board is hereby reestablished as the legal planning board. The members currently serving may continue to do so until the end of the term for which they were appointed without the need to be reappointed or to take a new oath of office. The actions which that board took prior to the adoption of this ordinance are hereby declared to be the acts of the legally constituted planning board of the Town of Searsport.

1.3 Purpose

The purpose of this ordinance is to establish, organize and administer the Planning Board for the Town of Searsport.

1.4 Definitions

1.4.1 The "Planning Board" shall mean that body so constituted by the voters of Searsport and appointed by the Searsport Board of Selectmen and referred to herein as the "board".

1.4.2 "Member" shall mean a person, duly appointed by the Board of Selectmen, who shall have full voting rights on matters before the board.

1.4.3 "Associate Member" shall mean a person, duly appointed by the Board of Selectmen, who shall be without voting rights on matters before the board, except as provided by Article 4, subsection 4.3 and 4.4 of this ordinance.

ARTICLE 2. Appointments

2.1 Procedure

2.1.1 The Searsport Board of Selectmen shall make appointments to the board.

2.2 Board Composition

2.2.1 The board shall consist of five (5) members and two (2) associate members.

2.3 Terms of Appointments

2.3.1 The term of each board member shall be five (5) years, with-eligibility for reappointment. The term of each associate member shall also be five (5) years, with the eligibility for reappointment.

2.4 Vacancies

2.4.1 When there is a permanent vacancy on the board, the Board of Selectmen shall, within 60 days of the vacancy, appoint a person to serve the unexpired term.

ARTICLE 3. Removal

3.1 General Provisions

3.1.1 Any member or associate member of the board may be removed from the board, after notice and public hearing, by the Board of Selectmen.

3.2 Causes for Removal

3.2.1 Causes for removal of a member, or associate member of the board must be specific and may include any of the following reasons:

1. Consistent and unjustifiable failure or refusal to attend board meetings.
2. Using or attempting to use board membership or associate membership for personal gain.
3. Any action or activity which may bring discredit upon the board, the Board of Selectmen and/or the Town of Searsport.

ARTICLE 4. Organization and Rules

4.1 Chairman, Vice Chairman

4.1.1 The board shall elect a chairman and vice chairman from its membership and such other offices as it may determine. The term of all such offices shall be one year with the eligibility for reappointment.

4.2 Secretary

4.2.1 The board shall appoint a secretary either from its membership or from the general public. The term of the secretary shall be one (1) year with eligibility for reappointment. The secretary shall be paid an hourly stipend for attendance at board meetings.

4.3 Associate Member Seating

4.3.1 When a board member is unable to act upon an issue because of conflict of interest, physical incapacity, absence, or other reason acceptable to the chairman, the chairman shall designate an associate member to sit in the excused member's stead.

4.4 Associate Member Attendance/Voting

4.4.1 An associate member shall attend all meetings of the board and may participate in the board's proceedings, but may vote only when he or she has been designated by the chairman to sit for an excused member.

4.5 Disqualification

4.5.1 Any question as to whether a member or associate member shall be disqualified from voting on a particular issue shall be decided by a majority vote of the remaining voting membership.

4.6 Meetings

4.6.1 While it may be desirable for the board to meet monthly, as a matter of practicality the chairman should be flexible in calling regular and special meetings as need dictates.

4.7 Quorum

4.7.1 No meeting of the board may be held with a quorum consisting of less than four (4) members, or associate members designated to sit and vote.

4.8 Majority Vote

4.8.1 No vote of the board shall be valid unless at least three authorized voting members shall agree.

4.9 Board Transactions

4.9.1 The board shall adopt rules for the transacting of business and the secretary shall keep a written record of the board's resolutions, transactions, correspondence, findings and determinations. All records shall be deemed public and may be inspected at the town office during reasonable hours. To ensure security of such records, the secretary shall photocopy and attest the same, any such transactions, correspondences findings and determinations and maintain these copies in files independent of the board's normal files.

ARTICLE 5. Duties; Powers

5.1 General

5.1.1 The board, at the request of the Board of Selectmen, or at its own volition, shall propose, draft and review pertinent ordinances and regulations in behalf of the Town of Searsport.

5.1.2 The board shall perform such duties and exercise such powers as shall be provided by pertinent Town of Searsport ordinances and the laws of the State of Maine.

ARTICLE 6. Construction

6.1 Severability

6.1.1 Severability is intended throughout and within the provisions of this ordinance. Should any provision, including interalia any exceptions, part, phrase or term, or the application thereof to any person or circumstances be held invalid, the application of other provisions of the Ordinance shall not be affected thereby and the validity of this ordinance in any and all other respects shall not be adversely affected.

6.2 Supersession

6.2.1 This ordinance supersedes and replaces any and all like or comparable ordinances, policies, or decisions previously enacted and in force within the Town of Searsport, and shall remain in effect until or unless revoked or superseded by action of the voters of Searsport.

6.3 Amendments, Revisions

6.3.1 From time to time, circumstances may require that portions or sections of this ordinance be amended, revised or deleted. Such action shall be proposed to the voters at a town meeting by the Board of Selectmen. Approval of any amendments, revisions, or deletions rests exclusively with the voters of Searsport.

ARTICLE 7. Adoption

This Ordinance was submitted to the voters of Searsport and adopted at a Special Town Meeting held on the 19th day of June, 1984.

Amended Town Meeting March 5, 2016

This is a true and attested copy by:


Deborah Plourde, Town Clerk

Public Highway Excavation Ordinance

Q. Now, you're going to
ask me to read this, is that
right?

SECTION I. GENERAL

1.1 Short Title

This Ordinance prepared in accordance with the provisions of Title 30, MRSA subsection 1917; 2151 and Title 23, MRSA subsection 3381, as amended, shall be known as and may be cited as the *Ordinance for the Control and Regulation of Public Highway Excavations within the Town of Searsport*, and shall be referred to herein as the "Ordinance."

1.2 Purpose

The purpose of this Ordinance is to control and regulate any and all excavations upon or in any public highway within the municipality.

1.3 Exceptions

Nothing in this Ordinance shall apply to the municipality's public works department nor any state or state aid highway construction and/or maintenance.

1.4 Definitions

For the purpose of this Ordinance, the following definitions shall be observed in the construction of this Ordinance.

1.4.1. "Applicant" shall mean a person as defined in 1.4.11 who makes application for a highway excavation permit, or any representative of said person(s)

1.4.2. "Application" shall mean the form or document supplied by the municipality, upon which an applicant shall supply pertinent information and details deemed necessary to apply for an excavation permit.

1.4.3. "Business Day" shall mean any day of any given week, except Saturday, Sunday or any holiday observed by the municipality.

1.4.4. "Emergency Excavation" shall mean an immediate excavation necessary to prevent personal injury, death or the loss or disruption of a private or public utility or service. The burden of proof of such emergency rests with the applicant.

1.4.5. "Excavation" shall mean any operation in which earth, rock, paving or like material, on, around or below the surface of the ground is moved, displaced, dug, trenched, tunneled or in any similar manner disturbed, except the agricultural tilling of soil or gardening.

1.4.6. "Highway" shall mean any town way or public easement including any sidewalks located within the boundaries of the way or easement.

1.4.7. "Municipality" shall mean the Town of Searsport.

1.4.8. "Permit" shall mean the form or document supplied by the municipality, upon which a majority of the municipal officers may approve an application for highway excavation.

1.4.9. "Permittee" shall mean that person who has obtained a permit for the excavation of a highway and shall include any employee(s) or representative(s) of the permittee.

1.4.10. "Person" shall mean an individual, partnership, private or public organization, utility, joint venture or corporation and includes any employee of said person.

1.4.11. "Road Commissioner" shall mean that individual so designated and appointed by the municipal officers. The road commissioner may appoint the public works foreman, or other to act in his/her stead.

1.4.12. "Underground facility" means any item of personal property buried or placed below ground for use in connection with the storage or conveyance of water, sewage, electronic, telephonic or telegraphic communications, electric energy, oil, gas or other substances and including, but not limited to, pipes, sewers, conduits, cables, valves, lines, wires, manholes, attachments, appurtenances and those parts of poles below ground. This definition shall not include highway drainage culverts.

SECTION II. ADMINISTRATION

2.1 Application/Permit Procedure

2.1.1. In accordance with the authority granted in Title 23, subsection 3381, the municipality requires that any person wishing to cause an excavation of any highway of the municipality shall, on any business day, first obtain, complete and file an application for such purpose with the road commissioner or his/her appointed representative.

EXCEPTION: Excavation applications and permits for the following highways only must be obtained from the Maine Department of Transportation, 143 Rankin Road, Rockland, Maine, specifically:

1. U.S. Route 1 (East—West Main Street)
2. Mt. Ephraim Road (SA 667)
3. Nickels Road (SA 650)
4. Frankfort Road (SA660)
5. North Searsport Road (SA 669)

2.1.2. The excavation application shall include the following:

- 1. Name of applicant(s)**
- 2. Date of application**
- 3. Address of Applicant**
- 4. Location of planned excavation (road name and number)**
- 5. Purpose and description of the excavation**
- 6. Who will do the excavation and any associated work**
- 7. Date excavation to start**
- 8. Date project to be completed**
- 9. A graphic description of the proposed project**
- 10. Utilities notified, if required**
- 11. Location of any nearby churches, businesses, utility poles, cemeteries**
- 12. Indicate type of highway surface and estimated area to be excavated**
- 13. Name and address of insurance carrier providing liability insurance.**

2.1.3. Following review of the application, the road commissioner may issue an excavation permit.

2.1. 4. The municipality shall maintain a record of all excavation applications and permits. Incidental fees paid to the municipality shall be separately accounted and shall constitute a special fund from which the cost of resurfacing and/or repaving shall be appropriated. A permit fee schedule shall be set and updated by the Board of Selectmen.

SECTION III. CONDITIONS OF THIS ORDINANCE

3.1 The permit may be subject to any one or all of the following conditions.

3.1.1. Except for emergency excavations, as defined in 1.4.4, no excavation permits will be issued from November 1 of any given year to March 15 of the following year.

3.1.2. Excavations within any highway, which has been paved within the immediately preceding five (5) years, may require additional road opening charges. The road commissioner or his/her appointed representative may, upon review of the proposed excavation, adjust the road opening charges accordingly and within reason. Any excess fee collected shall be addressed in accordance with Article IV, Section 4.1.2.

3.1.3. Pavement cutting for excavations shall be in straight lines, parallel to the excavation trench and cut back eight inches (8") on each side beyond the limits of the excavation trench opening.

3.1.4. Responsibility for public safety surrounding the excavation site rests exclusively with the permittee. Should the road commissioner or his/her appointed representative(s) feel that

inadequate safety measures are being used; he/she or they may direct corrective action. In no instance shall the failure of the road commissioner or his/her appointed representative(s) to act create any liability for the municipality nor shall it in any manner exonerate the permittee from any liability incurred.

3.1.5. The permittee shall be responsible for any requirements for contacting DIGSAFE and for meeting all Occupational Safety and Health Administration (OSHA) safety requirements relating to earth excavation, shoring or any other specific requirements incidental thereto.

3.1.6. The permittee shall not be permitted to leave open, at any time, any excavation trench of a greater length than two hundred feet (200') without prior approval from the road commissioner or his appointed representative. The permittee shall cause the excavation to be fully and completely filled to the surface of the surrounding highway before making any further excavation.

3.1.7. Excavated material may be used for backfill so long as the material contains no rocks or pavement pieces larger than six inches (6") in diameter. Unsuitable excavated material shall be totally removed from the excavated site. The final eighteen inches (18") of backfill shall be bank run or screened gravel having a maximum particle diameter of four inches (4"); fine sand, loam or clay is not acceptable. The backfill shall be placed in nine-inch (9") lifts and compacted with power tampers supplying a minimum energy of two hundred fifty foot pounds (250 ft./lb.) per square foot. Backhoe or truck compaction is unacceptable.

3.1.8. Prior to commencement of an excavation project, the permittee shall obtain, and retain for the duration of the excavation project, liability insurance in an amount not less than \$300,000. The permittee's certificate of insurance shall name the municipality as co-insured certificate holder of the policy and a copy must be submitted to the municipality.

SECTION IV. REPAVING

4.1. The paving of the highways, subject to this Ordinance, rests exclusively with the municipality.

4.1.1. When an excavation made in any highway subject to this Ordinance has been backfilled, in accordance with 3.1.6 of this Ordinance, and upon the direction of the road commissioner or his/her appointed representative(s), the municipality shall cause the excavation trench be patched with premixed bituminous material on those highways that had been previously paved. In those instances where the highway surface is gravel, the municipality shall grade and maintain a level travel surface.

4.1.2. The cost of repaving or final surface grading of any highway excavations permitted under this Ordinance shall be charged to the special fund account cited in 2.1.6 of this Ordinance. Any excess remaining in said fund after the municipality has repaved or regraded or done other work necessary to restore the highway to its pre-excavation condition shall be returned to the

permittee, with any interest earned, within two months of the date upon which the restoration is completed.

SECTION V. PENALTIES AND ENFORCEMENT

5.1. Violations of this Ordinance may result in the enforcement of any one or all of the following penalties and provisions.

5.1.1. Any person who shall cause an excavation in any highway subject to this Ordinance without first obtaining a permit may be punished by a fine of One Hundred Dollars (\$100) for each offense; each day of such violation shall constitute a separate offense.

5.1.2. Any person who shall cause an excavation of any highway subject to this Ordinance in a manner in violation of Section III Conditions of this Ordinance, may be punished by a fine of Two Hundred Dollars (\$200) for each offense; each day of such violation shall constitute a separate offense.

5.1.3. If the backfilling or repair of any excavation(s) permitted in accordance with 2.1.3 of this Ordinance is improperly executed as prescribed in 3.1.7 of this Ordinance and the permittee refuses or fails to address the violation, the municipality shall cause the same to be corrected and shall keep separate account of the expense thereof. The person who had caused the excavation shall be assessed a penalty equal to one hundred and fifty percent (150%) of the cost incurred by the municipality in this instance. Thereafter, the municipality may refuse to issue any further or new highway excavation permits to such person or persons until such person has paid the penalty assessed under this paragraph.

5.1.4. The ordinance shall be enforced by the Road Commissioner or his designated agent. Once the Road Commissioner has determined that a violation of any provision of this ordinance has occurred, the Road Commissioner may take one or more of the following actions which shall not be considered mutually exclusive:

- a. Refer the matter to the Town Manager or legal action.
- b. Issue a stop work and corrective action order.
- c. Take corrective action necessary to remedy any defect or danger created by the unauthorized or improperly executed excavation when, after notice and demand, the person responsible for the defect or danger fails to correct it immediately.

5.1.5. Should it become necessary for the municipality to enforce the provisions of this Ordinance in a court of law, and, if the municipality prevails in the enforcement action, the municipality shall be entitled to all costs and expenses incurred in the enforcement action, including, but not limited to, reasonable attorney's fees.

SECTION VI. CONSTRUCTION

6.1 Severability

6.1.1. Severability is intended throughout and within the provisions of this Ordinance. Should any provision, including interalia, any exceptions, parts, phrases or terms or the application thereof, to any person or circumstances be held invalid, the application of other provisions of this Ordinance shall not be affected thereby and the validity of this Ordinance in any and all other respects shall not be adversely affected.

6.2. Supersession

6.2.1. This Ordinance supersedes and replaces any and all like or comparable ordinances, policies or decisions previously enacted and in force within the town, and shall remain in effect until, or unless, revoked or superseded by action of the voters of the town.

6.3 Amendments

6.3.1. From time to time, circumstances may require that portions or sections of this Ordinance be amended, revised or deleted. The Selectmen shall propose such actions at town meeting to the voters of Searsport. Approval of any amendments, revisions, or deletions rests exclusively with the voters of the Town.

SECTION VII. EFFECTIVE DATE

This Ordinance was adopted at Town Meeting on March __, 2015.

Town of Searsport Recycling Ordinance

Section I Authority

A. This ordinance is adopted pursuant to Home Rule Powers as granted in the Maine Constitution in Title 30-A M.R.S.A. Section 3001 et seq.; 3351 et seq. and in Title 38 M.R.S.A. Section 1305 et seq.

Section II Title and Purpose

A. This ordinance shall be known as the Recycling Ordinance for the Town of Searsport. The ordinance has several purposes: To preserve and protect environmental resources, to reduce the cost of solid waste disposal, to generate a modest amount of revenue and to enhance the quality and character of life for the people of Searsport.

Section III Applicability

A. This ordinance shall apply to all users of the Searsport Transfer Station including residents, commercial/industrial establishments and commercial haulers.

Section IV Administration

A. The Board of Selectmen or its legal appointees shall have the authority to administer and to enforce this ordinance. The Board may, when necessary, adopt rules and regulations governing waste inspection, hours of operation, fees and the day to day operation of the transfer station/recycling facility. The Board shall have the authority to negotiate and contract with any person or corporation for the purchase or disposal of the recyclable materials.

Section V Separation of Recyclable Material

A. Each person using the Town of Searsport Transfer Station/Recycling Facility, including all commercial haulers and businesses, shall be required to separate from the normal waste stream, all items determined to be recyclable, by category, as designated in the Rules and Regulations promulgated by the Board of Selectmen. Each separate category of recyclable material shall be properly prepared and disposed of in accordance with the said Rules and Regulations.

B. The Transfer Station attendant shall have the authority to deny access to the Transfer Station/Recycling Facility to any person who refuses to comply with the above.

Section VI Definitions

A. In general, words and terms used in the Ordinance shall have their customary dictionary meaning. More specifically, certain words and terms used herein are defined as follows:

1. **Commercial Hauler** -Any user, either individual or company, which hauls materials to the transfer station for a fee.
2. **Corrugated Paper** -Clean, dry corrugated cardboard boxes.
3. **Glass** -Clean glass bottles, jugs, jars, etc. separated by color: clear, green and brown. Glass, in this instance, does not include window glass.
4. **Newspaper** -Dry, clean newspapers bundled or tied with string or twine. (Does not include glossy inserts, magazines, wax paper, cardboard, etc.)
5. **Transfer Station Attendant(s)** -The Selectmen of the Town of Searsport or the Town employees or agents authorized by said Selectmen to act in their stead at the Transfer Station site.
6. **White Goods** -Household appliances including, but not limited to, washing machines, clothes dryers, stoves and refrigerators.

Section VII Wastes Prohibited.

1. Hazardous/Toxic Waste
2. Waste generated outside of the Town of Searsport
3. Asbestos
4. Pathological Waste
5. Sewer treatment plant/septic residue
6. Tree stumps, abandoned or junked vehicles.

Section VIII Dump Picking

A. All materials deposited at the transfer station become the property of the town of Searsport. Anyone removing any material from the site without the expressed consent of the Board of Selectmen shall be considered to be in violation of this ordinance.

Section IX Enforcement

A. The transfer station attendant shall have the authority to refuse the use of the facility to any person, corporation or other user who does not conform with the provisions of this ordinance.

Section X Penalties

A. Whoever violates any of the provisions of this ordinance shall be punished by a fine of not less than fifty dollars (\$50.00) and not more than one hundred fifty dollars (\$150.00) for each day of the violation plus costs of enforcement, including reasonable attorney's fees, which fare and costs shall be recovered on complaint to the use of the Town. The provision shall not preclude the Board of Selectmen from simultaneously seeking appropriate equitable relief.

B. Licensed commercial haulers who violate any of the provisions of this ordinance may, in addition to the fine above, be punished by revocation of their license for up to two (2) years and forfeiture of all license or permit fees.

C. Any authorized user who violates any provision of this ordinance or of the Rules and Regulations promulgated pursuant hereto may, in addition to the above, be punished by a revocation of the right to use all Disposal Facilities for up to two years and forfeiture of all license and permit fees.

Section XI Amendments

A. This ordinance may be amended by vote at the annual Town Meeting or at any Special Town Meeting.

Section XII Severability

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

Section XIII Effective Date

A. This ordinance shall become effective when adopted by the voters of the Town of Searsport.

I, Suzan M. Cotter, Town Clerk of Searsport, attest that this is a true copy of the Recycling Ordinance of the Town of Searsport.

Suzan M. Cotter, Town Clerk

This ordinance was adopted by the voters of Searsport at the Town Meeting held on Saturday, March 13, 1993.

Amended at a Town Meeting on March 7, 2015

This is a true and attested copy by: Deborah Plourde
Deborah Plourde, Town Clerk

Town of Searsport Sex Offender Ordinance

Section 1. Authority.

This ordinance is enacted pursuant to Title 30-A M.R.S.A., Section 3001.

Section 2. Purpose.

In acknowledgement that sex offenders who prey upon children are at a higher risk of re-offending, the Town of Searsport has a compelling interest to protect the health, safety, and welfare of its children by restricting access to areas where concentrations of children exist.

Section 3. Definitions.

- A. Lifetime Registrant: a person, as defined in 34-A M.R.S.A. § 11203(8), who is an adult convicted and sentenced or a juvenile convicted and sentenced as an adult of a sexually violent offense as defined in 34-A M.R.S.A. § 11203(7).
- B. School / Daycare: Any public or private educational facility that provides services to those 18 years or younger or a licensed daycare facility that is clearly marked.
- C. Premises: The building structure or surrounding the building, playground area, playing fields, or courts.
- D. Radius: Distance shall be measured as a straight line “as the crow flies” from the outer property lines.
- E. Loiter: To congregate, linger, wander, stand, delay, walk or stroll about aimlessly, or to remain idle in essentially one (1) location in a manner and under circumstances manifesting an unnecessary or aimless purpose.

Section 4. Restrictions.

- A. Any Lifetime registrant is prohibited from entering upon the premises of a school or daycare center unless specifically authorized by the school administration or daycare center owner.
- B. No Lifetime registrant shall loiter within a 500-foot radius of a school, licensed daycare center, public parks or playgrounds unless their own child(ren) is present or unless otherwise permitted by section 4 A.

Section 5. Violation; Injunctive Relief and Penalties.

Any person who, after written notice from the Town about the requirements of this ordinance, is in violation of the provisions of this ordinance and shall be subject to an action brought by the Town in the District Court or Superior Court to enforce the requirements of this ordinance. The Town may seek injunctive relief to require compliance with the provisions of the ordinance. The Town may also seek a penalty in the minimum amount of \$500, which may be imposed on a daily basis for each day that a violation continues after notice from the Town. In the event that the Town is the

prevailing party in an action under this ordinance, it shall be entitled to an award of its reasonable attorney's fees, expert witness fees, or any other associated costs.

Section 6. Severability.

In the event that any section or any portion of this ordinance shall be declared by any court of competent jurisdiction to be invalid for any reason, such decision shall not be effected to affect the validity of any other section or portion of this ordinance. The provisions of this ordinance are hereby declared to be severable.

Section 7. Effective Date.

Notwithstanding any law to the contrary, this ordinance shall take effect as of March 7, 2009.

I, Deborah Plourde, the duly appointed Town Clerk for the Town of Searsport, hereby certify pursuant to 30-A M.R.S.A. § 3006 that the above is the true and accurate Searsport Sex Offender Ordinance as enacted by the voters of the Town of Searsport at a duly called Town Meeting held on March 7, 2009.

Date

3/9/2009

Deborah Plourde, Town Clerk

Deborah Plourde

AN ORDINANCE OF THE TOWN OF SEARSPORT ESTABLISHES THE FOLLOWING
REGULATIONS ON SEXUALLY ORIENTED BUSINESS.

