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FLOODPLAIN MANAGEMENT ORDINANCE

FOR THE

TOWN OF SEDGWICK, MAINE

ENACTED: _____
Date

EFFECTIVE: _____
Date

CERTIFIED BY: _____
Signature

Print Name

Title

Affix Seal

FLOODPLAIN MANAGEMENT ORDINANCE

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ARTICLE I-PURPOSE AND ESTABLISHMENT

Certain areas of the Town of Sedgwick, 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 Sedgwick, 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 Sedgwick, 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 Sedgwick 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 Sedgwick 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 Sedgwick, Maine.

The areas of special flood hazard, Zones A, AE, and VE for the Town of Sedgwick, Hancock County, Maine, identified by the Federal Emergency Management Agency in a report entitled "Flood Insurance Study – Hancock County, Maine," dated July 20, 2016 with accompanying "Flood Insurance Rate Map" dated July 20, 2016 with panels: 912D, 914D, 916D, 918D, 920D, 940D, 1129D, 1131D, 1133D, 1135D, 1137D, 1141D, 1142D, 1143D, 1144D, 1151D, 1152D, 1153D, 1154D, and 1161D, derived from the county wide digital Flood Insurance Rate Map entitled "Digital Flood Insurance Rate Map, Hancock County, Maine," 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 Planning Board 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 Sedgwick, Maine.

ARTICLE III - APPLICATION FOR PERMIT

The application for a Flood Hazard Development Permit shall be submitted to the Planning Board 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 - Hancock 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 VI.L.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 of \$25.00 for all minor development and \$ 50.00 for all new construction or substantial improvements shall be paid to the Town Clerk and a copy of a receipt for the same shall accompany the application.

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

ARTICLE V - REVIEW STANDARDS FOR FLOOD HAZARD DEVELOPMENT PERMIT APPLICATIONS

The Planning Board shall:

- A. Review all applications for the Flood Hazard Development Permit to assure that proposed developments are reasonably safe from flooding and to determine that all pertinent requirements of 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 - Hancock County, Maine," as described in Article I.;
 - 2. in special flood hazard areas where base flood elevation and floodway data are not provided, the Planning Board 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.

2. Zone A shall:

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

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

- 1. have unfinished interiors and not be used for human habitation;
- 2. have hydraulic openings, as specified in Article VI.L.2., in at least two different walls of the accessory structure;
- 3. be located outside the floodway;
- 4. 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,
- 5. 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 A and AE 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 A, AE, 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 A, AE, 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 A, AE, 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 VI.P.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 VI.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 or Planning Board 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 Sedgwick 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 Planning Board a report of all variance actions, including justification for the granting of the variance and an authorization for the Planning Board to issue a Flood Hazard Development Permit, which includes any conditions to be attached to said permit.
7. Any aggrieved party who participated as a party during the proceedings before the Board of Appeals may take an appeal to Superior Court in accordance with State laws within forty-five days from the date of any decision of the Board of Appeals.

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

TOWN OF SEDGWICK HARBOR ORDINANCE

Adopted May 1993

Amended March 2000

Amended March 2015

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Section 1: PURPOSE.

- 1.1 The Town of Sedgwick Harbor Ordinance is hereby established, to regulate marine activities within the harbor of Sedgwick and waters adjacent to the shorelines of Sedgwick; including North Sedgwick, Sargentville, and West Sedgwick. It is intended to ensure safety to persons and property, to promote availability and use of public resources, and to create a fair and efficient framework for the administration of these resources. This ordinance shall be subordinate to existing Federal and State laws governing the same matters and is not intended to preempt other valid laws.

Section 2: HARBOR AND CHANNEL LIMITS.

- 2.1 Regulation under this ordinance shall extend only to certain portions of the Benjamin River, the limits of which are: northeasterly from a point in the channel off Job's Bar in the Benjamin River to a point off Mean's Point, across from Benjamin River Marine, thence northwesterly & southerly following the shoreline back to the starting point off Job's Bar. This boundary between Sedgwick & Brooklin pertains only to the regulation of harbor use and the points mentioned above are set by agreement between the Selectmen of the two towns. Any dispute of Section 2.1 will be resolved by the Selectmen.