WHEREAS, sexually oriented businesses in the incorporated area of the Town of Searsport require special supervision from public safety and health agencies of the County in order to protect and preserve the health, safety and welfare of the patrons of such businesses as well as citizens of the Town; and

WHEREAS, from review of other cities/towns studies and their own surveys and testimony from its citizens there is convincing documented evidence that sexually oriented businesses, because of their very nature, have a deleterious effect on both existing businesses around them and the surrounding residential areas adjacent to them, causing among other adverse secondary effects, increased crime and downgrading of property values; and

WHEREAS, it is recognized that sexually oriented businesses, due to their nature, have serious objectional operational characteristics, particularly when they are operating in close proximity to each other, thereby contributing to crime, lower property values, urban blight and downgrading of the quality of life in the adjacent area; and

WHEREAS, the Board of Selectmen finds that sexually oriented businesses are frequently used for unlawful sexual activities including prostitution, sexual liaison of casual nature; and

WHEREAS, increased crime and unhealthful conduct tend to accompany, concentrate around and be aggravated by sexually oriented businesses including but not limited to prostitution, pandering, exposing minors to harmful materials, possession

and distribution of obscene materials and child pornography, possession and sale of controlled substances and violent crimes against persons and property; and

WHEREAS, concern over sexually transmitted diseases, including AIDS, is a legitimate health concern of the Town which demands reasonable regulations of sexually oriented business in order to protect the health and well being of the citizens; and

WHEREAS, the Board of Selectmen has considered in part, each of the following matters: (a) areas within close walking distance of single and multiple family dwellings should be free of sexually oriented businesses uses: (b) areas where children could be expected to walk, patronize, or frequent to be free of sexually oriented business uses; (c) sexually oriented business uses should be located in areas of the Town which are not in close proximity to residential uses, churches, parks, or other public facilities and schools; (d) the image of the Town of Searsport as a pleasant attractive place to reside will be adversely affected by the presence of sexually oriented business uses in close proximity to residential land uses, churches, parks and other public facilities, and schools; (e) sexually oriented business land use should be regulated from other dissimilar uses just as any other and use should be separated from uses with characteristics different from itself; (f) residents of the Town of Searsport and persons who are non-residents but use the Town of Searsport for shopping and other commercial needs will move from the community or shop elsewhere if sexually oriented businesses land uses are allowed to locate in close proximity to residential uses, churches, parks, and other public facilities, and schools; (g) merchants in the commercial area of the Town are concerned about the adverse impact and the character and quality of the Town in the event that sexually oriented business land uses are located with close proximity to residential uses, churches, parks, and other public

facilities, and schools, and that such locations will reduce retail trade to commercial uses in the vicinity, thus reducing property values and tax revenues to the Town; and that such adverse affect on property values and business would cause the loss to some commercial districts within the Town leading to further deterioration of the commercial quality of the Town, and (h) no evidence has been presented to show that location of sexually oriented businesses within the Town will improve the commercial viability or quality of life of the community; and

WHEREAS, the Town recognizes the possible harmful effects on children and minors exposed to the effects of such businesses and the deterioration of respect for family values, and the avoidance of such businesses which necessitate children walking through or visiting in the immediate neighborhood of such businesses; and

WHEREAS, the Board of Selectmen finds that there would be a deterioration of the quality of businesses which chose to operate in around such sexually oriented businesses; and

WHEREAS, the Board of Selectmen desire to minimize and control those adverse secondary effects and thereby protect the health, safety and welfare of the citizens; protect the citizens from increased crime; preserve the quality of life; preserve the property values and the character of surrounding neighborhoods and businesses, deter the spread of urban blight and protect against the threat to health from the spread of communicable and social diseases; and

WHEREAS, the Board of Selectmen recognizes that the exceptions, where sexually oriented businesses are permitted to be established without regard to distance regulations, are either inward looking configurations, or those isolated from direct view from public streets, parks, schools, boys' clubs,

girls' clubs, or similar youth organizations, public buildings, religious institutions or residential districts or uses. This configuration reduces the adverse secondary effects associated with sexually oriented businesses by segregating such businesses away from the aforementioned sensitive uses, and placing them in a location where they do not effect the public health, safety, and moral climate of the community as a whole. It decreases the problems of harassment of neighborhood adults and children, littering of sexually explicit reading materials and paraphernalia, loitering, and visual blight. In addition, this promotes the Town's interests by shifting part of the regulatory burden to the private sector. A shopping center or resort complex has its own signage, paint and landscaping restrictions, as well as hours of operation, parking, and security. The Town is relieved from some of the regulatory burden while protecting the Town's commercial tax base; and

WHEREAS, the Board of Selectmen has considered the decisions of the United State Supreme Court regarding local regulation of sexually oriented businesses, including but not limited to, Young v. American Mini-Theatres, Inc., 427 U.S. 50 (1976) reh. denied 429 U.S. 873; Renton v. Playtime Theatres, U.S. 41 (1986) reh. denied 475 U.S. 1132; FW/PBS, Inc. v. Dallas, 493 U.S. 215 (1990); and Barnes v. Glen Theatre, 501 U.S. _____, 111 S.Ct. 2456 (June 21, 1991); and City of National City v. Wiener, et al, 3 Cal.4th 832 (1992) (as modified Jan. 21, 1993). Topanga Press, Inc., et al v. City of Los Angeles, 93 D.A.R. 3585 (March 22, 1993) 93 D.A.R. 5261 (as amended Apr. 27, 1993); and

WHEREAS, the Board of Selectmen consistent with sale and consumption of alcohol and outside advertising limitations further finds that restricted hours of operation will further prevent the adverse effects of sexually oriented business; and

WHEREAS, it is not the intent of this ordinance to suppress any speech activities protected by the First Amendment, but to enact a content neutral ordinance which addresses the adverse secondary effects of sexually oriented businesses; and

WHEREAS, it is not the intent of the Board of Selectmen to condone or legitimize the distribution of obscene material, and the Board recognizes that state law prohibits the distribution of obscene materials and expects and encourages state enforcement officials to enforce state obscenity statutes against such illegal activities in Searsport; and

NOW THEREFORE, the Board of Selectmen of the Town of Searsport do ordain as follows:

SECTION 1. Purpose and Intent

It is the purpose and intent of this ordinance to regulate sexually oriented businesses to promote the health, safety, morals, and general welfare of the citizens of the Town and to establish reasonable and uniform regulations to prevent any deleterious location and concentration of sexually oriented businesses within the Town, thereby reducing or eliminating the adverse secondary effects from such sexually oriented businesses. The provisions of this ordinance have neither the purpose nor effect of imposing a limitation or restriction on the content of any communicative materials, including sexually oriented materials. Similarly, it is not the intent nor effect of this ordinance to restrict or deny access by adults to sexually oriented materials protected by the First Amendment, or to deny access by the distributors and exhibitors of sexually oriented entertainment to their intended market. Neither is it the intent nor effect of the ordinance to condone or legitimize the distribution of obscene material.

SECTION 2. Definitions

For the purposes of this division, certain terms and words are defined as follows:

A. "Sexually oriented businesses" are those businesses defined as follows:

1. "Adult arcade" means an establishment where, for any form of consideration, one or more still or motion picture projectors, slide projectors, or similar machines, or other image producing machines for viewing by five or fewer persons each, are regularly used to show films, motion pictures, video cassettes, slides, or other photographic reproductions which are characterized by the depiction or description of "specified sexual activities" or "specified anatomical areas".

2. "Adult Bookstore", "Adult Novelty Store" or "Adult Video Store" means a commercial establishment which has as a significant or substantial portion of its stock-in-trade or derives a significant or substantial portion of its revenues or devotes a significant or substantial portion of its interior business or advertising to the sale, rental for any form of consideration, of any one or more of the following:

(a) Books, magazines, periodicals or other printed matter, or photographs, films, motion pictures, video cassettes, slides, or other visual representations which are characterized by the depiction or description of "specified sexual activities" or "specified anatomical areas."

(b) Instruments, devices, or paraphernalia which are designed for use or marketed primarily for stimulation of human genital organs or for sadomasochistic use or abuse of themselves or others.

(c) An establishment may have other principal business

purposes that do not involve the offering for sale, rental or viewing or describing "specified sexual activities" or "specified anatomical areas", and still be categorized as adult bookstore, adult novelty store, or adult video store. Such other business purposes will not serve to exempt such establishments from being categorized as an adult bookstore, adult novelty store or adult video store so long as one of its principal business purposes is offering for sale or rental, for some form of consideration, the specified materials which depict or describe "specified anatomical areas" or "specified sexual activities."

3. "Adult cabaret" means a nightclub, bar, restaurant, "bottle club", or similar commercial establishment, whether or not alcoholic beverages are served, which regularly features; (a) persons who appear nude or in a state of nudity or semi-nude; (b) live performances which are characterized by the exposure of "specified anatomical areas" or by "specified sexual activities", or (c) films, motion pictures, video cassettes, slides, or other photographic reproductions which are characterized by the depiction or description of "specified sexual activities" or "specified anatomical areas".

4. "Adult motel" means a motel, hotel or similar commercial establishment which: (a) offers public accommodations, for any form of consideration, which provides patrons with closed-circuit television transmissions, films, motion pictures, video cassettes, slides or other photographic reproductions which are characterized by the depiction or description of "specified sexual activities" or "specified anatomical area" and which advertises the availability of this sexually oriented type of material by means of a sign visible from the public right-of-way, or by means of any off-premises advertising including but not limited to, newspapers, magazines, pamphlets or leaflets, radio or television, or (b) offers a sleeping room for rent for a period of time less than ten (10) hours; or (c) allows a tenant or occupant to sub-rent the

sleeping room for a time period of less than ten (10) hours.

5. "Adult motion picture theater" means a commercial establishment where films, motion pictures, video cassettes, slides or similar photographic reproductions which are characterized by the depiction or description of "specified sexual activities" or "specified anatomical areas" are regularly shown for any form of consideration.

6. "Adult theatre" means a theater, concert hall, auditorium, or similar commercial establishment which, for any form of consideration, regularly features persons who appear in a state of nudity or live performances which are characterized by exposure of "specified anatomical areas" or by "specified sexual activities".

7. "Escort" means a person who, for any form of consideration, agrees or offers to act as a companion, guide, or date for another person, or who agrees or offers to privately model lingerie or to privately perform a striptease for another person.

8. "Escort Agency" means a person or business association who furnishes, offers to furnish, or advertises to furnish escorts as one of its primary business purposes for a fee, tip, or other consideration.

9. "Massage parlor" means any place where, for any form of consideration or gratuity, massage, alcohol rub, administration or fomentations, electric or magnetic treatments, or any other treatment manipulation of the human body which occurs as a part of or in connection with "specified sexual activities", or where any person providing such treatment, manipulation, or service related thereto, exposes his or her "specified anatomical areas". The definition of sexually oriented businesses shall not include the practice of massage

in any licensed hospital, nor by a licensed hospital, nor by a licensed physician, surgeon, chiropractor or osteopath, nor by any chiropractor or osteopath, nor by any nurse or technician working under the supervision of a licensed physician, surgeon, chiropractor or osteopath, nor by trainers for any amateur, semiprofessional or professional athlete or athletic team or school athletic program.

10. "Nude Model Studio" means any place where a person, who regularly appears in a state of nudity or displays "specified anatomical areas" is provided for money or any form of consideration to be observed, sketched, drawn, painted, sculptured, photographed, or similarly depicted by other persons.

11. "Sexual encounter establishment" means a business or commercial establishment, that as one of its primary business purposes, offers for any form of consideration, a place where to or more persons may congregate, associate, or consort for the purpose of "specified sexual activities" or the exposure of "specified anatomical areas" or activities when one or more persons is in a state of nudity or semi-nude. The definition of sexually oriented businesses shall not include an establishment where a medical practitioner, psychologist, psychiatrist, or similar professional person licensed by the state engages in medically approved and recognized sexual therapy.

B. "Establishment" means and includes any of the following:

1. The opening or commencement of any such business as a new business;
2. The conversion of an existing business, whether or not a sexually oriented business, to any of the sexually oriented businesses defined in this chapter;

3. The addition of any of the sexually oriented businesses defined in this chapter to any other existing sexually oriented business; or

4. The relocation of any such sexually oriented business.

C. "Nudity or State of Nudity" means: (a) the appearance of human bare buttock, anus, male genitals, female genitals, or the areola or nipple of the female breast; or (b) a state of dress which fails to opaquely and fully cover a human buttocks, anus, male or female genitals, pubic region or areola or nipple of the female breast.

D. "Operator" means and includes the owner, permit holder, custodian, manager, operator or person in charge of any permitted or licensed premises.

E. "Permitted or Licensed Premises" means any premises that required a license and/or permit and that is classified as a sexually oriented business.

F. "Permitee and/or Licensee" means a person in whose name a permit and/or license to operate a sexually oriented business has been issued, as well as the individual listed as an applicant on the application for a permit and/or license.

G. "Person" means an individual, proprietorship, partnership, corporation, association, or other legal entity.

H. "Public building" means any building owned, leased or held by the United States, the state, the county, the town, any special district, school district, or any other agency or political subdivision of the state or the United States, which building is used for governmental purposes.

I. "Public park" or "recreation area" means public land which has been designated for park or recreational activities including but not limited to a park, playground, nature trails, swimming pool, reservoir, athletic field, basketball or tennis courts, pedestrian/bicycle paths, open space, wilderness areas, or similar public land within the city which is under the control, operation, or management of the town park and recreation authorities.

J. "Religious institution" means any church, synagogue, mosque, temple or building which is used primarily for religious worship and related religious activities.

K. "Residential District or Use" means a single family home, duplex, townhouse, multiple family home, or mobile park or subdivision and campground.

L. "School" means any public or private educational facility including but limited to child day care facilities, nursery schools, preschools, kindergartens, elementary schools, primary schools, intermediate schools, junior high schools, middle schools, high schools, vocational schools, secondary schools, continuation schools, special education schools, junior colleges, and universities. School includes the school grounds, but does not include the facilities used primarily for another purpose and only incidentally as a school.

M. "Semi-Nude" means a state of dress in which clothing covers no more than the genitals, pubic region, and areolae of the female breast, as well as portions of the body covered by supporting straps or devices.

N. "Sexually Oriented Business" means an adult arcade, adult bookstore, adult novelty shop, adult video store, adult cabaret, adult motel, adult motion picture theatre, adult theatre, massage parlor, sexual encounter establishment, escort

agency or nude model studio.

O. "Specified Anatomical Areas", as used in this division means and includes any of the following:

1. Less than completely and opaquely covered human genitals, pubic region, buttocks, anus, or female breasts below a point immediately above the top of the areolae; or

2. Human male genitals in a discernibly turgid state, even if completely and opaquely covered.

P. "Specified Sexual Activities", as used in this division means and includes any of the following:

1. The fondling or other intentional touching of human genitals, pubic region, buttocks, anus, or female breasts;

2. Sexual acts, normal or perverted, actual or simulated, including intercourse, oral copulation, or sodomy;

3. Masturbation, actual or simulated; or

4. Human genitals in a state of sexual stimulation, arousal or tumescence;

5. Excretory functions as part of or in connection with any of the activities set forth in subdivisions (1) through (4) of this subsection.

SECTION 3. Establishment, Classification, and Location of Sexually Oriented Businesses

A. The establishment and/or operation of a sexually oriented business shall be subject to the following restrictions. No person shall cause or permit the establishment of any of

the following sexually oriented businesses, as defined above, within 1,000 feet of another such business or within 1,000 feet of any religious institution, school, boys' club, girls' club, or similarly existing youth organization, or public park or public building, or within 1,000 feet of any property zoned for residential use or used for residential purposes and are classified as follows:

1. adult arcade
2. adult bookstore, adult novelty store or adult video store
3. adult cabaret
4. adult motel
5. adult motion picture theater
6. adult theater
7. massage parlor
8. sexual encounter establishment
9. escort agency, or
10. nude model studio.

SECTION 4. Measurement of Distance

As regarding Section 3, paragraph A., distance between any two sexually oriented businesses shall be measured in a straight line, without regard to intervening structures, from the closest exterior structural wall of each business. The distance between any sexual oriented business and any religious

institution, public or private elementary or secondary school, boys' club, girls' club, or similar existing youth organization, or public park or public building or any properties zoned for residential use or used for residential purposes shall also be measured in a straight line, without regard to intervening structures or objects from the nearest portion of the building or structure used as part of the premises where the sexually oriented businesses is conducted, to the nearest property line of the premises of a religious institution, public or private elementary or secondary school, boys' club, girls' club, or similar existing youth organization, or public park or public building or any properties zoned for residential use or used for residential purposes.

SECTION 5. Hours of Operation

It shall be unlawful if a person operates or causes to be operated a sexually oriented business, regardless of whether or not the business satisfies all other requirements as outlined by the Town of Searsport, and allows such business to remain open for business, or to permit any person to engage in a performance, solicit a performance, make a sale, solicit a sale, provide a service, or solicit a service, between the hours of 9:00 p.m. and 9:00 a.m.

SECTION 6. Transfer of Permit

A. A permittee shall not operate a sexually oriented business under the authority of a permit at any place other than the address designated in the application for permit.

B. A permittee shall not transfer his/her permit to another person unless and until such other person submits a separate application for approval to the Town Selectmen.

SECTION 7. Sexually Oriented Business Permit

A. The Town of Searsport Selectmen shall grant or deny an application for a permit to operate within thirty (30) days from the date of its proper filing. The Town Selectmen shall grant approval of said application unless one or more of the criteria set forth in this ordinance, any other Ordinance that governs within the Town of Searsport, and State and Federal Statutes is/are not met.

B. Each permit shall expire one (1) year from the date of issuance and may be renewed only by making application with the Town of Searsport. Application for renewal of said sexually oriented business shall be made at least thirty (30) days (not more) before the expiration date.

C. If the Town Selectmen revoke, deny a permit, or a renewal application is not received by the expiration date, the applicant shall not be issued a permit under this ordinance for one (1) year from the date of denial.

SECTION 8. Revocation of Sexually Oriented Business Permit

If said business fails to comply with the above ordinance, ordinances governing the Town of Searsport, and State and Federal Statutes, the permit shall be revoked by the Town Selectmen, and operation of said business will be denied. See Section 7.

SECTION 9. Severability

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

This is a true and attested copy by: Deborah Plourde, Town Clerk
Deborah Plourde, Town Clerk

SHORELAND ZONING ORDINANCE

Town of Searsport, Maine

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SECTION 1. PURPOSES

The purposes of this Ordinance are to further the maintenance of safe and healthful conditions; to prevent and control water pollution; to protect fish spawning grounds, aquatic life, bird and other wildlife habitat; to protect buildings and lands from flooding and accelerated erosion; to protect archaeological and historic resources; to protect 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.

SECTION 2. AUTHORITY

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

SECTION 3. APPLICABILITY

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

SECTION 4. Effective Date of Ordinance and Ordinance Amendments.

This Ordinance, which was adopted by the municipal legislative body on MARCH 16, 1991, shall not be effective unless approved by the Commissioner of the Department of Environmental Protection. A certified copy of the Ordinance, or Ordinance Amendment, attested and signed by the Municipal Clerk, shall be forwarded to the Commissioner for approval. If the Commissioner fails to act on this Ordinance or Ordinance Amendment, within forty-five (45) days of his/her receipt of the Ordinance, or Ordinance Amendment, it shall be automatically approved. Any application for a permit submitted to the municipality within the forty-five (45) day period shall be governed by the terms of this Ordinance, or Ordinance Amendment, if the Ordinance, or Ordinance Amendment, is approved by the Commissioner.

SECTION 5. AVAILABILITY

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

SECTION 6. SEVERABILITY

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

SECTION 7. CONFLICTS WITH OTHER ORDINANCES

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

SECTION 8. AMENDMENTS

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

SECTION 9. DISTRICTS AND ZONING MAP

A. Official Shoreland Zoning Map.

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

- (1) Resource Protection
- (2) Stream Protection
- (3) Halfmoon Pond District
- (4) Limited Residential
- (5) Limited Commercial
- (6) General Development I
- (7) General Development II
- (8) Commercial Fisheries/Maritime Activities

B. Scale of Map.

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

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

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

SECTION 10. INTERPRETATION OF DISTRICT BOUNDARIES

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

SECTION 11. LAND USE REQUIREMENTS

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

SECTION 12. NON-CONFORMANCE

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

B. General

1 Transfer of Ownership.

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

2 Repair and Maintenance.

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

C. Non-conforming Structures

1. Expansions.

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

- (a) Expansion of any portion of a structure within 25 feet of the normal high-water line of a water body, tributary stream, or upland edge of a wetland is prohibited, even if the expansion will not increase nonconformity with the water body, tributary stream or wetland setback requirement. In the Halfmoon Pond District, any expansion or new development is prohibited within 75 feet of the normal high water line. 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.
- (b) 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 12(C)(1).
 - (i) The maximum total footprint for the principal structure may not be expanded to a size greater than 800 square feet or 30% larger than the footprint that existed on January 1, 1989, whichever is greater. The maximum height of the principal structure may not be made greater than 15 feet or the height of the existing structure, whichever is greater.
- (c) All other legally existing nonconforming principal and accessory structures that do not meet the water body, tributary stream, or wetland setback requirements may be expanded or altered as follows, as long as other applicable municipal land use standards are met and the expansion is not prohibited by Section 12(C)(1) or Section 12(C)(1)(a), above.
 - (i) For structures located less than 75 feet from the normal high-water line of a water body, tributary stream, or upland edge of a wetland, the maximum combined total footprint for all structures may not be expanded to a size greater than 1,000 square feet or 30% larger than the footprint that existed on January 1, 1989, whichever is greater. The maximum height of any structure may not be made greater than 20 feet or the height of the existing structure, whichever is greater.
 - (ii) For structures located less than 100 feet from the normal high-water line of a great pond classified as GPA or a river flowing to a great pond classified as GPA, the maximum combined total footprint for all structures may not be expanded to a size greater than 1,500 square feet or 30% larger than the footprint that existed on January 1, 1989, whichever is greater. The maximum height of any structure may not be made greater than 25 feet or the height of the existing structure, whichever is greater. Any portion of those structures located less than 75 feet from the normal high-water line of a water body, tributary stream, or upland edge of a wetland must meet the footprint and height limits in Section 12(C)(1)(b)(i) and Section 12(C)(1)(c)(i), above.
 - (iii) In addition to the limitations in subparagraphs (i) and (ii), for structures that are legally nonconforming due to their location within the Resource Protection District when located at less than

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

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

- (2) **Foundations.** Whenever a new, enlarged, or replacement foundation is constructed under a non-conforming structure, the structure and new foundation must be placed such that the setback requirement is met to the greatest practical extent as determined by the Planning Board or its designee, basing its decision on the criteria specified in Section 12(C)(3) Relocation, below.
- (3) **Relocation.** A non-conforming structure may be relocated within the boundaries of the parcel on which the structure is located provided that the site of relocation conforms to all setback requirements to the greatest practical extent as determined by the Planning Board or its designee, and provided that the applicant demonstrates that the present subsurface sewage disposal system meets the requirements of State law and the State of Maine Subsurface Wastewater Disposal Rules (Rules), or that a new system can be installed in compliance with the law and said Rules. In no case shall a structure be relocated in a manner that causes the structure to be more non-conforming.

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

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

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

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

- (b) Where feasible, when a structure is relocated on a parcel the original location of the structure shall be replanted with vegetation which may consist of grasses, shrubs, trees, or a combination thereof.
- (4) **Reconstruction or Replacement.** Any non-conforming structure which is located less than the required setback from a water body, tributary stream, or wetland and which is removed, or damaged or destroyed,

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

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

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

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

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

D. Non-conforming Uses

- (1) **Expansions.** Expansions of non-conforming uses are prohibited, except that non-conforming residential uses may, after obtaining a permit from the Planning Board, be expanded within existing residential structures or within expansions of such structures as allowed in Section 12(C)(1) above.
- (2) **Resumption Prohibited.** A lot, building or structure in or on which a non-conforming use is discontinued for a period exceeding one year, or which is superseded by a conforming use, may not again be devoted to a non-conforming use except that the Planning Board may, for good cause shown by the applicant, grant up to a one year extension to that time period. This provision shall not apply to the resumption of a use of a residential structure provided that the structure has been used or maintained for residential purposes during the preceding five (5) year period.
- (3) **Change of Use.** An existing non-conforming use may be changed to another non-conforming use provided that the proposed use has no greater adverse impact on the subject and adjacent properties and resources, including water dependent uses in the CFMA district, than the former use, as determined by the Planning Board. The determination of no greater adverse impact shall be made according to criteria listed in Section 12(C)(5) above.

E. Non-conforming Lots

- (1) **Non-conforming Lots:** A non-conforming lot of record as of the effective date of this Ordinance or amendment thereto may be built upon, without the need for a variance, provided that such lot is in separate ownership and not contiguous with any other lot in the same ownership, and that all provisions of this Ordinance except lot area, lot width and shore frontage can be met. Variances relating to setback or other requirements not involving lot area, lot width or shore frontage shall be obtained by action of the Board of Appeals.
- (2) **Contiguous Built Lots:** If two or more contiguous lots or parcels are in a single or joint ownership of record at the time of adoption of this Ordinance, if all or part of the lots do not meet the dimensional requirements of this Ordinance, and if a principal use or structure exists on each lot, the non-conforming lots may be conveyed separately or together, provided that the *State Minimum Lot Size Law* (12 M.R.S.A. sections 4807-A through 4807-D) and the State of Maine Subsurface Wastewater Disposal Rules are complied with.

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

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

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

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

SECTION 13. ESTABLISHMENT OF DISTRICTS

A. Resource Protection District.

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

- (1) Floodplains along rivers and floodplains along artificially formed great ponds along rivers, defined by the 100 year floodplain as designated on the Federal Emergency Management Agency's (FEMA) Flood Insurance Rate Maps or Flood Hazard Boundary Maps, or the flood of record, or in the absence of these, by soil types identified as recent floodplain soils. This district shall also include 100 year floodplains adjacent to tidal waters as shown on FEMA's Flood Insurance Rate Maps or Flood Hazard Boundary Maps.
- (2) Areas of two or more contiguous acres with sustained slopes of 20% or greater.

- (3) Areas of two (2) or more contiguous acres supporting wetland vegetation and hydric soils, which are not part of a freshwater or coastal wetland as defined, and which are not surficially connected to a water body during the period of normal high water.
- (4) Land areas along rivers subject to severe bank erosion, undercutting, or river bed movement, and lands adjacent to tidal waters which are subject to severe erosion or mass movement, such as steep coastal bluffs.
- (5) Areas within 250 feet, horizontal distance, of the upland edge of freshwater and/or coastal wetlands, which are rated "moderate" or "high" value waterfowl and wading bird habitat, including nesting and feeding areas, by the Maine Department of Inland Fisheries and Wildlife (MDIF&W). These areas are generally depicted on a Geographic Information System (GIS) data layer.

B. Stream Protection District. The Stream Protection District includes all land areas within seventy-five (75) feet, horizontal distance, of the normal high-water line of a stream, exclusive of those areas within two-hundred and fifty (250) feet, horizontal distance, of the normal high-water line of a great pond, or river, or within two hundred and fifty (250) feet, horizontal distance, of the upland edge of a freshwater or coastal wetland. Where a stream and its associated shoreland area 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.

C. Halfmoon Pond Overlay District

The Halfmoon Pond Overlay District includes those areas immediately adjacent to and within two hundred and fifty (250) feet from the high water line of Halfmoon Pond.

D. Limited Residential District. The Limited Residential District includes those areas suitable for residential and recreational development. It includes areas other than those in the Resource Protection District, or Stream Protection District, and areas which are used less intensively than those in the General Development Districts, Commercial Fisheries/Maritime Activities District, Limited Commercial Districts or Halfmoon Pond District.

E. 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.

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

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

G. General Development II District.

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

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

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

H. Commercial Fisheries/Maritime Activities District.

The Commercial Fisheries/Maritime Activities District includes areas where the existing predominant pattern of development is consistent with the allowed uses for this district as indicated in the Table of Land Uses, Section 14, and other areas which are suitable for functionally water-dependent uses, taking into consideration such factors as:

- (1) Shelter from prevailing winds and waves;
- (2) Slope of the land within 250 feet, horizontal distance, of the shoreline;
- (3) Depth of the water within 150 feet, horizontal distance, of the shoreline;
- (4) Available support facilities including utilities and transportation facilities; and
- (5) Compatibility with adjacent upland uses.

SECTION 14. Table of Land Uses.

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

Key to Table 1:

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

No - Prohibited

PB - Allowed with permit issued by the Planning Board.

CEO - Allowed with permit issued by the Code Enforcement Officer

LPI - Allowed with permit issued by the Local Plumbing Inspector

Abbreviations:

RP - Resource Protection GD General Development I and General Development II

LR - Limited Residential CFMA - Commercial Fisheries/Maritime Activities

LC - Limited Commercial SP - Stream Protection

HP - Halfmoon Pond Overlay District

TABLE 1. LAND USES IN THE SHORELAND ZONE

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

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

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

³In RP not allowed in areas so designated because of wildlife value.

⁴Provided that a variance from the setback requirement is obtained from the Board of Appeals.

⁵Functionally water-dependent uses and uses accessory to such water dependent uses only.

⁶See further restrictions in Section 15(L)(2).

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

⁸Except as provided in Section 16(H)(4).

⁹Single family residential structures may be allowed by special exception only according to the provisions of Section 16(E), Special Exceptions. Two-family residential structures are prohibited.

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

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

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

NOTE: A person performing any of the following activities shall require a permit from the Department of Environmental Protection, pursuant to 38 M.R.S.A. section 450-C, if the activity occurs in, on, over or adjacent to any freshwater or coastal wetland, great pond, river, stream or brook and operates in such a manner that material or soil may be washed into them:

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

SECTION 15. Land Use Standards.

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

A. Minimum Lot Standards

	Minimum Lot Area (sq. ft.)	Minimum Shore Frontage (ft.)
(1)		
(a) Residential per dwelling unit		
(i) Within the Shoreland Zone Adjacent to Tidal Areas	30,000	150
(ii) Within the Shoreland Zone Adjacent to Non-Tidal Areas	40,000	200
(b) Governmental, Institutional, Commercial or Industrial per principal structure		
(i) Within the Shoreland Zone Adjacent to Tidal Areas, Exclusive of Those Areas Zoned for Commercial Fisheries and Maritime Activities	40,000	200
(ii) Within the Shoreland Zone Adjacent to Tidal Areas Zoned for Commercial Fisheries and Maritime Activities	NONE	NONE
(iii) Within the Shoreland Zone Adjacent to Non-tidal Areas	60,000	300
(c) Public and Private Recreational Facilities		
(i) Within the Shoreland Zone Adjacent to Tidal and Non-Tidal Areas	40,000	200
(2) Land below the normal high-water line of a water body or upland edge of a wetland and land beneath roads serving more than two (2) lots shall not be included toward calculating minimum lot area.		
(3) Lots located on opposite sides of a public or private road shall be considered each a separate tract or parcel of land unless such road was established by the owner of land on both sides thereof after September 22, 1971.		
(4) The minimum width of any portion of any lot within one hundred (100) feet, horizontal distance, of the normal high-water line of a water body or upland edge of a wetland shall be equal to or greater than the shore frontage requirement for a lot with the proposed use.		
(5) If more than one residential dwelling unit, principal governmental, institutional, commercial or industrial structure or use, or combination thereof, is constructed or established on a single parcel, all dimensional requirements shall be met for each additional dwelling unit, principal structure, or use.		

- (6) Clustered housing within the shoreland zone provided that the overall dimensional requirements, including frontage and lot area per dwelling unit, are met. When determining whether dimensional requirements are met, only land area within the shoreland zone shall be considered.

B. Principal and Accessory Structures

- (1) All new principal and accessory structures shall be set back at least one hundred (100) feet, horizontal distance, from the normal high-water line of great ponds classified GPA and rivers that flow to great ponds classified GPA, and seventy-five (75) feet, horizontal distance, from the normal high-water line of other water bodies, tributary streams, or the upland edge of a wetland, except that in the General Development I District the setback from the normal high-water line shall be at least twenty five (25) feet, horizontal distance, and in the Commercial Fisheries/Maritime Activities District there shall be no minimum setback. In the Resource Protection District the setback requirement shall be 250 feet, horizontal distance, except for structures, roads, parking spaces or other regulated objects specifically allowed in that district in which case the setback requirements specified above shall apply.

In addition:

- (a) The water body, tributary stream, or wetland setback provision shall neither apply to structures which require direct access to the water body or wetland as an operational necessity, such as piers, docks and retaining walls, nor to other functionally water-dependent uses.
- (b) 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.
- (c) On a non-conforming lot of record on which only a residential structure exists, and it is not possible to place an accessory structure meeting the required water body, tributary stream or wetland setbacks, the code enforcement officer may issue a permit to place a single accessory structure, with no utilities, for the storage of yard tools and similar equipment. Such accessory structure shall not exceed eighty (80) square feet in area nor eight (8) feet in height, and shall be located as far from the shoreline or tributary stream as practical and shall meet all other applicable standards, including lot coverage and vegetation clearing limitations. In no case shall the structure be located closer to the shoreline or tributary stream than the principal structure.
- (2) Principal or accessory structures and expansions of existing structures which are permitted in the Resource Protection, Limited Residential, Limited Commercial, and Stream Protection Districts, shall not exceed thirty-five (35) feet in height. This provision shall not apply to structures such as transmission towers, windmills, antennas, and similar structures having no floor area.
- (3) The lowest floor elevation or openings of all buildings and structures, including basements, shall be elevated at least one foot above the elevation of the 100 year flood, the flood of record, or in the absence of these, the flood as defined by soil types identified as recent flood-plain soils. In those municipalities that participate in the National Flood Insurance Program and have adopted the April 2005 version, or later version, of the Floodplain Management Ordinance, accessory structures may be placed in accordance with the standards of that ordinance and need not meet the elevation requirements of this paragraph.
- (4) With the exception of General Development Districts located adjacent to coastal wetlands and rivers that do not flow to great ponds and Commercial Fisheries/Maritime Activities Districts, 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, or in a Commercial Fisheries/Maritime Activities District, 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 nonvegetated surfaces when calculating lot coverage for lots of record on March 24, 1990 and in continuous existence since that date.

- (5) Retaining walls that are not necessary for erosion control shall meet the structure setback requirement, except for low retaining walls and associated fill provided all of the following conditions are met:
- (a) The site has been previously altered and an effective vegetated buffer does not exist;
 - (b) The wall(s) is(are) at least 25 feet, horizontal distance, from the normal high-water line of a water body, tributary stream, or upland edge of a wetland;
 - (c) The site where the retaining wall will be constructed is legally existing lawn or is a site eroding from lack of naturally occurring vegetation, and which cannot be stabilized with vegetative plantings;
 - (d) The total height of the wall(s), in the aggregate, are no more than 24 inches;
 - (e) Retaining walls are located outside of the 100-year floodplain on rivers, streams, coastal wetlands, and tributary streams, as designated on the Federal Emergency Management Agency's (FEMA) Flood Insurance Rate Maps or Flood Hazard Boundary Maps, or the flood of record, or in the absence of these, by soil types identified as recent flood plain soils.
 - (f) The area behind the wall is revegetated with grass, shrubs, trees, or a combination thereof, and no further structural development will occur within the setback area, including patios and decks; and
 - (g) A vegetated buffer area is established within 25 feet, horizontal distance, of the normal high-water line of a water body, tributary stream, or upland edge of a wetland when a natural buffer area does not exist. The buffer area must meet the following characteristics:
 - (i) The buffer must include shrubs and other woody and herbaceous vegetation. Where natural ground cover is lacking the area must be supplemented with leaf or bark mulch;
 - (ii) Vegetation plantings must be in quantities sufficient to retard erosion and provide for effective infiltration of stormwater runoff;
 - (iii) Only native species may be used to establish the buffer area;
 - (iv) A minimum buffer width of 15 feet, horizontal distance, is required, measured perpendicularly to the normal high-water line or upland edge of a wetland;
 - (v) A footpath not to exceed the standards in Section 15(P)(2)(a), may traverse the buffer;
- (6) Notwithstanding the requirements stated above, stairways or similar structures may be allowed with a permit from the Code Enforcement Officer, to provide shoreline access in areas of steep slopes or unstable soils provided: that the structure is limited to a maximum of four (4) feet in width; that the structure does not extend below or over the normal high-water line of a water body or upland edge of a wetland, (unless permitted by the

Department of Environmental Protection pursuant to the *Natural Resources Protection Act*, 38 M.R.S.A. section 480-C); and that the applicant demonstrates that no reasonable access alternative exists on the property.

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

- (1) No more than one pier, dock, wharf or similar structure extending or located below the normal high-water line of a water body or within a wetland is allowed on a single lot; except that when a single lot contains at least twice the minimum shore frontage as specified in Section 15(A), a second structure may be allowed and may remain as long as the lot is not further divided.
- (2) Access from shore shall be developed on soils appropriate for such use and constructed so as to control erosion.
- (3) The location shall not interfere with existing developed or natural beach areas.
- (4) The facility shall be located so as to minimize adverse effects on fisheries.
- (5) The facility shall be no larger in dimension than necessary to carry on the activity and be consistent with the surrounding character and uses of the area. A temporary pier, dock or wharf in non-tidal waters shall not be wider than six feet for non-commercial uses.
- (6) No new structure shall be built on, over or abutting a pier, wharf, dock or other structure extending beyond the normal high-water line of a water body or within a wetland unless the structure requires direct access to the water body or wetland as an operational necessity.
- (7) New permanent piers and docks on non-tidal waters shall not be permitted unless it is clearly demonstrated to the Planning Board that a temporary pier or dock is not feasible, and a permit has been obtained from the Department of Environmental Protection, pursuant to the *Natural Resources Protection Act*.
- (8) No existing structures built on, over or abutting a pier, dock, wharf or other structure extending beyond the normal high-water line of a water body or within a wetland shall be converted to residential dwelling units in any district.
- (9) Except in the General Development Districts and Commercial Fisheries/Maritime Activities District, structures built on, over or abutting a pier, wharf, dock or other structure extending beyond the normal high-water line of a water body or within a wetland shall not exceed twenty (20) feet in height above the pier, wharf, dock or other structure.
- (10) Vegetation may be removed in excess of the standards in Section 15(P) of this ordinance in order to conduct shoreline stabilization of an eroding shoreline, provided that a permit is obtained from the Planning Board. Construction equipment must access the shoreline by barge when feasible as determined by the Planning Board.
 - (a) When necessary, the removal of trees and other vegetation to allow for construction equipment access to the stabilization site via land must be limited to no more than 12 feet in width. When the stabilization project is complete the construction equipment accessway must be restored.
 - (b) Revegetation must occur in accordance with Section 15(S).
- (11) A deck over a river may be exempted from the shoreland setback requirements if it is part of a downtown revitalization project that is defined in a project plan approved by the legislative body of the municipality, and may include the revitalization of structures formerly used as mills that do not meet the structure setback requirements, if the deck meets the following requirements:
 - (a) The total deck area attached to the structure does not exceed 700 square feet;

- (b) The deck is cantilevered over a segment of a river that is located within the boundaries of the downtown revitalization project;
- (c) The deck is attached to or accessory to an allowed commercial use in a structure that was constructed prior to 1971 and is located within the downtown revitalization project;
- (d) The construction of the deck complies with all other applicable standards, except the shoreline setback requirements in section 15(B); and
- (e) The construction of the deck complies with all other state and federal laws.

D. Campgrounds.

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

- (1) Campgrounds shall contain a minimum of five thousand (5,000) square feet of land, not including roads and driveways, for each site. Land supporting wetland vegetation, and land below the normal high-water line of a water body shall not be included in calculating land area per site.
- (2) The areas intended for placement of a recreational vehicle, tent or shelter, and utility and service buildings shall be set back a minimum of one hundred (100) feet, horizontal distance, from the normal high-water line of a great pond classified GPA or a river flowing to a great pond classified GPA, and seventy-five (75) feet, horizontal distance, from the normal high-water line of other water bodies, tributary streams, or the upland edge of a wetland.

E. Individual Private Campsites.

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

- (1) One campsite per lot existing on the effective date of this Ordinance, or thirty thousand (30,000) square feet of lot area within the shoreland zone, whichever is less, may be permitted.
- (2) When an individual private campsite is proposed on a lot that contains another principal use and/or structure, the lot must contain the minimum lot dimensional requirements for the principal structure and/or use, and the individual private campsite separately.
- (3) Campsite placement on any lot, including the area intended for a recreational vehicle or tent platform, shall be set back one hundred (100) feet, horizontal distance, from the normal high-water line of a great pond classified GPA or river flowing to a great pond classified GPA, and seventy-five (75) feet, horizontal distance, from the normal high-water line of other water bodies, tributary streams, or the upland edge of a wetland.
- (4) Only one recreational vehicle shall be allowed on a campsite. The recreational vehicle shall not be located on any type of permanent foundation except for a gravel pad, and no structure except a canopy shall be attached to the recreational vehicle.
- (5) The clearing of vegetation for the siting of the recreational vehicle, tent or similar shelter in a Resource Protection District shall be limited to one thousand (1000) square feet.
- (6) A written sewage disposal plan describing the proposed method and location of sewage disposal shall be required for each campsite and shall be approved by the Local Plumbing Inspector. Where disposal is off-site, written authorization from the receiving facility or land owner is required.
- (7) When a recreational vehicle, tent or similar shelter is placed on-site for more than one hundred and twenty (120) days per year, all requirements for residential structures shall be met, including the installation of a subsurface

sewage disposal system in compliance with the State of Maine Subsurface Wastewater Disposal Rules unless served by public sewage system facilities.

F. Commercial and Industrial Uses.

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

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

G. Parking Areas

- (1) Parking areas shall meet the shoreline and tributary stream setback requirements for structures for the district in which such areas are located, except that in the Commercial Fisheries/Maritime Activities District parking areas shall be set back at least twenty-five (25) feet, horizontal distance, from the shoreline. The setback requirement for parking areas serving public boat launching facilities in Districts other than the General Development I District and Commercial Fisheries/Maritime Activities District shall be no less than fifty (50) feet, horizontal distance, from the shoreline or tributary stream if the Planning Board finds that no other reasonable alternative exists further from the shoreline or tributary stream.
- (2) Parking areas shall be adequately sized for the proposed use and shall be designed to prevent stormwater runoff from flowing directly into a water body, tributary stream or wetland and where feasible, to retain all runoff on-site.
- (3) In determining the appropriate size of proposed parking facilities, the following shall apply:
 - (a) Typical parking space: Approximately ten (10) feet wide and twenty (20) feet long, except that parking spaces for a vehicle and boat trailer shall be forty (40) feet long.
 - (b) Internal travel aisles: Approximately twenty (20) feet wide.

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

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

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

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

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

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

- (b) Drainage dips may be used in place of ditch relief culverts only where the grade is ten (10) percent or less.
- (c) On sections having slopes greater than ten (10) percent, ditch relief culverts shall be placed at approximately a thirty (30) degree angle downslope from a line perpendicular to the centerline of the road or driveway.
- (d) Ditch relief culverts shall be sufficiently sized and properly installed in order to allow for effective functioning, and their inlet and outlet ends shall be stabilized with appropriate materials.
- (8) Ditches, culverts, bridges, dips, water turnouts and other storm water runoff control installations associated with roads and driveways shall be maintained on a regular basis to assure effective functioning.

I. Signs.

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

- (1) Signs relating to goods and services sold on the premises shall be allowed, provided that such signs shall not exceed six (6) square feet in area and shall not exceed two (2) signs per premises. In the Limited Commercial District, however, such signs shall not exceed sixteen (16) square feet in area. Signs relating to goods or services not sold or rendered on the premises shall be prohibited.
- (2) Name signs are allowed, provided such signs shall not exceed two (2) signs per premises, and shall not exceed twelve (12) square feet in the aggregate.
- (3) Residential users may display a single sign not over three (3) square feet in area relating to the sale, rental, or lease of the premises.
- (4) Signs relating to trespassing and hunting shall be allowed without restriction as to number provided that no such sign shall exceed two (2) square feet in area.
- (5) Signs relating to public safety shall be allowed without restriction.
- (6) No sign shall extend higher than twenty (20) feet above the ground.
- (7) Signs may be illuminated only by shielded, non-flashing lights.

J. Storm Water Runoff

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

K. Septic Waste Disposal

- (1) All subsurface sewage disposal systems shall be installed in conformance with the State of Maine Subsurface Wastewater Disposal Rules, and the following:
 - a) clearing or removal of woody vegetation necessary to site a new system and any associated fill extensions, shall not extend closer than seventy-five (75) feet, horizontal distance, from the normal high-water line of a water body or the upland edge of a wetland and
 - b) a holding tank is not allowed for a first-time residential use in the shoreland zone.
- (2) Setback requirements in the Halfmoon Pond District shall be no less than two hundred fifty (250) feet from the normal high-water line of Halfmoon Pond.

L. Essential Services

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

M. Mineral Exploration and Extraction.

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

Mineral extraction may be permitted under the following conditions:

- (1) A reclamation plan shall be filed with, and approved, by the Planning Board before a permit is granted. Such plan shall describe in detail procedures to be undertaken to fulfill the requirements of Section 15 (M)(4) below.
- (2) No part of any extraction operation, including drainage and runoff control features, shall be permitted within one hundred (100) feet, horizontal distance, of the normal high-water line of a great pond classified GPA or a river flowing to a great pond classified GPA, and within seventy-five (75) feet, horizontal distance, of the normal high-water line of any other water body, tributary stream, or the upland edge of a wetland. Extraction operations shall not be permitted within fifty (50) feet, horizontal distance, of any property line without written permission of the owner of such adjacent property.
- (3) Developers of new gravel pits along Significant River Segments shall demonstrate that no reasonable mining site outside the shoreland zone exists. When gravel pits must be located within the zone, they shall be set back as far as practicable from the normal high-water line and no less than seventy-five (75) feet and screened from the river by existing vegetation.
- (4) Within twelve (12) months following the completion of extraction operations at any extraction site, which operations shall be deemed complete when less than one hundred (100) cubic yards of materials are removed in any consecutive twelve (12) month period, ground levels and grades shall be established in accordance with the following:

- (a) All debris, stumps, and similar material shall be removed for disposal in an approved location, or shall be buried on-site. Only materials generated on-site may be buried or covered on-site.
 - (b) The final graded slope shall be two and one-half to one (2 1/2:1) slope or flatter.
 - (c) Top soil or loam shall be retained to cover all disturbed land areas, which shall be reseeded and stabilized with vegetation native to the area. Additional topsoil or loam shall be obtained from off-site sources if necessary to complete the stabilization project.
- (5) In keeping with the purposes of this Ordinance, the Planning Board may impose such conditions as are necessary to minimize the adverse impacts associated with mineral extraction operations on surrounding uses and resources.

N. Agriculture

- (1) All spreading of manure shall be accomplished in conformance with the *Manure Utilization Guidelines* published by the former Maine Department of Agriculture on November 1, 2001, and the *Nutrient Management Law* (7 M.R.S.A. sections 4201-4209).
- (2) Manure shall not be stored or stockpiled within one hundred (100) feet, horizontal distance, of a great pond classified GPA or a river flowing to a great pond classified GPA, or within seventy-five (75) feet horizontal distance, of other water bodies, tributary streams, or wetlands. All manure storage areas within the shoreland zone must be constructed or modified such that the facility produces no discharge of effluent or contaminated storm water.
- (3) Agricultural activities involving tillage of soil greater than forty thousand (40,000) square feet in surface area, within the shoreland zone shall require a Conservation Plan to be filed with the Planning Board. Non-conformance with the provisions of said plan shall be considered to be a violation of this Ordinance.
- (4) There shall be no new tilling of soil within one-hundred (100) feet, horizontal distance, of the normal high-water line of a great pond classified GPA; within seventy-five (75) feet, horizontal distance, from other water bodies and coastal wetlands; nor within twenty-five (25) feet, horizontal distance, of tributary streams and freshwater wetlands. Operations in existence on the effective date of this ordinance and not in conformance with this provision may be maintained.
- (5) Newly established livestock grazing areas shall not be permitted within one hundred (100) feet, horizontal distance, of the normal high-water line of a great pond 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.

O-1. Timber Harvesting – Repealed (Now regulated by Maine Forest Service)

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

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

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

- (2) Except in areas as described in Section P(1), above, within a strip of land extending one-hundred (100) feet, horizontal distance, inland from the normal high-water line of a great pond classified GPA or a river flowing to a great pond classified GPA, or within a strip extending seventy-five (75) feet, horizontal distance, from any other water body, tributary stream, or the upland edge of a wetland, a buffer strip of vegetation shall be preserved as follows:
- (a) There shall be no cleared opening greater than 250 square feet in the forest canopy (or other existing woody vegetation if a forested canopy is not present) as measured from the outer limits of the tree or shrub crown. However, a single footpath not to exceed six (6) feet in width as measured between tree trunks and/or shrub stems is allowed for accessing the shoreline provided that a cleared line of sight to the water through the buffer strip is not created.
 - (b) Selective cutting of trees within the buffer strip is allowed provided that a well-distributed stand of trees and other natural vegetation is maintained. For the purposes of Section 15(P)(2)(b) a "well-distributed stand of trees" adjacent to a great pond classified GPA or a river or stream flowing to a great pond classified GPA, shall be defined as maintaining a rating score of 24 or more in each 25-foot by 50-foot rectangular (1250 square feet) area as determined by the following rating system.

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

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

The following shall govern in applying this point system:

- (i) The 25-foot by 50-foot rectangular plots must be established where the landowner or lessee proposes clearing within the required buffer;
- (ii) Each successive plot must be adjacent to, but not overlap a previous plot;
- (iii) Any plot not containing the required points must have no vegetation removed except as otherwise allowed by this Ordinance;
- (iv) Any plot containing the required points may have vegetation removed down to the minimum points required or as otherwise allowed by is Ordinance;
- (v) Where conditions permit, no more than 50% of the points on any 25-foot by 50-foot rectangular area may consist of trees greater than 12 inches in diameter.

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

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

- (c) In order to protect water quality and wildlife habitat, existing vegetation under three (3) feet in height and other ground cover, including leaf litter and the forest duff layer, shall not be cut, covered, or removed, except to provide for a footpath or other permitted uses as described in Section 15(P) paragraphs (2) and (2)(a) above.
 - (d) Pruning of tree branches, on the bottom 1/3 of the tree is allowed.
 - (e) In order to maintain a buffer strip of vegetation, when the removal of storm-damaged, dead or hazard trees results in the creation of cleared openings, these openings shall be replanted with native tree species in accordance with Section Q, below, unless existing new tree growth is present.
 - (f) In order to maintain the vegetation in the shoreline buffer, clearing or removal of vegetation for allowed activities, including associated construction and related equipment operation, within or outside the shoreline buffer, must comply with the requirements of Section 15.P(2).
- (3) At distances greater than one hundred (100) feet, horizontal distance, from a great pond classified GPA or a river flowing to a great pond classified GPA, and seventy-five (75) feet, horizontal distance, from the normal high-water line of any other water body, tributary stream, or the upland edge of a wetland, there shall be allowed on any lot, in any ten (10) year period, selective cutting of not more than forty (40) percent of the volume of trees four (4) inches or more in diameter, measured 4 1/2 feet above ground level. Tree removal in conjunction with the development of permitted uses shall be included in the forty (40) percent calculation. For the purposes of these standards volume may be considered to be equivalent to basal area.

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

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

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

- (1) Hazard trees in the shoreland zone may be removed without a permit after consultation with the Code Enforcement Officer if the following requirements are met:
 - (a) Within the shoreline buffer, if the removal of a hazard tree results in a cleared opening in the tree canopy greater than two hundred and fifty (250) square feet, replacement with native tree species is required, unless there is new tree growth already present. New tree growth must be as near as practicable to where the hazard tree was removed and be at least two (2) inches in diameter, measured at four and one half (4.5) feet above the ground level. If new growth is not present, then replacement trees shall consist of native species and be at least four (4) feet in height, and be no less than two (2) inches in diameter. Stumps may not be removed.
 - (b) Outside of the shoreline buffer, when the removal of hazard trees exceeds forty (40) percent of the volume of trees four (4) inches or more in diameter, measured at four and one half (4.5) feet above ground level in any ten (10) year period, and/or results in cleared openings exceeding twenty-five (25) percent of the lot area within the shoreland zone, or ten thousand (10,000) square feet, whichever is greater, replacement with native tree species is required, unless there is new tree growth already present. New tree growth must be as near as practicable to where the hazard tree was removed and be at least two (2) inches in diameter, measured at four and one half (4.5) feet above the ground level. If new growth is

not present, then replacement trees shall consist of native species and be at least two (2) inches in diameter, measured at four and one half (4.5) feet above the ground level.

- (c) The removal of standing dead trees, resulting from natural causes, is permissible without the need for replanting or a permit, as long as the removal does not result in the creation of new lawn areas, or other permanently cleared areas, and stumps are not removed. For the purposes of this provision dead trees are those trees that contain no foliage during the growing season.
 - (d) The Code Enforcement Officer may require the property owner to submit an evaluation from a licensed forester or arborist before any hazard tree can be removed within the shoreland zone.
 - (e) The Code Enforcement Officer may require more than a one-for-one replacement for hazard trees removed that exceed eight (8) inches in diameter measured at four and one half (4.5) feet above the ground level.
- (2) Storm-damaged trees in the shoreland zone may be removed without a permit after consultation with the Code Enforcement Officer if the following requirements are met:
- (a) Within the shoreline buffer, when the removal of storm-damaged trees results in a cleared opening in the tree canopy greater than two hundred and fifty (250) square feet, replanting is not required, but the area shall be required to naturally revegetate, and the following requirements must be met:
 - (i) The area from which a storm-damaged tree is removed does not result in new lawn areas, or other permanently cleared areas;
 - (ii) Stumps from the storm-damaged trees may not be removed;
 - (iii) Limbs damaged from a storm event may be pruned even if they extend beyond the bottom one-third (1/3) of the tree; and
 - (iv) If after one growing season, no natural regeneration or regrowth is present, replanting of native tree seedlings or saplings is required at a density of one seedling per every eighty (80) square feet of lost canopy.
 - (b) Outside of the shoreline buffer, if the removal of storm damaged trees exceeds 40% of the volume of trees four (4) inches or more in diameter, measured at four and one half (4.5) feet above the ground level in any ten (10) year period, or results, in the aggregate, in cleared openings exceeding 25% of the lot area within the shoreland zone or ten thousand (10,000) square feet, whichever is greater, and no natural regeneration occurs within one growing season, then native tree seedlings or saplings shall be replanted on a one-for-one basis.

R. Exemptions to Clearing and Vegetation Removal Requirements

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

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

- (3) The removal of vegetation from the location of public swimming areas associated with an allowed public recreational facility;
- (4) The removal of vegetation associated with allowed agricultural uses, provided best management practices are utilized, and provided all requirements of section 15(N) are complied with;
- (5) The removal of vegetation associated with brownfields or voluntary response action program (VRAP) projects provided that the removal of vegetation is necessary for remediation activities to clean-up contamination on a site in a general development district, commercial fisheries and maritime activities district or other equivalent zoning district approved by the Commissioner that is part of a state or federal brownfields program or a voluntary response action program pursuant 38 M.R.S.A section 343-E, and that is located along:
 - (a) A coastal wetland; or
 - (b) A river that does not flow to a great pond classified as GPA pursuant to 38 M.R.S.A section 465-A.
- (6) The removal of non-native invasive vegetation species, provided the following minimum requirements are met:
 - (a) If removal of vegetation occurs via wheeled or tracked motorized equipment, the wheeled or tracked motorized equipment is operated and stored at least twenty-five (25) feet, horizontal distance, from the shoreline, except that wheeled or tracked equipment may be operated or stored on existing structural surfaces, such as pavement or gravel;
 - (b) Removal of vegetation within twenty-five (25) feet, horizontal distance, from the shoreline occurs via hand tools; and
 - (c) If applicable clearing and vegetation removal standards are exceeded due to the removal of non-native invasive species vegetation, the area shall be revegetated with native species to achieve compliance.
- (7) The removal of vegetation associated with emergency response activities conducted by the Department, the U.S. Environmental Protection Agency, the U.S. Coast Guard, and their agents.