- 2.2 The Committee may from time to time establish channels for the passage of vessels in the harbor after due consideration of the recommendations of the Harbormaster. There shall be no anchoring or mooring in any channels designated as such.

Section 3: HARBORMASTER.

- 3.1 A Harbormaster shall be appointed annually by the Selectmen for a term of one year, the term to expire immediately following the annual election and swearing in of the Selectmen (or Selectman). In event the office shall become vacant the Selectmen shall appoint a successor to serve the balance of that term. The Harbormaster shall have all those certain duties and responsibilities of that office which are prescribed by Title 38, M.R.S.A., excepting the power to make arrests or the authorization to carry a weapon. The Harbormaster shall have the additional duty to administer and enforce the provisions of this ordinance with the authority granted by law and through his appointment as Harbormaster. The Selectmen shall establish the Harbormaster's compensation at the time of each year's annual appointment. The

Harbormaster may be removed for cause by the Selectmen pursuant to the procedure contained in 30-M.R.S.A., §2633(3) (as amended), for the removal of town managers.

3.2 The Harbormaster may appoint deputies, subject to approval by the Selectmen, who, when authorized by the Harbormaster, may assume the duties and responsibilities granted to the Harbormaster in Section 3, in whole or in part as the Harbormaster deems necessary. Compensation for the Deputy Harbormasters shall be set by the Selectmen. The term of any deputy shall expire at the same time as that of the Harbormaster who has appointed that deputy.

3.3 The job description and qualifications of the Harbormaster shall be as defined in Appendix 1.

Section 4: TOWN OF SEDGWICK MARINE RESOURCES COMMITTEE

4.1 The Marine Resources Committee (henceforth referred to as the Committee) shall consist of four (4) voting members appointed by the selectmen. Three (3) members shall constitute a quorum. One Selectman and the Harbormaster shall serve as non-voting advisors to the Committee.

4.2 The Committee members shall all be residents of the Town of Sedgwick. The membership shall represent as many diverse interests in the harbors, waterways, and tidal waters as possible (i.e., commercial boat owners, recreational boat owners, abutting land owners, water-related business owners, members of land use boards or committees).

4.3 The term of a member shall be two (2) years, except that two (2) of the initial Committee members shall be appointed to a one (1) year term, two (2) shall be appointed to a two (2) year term. The term shall commence immediately following the Annual Town Meeting.

Section 5: EFFECTIVE DATE.

5:1 This ordinance shall take effect immediately upon adoption, except that mooring permits will become mandatory on March 1st following the adoption of this Ordinance. It may be amended or repealed at any annual or special Town meeting.

Section 6: VIOLATIONS, ENFORCEMENT AND FINES.

6.1 The Harbormaster, upon finding that any provision of this Ordinance or the condition(s) of a permit issued under this Ordinance is being violated, is authorized: to issue notice of violations, orders to correct, or schedules to correct, to enter into administrative decrees and agreements; to institute legal proceedings to enjoin violations of this Ordinance; and to recover fines and costs.

6.2 A person who violates the provisions of this Ordinance or the condition(s) of a permit shall be guilty of a civil violation and on conviction shall be fined not less than \$25.00 nor more than \$100.00. Fines will begin to take effect after the Harbormaster has declared that the schedule to correct a violation or violations has not been met. All fines shall be paid to the Town of Sedgwick. The Harbormaster shall serve the violator with a citation stating (1) the date and place of the offense, (2) the nature of the offense and the ordinance provision violated, and (3) the fine owed. In the event that the violator fails to voluntarily pay the fine assessed by the Harbormaster, pursuant to the Selectmen's schedule, the town shall commence an enforcement action in the Maine District Court, pursuant to 30-A M.R.S.A. §4452, and the town shall also collect from the violator attorney's fees, expert witness fees, and costs.