S. Revegetation Requirements

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

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

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

T. Erosion and Sedimentation Control

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

- (b) Temporary runoff control features such as hay bales, silt fencing or diversion ditches.
- (c) Permanent stabilization structures such as retaining walls or rip-rap.
- (2) In order to create the least potential for erosion, development shall be designed to fit with the topography and soils of the site. Areas of steep slopes where high cuts and fills may be required shall be avoided wherever possible, and natural contours shall be followed as closely as possible.
- (3) Erosion and sedimentation control measures shall apply to all aspects of the proposed project involving land disturbance, and shall be in operation during all stages of the activity. The amount of exposed soil at every phase of construction shall be minimized to reduce the potential for erosion.
- (4) Any exposed ground area shall be temporarily or permanently stabilized within one (1) week from the time it was last actively worked, by use of riprap, sod, seed, and mulch, or other effective measures. In all cases permanent stabilization shall occur within nine (9) months of the initial date of exposure. In addition:
 - (a) Where mulch is used, it shall be applied at a rate of at least one (1) bale per five hundred (500) square feet and shall be maintained until a catch of vegetation is established.
 - (b) Anchoring the mulch with netting, peg and twine or other suitable method may be required to maintain the mulch cover.
 - (c) Additional measures shall be taken where necessary in order to avoid siltation into the water. Such measures may include the use of staked hay bales and/or silt fences.
- (5) Natural and man-made drainage ways and drainage outlets shall be protected from erosion from water flowing through them. Drainageways shall be designed and constructed in order to carry water from a twenty five (25) year storm or greater, and shall be stabilized with vegetation or lined with riprap.

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

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

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

SECTION 16. Administration

A. Administering Bodies and Agents

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

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

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

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

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

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

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

(c) Adequate erosion control measures are taken to prevent sedimentation of the water, and the crossing does not block fish passage in the watercourse.

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

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

C. Permit Application

(1) Every applicant for a permit shall submit a written application, including a scaled site plan, on a form provided by the municipality, to the appropriate official as indicated in Section 14. The appropriate fee, as determined by a fee schedule promulgated by the Municipal Officers upon Planning Board recommendation, shall accompany said application.

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

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

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

(5) When an excavation contractor will perform an activity that requires or results in more than one (1) cubic yard of soil disturbance, the person responsible for management of erosion and sedimentation control practices at the site must be certified in erosion control practices by the Maine Department of Environmental Protection. This person must be present at the site each day earthmoving activity occurs for a duration that is sufficient to ensure that proper erosion and sedimentation control practices are followed. This is required until erosion and sedimentation control measures have been installed, which will either stay in place permanently or stay in place until the area is sufficiently covered with vegetation necessary to prevent soil erosion. The name and

certification number of the person who will oversee the activity causing or resulting in soil disturbance shall be included on the permit application. This requirement does not apply to a person or firm engaged in agriculture or timber harvesting if best management practices for erosion and sedimentation control are used; and municipal, state and federal employees engaged in projects associated with that employment.

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

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

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

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

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

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

- (1) There is no location on the property, other than a location within the Resource Protection District, where the structure can be built.
- (2) The lot on which the structure is proposed is undeveloped and was established and recorded in the registry of deeds of the county in which the lot is located before the adoption of the Resource Protection District.

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

- (a) Located on natural ground slopes of less than 20%; and
- (b) Located outside the floodway of the 100-year flood-plain along rivers and artificially formed great ponds along rivers and outside the velocity zone in areas subject to tides, based on detailed flood insurance studies and as delineated on the Federal Emergency Management Agency's Flood Boundary and Floodway Maps and Flood Insurance Rate Maps; all buildings, including basements, are elevated at least one foot above the 100-year flood-plain elevation; and the development is otherwise in compliance with any applicable municipal flood-plain ordinance.

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

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

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

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

H. Appeals

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

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

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

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

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

- (b) Variances shall not be granted for establishment of any uses otherwise prohibited by this Ordinance.
- (c) The Board shall not grant a variance unless it finds that:
 - (i) The proposed structure or use would meet the provisions of Section 15 except for the specific provision which has created the non-conformity and from which relief is sought; and
 - (ii) The strict application of the terms of this Ordinance would result in undue hardship. The term "undue hardship" shall mean:
 - a. That the land in question cannot yield a reasonable return unless a variance is granted;
 - b. That the need for a variance is due to the unique circumstances of the property and not to the general conditions in the neighborhood;
 - c. That the granting of a variance will not alter the essential character of the locality; and
 - d. That the hardship is not the result of action taken by the applicant or a prior owner.
- (d) Notwithstanding Section 16(H)(2)(c)(ii) above, the Board of Appeals, 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" shall include railing, wall or roof systems necessary for the safety or effectiveness of the structure. Any permit issued pursuant to this subsection is subject to Sections 16(H)(2)(f) and 16(H)(4)(b)(iv) below.)
- (e) The Board of Appeals shall limit any variances granted as strictly as possible in order to ensure conformance with the purposes and provisions of this Ordinance to the greatest extent possible, and in doing so may impose such conditions to a variance as it deems necessary. The party receiving the variance shall comply with any conditions imposed.
- (f) A copy of each variance request, including the application and all supporting information supplied by the applicant, shall be forwarded by the municipal officials to the Commissioner of the Department of Environmental Protection at least twenty (20) days prior to action by the Board of Appeals. Any comments received from the Commissioner prior to the action by the Board of Appeals shall be made part of the record and shall be taken into consideration by the Board of Appeals.

(3) Administrative Appeals

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

When the Board of Appeals hears a decision of the Planning Board, it shall hold an appellate hearing, and may reverse the decision of the Planning Board only upon finding that the decision was contrary to specific provisions of the Ordinance or contrary to the facts presented to the Planning Board. The Board of Appeals may only review the record of the proceedings before the Planning Board. The Board Appeals shall not receive or consider any evidence which was not presented to the Planning Board, but the Board of Appeals may receive and consider written or oral arguments. If the Board of Appeals determines that the record of the Planning Board proceedings are inadequate, the Board of Appeals may remand the matter to the Planning Board for additional fact finding.

(4) Appeal Procedure

(a) Making an Appeal

- (i) An administrative or variance appeal may be taken to the Board of Appeals by an aggrieved party from any decision of the Code Enforcement Officer or the Planning Board, except for enforcement-related matters as described in Section 16(H)(1)(a) above. Such an appeal shall be taken within thirty (30) days of the date of the official, written decision appealed from, and not otherwise, except that the Board, upon a showing of good cause, may waive the thirty (30) day requirement.
- (ii) Applications for appeals shall be made by filing with the Board of Appeals a written notice of appeal which includes:
 - a. A concise written statement indicating what relief is requested and why the appeal or variance should be granted.
 - b. A sketch drawn to scale showing lot lines, location of existing buildings and structures and other physical features of the lot pertinent to the relief sought.
- (iii) Upon receiving an application for an administrative appeal or a variance, the Code Enforcement Officer or Planning Board, as appropriate, shall transmit to the Board of Appeals all of the papers constituting the record of the decision appealed from.
- (iv) The Board of Appeals shall hold a public hearing on an administrative appeal or a request for a variance within thirty-five (35) days of its receipt of a complete written application, unless this time period is extended by the parties.

(b) Decision by Board of Appeals

- (i) A majority of the full voting membership of the Board shall constitute a quorum for the purpose of deciding an appeal.
 - (ii) The person filing the appeal shall have the burden of proof.
 - (iii) The Board shall decide all administrative appeals and variance appeals within thirty five (35) days after the close of the hearing, and shall issue a written decision on all appeals.
 - (iv) The Board of Appeals shall state the reasons and basis for its decision, including a statement of the facts found and conclusions reached by the Board. The Board shall cause written notice of its decision to be mailed or hand-delivered to the applicant and to the Department of Environmental Protection within seven (7) days of the Board's decision. Copies of written decisions of the Board of Appeals shall be given to the Planning Board, Code Enforcement Officer, and the municipal officers.
- (5) **Appeal to Superior Court.** Except as provided by 30-A M.R.S.A. section 2691(3)(F), any aggrieved party who participated as a party during the proceedings before the Board of Appeals may take an appeal to Superior Court in accordance with State laws within forty-five (45) days from the date of any decision of the Board of Appeals.
- (6) **Reconsideration.** In accordance with 30-A M.R.S.A. section 2691(3)(F), the Board of Appeals may reconsider any decision within forty-five (45) days of its prior decision. A request to the Board to reconsider a decision must be filed within ten (10) days of the decision that is being reconsidered. A vote to reconsider and the action taken on that reconsideration must occur and be completed within forty-five (45) days of the date of the vote on the original decision. Reconsideration of a decision shall require a positive vote of the majority of the Board members originally voting on the decision, and proper notification to the landowner, petitioner, planning board, code enforcement officer, and other parties of interest, including abutters and those who testified at the original hearing(s). The Board may conduct additional hearings and receive additional evidence and testimony.

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

I. Enforcement

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

(2) **Code Enforcement Officer**

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

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

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

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

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

SECTION 17. Definitions

For the purpose of this Ordinance, the following definitions shall be observed. All terms, not specifically defined herein, shall have their ordinary or customary meanings. Words used in the present tense shall include the future and the plural shall include the singular.

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

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

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

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

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

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

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

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

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

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

Cluster Housing Development - a form of development for single-family residential subdivisions that permits a reduction in lot area and other requirements, provided there is not an increase in the number of lots that would have been permitted under a conventional subdivision and the result land area is devoted to open space.

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

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.

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.

DBH - the diameter of a stranding tree measured 4.5 feet from ground level.

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

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

Disability - any disability, infirmity, malformation, disfigurement, congenital defect or mental condition caused by bodily injury, accident, disease, birth defect, environmental conditions or illness; and also includes the physical or mental condition of a person which constitutes a substantial handicap as determined by a physician or in the case of

mental handicap, by a psychiatrist or psychologist, as well as any other health or sensory impairment which requires special education, vocational rehabilitation or related services.

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.

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

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

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

Expansion of a structure - an increase in the footprint of a structure, including all extensions such as, but not limited to: attached decks, garages, porches and greenhouses.

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

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

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

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

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

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

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

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

- (1) Of ten or more contiguous acres; or of less than 10 contiguous acres and adjacent to a surface water body, excluding any river, stream or brook, such that in a natural state, the combined surface area is in excess of 10 acres; and
- (2) Inundated or saturated by surface or ground water at a frequency and for a duration sufficient to support, and which under normal circumstances do support, a prevalence of wetland vegetation typically adapted for life in saturated soils.

Freshwater wetlands may contain small stream channels or inclusions of land that do not conform to the criteria of this definition.

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

Gray water - A liquid waste discharge from any fixture, appliance or appurtenance in connection with a plumbing system which does not receive or contain fecal matter.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Native - indigenous to the local forests.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Residential dwelling unit - a room or group of rooms designed and equipped exclusively for use as permanent, seasonal, or temporary living quarters for only one family at a time, and containing cooking, sleeping and toilet

facilities. The term shall include mobile homes and rental units that contain cooking, sleeping, and toilet facilities regardless of the time-period rented. Recreational vehicles are not residential dwelling units.

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

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

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

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

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

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

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

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

(1) in the case of electric service

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

(2) in the case of telephone service

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

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

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

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

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

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

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

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

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

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

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

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

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.

Upland edge of a wetland - the boundary between upland and wetland. For purposes of a coastal wetland, this boundary is the line formed by the landward limits of the salt tolerant vegetation and/or the highest annual tide level, including all areas affected by tidal action. For purposes of a freshwater wetland, the upland edge is formed where the soils are not saturated for a duration sufficient to support wetland vegetation; or where the soils support the growth of wetland vegetation, but such vegetation is dominated by woody stems that are six (6) meters (approximately twenty (20) feet) tall or taller.

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

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.

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

Water body - any great pond, river or stream.

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

Wetland - a freshwater or coastal wetland.

Windfirm - the ability of a forest stand to withstand strong winds and resist windthrow, wind rocking, and major breakage.

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

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

EFFECTIVE DATE:

March 16, 1991

AMENDED:

March 11, 2000 (Town Meeting)

July 13, 2000 (Special Town Meeting)

March 7, 2009 (Town Meeting)

March 10, 2012 (Town Meeting)

March 5, 2016 (Town Meeting)

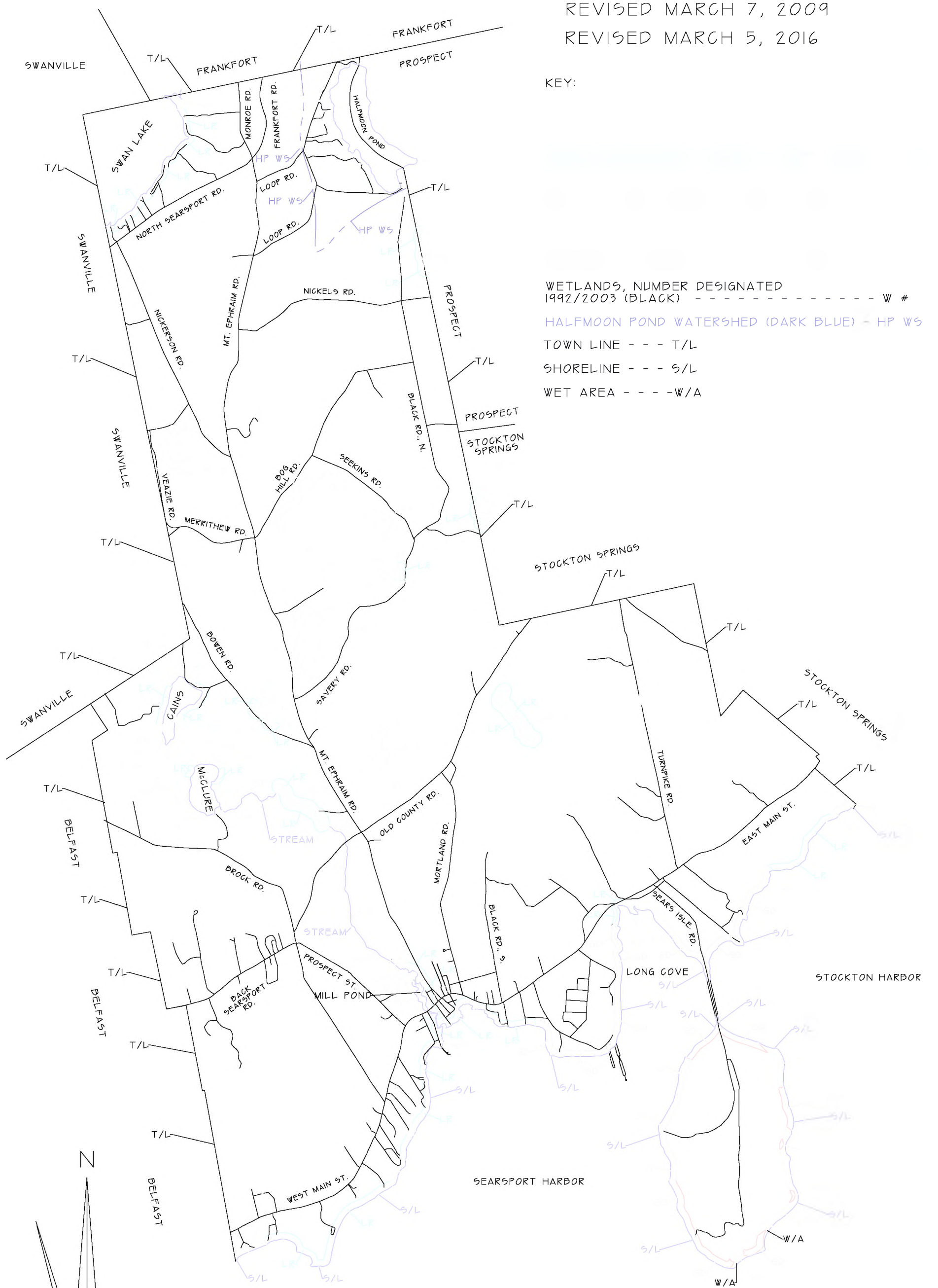
March 11, 2017 (Town Meeting)

Amended at the Town Meeting on March 11, 2017

This is a true and attested copy by:

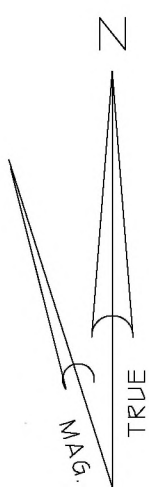

Deborah Plourde, Town Clerk

TOWN OF SEARSPORT
 SHORELAND ZONING MAP
 ADOPTED MARCH 8, 2003
 REVISED MARCH 7, 2009
 REVISED MARCH 5, 2016



KEY:

WETLANDS, NUMBER DESIGNATED
 1992/2003 (BLACK) - - - - - W #
 HALFMOON POND WATERSHED (DARK BLUE) - HP WS
 TOWN LINE - - - T/L
 SHORELINE - - - S/L
 WET AREA - - - -W/A



0 5000
 FEET

THIS MAP HAS BEEN PREPARED USING
 SEARSPORT E-911 ROAD LINES AND THE
 ADOPTED SEARSPORT SHORELAND ZONING
 MAPS.

THE SHORELAND ZONE AS DEPICTED ON
 THIS MAP IS APPROXIMATE ONLY AND MUST
 BE FIELD LOCATED.

PREPARED BY SEARSPORT GIS

**TOWN OF SEARSPORT
SOLID WASTE ORDINANCE**

ARTICLE I. GENERAL

1.1 Short Title

This Ordinance, prepared in accordance with the provisions of Title 30, MRSA §§ 1971, 2151, 2153, 4101, 4102 and Title 38, MRSA § 1304(B) as amended, shall be known and may be cited as the "Ordinance for the Control and Regulation of Solid Waste Collection and Disposal within the Town of Searsport", and shall be referred to herein as the "Ordinance"

1.2 Purpose

The purpose of the Ordinance is to preserve and protect environmental resources, while providing for a comprehensive and cost-effective means of regulating the disposal of municipal solid waste and recyclables in the Town of Searsport. In accordance with the provisions of Title 38 MRSA § 1305, subsection 1, the Town has a statutory obligation to provide solid waste disposal services for domestic and commercial waste generated within the municipality. Municipal solid waste contains recoverable resources, including energy, which, if recovered, may reduce the municipal cost of solid waste disposal. Since the Town, in accordance with the terms of a contract with an energy recovery facility, is required to guarantee a steady supply of solid waste during the life of the contract, the Town exercises its legal authority to collect, transport and dispose of solid waste generated within its borders to ensure such delivery of solid waste to the energy recovery facility. The Town finds that the use of an energy recovery facility, to process acceptable solid waste, is an environmentally sound and economically viable solution for Town solid waste disposal.

1.3 Definitions

For the purposes of this Ordinance, the following definitions shall be observed; all terms not specifically defined herein shall have their ordinary meaning; words used in the present tense include the future; and the plural includes the singular.

1.3.1 "Acceptable Waste" shall mean all solid wastes of the type presently accepted at the Town Transfer Station, including all ordinary household, municipal, institutional, commercial and industrial wastes with the following exceptions:

- (A) Waste originating outside of the Town of Searsport
- (B) Demolition debris originating from commercial sources
- (C) Animal or agricultural wastes
- (D) Liquid, or materials with sufficient liquid content to be free flowing, including sludges.

1.3.2 "Board of Selectmen" shall mean the Searsport Board of Selectmen.

1.3.3 "Collection Facility" shall mean a building or container or designated area where acceptable waste is

deposited and temporarily stored for shipment to an energy recovery facility or other facility for final disposal.

1.3.4 "Construction or Demolition Debris (CDD)" shall mean solid waste resulting from construction, remodeling, repair, and demolition of structures. It includes, but is not limited to, building materials, discarded furniture, asphalt, wallboard, pipes, and metal conduits. It excludes: partially filled containers of glues, tars, solvents, resins, paints, or caulking compounds, friable asbestos, and other special wastes.

1.3.5 "Corrugated Paper" shall mean clean, dry corrugated cardboard boxes.

1.3.6 "Disposal " shall mean the discharge, deposit, dumping or placing of any solid waste within or upon a municipally designated collection facility, or disposal facility, or an energy recovery facility approved by the Maine Department of Environmental Protection.

1.3.7 "Disposal Facility" shall mean the facility(ies) designated by the Town for ultimate disposal of acceptable wastes. This shall include an energy recovery facility and other sites and entities that are legally licensed to accept for disposal acceptable waste as defined by this Ordinance.

1.3.8 "Energy Recovery Facility" shall mean the facility designated herein which processes and recovers energy and/or useful materials from acceptable waste supplied by the Town.

1.3.9 "Glass" shall mean clean glass bottles, jugs, jars, et al. separated by clear, green or brown color. Glass, in this definition, does not include window glass or glass bottles that can be returned for deposit at a redemption facility.

1.3.10 "Hazardous waste" shall mean a waste substance or material, in any physical state, designated as hazardous by the Maine Department of Environmental Protection under 38 MRSA § 1319-0. It does not include waste resulting from normal household or agricultural activities. The fact that a hazardous waste or a part or a constituent may have value or other use or may be sold or exchanged does not exclude it from this definition.

(A) Petroleum-based wastes,

(B) Closed containers, including cardboard or steel drums, used for shipping or storing of chemicals of any sort,

(C) Junk vehicles, or parts thereof, and

(D) Old fuel tanks.

1.3.11 "Metals" shall mean all materials of metal with no other materials attached to it, including but not limited to wire, screening and copper pipe.

1.3.12 "Municipality" shall mean the Town of Searsport.

1.3.13 "Municipal Officers" shall mean the Searsport Board of Selectmen.

1.3.14 "Newspaper" shall mean dry, clean newspapers bundled or tied with string or twine (does not include glossy magazines, wax paper, cardboard, wet papers, papers more than 90 days out of print or junk mail).

1.3.15 "Recycle" shall mean the collection, separation, recovery and sale or reuse of material that would otherwise be disposed of or processed as waste, other than through combustion, or the mechanized separation of waste, and the creation and recovery of reusable materials other than as a fuel for the generation of electricity.

1.3.16 "Resident" shall mean any person who is domiciled within the Town of Searsport. It shall include seasonal person(s) who may own, rent, or lease a private dwelling therein.

1.3.17 "Solid Waste" shall mean useless, unwanted or discarded solid material with insufficient liquid content to be free flowing, including but not limited to rubbish, garbage, scrap materials, junk, refuse, inert fill material and landscape refuse, but shall not include septage tank sludge or agricultural wastes.

1.3.18 "Special Waste" shall mean any solid waste generated by a source other than a household and typical commercial establishment, which waste exists in such an unusual quantity or in such a chemical or physical state, or any combination thereof, that it may disrupt or impair effective waste management or threaten the public health, human safety or the environment and requires special handling, transportation and disposal procedures. Special waste includes, but is not limited to:

- (A) Ash,
- (B) Industrial and industrial process waste,
- (C) Sludge and de-watered septage,
- (D) Debris from non-hazardous chemical spills and cleanup of spills,
- (E) Contaminated soils and dredge materials,
- (F) Asbestos and asbestos-containing waste,
- (G) Sand blast grit and non-liquid paint waste,
- (H) High and low pH waste,
- (I) Spent filter media residue, and
- (J) Shredder residue,

1.3.19 "Town" shall mean the Town of Searsport.

1.3.20 "Transfer Station" shall mean the collection facility for the Town of Searsport, the Searsport Transfer Station.

1.3.21 "Transfer Station Operator" shall mean the Municipal Officers of the Town of Searsport or the Town employees or agents authorized by said Municipal Officers to act in their stead at the Town Transfer Station.

1.3.22 "Unacceptable Waste" shall mean all solid waste of the type municipalities are required to regulate by Title 38, MRSA § 1305, as amended, specifically excluding industrial and sewage treatment plant sludge, which is not included in the definition of acceptable waste. Wastewater treatment plant sludge shall be disposed of in accordance with the Town of Searsport Sewer Use Ordinance and pertinent state and federal laws and regulations.

1.3.23 "Universal Waste" shall mean any waste listed in section 3. A(13)(b) of Chapter 850, the Maine Hazardous Waste Management Rules, including but not limited to cathode ray tubes (CRT's), mercury-containing thermostats; and, totally enclosed, non-leaking polychlorinated biphenyl (PCB) ballasts.

1.3.24 "White Goods" shall mean large appliances, including but not limited to stoves, refrigerators, freezers, washing machines, clothes dryers, dishwashers and air conditioners.

ARTICLE II. COLLECTION FACILITIES

2.1 Designation

The Town shall, in accordance with the provisions of Title 38, MRSA §1304-B, as amended, provide and designate one or more collection facilities for the purposes cited in Article I, Section 1.3.3 of this Ordinance. The Searsport Transfer Station will be the collection facility for the Town of Searsport. The deposit or dumping of any solid waste including acceptable waste by any person or persons at any place other than at a Town designated collection facility, or any other facility approved by the Maine Department of Environmental Protection, is prohibited. However, the owner of any lot in Searsport, or any other person or person(s) with the permission of said lot owner, may deposit or dump on said lot substances such as earth, rocks, ledge, concrete or like material for fill purposes only.

ARTICLE III. DISPOSAL FACILITIES

3.1 Designation

The Town shall, in accordance with the provisions of Title 38, MRSA § 1305, provide and designate one or more disposal facilities for final disposal of acceptable waste generated in Searsport and any community with which it has a mutual agreement as described in Article VI, 6.2.1 of this Ordinance, as determined by the Municipal Officers. The Town designated disposal facilities shall be approved by the Maine Department of Environmental Protection.

ARTICLE IV. ENERGY RECOVERY FACILITY

4.1 Designation

In accordance with the provisions of Title 38, MRSA § 1304-B, the Town hereby designates the Penobscot Energy Recovery Corporation (PERC) facility, located in Orrington, Maine, as its Energy Recovery Facility for the purpose cited in Article I, Section 1.3.8 of this Ordinance.

ARTICLE V. ADMINISTRATION

5.1 Governing Board

The Municipal Officers shall establish rules and regulations for municipal collection and disposal of waste consistent with standards established by this Ordinance, specifically:

- (A) To ensure that the operation of the Transfer Station shall comply with all pertinent regulations or directives of all local, county, state or federal agencies which may have jurisdiction;
- (B) To set user fees and hours of operation in order to maintain cost-effective operations;
- (C) To review any alleged violation of this Ordinance, and, to take appropriate action after notice and hearing, as required by this Ordinance;

(D) To institute necessary proceedings, either legal or equitable, to enforce this Ordinance.

ARTICLE VI. RULES AND REGULATIONS

6.1 Handling Solid Waste

The accumulation, collection, transportation and disposal of acceptable waste and unacceptable waste within the Town shall be regulated in the following manner.

6.1.1 All acceptable waste shall be deposited at the Town Transfer Station.

6.1.2 All unacceptable waste shall be removed from the Transfer Station by the User who brought it, to be disposed of properly in accordance with all local, state and federal laws..