6.3 The Selectmen shall establish a schedule of fines for specific violations of this Ordinance from recommendations of the Committee. The Selectmen shall periodically review the schedule of fines and may amend the fines from time to time after consulting the Committee.

Section 7: EXCEPTIONS.

7.1 The Harbormaster may grant temporary exceptions to this Ordinance at his or her discretion.

Section 8: SEPARABILITY PROVISION.

8.1 If any provisions of this Ordinance are held to be invalid or inoperative, the remainder shall continue in full force and effect as though such invalid or inoperative provisions had not been made.

Section 9: MOORING PERMITS.

9.1 Mooring permits issued by the Harbormaster are subject to provisions of M.R.S.A. Title 38, Chapter 1, which pertain to moorings. Mooring permits are nontransferable. A mooring permit holder shall be liable for all damages and costs that result from the failure of that mooring. Any mooring permit is conditional on satisfying the following requirements:

A. The mooring must meet or exceed (except any scope restrictions set by the Harbormaster) the minimum specifications – see Appendix II – or as deemed applicable by the Harbormaster. Compliance with these mooring specifications in no way guarantees the safety of the mooring or implies any liability on the part of the Harbormaster, inspectors approved by the Harbormaster, or the town of Sedgwick in the event of failure of the mooring.

B. New moorings must be inspected by the Harbormaster, or an individual approved by the Harbormaster, before the mooring is set.

C. The mooring must be placed in the location assigned by the Harbormaster. Mooring location assignments may be changed from time to time by the Harbormaster.

D. The mooring permit number and/or boat name must be displayed on the surface float in 3” block numbers, or in a manner approved by the Harbormaster.

Section 10: MOORING PERMIT FEES.

10.1 Fees for mooring permits shall be set by the Selectmen from recommendations of the Committee. Changes in mooring permit fees shall be made one (1) year in advance of those fees taking effect, excepting any fees established upon adoption of this ordinance. Mooring permit fees will be due and payable to the Town of Sedgwick upon issuance of a mooring permit.

10.2 For purposes of setting mooring permit fees, moorings will be classified into three (3) types:

I. Moorings which are assigned to vessels for which boat excise taxes are paid to the Town of Sedgwick.

II. Moorings which are assigned to vessels for which boat excise taxes are not paid to the Town of Sedgwick.

III. Approved service/rental moorings.

Section 11: MOORINGS EXEMPT FROM MOORING PERMITS.

11.1 Certain moorings are exempt from the Sedgwick mooring permit requirement, but are still subject to the Harbormaster's decisions if these moorings are found to be unsafe, or to hinder navigation or access to the water. Moorings exempt from Sedgwick mooring permits include moorings/anchors used solely to secure floats and walkways and/or outhauls attached to the shore.

Section 12: LIMITED SHORELAND OWNER RIGHTS.

12.1 When an individual owns the shore rights to a parcel of land and is master or owner of a boat or vessel, he/she may request a mooring fronting his/her land. Whenever practicable, the Harbormaster shall assign such moorings, provided they do not encroach on the natural channel or channels established by municipal officers. Not more than one (1) mooring may be assigned to any shore-front parcel of land under this privilege. Persons who, on January 1, 1992 or thereafter, owned shore rights of at least 100 feet of frontage regardless of the size of the lot shall have mooring privileges assigned according to this section. The limitation of one mooring assigned under this privilege shall not prevent the owner of a shore-front parcel from receiving additional mooring assignments under the allocation system for all other mooring permit applicants.

Section 13: USE OF TOWN FLOATS.

13.1 Attended watercraft may tie up to the face of the town float for period not to exceed one half (1/2) hour. The time may be extended with prior approval of the Harbormaster. Unattended dinghies of 12 ft. or less with a maximum beam of 5 ft. may be tied up to the finger floats, provided they do not interfere with watercraft landing and departing the dock. Dinghies must be kept bailed and fendered. A tie-up permit must be visible at all times.

13.2 As of June 1, 2000, there will be a fee to tie up at the finger floats. The fee will be determined annually and the fee will be set by the Selectmen from recommendations of the Committee. The fee will be due and payable to the town clerk of Sedgwick upon issuance of a tie-up permit.

13.3 Only one (1) dinghy permit will be issued per household. The permits will be issued to holders of valid Sedgwick Resident mooring permits who also have a boat currently registered in Sedgwick.

13.4 Non-resident permits will be issued on a space available basis as determined by the Harbormaster. Once issued, non-resident dinghy permits may be renewed indefinitely as long as kept current (fee paid by May 31), but not transferred. Preference will be given to Brooklin residents with moorings in the Benjamin River.

Section 14: DEFINITIONS.

1. Anchorage: An area of a harbor or waterway set aside for the temporary anchoring of a watercraft by means of ground tackle carried aboard the watercraft.
2. Assigned Mooring: Any mooring assigned to specific watercraft.
3. Boat: Any floating device or vessel designed for self-propelled movement or navigation on the water.
4. Commercial Vessel: A vessel defined as a commercial vessel under the State of Maine Watercraft Excise Tax. Any vessel used for, or engaged in, any type of commercial activity, including but not limited to commercial fishing or the carrying of cargo and/or passengers for hire.
5. Derelict Watercraft: Any watercraft that the Committee or Harbormaster determines to be a threat to navigation, property, other watercraft, or the environment, due to watercraft condition or to neglect on the part of the owner(s) or master of the watercraft in question.
6. Distress: A state of disability, or a present danger which, if prolonged, could endanger life or property.
7. Emergency: A state of imminent or proximate danger to life or property.
8. Float: Any float structure normally used as a point of transfer for passengers or goods, or for temporary or continuous attachment by a vessel.
9. Outhaul: Any mooring used to attach dinghies or tenders by means of a continuous line secured to the shore.
10. Permanent mooring: A device to which a vessel is attached, that is not carried aboard, and whose sinker is left in place.
11. Service mooring: Any mooring approved as a service mooring by the Marine Resources Committee and assigned to a water-dependent business.
12. Shoreland owner: An owner of a parcel of land greater than 20,000 square feet with at least 100 feet of shore frontage upon any of the tidal waters of the Town of Sedgwick. Condominiums, townhouses, or any other similar multiple ownership parcels of land are considered as one parcel for purposes of allocating mooring permits and as such are entitled to one mooring under

38 M.R.S.A., Section 3. Additional moorings may be allowed under other provisions of M.R.S.A. 38.

13. Water-dependent business: Any business that the Marine Resources Committee determines to require the use of moorings in order to conduct its business.
14. Wharf: Any permanent non-floating structure normally used as a point of transfer for passengers, goods, or for temporary or continuous attachment by a vessel.

TOWN OF SEDGWICK

HARBORMASTER JOB DESCRIPTION

Section 1: GENERAL.

The Harbormaster is responsible to the Selectmen and shall be appointed annually following the town meeting.

Section 2: SPECIFIC JOB RESPONSIBILITIES.

The following duties are required of the Harbormaster:

- A. Allocate mooring spaces in the harbors, and maintain mooring records and technical specifications. Administer the annual registration of moorings (mooring permits) and waiting lists.
- B. Assist mooring applicants in defining ground tackle requirements to ensure minimum specifications are maintained, depending on location, boat size and configuration.
- C. Supervise the placement of each mooring, and periodically verify its condition and position to ensure the safety of the vessel, adequacy of swinging room and best use of available space. When required, he/she shall order any deficiencies corrected.
- D. Establish and maintain permanent and transient anchorage areas and channels.
- E. Keep the harbor and channels free of obstructions.
- F. Monitor the use of public piers, boat moorings, and launching ramps.
- G. Monitor the condition of the town wharf, floats, and moorings, and co-ordinate repairs as necessary.
- H. Participate in harbor planning and co-ordinate approved projects. Act as a non-voting member of the Marine Resources Committee.
- I. Control the use of public lands for winter storage of marine equipment.