6.2 Authorized Transfer Station Users

6.2.1 The availability and use of the Transfer Station shall be limited to the residents of the Town and to the solid waste generated within the municipality. The Town may, through mutual agreement, authorize the availability and use of its Transfer Station by another community, restricted to residents of that community and to the solid waste generated therein. Such mutual agreements must be approved by the voters of the respective municipalities, or, if so authorized, by the respective Boards of Municipal Officers or Councils.

6.2.2 To control use of the Transfer Station, the Town may require resident permits, which shall be prominently displayed on and affixed to vehicles in a manner prescribed by the Municipal Officers.

6.3 Waste Separation

Solid waste deposited at the Town Transfer Station shall be separated by users into the following general categories and disposed of only in those sites and locations designated to receive same:

(A) Municipal Solid Waste (MSW), meaning bagged household waste,

(B) All inert metals, including but not limited to iron, copper, lead, aluminum, brass, bronze, tin and composites thereof,

(C) All wood materials, including construction lumber and timbers, composition boards, plywood, and like substances,

(D) All recyclable waste properly prepared and separated by category, as designated by the Board, and

(E) White Goods as defined in section 1.3.24.

6.4 Excluded Waste

Certain materials cited as Hazardous Waste (Section 1.3.10) shall not be accepted for disposal, storage, or in any other manner accepted or handled at the Town Transfer Station. All such hazardous wastes shall be disposed of in accordance with Title 38, MRSA, as amended.

6.5 Exempted Waste

The following categories of waste shall be exempted from regulation by this Ordinance:

(A) Materials from manufacturing, processing or packaging operations which are segregated from solid waste and salvaged for alternate use or reuse by the generator or sold to third parties.

ARTICLE VII. PROPERTY RIGHTS

7.1 Waste Property Rights

Any solid waste deposited within the Town Transfer Station becomes the property of the municipality. No one shall salvage, remove, or carry off any such deposited solid waste without prior approval of the Municipal Officers.

ARTICLE VIII. COLLECTION AND DISPOSAL

8.1 On Site Operator

8.1.1 The solid waste Transfer Station site(s) shall be directly managed and operated by the Town or by a contractor hired by the Town.

8.1.2 The Transfer Station Operator or a designated alternate shall be present at all times when the facility is open to public use.

8.1.3 The Transfer Station Operator shall ensure that the operation of the facility conforms to Maine Department of Environmental Protection directives and regulations, and rules and regulations adopted by the Municipal Officers.

ARTICLE IX. VIOLATIONS AND PENALTIES

9.1 Whoever violates any of the provision of this Ordinance shall be punished by a fine of not less than fifty dollars (\$50.00) and not more than one hundred fifty dollars (\$150.00) for each day of the violation plus costs of enforcement, including reasonable attorney's fees, which fare and costs shall be recovered on complaint to the use of the Town. The provision shall not preclude the Municipal Officers from simultaneously seeking appropriate equitable relief.

9.2 Any authorized user who violates any provision of this Ordinance or of any rules and regulations promulgated pursuant hereto may, in addition to the above, be punished by a revocation of the right to use the Town Transfer Station for a period of time designated by the Municipal Officers.

ARTICLE X. VARIANCES

The Municipal Officers may, on written application, grant a variance from a specific provision of this Ordinance in a specific case, subject to appropriate conditions, where such variance is in harmony with the

general purpose and intent of this Ordinance and the agreement(s) between the Town and the Energy Recovery Facility or other disposal facilities.

ARTICLE XI. CONSTRUCTION

11.1 Severability

Severability is intended within and throughout the provisions of this Ordinance. Should any provision, including interalia, any exceptions, parts, phrases or terms or the application thereof, to any person or circumstances be held valid, the application of other provisions of this Ordinance shall not be affected thereby and the validity of this Ordinance in any and all other respects shall not be adversely affected.

11.2 Supersession

This Ordinance supersedes and replaces any and all like or comparable ordinances, policies or decisions previously enacted and in force within the Municipality, and shall remain in effect until, or unless, revoked or suspended by action of the voters of the Town.

11.3 Amendments

From time to time, circumstances may require that portions or sections of this Ordinance be amended, revised or deleted. Such actions shall be proposed to the voters of Searsport at a town meeting by the Municipal Officers. Approval of any amendments, revisions, or deletions rests exclusively with the voters of the Town.

ARTICLE XII. REPEAL OF RECYCLING ORDINANCE

The Recycling Ordinance for the Town of Searsport, the substance of which is incorporated herein, is repealed effective the date of adoption of Amendments submitted to the voters of the Town on December 6, 2001. This Ordinance adopted March 19, 2005 at the Annual Town Meeting repeals any and all versions of the Recycling Ordinance currently in place.

ARTICLE XIII. ADOPTION

This Ordinance was submitted to the voters of the Town and adopted at Annual Town Meeting on March 12, 1988 and shall be deemed effective that date. Amendments to this Ordinance were submitted to the voters of the Town and adopted at Special Town Meeting on December 6, 2001, and shall be deemed effective that date. Amendments to this Ordinance were submitted to the voters of Searsport and adopted at Annual Town Meeting March 19, 2005.

This is a true and attested copy by: Deborah Plourde, Town Clerk

Deborah Plourde, Town Clerk

Solidwaste 12/6/01

WIND ENERGY FACILITY ORDINANCE FOR SEARSPORT, MAINE

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WIND ENERGY FACILITY ORDINANCE FOR SEARSPORT, MAINE

1.0 – Title

This Ordinance shall be known as the Wind Energy Facility Ordinance for the Town of Searsport, Maine.

2.0 – Authority

This Ordinance is adopted pursuant to the enabling provisions of Article VIII, Part 2, Section 1 of the Maine Constitution; the provisions of 30-A M.R.S. 3001 (Home Rule), and the provisions of the Planning and Land Use Regulation Act, 30-A M.R.S. 4312 *et. seq.*

3.0 – Purpose

The purpose of the Ordinance is to provide for the construction and operation of Wind Energy Facilities in Searsport, Maine, subject to reasonable conditions that will protect the public health, safety, and welfare.

4.0 – Definitions

Disclaimer – These definitions apply to this ordinance only.

Applicant is the legal entity, including successors and assigns, that files an application under this Ordinance.

Approved Residential Subdivision means a residential subdivision for which all applicable land use permits have been issued, provided that the time for beginning construction under such permits has not expired.

Associated Facilities means elements of a Wind Energy Facility other than its Generating Facilities that are necessary to the proper operation and maintenance of the Wind Energy Facility, including but not limited to buildings, access roads, Generator Lead Lines and substations.

DEP Certification means a certification issued by the Department of Environmental Protection pursuant to 35-A M.R.S. 3456 for a Wind Energy Development.

Generating Facilities means Wind Turbines and electrical lines, not including Generator Lead Lines, that are immediately associated with the Wind Turbines.

Generator Lead Line means a “generator interconnection transmission facility” as defined by 35-A M.R.S. 3132 (1-B).

Historic Area means an Historic Site administered by the Bureau of Parks and Recreation of the Maine Department of Conservation, with the exception of the Arnold Trail.

Historic Site means any site, structure, district, or archaeological site which has been officially included on the National Register of Historic Places and/or on the Maine Historic Resource Inventory, or which is established by qualified testimony as being of historic significance>

WIND ENERGY FACILITY ORDINANCE FOR SEARSPORT, MAINE

Locally-Designated Passive Recreation Area means any site or area designated by a municipality for passive recreation that is open and maintained for public use and which; a) has fixed boundaries, b) is owned by the municipality or is accessible by virtue of public easement, c) is identified and described in a local comprehensive plan and, d) has been and designated at least nine months prior to the submission of the Applicants Wind Energy Facility permit application.

Meteorological Tower (MET Tower) means a Tower used for the measurement and collection of wind data that supports various types of equipment, including but not limited to anemometers, data recorders, and solar power panels. MET Towers may also include wildlife related equipment such as ANABAT detectors, bird diverts, and wildlife entanglement protectors.

Municipal Reviewing Authority means the municipal planning board, agency or office, or if none, the municipal officers.

Nacelle means the frame and housing at the top of the Tower that encloses the gearbox and generator.

Non-Participating Landowner means any landowner, other than a Participating Landowner whose land is located within Searsport.

Occupied Building means a residence, school, hospital, house of worship, public library or other building that is occupied or in use as a primary residence or is customarily frequented by the public at the time when the permit application is submitted.

Participating Landowner means one or more Persons that hold title in fee or a leasehold interest with sublease rights to property on which Generating Facilities or Associated Facilities are proposed to be located pursuant to an agreement with the Applicant or an entity that has entered into an appropriate agreement with the Applicant allowing the Applicant to demonstrate the requisite right, title and interest in such property.

Person means an individual, corporation, partnership, firm, organization or other legal entity.

Planned Residence means a Residence for which all applicable building and land use permits have been issued, provided that the time for beginning construction under such permits has not expired.

Protected Location means any location that is:

- 1) accessible by foot, on a parcel of land owned by a Non-Participating Landowner containing a residence or planned residence, or an approved residential subdivision, house of worship, academic school, college, library, duly licensed hospital or nursing home near the development site at the time an application for a Wind Energy Facility is submitted under this Ordinance;
- 2) within a State Park, Baxter State Park, a National Park, a nature preserve owned by a land

WIND ENERGY FACILITY ORDINANCE FOR SEARSPORT, MAINE

trust, the Maine Audubon Society or the Maine chapter of the Nature Conservancy, the Appalachian Trail, the Moosehorn National Wildlife Refuge, a federally designated wilderness area, a state wilderness area designated by statute, a municipal park or a locally-designated passive recreation area, or any location within consolidated public reserve lands designated by rule by the Bureau of Public Lands as a Protected Location, or,

3) a hotel, motel, campsite, or duly licensed campground that the municipal authority responsible for review and approval of the pending application under 9.1 has designated a Protected Location after making a determination that the health and welfare of the guests or the economic viability of the establishment will be unreasonably impacted by noise in excess of that allowed under Section 13.1.3(b).

Residence means a building or structure, including manufactured housing, maintained for permanent or seasonal residence occupancy providing living, cooking and sleeping facilities and having permanent indoor or outdoor sanitary facilities, excluding recreational vehicles, tents and watercraft.

Scenic Resource means either a Scenic Resource of state or national significance, as defined in 35-A M.R.S. 3451(9) or a scenic resource of local significance located within the municipality and identified as such in a comprehensive plan, open space plan or scenic inventory adopted by the municipal legislative body.

Shadow Flicker means alternating changes in light intensity caused by the movement of Wind Turbine blades casting shadows on the ground or a stationary object.

Short Duration Repetitive Sounds means sequence of repetitive sounds which occur more than once within an hour, each clearly discernible as an event and causing an increase in the sound level of at least 6 dBA on the fast meter response above the sound level observed immediately before and after the event, each typically less than ten seconds in duration, and which are inherent to the process or operation of the development and are foreseeable.

Sight Line Representation means a profile drawing showing prominent features, including but not limited to topography, buildings, and trees, along and in relation to a line of sight extending from an observer's eye to the lowest point visible on a proposed Tower.

Significant Wildlife Habitat means a Significant Wildlife habitat as defined in 38 M.R.S. 480-b(10).

Substantial Start means that construction shall be considered to be substantially commenced when any work beyond excavation, including but not limited to, the pouring of a slab or footings. The installation of piles, the construction of columns, or the placement of a Tower on a foundation has begun.

Tower means the free-standing structure on which a wind measuring or energy conversion system is mounted.

WIND ENERGY FACILITY ORDINANCE FOR SEARSPORT, MAINE

Turbine Height means the distance measured from the surface of the Tower foundation to the highest point of any turbine rotor blade measured at the highest arc of the blade.

Wind Energy Facility means a facility that uses one or more Wind Turbines to convert wind energy to electrical energy. A Wind Energy Facility includes Generating Facilities and Associated Facilities.

Wind Energy Facility, Type 1A means a Wind Energy Facility having a maximum generating capacity of less than 100kW, a maximum of one Wind Turbine and a maximum Turbine Height of 80 feet.

Wind Energy Facility, Type 1B means a Wind Energy Facility having a maximum generating capacity of less than 100kW and either more than one Wind Turbine, or one or more Wind Turbines with a Turbine Height greater than 80 feet.

Wind Energy Facility, Type 2 means a Wind Energy Facility having a maximum generating capacity of 100kW or greater and which does not require a state permit issued by the Department of Environmental Protection under the Site Location of Development Act, 38 M.R.S. 481, *et seq.*

Wind Energy Facility, Type 3 means a Wind Energy Facility having a generating capacity of 100kW or greater and which requires a state permit issued by the Department of Environmental Protection under the Site Location of Development Act, 38 M.R.S. 481, *et seq.*

Wind Turbine means a system for the conversion of wind energy into electricity which is comprised of a Tower, generator, Nacelle, rotor and transformer.

5.0 Applicability

This Ordinance applies to any Wind Energy Facility proposed for construction in Searsport, Maine after the effective date of this Ordinance. This Ordinance does not apply to Associated Facilities unless the Generating Facilities are located within Searsport, Maine, in which case this Ordinance applies to both the Generating Facilities and the Associated Facilities.

5.1 – A Wind Energy Facility that is the subject of an application determined to be complete by the Searsport Planning Board prior to the effective date of this Ordinance shall not be required to meet the requirements of this Ordinance; provided that any physical modifications after the effective date of the Ordinance shall be subject to the permitting requirements of Section 9.2.

6.0 Conflict and Severability

6.1 – If there is a conflict between provisions in this Ordinance, the more stringent shall apply. If there is a conflict between a provision in this Ordinance and that of another Town of Searsport Ordinance, the provision of this ordinance shall apply.

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

7.0 Effective Date

This Ordinance becomes effective on March 10, 2012.

8.0 Classification of Wind Energy Facilities

All Wind Energy Facilities shall be classified in accordance with Table 1, below:

Table 1: Classification of Wind Energy Facilities and Corresponding Local Review and Approval Authority

Facility Type	Aggregate Capacity	Turbine Height	Max # of Turbines	DEP Site Location Permit Required	Local Review and Approval
1A	< 100kW	> or = 80 ft.	1	No	Code Enforcement Officer
1B	< 100kW	> 80 ft.	NA	No	Searsport Planning Board
2	> or = 100kW	NA	NA	No (1)	Searsport Planning Board
3	> or = 100kW	NA	NA	Yes (2)	Searsport Planning Board

(1) Per 35-A M.R.S. 3456. DEP Certification required if energy generated is for sale or use by a Person other than the generator.

(2) Per 38 M.R.S. 482 (2)

9.0 Administration

9.1 – Review and Approval Authority

1. The Code Enforcement Officer is authorized to review all applications for Type 1A Wind Energy Facilities and MET Towers pursuant to Section 11.0, and may approve, deny or approve such applications with conditions in accordance with the standards of this Ordinance.

2. The Searsport Planning Board is authorized to review all applications for Type 1B, Type 2, and Type 3 Wind Energy Facilities and may approve, deny, or approve such applications with conditions in accordance with this Ordinance.

9.2 – Permit Required

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1. No Wind Energy Facility shall be constructed or located within the Town of Searsport without a permit issued in accordance with this Ordinance.
2. Any physical modification to an existing Wind Energy Facility that materially alters the location or increases the area of development on the site or that increases the Turbine Height or the level of sound emissions of any Wind Turbine shall require a permit modification under this Ordinance. Like-kind replacements and routine maintenance and repairs shall not require a permit modification.

9.3 – Permit Applications

1. Application components. A Wind Energy Facility permit application shall consist of the application form, application fee, and supporting document as described below:
 - a. Application Forms. The municipality shall provide the application form which shall be signed by: 1) a Person with right, title and interest in the subject property or; 2) a Person having written authorization from a Person with right, title and interest in the subject property. The signature shall be dated and the signatory shall certify that the information in the application is complete and correct and that the proposed facility will be constructed and operated in accordance with the standards of this Ordinance and all approval and permit conditions, if any.
 - b. Application Fees: Application fees shall be assessed and paid upon submission of the application in accordance with Appendix A of the Ordinance.
 - c. Supporting Documents: The application shall include all additional documents necessary to satisfy the applicable submission requirements under Section 10 of this Ordinance.
2. Application Submission. The Applicant shall submit its application for a Wind Energy Facility permit to the Chair of the Searsport Planning Board, who shall note on the application the date on which it was received.
3. Changes to a Pending Application. If changes are proposed to a pending application after a public hearing has been held, the Searsport Planning Board may consider those changes and continue with the review and approval process without a renewed public hearing if it determines that the changes do not materially alter the application. If the Searsport Planning Board determines that the proposed changes do materially alter the application it shall schedule and conduct another public hearing within 30 days of that determination. In making its determination, the Searsport Planning Board shall consider whether the proposed changes involve potential adverse effects different than or in addition to those addressed in the initial application.

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9.4 – Permit Application Procedures

1. Type 1A Wind Energy Facility Application

a. Within 10 days after receiving an application, the Code Enforcement Officer shall notify the Applicant in writing either that the application is complete or, if the application is incomplete, the specific additional material needed to complete the application. The Code Enforcement officer may waive any submission requirement if the Code Enforcement Officer issues a written finding that, due to special circumstances of the application, adherence to that requirement is not necessary to determine compliance with the standards of the Ordinance.

b. Within 30 days after determining the application to be complete, the Code Enforcement Officer shall issue a written order: 1) denying approval of the proposed Wind Energy Facility, 2) granting approval of the proposed Wind Energy Facility or, 3) granting approval of the proposed Wind Energy Facility with conditions. In making the decision, the Code Enforcement Officer shall make findings on whether the proposed Wind Energy Facility meets the applicable criteria described in Sections 12 and 13.

c. With the agreement of the applicant, the Code Enforcement Officer may extend the procedural time frames of this section.

2. Type 1B, Type 2 and Type 3 Wind Energy Facility Applications

a. The Applicant is strongly encouraged to meet with the Chair of the Searsport Planning Board before submitting an application. At this pre-application meeting, the Chair of the Searsport Planning Board will explain the Ordinance's provisions, application forms, and submission requirements. The Applicant should provide photos of the proposed site and written descriptions of the proposed facility and the proposed site, including its location and lot area.

b. An applicant shall be eligible for consideration at a regularly-schedule meeting of the Searsport Planning Board only if the applicant submits it at least 14 days prior to the meeting.

c. Within 30 days after receipt of the application by the Chair of the Searsport Planning Board, the Searsport Planning Board shall notify the Applicant in writing either that the application is complete or, if the application is incomplete, the specific additional material needed to complete the application. The Searsport Planning Board may waive any submission requirement if it issues a written finding that, due to special circumstances of the application, adherence to that requirement is not necessary to determine compliance with the standards of this Ordinance.

d. The Searsport Planning Board shall hold a public hearing for a Type 3 Wind Energy Facility application within 60 days after determining that the application is

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complete. The Searsport Planning Board may decide to hold a public hearing for a Type 1B or a Type 2 Wind Energy Facility application. If it decides to hold a public hearing for a Type 1B application, the Searsport Planning Board shall hold that hearing within 30 days after determining that application is complete. If it decides to hold a public hearing for a Type 2 application, the Searsport Planning Board shall hold that hearing within 60 days after determining the the application is complete.

e. Within 60 days after determining that an application for a Type 1B Wind Energy Facility is complete or within 90 days after determining that an application for a Type 2 or Type 3 Wind Energy Facility is complete, the Searsport Planning Board shall issue a written order: 1) denying approval of the proposed Wind Energy Facility, 2) granting approval of the proposed Wind Energy Facility or, 3) granting approval of the proposed Wind Energy Facility with conditions. In making it's decision, the Searsport Planning Board shall make findings on whether the proposed Wind Energy Facility meets the applicable criteria described in Sections 12, 13 and 14.

f. With the agreement of the Applicant, the Searsport Planning Board may extend the procedural time frame of this section.

Table 2
Procedural Time Frames

Facility Type	Application Completeness	Public Hearing	Final Decision
1A	< or = 10 days (1)	NA	< or = 30 days (2)
1B	< or = 30 days (1)	< or = 30 days (2)	< or = 60 days (2)
2	< or = 30 days (1)	< or = 60 days (2)	< or = 90 days (2)
3	< or = 30 days (1)	< or = 60 days (2)	< or = 90 days (2)

(1) Days after the receipt of the application by the Chair of the Searsport Planning Board

(2) Days after the application is determined to be complete

9.5 – Notice of Meetings

Fourteen days (14) prior to any meetings at which an application for a Type 1B, Type 2 or Type 3 Wind Energy Facility is to be considered, the Searsport Planning Board shall send notice by first class mail, to the applicant and all owners of property abutting the property on which the Wind Energy Facility is proposed to be located. The notice shall state the date, time, and place of meeting and the proposed location and classification of the proposed Wind Energy Facility.

9.6 – Public Hearings

The Searsport Planning Board shall have notice of the date, time, and place of any

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public hearing and the proposed location and the classification of the proposed Wind Energy facility:

1. Published at least once in a newspaper having general circulation within the municipality. The date of the first publication shall be at least 10 days before the hearing.
2. Mailed by first class mail to the Applicant and to owners of property within 500 feet of the property on which the Wind Energy Facility is proposed to be located, at least 10 days before the public hearing. The Searsport Planning Board shall maintain a list of property owners to whom notice is mailed in the application file. Failure of any of these property owners to receive a notice shall not invalidate the public hearing, nor shall it require the Searsport Planning Board to schedule another hearing.

9.7 – Professional Services

In reviewing the application for compliance with this Ordinance, the Searsport Planning Board may retain professional services, including but not limited to those of an attorney or consultant, to verify information presented by the Applicant. The attorney or consultant shall first estimate the reasonable cost of such review and the Applicant shall deposit, with the municipality, the full estimated cost, which the municipality shall place in an escrow account. The municipality shall pay the attorney or consultant from the escrow account and reimburse the Applicant if funds remain after the payment.

9.8 – Expiration of Permits

Permits shall expire: 1) two years after the date of approval unless a substantial start on construction has occurred and; 2) three years after the date of approval unless construction of the Wind Energy Facility has been completed. If a permit for a Type 2 or Type 3 Wind Energy Facility expires, the Applicant shall implement pertinent provisions of the approved decommissioning plan. Upon the Applicant's written request, the municipal entity responsible for review and approval of the application under Section 9.1 may extend either or both expiration time limits by one year.

9.9 – Access

The Code Enforcement Officer shall have access to the site at all times to review the progress of the work and shall have the authority to review all records and documents directly related to the design, construction and operation of the facility.

9.10 – Enforcement

1. It shall be unlawful for any Person to violate or fail to comply with or take any action that is contrary to the terms of the Ordinance, or to violate or fail to comply with any permit issued under the Ordinance, or to cause another to violate or fail to comply or take any action which is contrary to the terms of the Ordinance or any permit under the Ordinance.

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2. If the Code Enforcement Officer or other Person charged with enforcement of municipal laws determines that a violation of the Ordinance or the permit has occurred the Code Enforcement Officer shall provide written notice to any Person alleged to be in violation of this Ordinance or permit. If the alleged violation does not pose an immediate threat to public health or safety, the Code Enforcement Officer and the alleged violator shall engage in good faith negotiations to resolve the alleged violation. Such negotiations shall be conducted within thirty (30) days of the notice of violation and, with the consent of the alleged violator, may be extended.

If, after thirty (30) days from the date of notice of violation or further period as agreed to by the alleged violator, the Code Enforcement Officer determines, in the officer's reasonable discretion, that the parties have not resolved the alleged violation, the Code Enforcement Officer may institute civil enforcement proceedings or any other remedy at law to ensure compliance with the Ordinance or permit.

9.11 – Appeals

An aggrieved party may appeal any decision of the Board under this Ordinance to the Waldo County Superior Court, within thirty days of the date the Board issues a written order of its decision, in accordance with Rule 80B of Maine Rules of Court.

10.0 – Application Submission Requirements

1 – A completed application form including:

- a. The Applicant and Participating Landowner(s) name(s) and contact information.
- b. The address, tax map number, zone and owner(s) of the proposed facility site and any contiguous parcels owned by the Participating Landowners.
- c. The tax map number, zone, current use, owner(s) and addresses of owner(s) of parcels that abut the proposed facility site or abut parcels of Participating Landowners that are contiguous with the proposed facility site, and of parcels within 500 feet of the proposed facility. (Not required for Type 1A applications)
- d. An affirmation, signed and dated by the Applicant, that the information provided in the application is correct and that the proposed Wind Energy Facility, if approved and built, shall be constructed and operated in accordance with the standards of this Ordinance and all conditions of approval, if any.

2 – Receipt showing payment of application fee in accordance with the Town of Searsport Land Use Permit Fee Schedule.

3 – A copy of a deed, easement, purchase option or other comparable documentation demonstrating that the Applicant has right, title or interest in the proposed facility site.

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4 – Location map showing the boundaries of the proposed facility site and all contiguous property under the total or partial control of the Applicant or Participating Landowner(s) and any Scenic Resource or Historic Site within 2,500 feet of the proposed development.

5 – Description of the proposed Wind Energy Facility that includes the number and aggregate generating capacity of all Wind Turbines, The Turbine Height and manufacturer's specifications for each Wind Turbine (including but not limited to the make, Model, maximum generating capacity, sound emission levels and types of overspeed control(s) and a description of Associated Facilities

6 – Site plan showing the proposed location of each Wind Turbine and Associated Facilities and any of the following features located within 500 feet of any Wind Turbine parcel boundaries, required setbacks, topographic contour lines (maximum 20-foot interval), roads, rights-of-way, overhead utility lines, buildings (identified by use), land cover, wetlands, streams, water bodies and areas proposed to be re-graded or cleared of vegetation.

a. In addition to the information in 6, above, site plans for Type 1B, Type 2 and Type 3 Wind Energy Facilities shall show the location and average height of tree cover to be retained and the location, variety, planting height and mature height of proposed trees, if any.

7 – Written comments from the Environmental Coordinator of the Maine Department of Inland Fisheries and Wildlife (MDIFW) and the Maine Natural Area Program (MNAP).

8 – Written evidence that the provider of electrical service to the property has been notified of the intent to connect an electric generator to the electricity grid, if such connection is proposed.

9 – Description of emergency and normal shutdown procedures.

10 – Photographs of existing conditions at the site.

11 – An application for a Type 1A or 1B Wind Energy Facility shall include structural drawings of the Tower foundation and anchoring system: a) prepared by the Wind Turbine or Tower manufacturer, b) prepared in accordance with the manufacturer's specifications or, c) prepared and stamped by a Maine-licensed professional engineer.

12 – An application for a Type 1A or Type 1B Wind Energy Facility shall include:

a. A written statement, signed by the Applicant, that certifies that the proposed facility is designed to meet the applicable noise control standards under Section 13.1.3 and acknowledges the Applicant's obligation to take remedial action in accordance with Section 13.1.6 if the authority having jurisdiction determines those standards are not being met, or;

b. A written request to review under Section 14.1 along with information required

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under Appendix B, subsection B (Submissions).