APPENDIX II

MINIMUM MOORING STANDARDS FOR THE
BENJAMIN RIVER

(Average Boat Type for Summer Use)

<u>Length</u>	<u>Mushroom</u>	<u>Granite</u>	<u>Bottom Chain</u>	<u>Top Chain</u>	<u>Nylon Pennant</u>
15'	75#	400#	1/2	5/16	1/2
20'	100#	500#	1/2	5/16	5/8
25'	150#	750#	5/8	3/8	5/8
30'	200#	1000#	5/8	3/8	3/4
35'	250#	1500#	3/4	1/2	3/4
40'	350#	2000#	3/4	1/2	7/8
50'	500#	4000#	1	1/2	1

(Wide beam, high freeboard, or tall superstructure add to mooring load and therefore minimum mooring size.)

LOCAL FOOD AND COMMUNITY SELF-GOVERNANCE ORDINANCE

TOWN OF SEDGWICK, MAINE

PREAMBLE

We, the People of the Town of Sedgwick, Hancock County, Maine, have the right to produce, process, sell, purchase and consume local foods thus promoting self-reliance, the preservation of family farms, and local food traditions. We recognize that family farms, sustainable agricultural practices, and food processing by individuals, families and non-corporate entities offers stability to our rural way of life by enhancing the economic, environmental and social wealth of our community. As such, our right to a local food system requires us to assert our inherent right to self-government. We recognize the authority to protect that right as belonging to the Town of Sedgwick.

We have faith in our citizens' ability to educate themselves and make informed decisions. We hold that federal and state regulations impede local food production and constitute a usurpation of our citizens' right to foods of their choice. We support food that fundamentally respects human dignity and health, nourishes individuals and the community, and sustains producers, processors and the environment. We are therefore duty bound under the Constitution of the State of Maine to protect and promote unimpeded access to local foods.

SECTION 1: TITLE

This Ordinance shall be known and may be cited as "the Town of Sedgwick Local Food and Community Self-Governance Ordinance" (the "ordinance").

SECTION 2: PURPOSE

The purpose of the Local Food and Community Self-Governance Ordinance is to:

1. Provide citizens with unimpeded access to local food;
2. Enhance the local economy by promoting the production and purchase of local agricultural products;
3. Protect access to farmers' markets, roadside stands, farm based sales and direct producer to patron sales;
4. Support the economic viability of local food producers and processors;
5. Preserve community social events where local foods are served or sold;
6. Preserve local knowledge and traditional food ways.

3: AUTHORITY

This Ordinance is adopted and enacted pursuant to the inherent, inalienable, and fundamental right of the citizens of the Town of Sedgwick to self-government, and under the authority recognized as belonging to the people of the Town by all relevant state and federal laws including, but not limited to the following:

1. The Declaration of Independence of the United States of America, which declares that governments are instituted to secure peoples' rights, and that government derives its just powers from the consent of the governed.
2. Article I, §2 of the Maine Constitution, which declares: "all power is inherent in the people; all free governments are founded in their authority and instituted for their benefit, [and that] they have therefore an unalienable and indefeasible right to institute government and to alter, reform, or totally change the same when their safety and happiness require it."
3. §3001 of Title 30-A of the Maine Revised Statutes, which grants municipalities all powers necessary to protect the health, safety and welfare of the residents of the Town of Sedgwick.
4. §211 of Title 7 of the Maine Revised Statutes, which states: "it is the policy of the State to encourage food self-sufficiency for the State."

SECTION 4: STATEMENTS OF LAW

4.1 Licensure/Inspection Exemptions

(1) Producers or processors of local foods in the Town of Sedgwick are exempt from licensure and inspection provided that the transaction is only between the producer or processor and a patron when the food is sold for home consumption. This includes any producer or processor who sells his or her products at farmers' markets or roadside stands; sells his or her products through farm-based sales directly to a patron; or delivers his or her products directly to patrons.

(2) Producers or processors of local foods in the Town of Sedgwick are exempt from licensure and inspection provided that their products are prepared for, consumed, or sold at a community social event.

4.2 Right to Access and Produce Food. Sedgwick citizens possess the right to produce, process, sell, purchase, and consume local foods of their choosing.

4.3 Right to Self-Governance. All citizens of Sedgwick possess the right to a form of governance which recognizes that all power is inherent in the people and that all free governments are founded on the people's authority and consent.

4.4 Right to Enforce. Sedgwick citizens possess the right to adopt measures which prevent the violation of the rights enumerated in this Ordinance.

SECTION 5: STATEMENT OF LAW IMPLEMENTATION.

The following restrictions and provisions serve to implement the preceding statements of law.

5.1 State and Federal Law. It shall be unlawful for any law or regulation adopted by the state or federal government to interfere with the rights recognized by this Ordinance. It shall be unlawful for any corporation to interfere with the rights recognized by this Ordinance. The term "corporation" shall mean any business entity organized under the laws of any state or country.

5.2 Patron Liability Protection. Patrons purchasing food for home consumption may enter into private agreements with those producers or processors of local foods to waive any liability for the consumption of that food. Producers or processors of local foods shall be exempt from licensure and inspection requirements for that food as long as those agreements are in effect.

SECTION 6: CIVIL ENFORCEMENT

The Town of Sedgwick may enforce the provisions of this Ordinance through seeking equitable relief from a court of competent jurisdiction. Any individual citizen of the Town of Sedgwick shall have standing to vindicate any rights secured by this Ordinance which have been violated or which are threatened with violation, and may seek relief both in the form of injunctive and compensatory relief from a court of competent jurisdiction.

SECTION 7: TOWN ACTION AGAINST PREEMPTION

The foundation for making and adopting this law is the peoples' fundamental and inalienable right to govern themselves, and thereby secure their rights to life, liberty, and the pursuit of happiness. Any attempt to use other units and levels of government to preempt, amend, alter or overturn this Ordinance or parts of this Ordinance shall require the Town to hold public meetings that explore the adoption of other measures that expand local control and the ability of citizens to protect their fundamental and inalienable right to self-government. It is declared that those other measures may legitimately include the partial or complete separation of the Town from the other units and levels of government that attempt to preempt, amend, alter, or overturn this Ordinance.

SECTION 8: EFFECTIVE DATE

This Ordinance shall be effective immediately upon its enactment.

SECTION 9: SEVERABILITY

To the extent any provision of this Ordinance is deemed invalid by a court of competent jurisdiction, such provision will be removed from the Ordinance, and the balance of the Ordinance shall remain valid.

SECTION 10: REPEALER

All inconsistent provisions of prior Ordinances adopted by the Town of Sedgwick are hereby repealed, but only to the extent necessary to remedy the inconsistency.

SECTION 11: DEFINITIONS

As used in this Ordinance, the following words and phrases shall have the meanings indicated:

Community social event. "Community social event" means an event where people gather as part of a community for the benefit of those gathering, or for the community, including but not limited to a church or religious social, school event, potluck, neighborhood gathering, library meeting, traveling food sale, fundraiser, craft fair, farmers market and other public events.

Home consumption. "Home consumption" means consumed within a private home.

Local Foods. "Local Foods" means any food or food product that is grown, produced, or processed by individuals who sell directly to their patrons through farm-based sales or buying clubs, at farmers markets, roadside stands, fundraisers or at community social events.

Patron. "Patron" means an individual who is the last person to purchase any product or preparation directly from a processor or producer and who does not resell the product or preparation.

Processor. "Processor" means any individual who processes or prepares products of the soil or animals for food or drink.

Producer. "Producer" means any farmer or gardener who grows any plant or animal for food or drink.