13 – An Application for a Type 1B, Type 2 or Type 3 Wind Energy Facility shall include the following site line, photographic and, if applicable, screening information, provided that an Applicant for a Type 3 Wind Energy Facility may provide this information as part of a visual assessment if required pursuant to Section 14.5:

- a. Site Line Representations of each Wind Turbine from the nearest Occupied Building and from at least one other representative location within 500 feet of the Wind Turbine, such as a Scenic Resource or another Occupied Building. Each Site Line Representation shall be drawn at a scale sufficiently large to make it legible. If screening is proposed, the proposed screening device, such as trees, shrubs or fencing, shall be depicted on the drawing along with the sight line as altered by the screening.
- b. A current eight-inch by ten-inch color photograph of the proposed site of the Wind Turbine(s) taken from viewpoints corresponding to each of the Site Line Representations.
- c. One copy of the photographs described in b, above, onto which is superimposed an accurately-scaled and sited representation of the Wind Turbine(s).

14 – An application for a Type 2 Wind Energy Facility that generates energy primarily for sale or use by a Person other than the generator, shall include, if issued at the time of application, certification from the Department of Environmental Protection pursuant to 35-A M.R.S. 3456 that the Wind Energy Facility:

- a. Will meet the requirements of the noise control rules adopted by the Board of Environmental Protection pursuant to the Site Location of Development Act, 38 M.R.S. 481, *et seq.*
- b. Will be designed and sited to avoid unreasonable adverse Shadow Flicker effects, and,
- c. Will be constructed with setbacks adequate to protect public safety.

If such certification has not been issued at the time of application, the Applicant shall include written evidence that the Applicant has applied for certification.

Additional Submission Requirements for an Applicant for a Type 2 and 3 Wind Energy Facility:

- 1 – Certificates of design compliance obtained by the equipment manufacturer from Underwriters Laboratories, Det Norske Veritas, or other similar certifying organizations.

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- 2 – Decommissioning plan in conformance with Appendix C.
- 3 – Written summary of operation and maintenance procedures for the Wind Energy Facility and a maintenance plan for access roads, erosion and sedimentation controls and storm water management facilities.
- 4 – Standard boundary survey of the subject property stamped by a Maine-licensed surveyor. The Searsport Planning Board may waive this requirement if it determines that the Applicant has provided information sufficient to identify property boundaries to the extent necessary>
- 5 - Visual impact assessment, if required pursuant to Section 14.5.
- 6 - Stormwater management plan stamped by a Maine-licensed professional engineer.
- 7 – Sound level analysis, prepared by a qualified engineer, which addresses the standards of Section 14.1.
- 8 – Shadow Flicker analysis based on WindPro or other modeling software approved by the Department of Environmental Protection.
- 9 – Foundation and anchoring system drawings that are stamped by a Maine-licensed professional engineer.
- 10 – Other relevant studies, reports, certifications and approvals as may be reasonably requested by the Searsport Planning Board to ensure compliance with this Ordinance.

11.0 – Meteorological Towers (MET Towers)

Applications for Meteorological (MET) Towers shall be subject to the submission and review standards for a Type 1A Wind Energy Facility, as applicable, except that no height limitation shall apply. A permit for a MET Tower shall be valid for 2 years and 2 months from the date of issuance. The Code Enforcement Officer may grant one or more one-year extensions of this permit period. Within 30 days following removal of a MET Tower the Applicant shall restore the site to its original condition to the extent practicable. The provisions of this section do not apply to permanent MET Towers included as Associated Facilities in approved Wind Energy Facility applications.

12.0 – General Standards

12.1 – Safety Setbacks

Wind Turbines shall be set back a horizontal distance equivalent to 150% of the Turbine Height from property boundaries, public and private rights-of-way and overhead utility lines that are not part of the proposed Generating Facility except that the entity responsible for

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review and approval of the application may allow a reduced setback if the Applicant submits, in writing: 1) a waiver of the property boundary setback signed by the pertinent abutting landowner or; 2) evidence, such as operating protocols, safety programs, or recommendations from the manufacturer or a licensed professional engineer with appropriate expertise and experience with Wind Turbines, that demonstrates that the reduced setback proposed by the Applicant is appropriate.

12.2 – Natural Resource Protection

A Wind Energy Facility shall not have an unreasonable adverse effect on rare, threatened, or endangered wildlife, significant wildlife habitat, rare, threatened or endangered plants and rare and exemplary plant communities. In making its determination under this subsection, the municipal entity responsible for review and approval of the permit application under Section 9.1 shall consider pertinent application materials and the written comments and/or recommendations, if any, of the Maine Department of Inland Fisheries and Wildlife (MDIFW) Environmental Coordinator and the Maine Natural Areas Program (MNAP).

12.3 – Building Permit

All components of the Wind Energy Facility shall conform to relevant and applicable local and state building codes.

12.4 – Overspeed Controls and Brakes

Each Wind Turbine shall be equipped with an overspeed control system that; 1) includes both an aerodynamic control such as stall regulation, variable blade pitch, or other similar system, and a mechanical brake that operates in fail safe mode; or 2) has been designed by the manufacturer or a licensed civil engineer and found by the municipal entity responsible for review and approval of the application under 9.1, based on its review of a written description of the design and function of the system, to meet the needs of public safety.

12.5 – Electrical Components and Interconnections

All electrical components of the Wind Energy Facility shall conform to relevant and applicable local, state, and national codes.

12.6 – Access

All ground-mounted electrical and control equipment and all access doors to a Wind Turbine shall be labeled and secured to prevent unauthorized access. A Wind Tower shall not be climbable up to a minimum of fifteen (15) feet above ground surface.

12.7 - Blade Clearance

The minimum distance between the ground and all blades of a Wind Turbine shall be 25 feet as measured at the lowest are of the blades.

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12.8 – Signal Interference

The Applicant shall make reasonable efforts to avoid and mitigate to the extent practicable any disruption or loss of radio, telephone, television, or similar signals caused by the Wind Energy Facility.

12.9 – Structure Type

With the exception of Meteorological (MET) Towers, Towers shall be monopoles with no guy wires. This requirement may be waived if the Applicant demonstrates to the satisfaction of the municipal entity responsible for review and approval of the permit application under Section 9.1, that there is no practicable alternative. Bird flight diverters must be installed on any guy wires that are permitted.

12.10 – Erosion Control

Erosion of soil and sedimentation shall be minimized by employing “best management practices” in the most recent edition of “*Maine Erosion Control Handbook for Construction Best Management Practices*”,

12.11 – Building-Mounted Wind Turbines

Building-mounted Wind Turbines are not permitted.

12.12 – Visual Appearances

1 – A Wind Turbine shall be a non-obtrusive color such as white, off-white, or gray, or as may otherwise be required by another governmental agency with jurisdiction over the Wind Energy Facility.

2 – A Wind Turbine shall not be lighted artificially, except to the extent consistent with Federal Aviation Administration recommendations or other applicable authority that regulates air safety or as is otherwise required by another governmental agency with jurisdiction over the Wind Energy Facility.

3 – A Wind Turbine shall not be used to support signs and shall not display advertising except for reasonable and incidental identification of the turbine manufacturer, facility owner and operator, and for warnings.

12-13 – Visibility of Wind Turbines

The following requirements apply, the extent practicable, to Type 1B and Type 2 Wind Energy facilities:

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1 – To the extent that doing so does not inhibit adequate access to the wind resource, each Wind Turbine shall be located to maximize the effectiveness of existing vegetation, structures and topographic features in screening views of the Wind Turbine from Occupied Buildings and Scenic Resources.

2 – When existing features do not screen views of a Wind Turbine from Residences and Scenic Resources, screening may be required, where feasible and effective, through the planting of trees and/or shrubs. In order to maximize the screening effect and minimize wind turbulence near the Wind Turbine, plantings should be situated as near as possible to the point from which the Wind Turbine is being viewed. Such plantings should be of native varieties.

13.0 – Special Standards for Type 1A and Type 1B Wind Energy Facilities

13.1 – Noise emanating from a Type 1A or Type 1B Wind Energy Facility shall be controlled in accordance with the provisions of this section or, upon written request of the applicant, the provision of Section 14.1. If the Applicant chooses review under Section 14.1, the provisions of 13.1.1, 13.1.2 and 13.1.6 shall apply, but the provisions of 13.1.3, 13.1.4 and 13.1.5 shall not apply.

1 – The sound level limits contained in this section apply only to areas that are defined as Protected Locations and to property boundaries that describe the outer limits of the facility site in combination with any parcel(s) owned by a Participating Land Owner that are contiguous with the facility site.

2 – The sound level limits contained in this section do not apply to the facility site or any parcel(s) owned by a Participating Land Owner that are contiguous with the facility site.

3 – The sound levels resulting from routine operation of a Wind Energy Facility, as measured in accordance with the procedures described in Section 13.1.5 shall not exceed the limits specified for the following locations and times:

- a. At a Protected Location with no living and sleeping quarters:
 - 55 dBA during the Protected Location's regular hours of operation
- b. At a Protected Location with living and sleeping quarters:
 - 1. Area(s) within 500 feet of living and sleeping quarters:
 - 45 dBA between 7:00 p.m. and 7:00 a.m.
 - 55 dBA between 7:00 a.m. and 7:00 p.m.
 - 2. Area(s) more than 500 feet from living and sleeping quarters:
 - 55 dBA at all times

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c. At property boundaries that describe the outer limits of the facility site combined with any parcel(s) owned by a Participating Land Owner that are contiguous with the facility site:

- 75 dBA at all times

4 – If the Applicant submits the certification and acknowledgment required by Section 10.1.12(1), the municipal entity responsible for review and approval of the application under Section 9.1 shall determine, for purposes of issuing its approval, that the pertinent sound-level limits under Section 13.1.1 have been met, subject to the Applicant's obligation to take remedial action as necessary under Section 13.1.4.

5 – The Code Enforcement Officer, or a designated, qualified individual, may perform measurements of sound levels resulting from routine operation of an installed Type 1A or Type 1B Wind Energy Facility at the officer's own initiative or in response to a noise-related complaint to determine compliance with the pertinent standards in Section 13.1.1. Such measurements shall be performed as follows:

a. Measurements shall be obtained during representative weather conditions when the sound of the Wind Energy Facility is most clearly noticeable. Preferable weather conditions for sound measurements at distances greater than about 500 feet from the sound source include overcast days when the measurement location is downwind of the Wind Turbine and inversion periods (which most commonly occur at night).

b. Sound levels shall be measured at least four (4) feet above the ground by a meter set on the A-weighted response scale, fast response. The meter shall meet the latest version of American National Standards Institute (ANSI S 1.4) "American Standard Specifications for General Purpose Sound Level Meters" and shall have been calibrated at a recognized laboratory within the past year.

c. 5 dBA shall be added to sound levels of any Short Duration Repetitive Sound measured in accordance with paragraphs a and b.

6 – The Applicant shall operate the proposed Wind Energy Facility in conformance with the sound level limits of Section 13.1 or Section 14.1, as applicable. If, based on post-installation measurements taken in accordance with Section 13.1.4 or Section 14.1, as applicable, the Code Enforcement Officer determines that the applicable sound-level limits are not being met, the Applicant shall, at the Applicant's expense and in accordance with the Town of Searsport Wind Energy Facility Ordinance and in consultation with the Code Enforcement Officer, take remedial action deemed necessary by the Code Enforcement to ensure compliance with those limits.

Remedial action that the Code Enforcement Officer may require, includes, but shall not be limited to, one or more of the following:

a. modification or limitation of operations during certain hours or wind conditions;

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- b. maintenance, repair, modification or replacement of equipment;
- c. relocation of the Wind Turbine(s); and,
- d. removal of the Wind Turbine(s) provided that the Code Enforcement Officer may require removal of the Wind Turbine(s) only if the Code Enforcement Officer determines that there is no practicable alternative.

13.2 – Discontinued Use

1 – A Type 1A or Type 1B Wind Energy Facility that is not generating electricity for twelve (12) consecutive months shall be deemed a discontinued use and shall be removed from the property by the Applicant within 120 days of receipt of notice from the Code Enforcement Officer, unless the Applicant provides information that the Searsport Planning Board deems sufficient to demonstrate that the project has not been discontinued and should not be removed. If the Wind Energy Facility is not removed within this time period, the municipality may remove the turbine at the Applicant's expense. The Applicant shall pay all site reclamation costs deemed necessary and reasonable to return the site to its pre-construction condition, including the removal of roads and reestablishment of vegetation.

2 – If a surety has been given to the municipality for removal of a Type 1B Wind Energy Facility, the Applicant may apply to the Searsport Planning Board for release of the surety when the Wind Energy Facility has been removed to the satisfaction of the Code Enforcement Officer.

14.0 – Special Standards for Type 2 and Type 3 Wind Energy Facilities

14.1 – Control of Noise

Noise emanating from a Type 2 Wind Energy Facility, a Type 3 Wind Energy Facility, or, upon written request of the Applicant pursuant to Section 13.1, a Type 1A or Type 1B Wind Energy Facility shall be controlled in accordance with the provisions of Appendix B.

If there is a conflict between a provision of Appendix B and another provision of this Ordinance, the provision of Appendix B shall apply.

14.2 – Use of Public Roads

1 – The Applicant Shall identify all state and local public roads to be used within the Town of Searsport to transport equipment and parts for construction, operation or maintenance of a Type 2 or Type 3 Wind Energy Facility.

2 – The Town Engineer, Road Commissioner or a qualified third-party engineer reasonably acceptable to both the Searsport Planning Board and the Applicant shall document road conditions again thirty (30) days after construction is complete or as weather permits.

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3 – The Applicant shall demonstrate to the satisfaction of the Searsport Planning Board, that it has financial resources sufficient to comply with subsection 4, below, and the Searsport Planning Board may require the Applicant to post a bond or other security in order to ensure such compliance.

4 – Any road damage caused by the Applicant or its contractors shall be promptly repaired at the Applicant's expense.

14.3 – Warnings

A clearly visible warning sign concerning voltage must be placed at the base of all pad-mounted transformers and substations.

14.4 – Artificial Habitat

To the extent practicable, the creation of artificial habitat for raptors or raptor prey shall be minimized. In making its determination under this subsection the Searsport Planning Board shall consider comments and recommendations, if any, provided by the Maine Department of Inland Fisheries and Wildlife (MDIFW).

14.5 – Effect on Scenic Resource

1 – Except as otherwise provided in this subsection, if a Type 2 or Type 3 Wind Energy Facility is proposed for location in or is visible from a Scenic Resource, the Applicant shall provide the Searsport Planning Board a visual impact assessment that addresses the evaluation criteria in subsection 14.5.e3. There is a rebuttable presumption that a visual impact assessment is not required for those portions of a Type 2 or Type 3 Wind Energy Facility that is located more than 3 miles, measured horizontally, from a Scenic Resource. The Searsport Planning Board may require a visual impact assessment for portions of the Type 2 or Type 3 Wind Energy Facility located more than 3 miles and up to 8 miles from a Scenic Resource if it finds that a visual impact assessment is needed to determine if there is the potential for significant adverse effects on the Scenic Resource. Information intended to rebut the presumption must be submitted to the Searsport Planning Board by any interested person within 30 days of acceptance of the application as complete. The Searsport Planning Board shall determine if the presumption is rebutted based on a preponderance of evidence in the record.

2 – The Searsport Planning Board shall determine, based on consideration of the evaluation criteria in subsection 14.5.3, whether the Type 2 or 3 Wind Energy Facility significantly compromises views from a Scenic Resource such that the proposed facility has an unreasonable adverse effect on the scenic character or existing uses related to the scenic character of the Scenic Resource.

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3 – In making the determination pursuant to subsection 14.5.2, and in determining whether an Applicant for a Type 2 or 3 Wind Energy Facility located more than 3 miles from a Scenic Resource must provide a visual impact assessment in accordance with subsection 14.5.1, the Searsport Planning Board shall consider:

- a. The significance of the potentially affected Scenic Resource;
- b. The existing character of the surrounding area;
- c. The expectations of the typical viewer;
- d. The Type 2 or Type 3 Wind Energy Facility's purpose and the context of the proposed activity.
- e. The extent, nature and duration of potentially affected public uses of the Scenic Resource and the potential effect on the public's continued use and enjoyment of the Scenic Resource, and
- f. The scope and scale of the potential effect of views of the Wind Energy Facility on the Scenic Resource, including but not limited to issues related to the number and extent of the Wind Turbine(s) visible from the Scenic Resource, the distance from the Scenic Resource and the effect of prominent features of the Wind Energy Facility on the landscape.

A finding by the Searsport Planning Board that the type 2 or Type 3 Wind Energy Facility is a highly visible feature of the landscape is not a solely sufficient basis for determination that it has an unreasonable adverse effect on the scenic character and existing uses related to the scenic character of a Scenic Resource. In making its determination under subsection 14.5.2, the Searsport Planning Board shall consider insignificant the effects of portions of a Type 2 or type 3 Wind Energy Facility located more than 8 miles, measured horizontally, from a Scenic Resource.

14.6 – Shadow Flicker

Type 2 and Type 3 Wind Energy Facilities shall be designed to avoid unreasonable adverse shadow flicker effect at any Occupied Building located on a Non-Participating Landowner's property.

14.7 – Relationship to DEP Certification and Permitting

1 – For a Type 2 Wind Energy Facility for which a DEP Certification has been submitted in accordance with Section 10.1.14, the Searsport Planning Board shall consider, to the extent applicable, pertinent findings in that certification when making its determination under Sections 12.1, 14.1, and 14.6. There is a rebuttable presumption that a Wind Energy Facility that has obtained DEP Certification meets the requirements of Sections 12.1, 14.1, and 14.6. The Searsport Planning Board may, as a condition of approval of a Type 2 Wind Energy Facility that generates energy for sale or use by a person other than the generator, deem DEP's issuance of a certificate for the development sufficient to meet, in whole or in part, as applicable,

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the requirements of Sections 12.1, 14.1, and 14.6.

2- If DEP has issued a Site Location of Development Act permit for a Type 3 Wind Energy Facility pursuant to 38 M.R.S. 484(3), there is a rebuttable presumption that the development meets the requirements of Sections 12.1, 12.2, 14.1, 14.6, 14.12 and, as it pertains to Scenic Resources of state or national significance as defined by 35-A M.R.S. 3451(9), Section 14.5. The Searsport Planning Board may, as a condition of approval of a Type 3 Wind Energy Facility, deem DEP's issuance of a permit for the development sufficient to meet, in whole or in part, as applicable, the requirements of Sections 12.1, 12.2, 14.1, 14.6, 14.12 and, as it pertains to Scenic Resources of state or national significance, Section 14.5.

14.8 – Local Emergency Services

1 – The Applicant shall provide a copy of the project summary and site plan to local emergency service providers, and or volunteer fire departments.

2 – Upon request, the Applicant shall cooperate with emergency service providers to develop and coordinate implementation of an emergency response plan for a Type 2 or a Type 3 Wind Energy Facility.

3 – A Wind Turbine shall be equipped with an appropriate fire suppression system to address fires within the Nacelle portion of the turbine or shall otherwise address the issue of fire safety to the satisfaction of the Searsport Planning Board.

14.9 – Liability Insurance

The Applicant or an Applicant's designee acceptable to the Searsport Planning Board shall maintain a current general liability policy for the Type 2 or Type 3 Wind Energy Facility that covers bodily injury and property damage with limits in an amount commensurate with the scope and scale of the Facility. The Applicant or its designee shall make certificates of insurance available to the Searsport Planning Board upon request.

14.10 – Design Safety Certification

Each Wind Turbine shall conform to applicable industry standards including those of the American National Standards Institute (ANSI) and at least one of the following: Underwriters Laboratories, Det Norske Veritas, Germanischer Lloyd Wind Energies, or other similar certifying organization.

14.11 – Public Inquiries and Complaints

1 – The Applicant or its designee shall maintain a phone number and identify a responsible Person for the public to contact with inquiries and complaints throughout the life of the Wind Energy Facility.

2 – The Applicant or its designee shall make reasonable efforts to respond to the public's inquiries and complaints and shall provide written copies of all complaints and the company's resolution or response to the Code Enforcement Officer.

14.12 – Decommissioning

The Applicant shall prepare a decommissioning plan in conformance with Appendix C.

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APPENDIX A

Application Fees

All fees associated with this Ordinance will conform to the fee schedule of the Searsport Land Use Permit Fee Schedule.

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APPENDIX B

Control of Noise

Pursuant to section 14.1, noise emanating from a Type 2 Wind Energy Facility, a Type 3 Wind Energy Facility, or, upon written request of the Applicant pursuant to section 13.1, a Type 1A or Type 1B Wind Energy Facility, shall be controlled in accordance with the following provisions:

A. Sound Level Limits

(1) Sound from Routine Operation of Facility.

(a) Except as noted in subsections (b) and (c) below, the hourly sound levels resulting from routine operation of the facility and measured in accordance with the measurement procedures described in subsection F shall not exceed the following limits:

(i) At any property line of the facility site or contiguous property owned by the Applicant or Participating Land Owner(s), whichever is farther from the proposed facility's regulated sound sources:

75 dBA at any time of day.

(ii) At any Protected Location in an area for which the zoning, or, if unzoned, the existing use or use contemplated under a comprehensive plan, is not predominantly commercial, transportation, or industrial;

60 dBA between 7:00 a.m. and 7:00 p.m.
(the "daytime hourly limit"), and
50 dBA between 7:00 p.m. and 7:00 a.m.
(the "nighttime hourly limit").

(iii) At any Protected Location in an area for which the zoning, or, if unzoned, the existing use or use contemplated under a comprehensive plan, is predominantly commercial, transportation, or industrial:

70 dBA between 7:00 a.m. and 7:00 p.m.
(the "daytime hourly limit"), and
60 dBA between 7:00 p.m. and 7:00 a.m.
(the "nighttime hourly limit").

(iv) For the purpose of determining whether the use of an unzoned area is predominantly commercial, transportation, or industrial (e.g. non-residential in nature), the Codes Enforcement Officer shall consider the municipality's comprehensive plan, if any. Furthermore, the usage of properties abutting each Protected Location shall be determined, and the limits applied for that Protected Location shall be based upon the usage occurring along the greater

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portion of the perimeter of that parcel; in the event the portions of the perimeter are equal in usage, the limits applied for that Protected Location shall be those for a Protected Location in an area for which the use is not predominantly commercial, transportation, or industrial.

- (v) When a proposed facility is to be located in an area where the daytime pre-development ambient hourly sound level at a Protected Location is equal to or less than 45 dBA and/or the nighttime pre-development ambient hourly sound level at a Protected Location is equal to or less than 35 dBA, the hourly sound levels resulting from routine operation of the facility and measured in accordance with the measurement procedures described in subsection F shall not exceed the following limits at that Protected Location:

55 dBA between 7:00 a.m. and 7:00 p.m.
(the "daytime hourly limit"), and
45 dBA between 7:00 p.m. and 7:00 a.m.
(the "nighttime hourly limit").

For the purpose of determining whether a Protected Location has a daytime or nighttime pre-development ambient hourly sound level equal to or less than 45 dBA or 35 dBA, respectively, the Applicant may make sound level measurements in accordance with the procedures in subsection F or may estimate the sound-level based upon the population density and proximity to local highways. If the resident population within a circle of 3,000 feet radius around a Protected Location is greater than 300 persons, or the hourly sound level from highway traffic at a Protected Location is predicted to be greater than 45 dBA in the daytime or 35 dBA at night, then the Applicant may estimate the daytime or nighttime pre-development ambient hourly sound level to be greater than 45 dBA or 35 dBA, respectively.

NOTE: Highway traffic noise can be predicted using the nomograph method of FHWA Highway Traffic Noise Prediction Model, FHWA-RD-77-108, December, 1978.

- (vi) Notwithstanding the above, the Applicant need not measure or estimate the pre-development ambient hourly sound levels at a Protected Location if he demonstrates, by estimate or example, that the hourly sound levels resulting from routine operation of the facility will not exceed 50 dBA in the daytime or 40 dBA at night.
- (b) If the Applicant chooses to demonstrate by measurement that the daytime and/or nighttime pre-development ambient sound environment at any Protected Location near the facility site exceeds the daytime and/or nighttime limits in subsection 1(a)(ii) or 1(a)(iii) by at least 5 dBA, then the daytime and/or nighttime limits shall be 5 dBA less than the measured daytime and/or nighttime pre-development ambient hourly sound level at the location of the measurement for the corresponding time period.
- (c) For any Protected Location near an existing facility, the hourly sound level limit for routine operation of the existing facility and all future expansions of that facility shall be the applicable hourly sound level limit of 1(a) or 1(b) above, or, at the Applicant's election, the existing hourly sound level from routine operation of the existing facility plus 3 dBA.
- (d) For the purposes of determining compliance with the above sound level limits, 5 dBA shall be added to the observed levels of any tonal sounds that result from routine operation of the facility.

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- (e) When routine operation of a facility produces short duration repetitive sound, the following limits shall apply:
- (i) For short duration repetitive sounds, 5 dBA shall be added to the observed levels of the short duration repetitive sounds that result from routine operation of the facility for the purposes of determining compliance with the above sound level limits.
 - (ii) For short duration repetitive sounds which the municipal entity responsible for review and approval of a pending application under section 9.1 determines, due to their character and/or duration, are particularly annoying or pose a threat to the health and welfare of nearby neighbors, 5 dBA shall be added to the observed levels of the short duration repetitive sounds that result from routine operation of the facility for the purposes of determining compliance with the above sound level limits, and the maximum sound level of the short duration repetitive sounds shall not exceed the following limits:
 - (a) At any Protected Location in an area for which the zoning, or, if unzoned, the existing use or use contemplated under a comprehensive plan, is not predominantly commercial, transportation, or industrial:

65 dBA between 7:00 a.m. and 7:00 p.m., and
55 dBA between 7:00 p.m. and 7:00 a.m.
 - (b) At any Protected Location in an area for which the zoning, or, if unzoned, the existing use or use contemplated under a comprehensive plan, is predominantly commercial, transportation, or industrial:

75 dBA between 7:00 a.m. and 7:00 p.m., and
65 dBA between 7:00 p.m. and 7:00 a.m.
 - (c) The methodology described in subsection 1(a)(iv) shall be used to determine whether the use of an unzoned area is predominantly commercial, transportation, or industrial.
 - (d) If the Applicant chooses to demonstrate by measurement that the pre-development ambient hourly sound level at any Protected Location near the facility site exceeds 60 dBA between 7:00 a.m. and 7:00 p.m., and/or 50 dBA between 7:00 p.m. and 7:00 a.m., then the maximum sound level limit for short duration repetitive sound shall be 5 dBA greater than the measured pre-development ambient hourly sound level at the location of the measurement for the corresponding time period.
 - (e) For any Protected Location near an existing facility, the maximum sound level limit for short duration repetitive sound resulting from routine operation of the existing facility and all future expansions and modifications of that facility shall be the applicable maximum sound level limit of (e)(ii)(a) or (e)(ii)(b) above, or, at the Applicant's election, the existing maximum sound level of the short duration repetitive sound resulting from routine operation of the existing facility plus 3 dBA.