Town of Sedgwick

March 2018 Amendments to the Town of Sedgwick Shoreland Zoning Ordinance

Enacted at Town Meeting, March 3, 2018

Given under our hands at Sedgwick, Maine,
this 2nd day of April, 2018

/s/
Michael Sheahan

/s/
Robert Publicover

/s/
Benjamin Astbury
Selectmen

A true copy.
Attest: /s/
Cynthia Reilly, Clerk

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Shoreland Zoning Ordinance for the Town of Sedgwick, Maine

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.
2. **Authority.** This Ordinance has been prepared in accordance with the provisions of Title 38 sections 435-449 of the Maine Revised Statutes Annotated (M.R.S.A.).
3. **Applicability.** This Ordinance applies to all land areas within 250 feet, horizontal distance, of the
 - normal high-water line of any great pond 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.

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

NOTE: Pursuant to 38 M.R.S.A. section 440, municipalities may extend or adopt zoning controls beyond the limits established in Section 3, above, in order to protect the public health, safety, and welfare and to avoid problems associated with floodplain development.

4. **Effective Date of Ordinance and Ordinance Amendments.** This Ordinance, which was adopted by the municipal legislative body on March 3, 2018, shall not be effective unless approved by the Commissioner of the Department of Environmental Protection. A certified copy of the Ordinance, or Ordinance Amendment, attested and signed by the Municipal Clerk, shall be forwarded to the Commissioner for approval. If the Commissioner fails to act on this Ordinance or Ordinance Amendment, within forty-five (45) days of his/her receipt of the Ordinance, or Ordinance Amendment, it shall be automatically approved.

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

5. **Availability.** A certified copy of this Ordinance shall be filed with the Municipal Clerk and shall be accessible to any member of the public. Copies shall be made available to the public at reasonable cost at the expense of the person making the request. Notice of availability of this Ordinance shall be posted.
6. **Severability.** Should any section or provision of this Ordinance be declared by the courts to be invalid, such decision shall not invalidate any other section or provision of the Ordinance.
7. **Conflicts with Other Ordinances.** Whenever a provision of this Ordinance conflicts with or is inconsistent with another provision of this Ordinance or of any other ordinance, regulation or statute administered by the municipality, the more restrictive provision shall control.
8. **Amendments.** This Ordinance may be amended by majority vote of the legislative body. Copies of amendments, attested and signed by the Municipal Clerk, shall be submitted to the Commissioner of the Department of Environmental Protection following adoption by the municipal legislative body and shall not be effective unless approved by the Commissioner. If the Commissioner fails to act on any amendment within forty-five (45) days of his/her receipt of the amendment, the amendment is automatically approved. Any application for a permit submitted to the municipality within the forty-five (45) day period shall be governed by the terms of the amendment, if such amendment is approved by the Commissioner.

9. **Districts and Zoning Map**

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

- (1) Resource Protection
- (2) Limited Residential
- (3) Stream Protection

- 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.

NOTE: Because of map scale or other reason, a municipality may have a series of maps depicting its shoreland zone.

- 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.

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

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

12. Non-conformance

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

B. General

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

NOTE: See Section 17 for the definitions of non-conforming structures, non-conforming uses and non-conforming lots.

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) next page here.
 - (a) Expansion of any portion of a structure within 25 feet of the normal high-water line of a water body, tributary stream, or upland edge of a wetland is prohibited, even if the expansion will not increase nonconformity with the water body, tributary stream or wetland setback requirement. Expansion of 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 footprint of the reconstructed or replaced structure at its new location. If the total footprint of the original structure can be relocated or reconstructed beyond the required setback area, no portion of the relocated or reconstructed structure shall be replaced or constructed at less than the setback requirement for a new structure. When it is necessary to remove vegetation in order to replace or reconstruct a structure, vegetation shall be replanted in accordance with Section 12(C)(3) above.