NOTE: The maximum sound level of the short duration repetitive sound shall be measured using the fast response [LAFmax]. See the definition of maximum sound level.

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(2) Sound from Construction of a Facility

- (a) The sound from construction activities between 7:00 p.m. and 7:00 a.m. is subject to the following limits:
- (i) Sound from nighttime construction activities shall be subject to the nighttime routine operation sound level limits contained in subsections 1(a) and 1(b).
 - (ii) If construction activities are conducted concurrently with routine operation of the facility, then the combined total of construction and routine operation sound shall be subject to the nighttime routine operation sound level limits contained in subsections 1(a) and 1(b).
 - (iii) Higher levels of nighttime construction sound are permitted when a duly issued permit authorizing nighttime construction sound in excess of these limits has been granted by the Codes Enforcement Officer.
- (b) Sound from construction activities between 7:00 a.m. and 7:00 p.m. shall not exceed the following limits at any Protected Location:

Duration of Activity	Hourly Sound Level Limit
12 hours	87 dBA
8 hours	90 dBA
6 hours	92 dBA
4 hours	95 dBA
3 hours	97 dBA
2 hours	100 dBA
1 hour or less	105 dBA

- c) All equipment used in construction on the facility site shall comply with applicable federal noise regulations and shall include environmental noise control devices in proper working condition, as originally provided with the equipment by its manufacturer.

(3) Sound from Maintenance Activities

- (a) Sound from routine, ongoing maintenance activities shall be considered part of the routine operation of the facility and the combined total of the routine maintenance and operation sound shall be subject to the routine operation sound level limits contained in subsection 1.
- (b) Sound from occasional, major, scheduled overhaul activities shall be subject to the construction sound level limits contained in subsection 2. If overhaul activities are conducted concurrently with routine operation and/or construction activities, the combined total of the overhaul, routine operation and construction sound shall be subject to the construction sound level limits contained in subsection 2.

B. Submissions

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(1) Facilities with Minor Sound Impact.

An Applicant proposing facility with minor sound impact may choose to file, as part of the permit application, a statement attesting to the minor nature of the anticipated sound impact of their facility. An applicant proposing an expansion or modification of an existing facility with minor sound impact may follow the same procedure as described above. For the purpose of this ordinance, a facility or an expansion or modification of an existing facility with minor sound impact means a facility where the Applicant demonstrates, by estimate or example, that the regulated sound from routine operation of the facility will not exceed 5 dBA less than the applicable limits established under Section A. It is the intent of this subsection that an applicant need not conduct sound level measurements to demonstrate that the facility or an expansion or modification of an existing facility will have a minor sound impact.

(2) Other Facilities

Technical information shall be submitted describing the Applicant's plan and intent to make adequate provision for the control of noise. The applicant's plan shall contain information such as the following, when appropriate:

- (a) Maps and descriptions of the land uses, local zoning and comprehensive plans for the area potentially affected by sounds from the facility.
- (b) A description of major sound sources, including tonal sound sources and sources of short duration repetitive sounds, associated with the construction, operation and maintenance of the proposed facility, including their locations within the proposed facility.
- (c) A description of the daytime and nighttime hourly sound levels and, for short duration repetitive sounds, the maximum sound levels expected to be produced by these sound sources at Protected Locations near the proposed facility.
- (d) A description of the Protected Locations near the proposed facility.
- (e) A description of proposed major sound control measures, including their locations and expected performance.
- (f) A comparison of the expected sound levels from the proposed facility with the sound level limits of this regulation.

C. Terms and Conditions

The municipal entity responsible for review and approval of the pending application under 9.1 may, as a term or condition of approval, establish any reasonable requirement to ensure that the Applicant has made adequate provision for the control of noise from the facility and to reduce the impact of noise on Protected Locations. Such conditions may include, but are not limited to, enclosing equipment or operations, imposing limits on hours of operation, or requiring the employment of specific design technologies, site design, modes of operation, or traffic patterns.

The sound level limits prescribed in this ordinance shall not preclude the municipal entity responsible for

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review and approval of the pending application under 9.1 from requiring an Applicant to demonstrate that sound levels from a facility will not unreasonably disturb wildlife or adversely affect wildlife populations in accordance with 12.2. In addition, the sound level limits shall not preclude the municipal entity responsible for review and approval of the pending application under 9.1, as a term or condition of approval, from requiring that lower sound level limits be met to ensure that the Applicant has made adequate provision for the protection of wildlife.

D. Waiver from Sound Level Limits

The Town of Searsport recognizes that there are certain facilities or activities associated with facilities for which noise control measures are not reasonably available. Therefore, the municipal entity responsible for review and approval of the pending application under section 9.1 may grant a waiver from any of the sound level limits contained in this ordinance upon (1) a showing by the Applicant that he or she has made a comprehensive assessment of the available technologies for the facility and that the sound level limits cannot practicably be met with any of these available technologies, and (2) a finding by the municipal entity responsible for review and approval of the pending application under section 9.1 that the proposed facility will not have an unreasonable impact on Protected Locations. In addition, a waiver may be granted by the municipal entity responsible for review and approval of the pending application under section 9.1 if (1) a facility is deemed necessary in the interest of national defense or public safety and the Applicant has shown that the sound level limits cannot practicably be met without unduly limiting the facility's intended function, and (2) a finding is made by the municipal entity responsible for review and approval of the pending application under section 9.1 that the proposed facility will not have an unreasonable impact on Protected Locations. The municipal entity responsible for review and approval of the pending application under section 9.1 shall consider the request for a waiver as part of the review of a completed permit application. In granting a waiver, the municipal entity responsible for review and approval of the pending application under section 9.1 may, as a condition of approval, impose terms and conditions to ensure that no unreasonable sound impacts will occur.

E. Definitions

Terms used herein are defined below for the purpose of this noise regulation.

- (1) **AMBIENT SOUND:** At a specified time, the all-encompassing sound associated with a given environment, being usually a composite of sounds from many sources at many directions, near and far, including the specific facility of interest.
- (2) **CONSTRUCTION:** Activity and operations associated with the facility or expansion of the facility or its site.
- (3) **EMERGENCY:** An unforeseen combination of circumstances which calls for immediate action.
- (4) **EMERGENCY MAINTENANCE AND REPAIRS:** Work done in response to an emergency.
- (5) **ENERGY SUM OF A SERIES OF LEVELS:** Ten times the logarithm of the arithmetic sum of the antilogarithms of one-tenth of the levels. [Note: See Section F(4.2).]
- (6) **EXISTING FACILITY:** A Wind Energy Facility legally constructed before the effective date of this ordinance or a proposed Wind Energy Facility for which the Application is found complete on or before the effective date of this ordinance. Any facility with an approved permit application which has been

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remanded to the municipal entity responsible for review and approval of the application under 9.1 by a court of competent jurisdiction for further proceedings relating to noise limits or noise levels prior to the effective date of this ordinance shall not be deemed an existing facility and the ordinance shall apply to the existing noise sources at that facility.

- (7) **EXISTING HOURLY SOUND LEVEL:** The hourly sound level resulting from routine operation of an existing facility prior to the first expansion that is subject to this ordinance.
- (8) **EQUIVALENT SOUND LEVEL:** The level of the mean-square A-weighted sound pressure during a stated time period, or equivalently the level of the sound exposure during a stated time period divided by the duration of the period. (NOTE: For convenience, a one hour equivalent sound level should begin approximately on the hour.)
- (9) **HISTORIC AREAS:** Historic sites administered by the Bureau of Parks and Lands of the Maine Department of Conservation, with the exception of the Arnold Trail.
- (10) **HOURLY SOUND LEVEL:** The equivalent sound level for one hour measured or computed in accordance with this ordinance.
- (11) **LOCALLY-DESIGNATED PASSIVE RECREATION AREA:** Any site or area designated by the Town of Searsport for passive recreation that is open and maintained for public use and which:
 - (a) has fixed boundaries,
 - (b) is owned in fee simple by the Town of Searsport or is accessible by virtue of public easement,
 - (c) is identified and described in the Town of Searsport comprehensive plan, and
 - (d) has been identified and designated at least nine months prior to submission of the Applicant's Wind Energy Facility permit application.
- (12) **MAXIMUM SOUND LEVEL:** Ten times the common logarithm of the square of the ratio of the maximum sound to the reference sound of 20 micropascals. Symbol: LAFmax.
- (13) **MAXIMUM SOUND:** Largest A-weighted and fast exponential-time-weighted sound during a specified time interval. Unit: pascal (Pa).
- (14) **RESIDENCE:** A building or structure, including manufactured housing, maintained for permanent or seasonal residential occupancy providing living, cooking and sleeping facilities and having permanent indoor or outdoor sanitary facilities, excluding recreational vehicles, tents and watercraft.
- (15) **PRE-DEVELOPMENT AMBIENT:** The ambient sound at a specified location in the vicinity of a facility site prior to the construction and operation of the proposed facility or expansion.
- (16) **PROTECTED LOCATION:** any location that is:
 - 1) accessible by foot, on a parcel of land owned by a Non-Participating Landowner containing a Residence or planned Residence, or an approved residential subdivision, house of worship, academic school, college, library, duly licensed hospital or nursing home near the facility site at the time an application for a Wind Energy Facility permit is submitted under this ordinance; or

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2) within a State Park, Baxter State Park, a National Park, a nature preserve owned by a land trust, the Maine Audubon Society or the Maine chapter of the Nature Conservancy, the Appalachian Trail, the Moosehorn National Wildlife refuge, a federally designated wilderness area, a state wilderness area designated by statute, a municipal park or a locally-designated passive recreation area, or any location within consolidated public reserve lands designated by rule by the Bureau of Public Lands as a Protected Location.

At Protected Locations more than 500 feet from living and sleeping quarters within the above noted buildings or areas, the daytime hourly sound level limits shall apply regardless of the time of day.

Houses of worship, academic schools, libraries, State and National Parks without camping areas, Historic Areas, nature preserves, the Moosehorn National Wildlife Refuge, federally-designated wilderness areas without camping areas, state wilderness areas designated by statute without camping areas, and locally-designated passive recreation areas without camping areas are considered protected locations only during their regular hours of operation.

Transient living accommodations are generally not considered Protected Locations; however, in certain special situations where it is determined by the municipal entity responsible for review and approval of the application under 9.1 that the health and welfare of the guests or the economic viability of the establishment will be unreasonably impacted, the municipal entity responsible for review and approval of the application under 9.1 may designate certain hotels, motels, campsites and duly licensed campgrounds as protected locations.

This term does not include buildings and structures located on leased camp lots, owned by the Applicant used for seasonal purposes.

For purposes of this definition, (1) a Residence is considered planned when the owner of the parcel of land on which the Residence is to be located has received all applicable building and land use permits and the time for beginning construction under such permits has not expired, and (2) a residential subdivision is considered approved when the developer has received all applicable land use permits for the subdivision and the time for beginning construction under such permits has not expired.

(17)ROUTINE OPERATION: Regular and recurrent operation of regulated sound sources associated with the purpose of the facility and operating on the facility site.

(18)SHORT DURATION REPETITIVE SOUNDS: A sequence of repetitive sounds which occur more than once within an hour, each clearly discernible as an event and causing an increase in the sound level of at least 6 dBA on the fast meter response above the sound level observed immediately before and after the event, each typically less than ten seconds in duration, and which are inherent to the process or operation of the facility and are foreseeable.

(19)SOUND COMPONENT: The measurable sound from an audibly identifiable source or group of sources.

(20)SOUND LEVEL: Ten times the common logarithm of the square of the ratio of the frequency-weighted and time-exponentially averaged sound pressure to the reference sound of 20 micropascals. For the purpose of this ordinance, sound level measurements are obtained using the A-weighted frequency response and fast dynamic response of the measuring system, unless otherwise noted.

(22)SOUND PRESSURE: Root-mean-square of the instantaneous sound pressures in a stated frequency

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band and during a specified time interval. Unit: pascal (Pa).

(23) **SOUND PRESSURE LEVEL:** Ten times the common logarithm of the square of the ratio of the sound pressure to the reference sound pressure of 20 micropascals.

(24) **TONAL SOUND:** for the purpose of this ordinance, a tonal sound exists if, at a Protected Location, the one-third octave band sound pressure level in the band containing the tonal sound exceeds the arithmetic average of the sound pressure levels of the two contiguous one-third octave bands by 5 dB for center frequencies at or between 500 Hz and 10,000 Hz, by 8 dB for center frequencies at or between 160 and 400 Hz, and by 15 dB for center frequencies at or between 25 Hz and 125 Hz.

Additional acoustical terms used in work associated with this ordinance shall be used in accordance with the following American National Standards Institute (ANSI) standards:

ANSI S12.9-1988 - American National Standard Quantities and Procedures for Description and Measurements of Environmental Sound, Part 1;

ANSI S3.20-1973 - American National Standard Psychoacoustical Terminology;

ANSI S1.1-1960 - American National Standard Acoustical Terminology.

F. Measurement Procedures

(1) **Scope.** These procedures specify measurement criteria and methodology for use, with applications, compliance testing and enforcement. They provide methods for measuring the ambient sound and the sound from routine operation of the facility, and define the information to be reported. The same methods shall be used for measuring the sound of construction and maintenance activities.

(2) **Measurement Criteria**

2.1 Measurement Personnel

Measurements shall be supervised by personnel who are well qualified by training and experience in measurement and evaluation of environmental sound, or by personnel trained to operate under a specific measurement plan approved by the municipal entity responsible for review and approval of the pending application under 9.1.

2.2 Measurement Instrumentation

(a) A sound level meter or alternative sound level measurement system used shall meet all of the Type 1 or 2 performance requirements of American National Standard Specifications for Sound Level Meters, ANSI S1.4-1983.

(b) An integrating sound level meter (or measurement system) shall also meet the Type 1 or 2 performance requirements for integrating/averaging in the International Electrotechnical Commission Standard on Integrating-Averaging Sound Level Meters, IEC Publication 804 (1985).

(c) A filter for determining the existence of tonal sounds shall meet all the requirements of American National Standard Specification for Octave-Band and Fractional Octave-Band Analog and Digital

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Filters, ANSI S1.11-1986 for Order 3, Type 3-D performance.

- (d) An acoustical calibrator shall be used of a type recommended by the manufacturer of the sound level meter and that meets the requirements of American National Standard Specification for Acoustical Calibrators, ANSI S1.40-1984.
- (e) A microphone windscreen shall be used of a type recommended by the manufacturer of the sound level meter.

2.3 Calibration

- (a) The sound level meter shall have been calibrated by a laboratory within 12 months of the measurement, and the microphone's response shall be traceable to the National Bureau of Standards.
- (b) Field calibrations shall be recorded before and after each measurement period and at shorter intervals if recommended by the manufacturer.

2.4 Measurement Location, Configuration and Environment

- (a) Except as noted in subsection (b) below, measurement locations shall be at nearby Protected Locations that are most likely affected by the sound from routine operation of the facility.
- (b) For determining compliance with the 75 dBA property line hourly sound level limit described in subsection A(1)(a)(i), measurement locations shall be selected at the property lines of the proposed facility or contiguous property owned by the Applicant, as appropriate.
- (c) The microphone shall be positioned at a height of approximately 4 to 5 feet above the ground, and oriented in accordance with the manufacturer's recommendations.
- (d) Measurement locations should be selected so that no vertical reflective surface exceeding the microphone height is located within 30 feet. When this is not possible, the measurement location may be closer than 30 feet to the reflective surface, but under no circumstances shall it be closer than 6 feet.
- (e) When possible, measurement locations should be at least 50 feet from any regulated sound source on the facility.
- (f) Measurement periods shall be avoided when the local wind speed exceeds 12 mph and/or precipitation would affect the measurement results.

2.5 Measurement Plans. Plans for measurement of pre-development ambient sound or post-facility sound may be discussed with the Codes Enforcement Officer.

(3) Measurement of Ambient Sound

3.1 Pre-development Ambient Sound

Measurements of the pre-development ambient sound are required only when the Applicant elects to establish the sound level limit in accordance with subsections A(1)(b) and A(1)(e)(ii)(d) for a facility in an

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area with high ambient sound levels, such as near highways, airports, or pre-existing facilities; or when the Applicant elects to establish that the daytime and nighttime ambient hourly sound levels at representative Protected Locations exceed 45 dBA and 35 dBA, respectively.

- (a) Measurements shall be made at representative Protected Locations for periods of time sufficient to adequately characterize the ambient sound. At a minimum, measurements shall be made on three different weekdays (Monday through Friday) during all hours that the facility will operate. If the proposed facility will operate on Saturdays and/or Sundays, measurements shall also be made during all hours that the facility will operate.
- (b) Measurement periods with particularly high ambient sounds, such as during holiday traffic activity, significant insect activity or high coastline waves, should generally be avoided.
- (c) At any measurement location the daytime and nighttime ambient hourly sound level shall be computed by arithmetically averaging the daytime and nighttime values of the measured one hour equivalent sound levels. Multiple values, if they exist, for any specific hour on any specific day shall first be averaged before the computation described above.

3.2 Post-Facility Ambient Sound

- (a) Measurements of the post-facility ambient one hour equivalent sound levels and, if short duration repetitive sounds are produced by the facility, the maximum sound levels made at nearby Protected Locations and during representative routine operation of the facility that are not greater than the applicable limits of subsection C clearly indicate compliance with those limits.
 - (b) Compliance with the limits of subsection A(1)(b) may also be demonstrated by showing that the post-facility ambient hourly sound level, measured in accordance with the procedures of subsection 3.1 above during routine operation of the facility, does not exceed the pre-development ambient hourly sound level by more than one decibel, and that the sound from routine operation of the facility is not characterized by either tonal sounds or short duration repetitive sounds.
 - (c) Compliance with the limits of subsection A(1)(e)(ii)(d) may also be demonstrated by showing that the post facility maximum sound level of any short duration repetitive sound, measured in accordance with the procedures of subsection 3.1 above, during routine operation of the facility, does not exceed the pre-development ambient hourly sound level by more than five decibels.
 - (d) If any of the conditions in (a), (b) or (c) above are not met, compliance with respect to the applicable limits must be determined by measuring the sound from routine operation of the facility in accordance with the procedures described in subsection 4.
- (4) Measurement of the Sound from Routine Operation of Facility.

4.1 General

- (a) Measurements of the sound from routine operation of facilities are generally necessary only for specific compliance testing purposes in the event that community complaints result from operation of the facility, for validation of an Applicant's calculated sound levels when requested by the municipal entity responsible for review and approval of the pending application under 9.1, for determination of existing hourly sound levels for an existing facility or for enforcement by the Codes Enforcement Officer.

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- (b) Measurements shall be obtained during representative weather conditions when the facility sound is most clearly noticeable. Preferable weather conditions for sound measurements at distances greater than about 500 feet from the sound source include overcast days when the measurement location is downwind of the facility and inversion periods (which most commonly occur at night).
- (c) Measurements of the facility sound shall be made so as to exclude the contribution of sound from facility equipment that is exempt from this regulation.

4.2 Measurement of the Sound Levels Resulting from Routine Operation of the Facility.

- (a) When the ambient sound levels are greater than the sound level limits, additional measurements can be used to determine the hourly sound level that results from routine operation of the facility. These additional measurements may include diagnostic measurements such as measurements made close to the facility and extrapolated to the Protected Location, special checkmark measurement techniques that include the separate identification of audible sound sources, or the use of sound level meters with pause capabilities that allow the operator to exclude non-facility sounds.
 - (b) For the purposes of computing the hourly sound level resulting from routine operation of the facility, sample diagnostic measurements may be made to obtain the one hour equivalent sound levels for each sound component.
 - (c) Identification of tonal sounds produced by the routine operation of a facility for the purpose of adding the 5 dBA penalty in accordance with subsection A(l)(d) requires aural perception by the measurer, followed by use of one-third octave band spectrum analysis instrumentation. If one or more of the sounds of routine operation of the facility are found to be tonal sounds, the hourly sound level component for tonal sounds shall be computed by adding 5 dBA to the one hour equivalent sound level for those sounds.
 - (d) Identification of short duration repetitive sounds produced by routine operation of a facility requires careful observations. For the sound to be classified as short duration repetitive sound, the source(s) must be inherent to the process or operation of the facility and not the result of an unforeseeable occurrence. If one or more of the sounds of routine operation of the facility are found to be short duration repetitive sounds, the hourly sound level component for short duration repetitive sounds shall be computed by adding 5 dBA to the one hour equivalent sound level for those sounds. If required, the maximum sound levels of short duration repetitive sounds shall be measured using the fast response [LAFmax]. The duration and the frequency of occurrence of the events shall also be measured. In some cases, the sound exposure levels of the events may be measured. The one hour equivalent sound level of a short duration repetitive sound may be determined from measurements of the maximum sound level during the events, the duration and frequency of occurrence of the events, and their sound exposure levels.
 - (e) The daytime or nighttime hourly sound level resulting from routine operation of a facility is the energy sum of the hourly sound level components from the facility, including appropriate penalties, (see (c) and (d) above). If the energy sum does not exceed the appropriate daytime or nighttime sound level limit, then the facility is in compliance with that sound level limit at that Protected Location.
- (5) Reporting Sound Measurement Data. The sound measurement data report should include the following:
- (a) The dates, days of the week and hours of the day when measurements were made.

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- (b) The wind direction and speed, temperature, humidity and sky condition.
- (c) Identification of all measurement equipment by make, model and serial number.
- (d) The most recent dates of laboratory calibration of sound level measuring equipment.
- (e) The dates, times and results of all field calibrations during the measurements.
- (f) The applicable sound level limits, together with the appropriate hourly sound levels and the measurement data from which they were computed, including data relevant to either tonal or short duration repetitive sounds.
- (g) A sketch of the site, not necessarily to scale, orienting the facility, the measurement locations, topographic features and relevant distances, and containing sufficient information for another investigator to repeat the measurements under similar conditions.
- (h) A description of the sound from the facility and the existing environment by character and location.

APPENDIX C

Decommissioning Plan

Pursuant to section 14.12, the Applicant shall provide a plan for decommissioning a Type 2 or Type 3 Wind Energy Facility. The decommissioning plan shall include, but shall not be limited to the following:

1. A description of the trigger for implementing the decommissioning plan. There is a rebuttable presumption that decommissioning is required if no electricity is generated for a continuous period of twelve (12) months. The Applicant may rebut the presumption by providing evidence, such as a force majeure event that interrupts the generation of electricity, that although the project has not generated electricity for a continuous period of 12 months, the project has not been abandoned and should not be decommissioned.
2. A description of the work required to physically remove all Wind Turbines, associated foundations to a depth of 24 inches, buildings, cabling, electrical components, and any other Associated Facilities to the extent they are not otherwise in or proposed to be placed into productive use. All earth disturbed during decommissioning must be graded and re-seeded, unless the landowner of the affected land requests otherwise in writing.

[Note: At the time of decommissioning, the Applicant may provide evidence of plans for continued beneficial use of any or all of the components of the Wind Energy Facility. Any changes to the approved decommissioning plan shall be subject to review and approval by the Codes Enforcement Officer.]

3. An estimate of the total cost of decommissioning less salvage value of the equipment and itemization of the estimated major expenses, including the projected costs of measures taken to minimize or prevent adverse effects on the environment during implementation of the decommissioning plan. The itemization of major costs may include, but is not limited to, the cost of the following activities: turbine removal, turbine foundation removal and permanent stabilization, building removal and permanent stabilization, transmission corridor removal and permanent stabilization and road infrastructure removal and permanent stabilization.
4. Demonstration in the form of a performance bond, surety bond, letter of credit, parental guarantee or other form of financial assurance as may be acceptable to the [Municipal Reviewing Authority] that upon the end of the useful life of the Wind Energy Facility the Applicant will have the necessary financial assurance in place for 100% of the total cost of decommissioning, less salvage value. The Applicant may propose securing the necessary financial assurance in phases, as long as the total required financial assurance is in place a minimum of 5 years prior to the expected end of the useful life of the Wind Energy Facility.

Searsport Personal Wireless Services Facilities Ordinance

1. Purpose

These standards are designed and intended to balance the interests of the residents of Searsport, ME, wireless communications providers and wireless communication customers in the siting of wireless communications facilities within the town. Beyond the objectives described in other provisions of this Ordinance, these Personal Wireless Services Facilities (PWSF) standards are also intended to:

- A. Implement a municipal policy concerning the provisions of wireless telecommunications services, and the siting of their facilities;
- B. Establish clear guidelines, standards and time frames for the town to regulate wireless communications facilities;
- C. Ensure that all entities providing PWSF within the municipality comply with the ordinances of Searsport;
- D. Permit Searsport to fairly and responsibly protect public health, safety and welfare;
- E. Encourage the carriers of PWSF to co-locate, thus minimizing adverse visual impacts on the community;
- F. Support the goals and policies of the Comprehensive Plan, especially the orderly development of Searsport with minimal impacts on existing residential uses;
- G. Protect Searsport's environmental resources and rural character as consistent with the goals and objectives outlined by Searsport's Comprehensive Plan;
- H. Provide for the removal of towers and associated structures that are no longer being used for wireless communications purposes;
- I. Minimize any potential adverse effect of PWSF on property values; and
- J. Protect the scenic and visual character of Searsport.

2. Permits

- A. PWSF will be permitted upon successful completion of a site plan review per the Searsport Site Plan Review Ordinance.
- B. No construction, alteration, modification, or installation of any PWSF shall commence without successfully obtaining a site plan review permit.

3. Dimensional and Locational Standards

- A. Height, PWSF Overlay Zone: Where the municipality establishes a PWSF Overlay Zone, PWSFs of up to 195 feet in height may be permitted. Such structures must be monopoles and shall comply with all setback requirements set forth in this Ordinance.
- B. Reconstruction of Nonconforming PWSF - A non-conforming ground-mounted PWSF, removed or destroyed for any reason, may be reconstructed on the same site, provided that it complies with the height restrictions of this subsection.
- C. Setbacks: All PWSFs and their equipment shelters shall comply with the building setback provisions of the zoning district in which the facility is located. Fences shall comply with the setback provisions of the zoning district in which the facility is located.
- D. Fall Zone for Ground Mounts: In order to ensure public safety, the minimum distance from the base of any ground-mounted PWSF to any property line, public road, habitable dwelling, business or institutional use, or public recreational area shall be, at a minimum, the distance equal to the fall zone, as defined in paragraph 7 - Definitions. The fall zone may cross property lines, so long as the applicant secures a fall zone easement from the affected property owner(s). The area of the easement shall be shown on all applicable plans submitted to the Town, and the terms of the easement shall be provided as part of the site plan review. Fall zones for PWSFs may overlap.
- E. Fall Zone for Mounts: In the event that an existing structure is proposed as a mount for a PWSF, a fall zone shall not be required, but the setback provisions of the zoning district shall apply. In the case of pre-existing nonconforming structures, PWSFs and their equipment shelters shall not increase any non-conformities.

4. Performance and Design Standards

- A. Visibility - The applicant is encouraged to utilize enhancements to the property and must demonstrate that every reasonable effort has been made to cause the facility to have the least possible visual impact on the municipality.

1. Visual impacts are measured on the basis of:

- a. Change in community scale, as exhibited in relative height, mass or proportion of the PWSF within their proposed surroundings.
- b. New visible elements proposed on a contrasting background.
- c. Different colors and textures proposed against a contrasting background.
- d. Use of materials that are foreign to the existing environment.

2. Enhancements are measured on the basis of:

- a. Conservation of opportunities to maintain community scale. e.g. buffering

areas and low-lying building should not be compromised so as to start a trend away from the existing community scale.

- b. Amount and type of landscaping and/or natural vegetation.
- c. Preservation of view corridors, vistas, and viewsheds.
- d. Continuation of existing colors, textures, and materials.

3. Visibility focuses on:

- a. Eliminating or mitigating visual impact.
- b. Protecting, continuing, and enhancing the existing environment.

4. Camouflage for Facilities on Roof of Existing Buildings:

PWSF shall be concealed or camouflaged within or behind existing or new architectural features to limit its visibility when PWSF extends above roof height of a building on which it is mounted. Facilities mounted on a roof of a building shall be stepped back from the front façade in order to limit their impact on the building's silhouette.

5. Camouflage for Facilities on Side of Existing Buildings:

PWSF mounted on a side of a building, shall blend with the existing building's architecture and the panels shall be painted or shielded with material consistent with the design features and materials of the building. All surfaces shall be non-reflective.

6. Camouflage for Ground-Mounted Facilities:

Ground-mounted PWSF inside a Rural Agricultural Residential District shall be surrounded by a buffer of dense tree growth that begins at and extends continuously from ten (10) feet beyond the security barrier and portion of equipment shelter outside security barrier for a minimum distance of one hundred and fifty (150) feet and screens views of the facility in all directions. These trees must be pre-existing (pre-existing trees are preferred) on the subject property, planted on site, or be within a landscape easement on an adjoining site.

The one hundred fifty (150) foot vegetative buffer area shall be protected by a landscape easement or be within the area of the PWSF owner's lease. The easement or lease shall specify that the trees within the buffer shall not be removed or topped, unless the trees are dead or dying and present a hazard to persons or property.

Ground-mounted facilities must be hidden or disguised in such a way so as to blend in with their surroundings.

- B. Color - To the extent that a PWSF extends above the height of the vegetation immediately surrounding it, it shall be of a color, which blends with the background or surroundings. All surfaces shall be non-reflective.

C. Equipment Shelters – PWSF equipment shelters shall be designed consistent with one of the following design standards:

1. Equipment shelters shall be located in underground vaults; or
2. Equipment shelters shall be designed so that the shelters are architecturally consistent, with respect to materials and appearance, to the buildings in the area of the PWSF; or
3. Equipment shelters shall be camouflaged behind an effective year-round landscape screen, equal to the height of the proposed building and/or fence. The Planning Board shall determine the style of fencing and/or landscape buffer that is compatible with the neighborhood; or
4. If mounted on the roof of a building, the equipment shelter shall be concealed or camouflaged so that the shelter either is not visible at grade or appears to be a part of the original structure.

D. Lighting, Signage, and Security

1. Lighting: The mounts of PWSFs shall be lighted only if required by the Federal Aviation Administration (FAA). Lighting of equipment structures and any other facilities on site shall be shielded from abutting properties. Foot-candle measurements at the property line shall be 0.5 initial foot-candles above ambient light conditions.
2. Signage: PWSF shall not contain any permanent or temporary signs, writing, symbols or any graphic representation of any kind except those needed to identify the property and the owner and warn of any danger. All signs shall comply with the requirements of this Ordinance.
3. Security Barrier: Ground-mounted PWSFs shall be enclosed by security fencing equipped with an anti-climbing mechanism.

E. Historic Buildings

1. A PWSF located on or within an historic structure shall not alter the character-defining features, distinctive construction methods, or original historic materials of the building.
2. Any alteration made to an historic structure to accommodate a PWSF shall be fully reversible.
3. A PWSF within an historic structure shall be concealed within or behind existing architectural features, or shall be located so that they are not visible from public roads and viewing areas.

- F. Driveways - If available, existing entrances and driveways to serve a PWSF shall be utilized, unless the applicant can demonstrate that a new entrance and driveway will result in less visual traffic, and environmental impact. New driveways to serve a PWSF shall not exceed twelve (12) feet in width. A gravel or crushed stone surface is required.
- G. Antenna Types - Any antenna array placed upon an existing or proposed ground mount, utility pole, or transmission line mount shall have a diameter of no more than four (4) feet, exclusive of the diameter of the mount. A close mount may be required to minimize visual impacts.
- H. Mounts - All ground mounts shall be of a mast or monopole type mount. Mounts affixed to the roof or side of a building shall be masts only. Lattice towers, guyed towers, and roof mounted monopoles are expressly prohibited, unless constructed as part of a reconstruction of a nonconforming structure permitted under subsection 2.b.
- I. Hazardous Waste - No hazardous waste shall be discharged on the site of any PWSF. If any hazardous materials are to be used on site, there shall be provisions for full containment of such materials. An enclosed containment area shall be provided with a sealed floor designed to contain at least one hundred and ten percent (110%) of the volume of the hazardous materials stored or used on the site.
- J. Noise - PWSF shall not generate noise in excess of limits permitted under any municipal noise ordinance for the Town of Searsport.
- K. Radio Frequency Radiation (RFR) Standards - All equipment proposed for a PWSF shall be fully compliant with the FCC Guidelines for Evaluating the Environmental Effects of Radio Frequency Radiation (FCC Guidelines), under *Report and Order*, FCC 93-326, published on August 1, 1996, and all subsequent amendments.
- L. Federal and State Requirements - All PWSFs must meet or exceed current standards and regulations of the FAA, FCC and any other agency of the federal or state government with the authority to regulate PWSFs. If such standards and regulations are changed, then the owners of the facilities governed by this ordinance shall bring such facilities into compliance with such revised standards and regulations within six (6) months of the effective date of such standards and regulations, unless a more stringent compliance schedule is mandated by the controlling agency. Failure to bring a PWSF into compliance with such revised standards and regulations shall constitute grounds for removal of the PWSF as abandoned, in accordance with subsection 6, at the owner(s) expense through the execution of the posted security.
- M. Building Code - Safety Standards - To ensure the structural integrity of PWSFs, the owner of the facility shall ensure that it is constructed and maintained in compliance with the standards contained in applicable local building codes and the applicable standards for PWSFs that are published by the Electronics Industries Association, as amended from time to time. If, upon inspection, the Town concludes that a PWSF fails to comply

with such codes and standards and constitutes a danger to persons or property, then upon notice being provided to the owner of the PWSF, the owner shall have thirty (30) days to bring such PWSF into compliance with such standards. If the owner fails to bring such PWSF into compliance within thirty (30) days, such action shall constitute abandonment and grounds for the removal of the facility as abandoned at the owner(s) expense through execution of the posted security.

- N. Balloon Test - The Planning Board may require a certified balloon test accurately simulating the height and location of the proposed PWSF. Public notice shall be given of the date and time of such test not less than 10 days prior thereto. The applicant shall provide photographs of such test from locations around the Town and within 20 miles from which the balloon(s) is visible.
- O. Migrating Bird Protection - The applicant shall submit a plan indicating methods that it shall use to mitigate adverse impacts on migrating bird populations.
- P. The owner of the PWSF, as a condition of approval, shall execute an agreement that it will indemnify and hold the Town, its officials and employees harmless from all claims against the Town for personal injury, property damages, and loss, including costs of defense and reasonable attorney's fees, arising from or related to the construction, operation repair and removal of the PWSF or any part thereof.
- Q. Alternative Tower Sites – If the proposed ground-mounted PWSF does not meet the standards of this Ordinance because of excessive height, insufficient camouflage or a lack of screening by existing trees or buildings then potential suitable alternative sites, where PWSFs can meet the standards and provide adequate signal coverage need to be inventoried and evaluated. More than one site each with a PWSF (that may be shorter than originally proposed) could be required. If the applicant determines that there are no suitable alternative sites the municipality may hire at the applicant's expense a radio frequency engineer to independently assess if there are suitable alternative sites.
- R. Professional Services – The Planning Board may require that an independent radio frequency engineer be hired at the applicant's expense to substantiate the applicant's claim of technical necessity, the applicant's evaluation of proposed site(s) and alternative sites and to propose suitable alternative sites. An independent landscape architect may be hired at the applicant's expense to evaluate the applicant's visual impact analysis and proposed mitigation and to propose visual impact mitigation alternatives.
- S. Average Tree Canopy Height (ATCH) – ATCH shall be determined by a forestry or environmental consultant qualified to inventory tree height and determine the ATCH as defined in this Ordinance.

5. Conditions of Approval

- A. Maintenance - The owner of the facility shall maintain the PWSF in good condition.

Such maintenance shall include, but shall not be limited to, painting, structural integrity of the mount and security barrier, maintenance of the buffer areas, landscaping, and camouflage materials. The Planning Board may direct the owner to perform maintenance that it determines to be required.

- B. Monitoring - The property owner and the owner of the PWSF shall agree that the Town and its appointed representative(s) may enter the subject property to obtain RFR measurements, noise measurements, and to perform maintenance and safety inspections at the expense of the carrier. In the case of taking RFR and or noise measurements, the municipality may enter without any advance notice to either the PWSF owner or the property owner. In all other cases, the municipality shall provide reasonable written notice to the carrier and landowner and provide them the opportunity to accompany the municipal representatives when the inspections are conducted.
- C. Certificate of Insurance - The applicant shall submit annually to the Planning Board a Certificate of Insurance showing public liability insurance coverage of not less than \$1 million Combined Single Limit.
- D. Security for Removal - Recognizing the hazardous situation presented by abandoned and unmonitored telecommunications facilities, the Planning Board shall set the form and amount of security that represents the cost for removal and disposal of abandoned telecommunications facilities in the event that a facility is abandoned and the facility owner is unwilling or unable to remove the facility in accordance with Section 6 . The amount of the security shall be based upon the removal cost plus, fifteen percent (15%) provided by the applicant and certified by a professional civil engineer licensed in Maine. No building permit may be issued until the applicant has deposited the just described amount of the security with the Town in an interest bearing reserve or trust account. The owner of the facility shall provide the Planning Board with revised removal cost estimate and structural evaluation prepared by a professional civil engineer licensed in Maine every five (5) years from the date of the Planning Board's approval of the site plan. If the cost has increased more than fifteen percent (15%) then the owner of the facility shall provide additional security in the amount of the increase.
- E. Antenna Installation - An antenna or antenna array may be located, without further approval, on any structure mounted PWSF legally existing prior to effective date of Section 6 , and on any PWSF subsequently approved under the provisions of this Ordinance, provided that:
 - 1. All carriers using the PWSF comply with provisions of this Ordinance including the requirements of co-location;
 - 2. All carriers using the PWSF comply with the terms and conditions of approval of the PWSF by the Planning Board; and
 - 3. There is no increase in the PWSF height, carrier capacity, or area of the security barrier.

Otherwise, a site plan review is required.

6. Commencement, Abandonment, or Discontinuation of Use

- A. Commencement of Operation - Operation of a PWSF shall commence no later than nine (9) months from the date the application was approved. If the PWSF is not operating within this time period, the Planning Board, at its discretion, may revoke its approval, regardless of whether construction has begun.
- B. Notification of Continued Use - Beginning 12 months after Planning Board approval and continuing on an annual basis thereafter, the owner of a PWSF shall provide the Code Enforcement Officer with written, signed certification that the PWSF is being used to provide Personal Wireless Services as defined. Failure to comply with this requirement shall constitute an admission that the PWSF is not in use and has been abandoned.
- C. Discontinuance - At such time that the owner plans to discontinue operation of a PWSF, the owner will notify the municipality by certified U. S. Mail of the proposed date of discontinuation of operations. Such notice shall be given no less than thirty (30) days prior to discontinuation of operations. In the event that the owner fails to give such notice, the PWSF shall be considered abandoned upon such discontinuation of operations.
- D. Removal - Upon abandonment or discontinuation of use, the owner of the facility shall physically remove the PWSF within ninety (90) days from the date of abandonment or discontinuation of use. "Physically remove" shall include, but not be limited to:
 - 1. Removal of antennas, mount, equipment shelters and security barriers from the subject property.
 - 2. Proper disposal of the waste materials from the site in accordance with local and state solid waste disposal regulations.
 - 3. Restoring the site of the PWSF to its natural condition, except that any landscaping and grading shall remain in the after-condition.
- E. Failure to Remove - If the owner of the facility does not remove the facility upon the Planning Board's order, then the Planning Board shall, after holding a public hearing with notice to the owner and abutters, issue a declaration of abandonment. The owner of the facility shall dismantle and remove the facility within ninety (90) days of receipt of the declaration of abandonment by the Planning Board. If the abandoned facility is not removed within ninety (90) days, the municipality may execute the security to pay for this action.
- f. Failure to Maintain - If the owner of the facility fails to maintain the facility in accordance with the directions of the Planning Board pursuant to paragraph 5 (A), then the Planning Board, shall after holding a public hearing with notice to the owner and abutters, issue a declaration of abandonment. The owner of the facility shall dismantle and remove the

facility within ninety (90) days of receipt of the declaration of abandonment by the Planning Board. If the abandoned facility is not removed within ninety (90) days, the Municipality may execute the security to pay for this action.

7. Definitions

Adequate Signal Coverage. Coverage is “adequate” within that area surrounding a base station where the predicted or measured median field strength of the transmitted signal is such that the majority of time, transceivers properly installed and operated will be able to communicate with the base station without objectionable noise (or excessive bit-error-rate for digital) and without calls being dropped. In the case of cellular or Personal Communications Services (PCS) communications in a rural or non-urban environment, this would be a signal strength of at least – 92dBm. It is acceptable for there to be holes within the area of adequate coverage as long as the signal regains its strength further away from the base station. The outer boundary of the area of adequate coverage, however, is that location past which the signal does not regain.

Antenna. The surface from which wireless radio signals are sent and/or received by a PWSF.

Antenna Array. A collection of antennas attached to a mount to send and receive radio signals.

Average Tree Canopy Height (ATCH). An average height found by inventorying the height, at above ground level (AGL) of all trees over twenty (20) feet in height within the area that extends for a distance of one hundred fifty (150) feet from the base of the mount, security barrier, or designated clear area for access to equipment whichever is greatest. Trees that will be removed for construction shall NOT be used in this calculation.

Camouflaged. A PWSF that is disguised, hidden, part of an existing or proposed structure, or placed within an existing or proposed structure.

Carrier. A company that provides personal wireless services also sometimes referred to as a provider.

Co-location. The use of a single mount by more than one carrier (vertical co-location), or the use of more than one mount on the same site by more than one carrier (horizontal co-location), or the use of several mounts on an existing building or structure by more than one carrier.

Community Scale. Compatibility between the proposed PWSF and its surroundings in relation to the height, mass, materials, contrasts, and proportion of the proposed facility and its surroundings.

dBm. Unit of measure of the power level of a signal expressed in decibels above 1 milliwatt.

Environmental Assessment (EA). An EA is a document required by the Federal

Communications Commission (FCC) and the National Environmental Policy Act (NEPA) when a PWSF is placed in certain designated areas.

Equipment Shelter. An enclosed structure, cabinet, shed, vault, or box near the base of the mount within which are housed equipment for PWSF such as batteries and electrical equipment. Equipment shelters are sometimes referred to as base transceiver stations.

Facility. See Personal Wireless Service Facility.

Fall Zone. The area on the ground from the base of a structure mounted Personal Wireless Service Facility that forms a circle with a radius equal to 125% of the height of the facility, including any antennas or other appurtenances. The fall zone is the area within which there is a potential hazard from falling debris (such as ice) or collapsing material.

Guyed Tower. A monopole or lattice tower that is secured to the ground or other surface by diagonal cables for lateral support.

Height. The height above ground level (AGL) from the natural grade of a site to the highest point of a structure.

Lattice Tower. A type of mount with multiple legs and structural cross-bracing between the legs that is self-supporting and freestanding.

Mast. A thin pole that resembles a street light standard or a utility pole. A dual-polarized antenna is typically deployed on a mast.

Monopole. A thicker type of mount than a mast that is self-supporting with a single shaft of wood, steel or concrete, or other material that is designed for the placement of antennas and arrays along the shaft.

Mount. The structure or surface upon which antennas are mounted. (interior or exterior) including the following two types of mounts:

- A. Ground-mounted - A mount that is a structure affixed to the ground, other than a building, upon which one or more antennas are mounted.
- B. Building-mount - A mount that is: (1) the roof or side of a building upon which one or more antennas are mounted; or (2) a mount that is a structure affixed directly to the roof or side of a building and not part of the building, upon which one or more antennas are mounted.

Personal Wireless Service Facilities (PWSF). Facility for the provision of personal wireless services, as defined by the Telecommunications Act of 1996, as amended and this Ordinance. PWSFs include a mount, antenna, equipment shelter, and other related equipment. A PWSF shall not include any of the following:

- A. Wireless communication facilities for emergency communications by public officials.
- B. Amateur (ham) radio stations licensed by the Federal Communications Commission (FCC)
- C. Parabolic Antennae less than seven (7) feet in diameter, that are an accessory use of the property.
- D. Temporary Personal Wireless Service Facilities in operation for one maximum period of one hundred eighty (180) days.
Such temporary facilities shall be removed prior to 30 days following the maximum period.
- E. An antenna that is an accessory use to a residential dwelling unit, provided that the PWSF is not used for commercial purposes.

Personal Wireless Services. The three types of services covered by this Ordinance: commercial mobile radio services, unlicensed wireless services, and common carrier wireless exchange access services as described in the Telecommunications Act of 1996, as amended.

PWSF Overlay Zone. A PWSF Overlay Zone shall be defined as any property within the following districts, as defined by the Land Use Ordinance of the Town of Searsport, Maine:

- Mixed Residential
- Industrial
- Rural Agricultural Residential

Radio Frequency (RF) Engineer. An engineer specializing in electrical or microwave engineering, especially the study of radio frequencies.

Radio Frequency Radiation (RFR). The emissions from PWSFs.

Security Barrier. A wall, fence, or berm that restricts an area from unauthorized entry or trespass.

8. Additional Application Requirements for PWSFs.

In addition to the foregoing requirements contained in this ordinance, applications for PWSFs shall include:

- A. For ground-mounted PWSFs that must be screened by trees a written report must be provided from a qualified forestry or environmental consultant that describes the Average Tree Canopy Height and the methodology used to determine it.
- B. A proposal to construct or modify a PWSF must include evidence of a commitment from a duly licensed carrier to utilize the tower to provide wireless communication services.

- C. Written approval by all applicable state and federal agencies, including but not limited to the FAA and FCC, including a description of any conditions or criteria for the approval, or a statement from the agency that no approval is required.
- D. An inventory of all of the provider's existing and approved towers, antennae or sites within Searsport and locations in surrounding communities where wireless telecommunications are proposed to be utilized in conjunction with the facility proposed in the application. Service area maps or network maps of the applicant's existing and proposed facilities in Waldo County.
- E. Identification of any other PWSFs existing or proposed on the site.
- F. Details of all existing or proposed accessory structures including buildings, parking areas, utilities, gates, access roads, etc.
- G. Evidence must be provided that written notice was sent, by pre-paid first class United States mail, to all other such tower and alternative tower structure owners and licensed wireless communication providers that could furnish service to the municipality utilizing existing towers and alternative tower structures and to owners of such towers. This notice shall state the applicant's siting needs and include a request for information of the co-location capabilities of the existing or previously approved facilities. Evidence that this notice requirement has been fulfilled shall include a name and address list, copy of the notice that was sent, and a return receipt request that the notices were sent as required.
- H. Evidence must be provided that existing or previously approved towers and alternative tower structures with the municipality cannot accommodate the communications equipment (antennae, cables, etc.) planned for the proposed tower. Such evidence shall include documentation from a qualified and licensed professional engineer that:
 - 1. Planned necessary equipment would exceed the structural capacity of existing and approved PWSF and alternative tower structures considering (1) the existing and planned use of those PWSFs and alternative tower structures, and (2) the existing and approved PWSFs cannot be reinforced or enlarged to accommodate planned or equivalent equipment at a reasonable cost.
 - 2. Planned equipment will cause electromagnetic frequency interference with other existing or planned equipment for that PWSF or alternative tower structure, and the interference cannot be prevented at a reasonable cost;
 - 3. Existing or approved PWSFs and alternative tower structures do not have space on which planned equipment can be placed so it can function effectively and at least in parity with other similar equipment in place or approved; or
 - 4. Other documented reasons make it technically or financially unfeasible to place the equipment planned by the applicant on existing and approved PWSFs and alternative tower structures.

- I. Evidence must be provided that the proposed PWSF cannot be co-located on existing or previously approved tower sites. Evidence should include an assessment of whether such PWSF sites could be changed to accommodate the proposed tower, and a general description of the projected cost of shared use of the existing or approved PWSF site.
- J. A report must be provided from a Registered Professional Engineer that describes the PWSF, the technical reasons for the PWSF design and the capacity of the PWSF, including the number(s), type(s), and volume(s) of antennae that it can accommodate and the basis for the calculation of capacity.
- K. When a proposed ground-mounted PWSF does not meet the standards of this Ordinance evidence must be provided demonstrating whether there are alternative sites that can meet the standards and provide adequate signal coverage. Using more than one site each with a shorter PWSF than was originally proposed must be considered.
- L. A letter of intent must be provided that commits the PWSF owner and its successors in interest to:
 - 1. respond in a timely, comprehensive manner to a request for information from a potential co-location applicant;
 - 2. negotiate in good faith for shared use by third parties that have received an FCC license or permits; and
 - 3. allow shared use if an applicant agrees in writing to pay reasonable charges.
- M. Proof of financial capacity to build, maintain, and remove the proposed PWSF must be submitted.
- N. Photos showing site vegetation, existing and adjacent structures, views of and from the proposed site, topography, and land uses on the proposed parcel and on abutting properties must be provided.
- O. Landscaping plan reflecting location of proposed screening and fencing, planting areas, proposed plantings, existing plant materials to be retained and trees or shrubs to be removed must be submitted.
- P. Elevation drawings, cross-sectional area or silhouette, of the facility, drawn to scale, and showing all measurements, both linear and volumetric, showing front, sides and rear of the proposed facility including all fencing, supporting system for transmission cables running between the tower and accessory structures, control panels, antennae, and existing structures and trees. Reference any design characteristics that have the effect of reducing or eliminating visual obtrusiveness.
- Q. Detail of the tower base or method of attachment to a structure. If the facility will be

attached to an existing building or structure, provide measurements and elevations of the structure.

- R. An analysis of the visual impact of the proposed facility, including tower and supporting structures, which may include photo montage, field mock up, or other techniques, that identify the potential visual impacts, at design capacity, of the proposed facility. Consideration shall be given to views from roads, public areas, private residences, historic resources, including historic districts and structures listed in the National Register of Historic Places, and archaeological resources. The analysis of the impact on historical and archaeological resources shall meet the requirements of the Maine State Historical Preservation Officer in his/her review capacity for the FCC.
- S. The applicant shall submit written proof that the proposed use and the facility comply with the FCC regulations on radio (RF) frequency exposure guidelines and a propagation map showing the proposed radio frequency coverage.
- T. The applicant shall submit written proof that an evaluation has taken place, as well as the results of such evaluation, satisfying the requirements of the National Environmental Policy Act (NEPA) further referenced in applicable FCC rules. If an Environmental Assessment (EA) or an Environmental Impact Statement (EIS) is required under the FCC rules and NEPA, submission of the EA or EIS to the Town prior to the beginning of the federal 30 day comment period, and the Town process, shall become part of the application requirement.
- U. The applicant will provide information as to whether any of the Personal Wireless Service carriers providing service to the municipality use the system known as cable micro-cell integrator/headend interface converter (CMI/HIC) which utilizes cable television lines and small transceivers mounted on utility poles to communicate with wireless telephones and whether there are any such carriers using CMI/HIC in Waldo County.

9. Review, Approvals and Fees.

- A. Approval of the Code Enforcement Officer (CEO) is required for co-location on an existing PWSF.
- B. Approval of the Planning Board is required for construction of a new PWSF, or modification (except for co-location) of an existing PWSF.
- C. In accordance with Section 9A and 9B above, the CEO or Planning Board shall review applications for PWSF, and make written findings on whether the proposed facility complies with this Ordinance.
- D. An application for approval shall include ten (10) copies of the application and payment of an application fee as determined by a fee schedule promulgated by the Municipal Officers upon Planning Board recommendation.

E. Within five (5) working days of receipt of an application the CEO shall review the application and determine if the application meets the submission requirements. If the application is complete, the CEO will begin his review. If the application is incomplete, the CEO shall notify the applicant in writing, specifying the additional materials or information required to complete the application.

F. The Planning Board will further review all documents and information submitted and determine if the application is complete. The Planning Board, as appropriate, shall review any requests for a waiver from the submission requirements and shall act on these requests prior to determining the completeness of the application. When the Planning Board has determined the submission requirements have been met, they will notify the applicant in writing.

G. When the application is deemed complete and is ready for Planning Board review, the Planning Board shall notify all abutters to the site as shown on the Assessor's records, by first-class mail, that an application has been accepted. This notice shall contain a brief description of the proposed activity and the name of the applicant, give the location of a copy of the application available for inspection, and provide the date, time, and place of the Planning Board meeting at which the application will be considered. Failure on the part of any abutter to receive such notice shall not be grounds for delay of any consideration of the application nor denial of the project.

10. Effective Date

TRUE COPY ATTEST
Wendy Plouffe
CLERK

This ordinance becomes effective on March 6, 2010

----- (end of the ordinance) -----

Fee Schedule:

The fee schedule recommended by the Searsport Planning Board and established by the Searsport Municipal Officers on February 2, 2010 will be as follows:

- A. \$250 Basic Application Fee, which includes any PWSF up to a height of fifty (50) feet,
- B. \$5 per foot for PWSF heights above fifty (50) feet,
- C. \$5 per abutter notification.