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

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

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

In determining that no greater adverse impact will occur, the Planning Board shall require written documentation from the applicant, regarding the probable effects on public health and safety, erosion and sedimentation, water quality, fish and wildlife habitat, vegetative cover, visual and actual points of public access to waters, natural beauty, floodplain management, archaeological and historic resources, and 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 April 7, 1993 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.

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 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.

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

(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.

- A. Other important wildlife habitat;
 - B. Natural sites of significant scenic or esthetic value;
 - C. Areas designated by federal, state or municipal governments as natural areas of significance to be protected from development; and
 - D. Other significant areas which should be included in this district to fulfill the purposes of this Ordinance, such as, but not limited to, existing public access areas and certain significant archaeological and historic sites deserving of long-term protection as determined by the municipality after consultation with the Maine Historic Preservation Commission.
 - E. 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.
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B. Limited Residential District. The Limited Residential District includes those areas suitable for residential and recreational development. It includes areas other than those in the Resource Protection District, or Stream Protection District, and areas which are used less intensively than those in the Limited Commercial District, the General Development Districts, or the Commercial Fisheries/Maritime Activities District.

C. Stream Protection District. The Stream Protection District includes all land areas within seventy-five (75) feet, horizontal distance, of the normal high-water line of a stream, exclusive of those areas within two-hundred and fifty (250) feet, horizontal distance, of the normal high-water line of a great pond, or river, or within two hundred and fifty (250) feet, horizontal distance, of the upland edge of a 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.

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

Key to Table 1:

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

No - Prohibited

PB - Allowed with permit issued by the Planning Board.

CEO - Allowed with permit issued by the Code Enforcement Officer

LPI - Allowed with permit issued by the Local Plumbing Inspector

Abbreviations:

RP - Resource Protection

LR - Limited Residential

SP - Stream Protection

The following notes are applicable to the Land Uses Table on the following page.

TABLE 1. LAND USES IN THE SHORELAND ZONE

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

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 15(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.

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

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

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

¹³ Option 3 towns only.

NOTE: Item 17, in its entirety, should be deleted from Table 1 if a municipality elects not to regulate "piers, docks, wharfs, bridges and other structures and uses extending over or below the normal high-water line or within a wetland".

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

- A. Dredging, bulldozing, removing or displacing soil, sand, vegetation or other materials;
 - B. Draining or otherwise dewatering;
 - C. Filling, including adding sand or other material to a sand dune; or
 - D. Any construction or alteration of any permanent structure.
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15. Land Use Standards. All land use activities within the shoreland zone shall conform with the following provisions, if applicable.

NOTE: Municipalities should review the land use standards contained herein to determine whether they will result in a scale of development that is compatible with existing development or with the future desired scale of development. If not, more restrictive land use standards may be adopted by the municipality.

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

NOTE: In a district equivalent to a General Development District that is served by municipal water and sewer systems the Department may approve a municipal shoreland zoning ordinance that provides for greater residential densities than set forth in Section 15(A)(1) above.

- (2) Land below the normal high-water line of a water body or upland edge of a wetland and land beneath roads serving more than two (2) lots shall not be included toward calculating minimum lot area.
- (3) Lots located on opposite sides of a public or private road shall be considered each a separate tract or parcel of land unless such road was established by the owner of land on both sides thereof after September 22, 1971.
- (4) The minimum width of any portion of any lot within one hundred (100) feet, horizontal distance, of the normal high-water line of a water body or upland edge of a wetland shall be equal to or greater than the shore frontage requirement for a lot with the proposed use.
- (5) If more than one residential dwelling unit, principal governmental, institutional, commercial or industrial structure or use, or combination thereof, is constructed or established on a single parcel, all dimensional requirements shall be met for each additional dwelling unit, principal structure, or use.

B. Principal and Accessory Structures

- (1) All new principal and accessory structures shall be set back at least one hundred (100) feet, horizontal distance, from the normal high-water line of great ponds classified GPA and rivers that flow to great ponds classified GPA, and 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.

NOTE: The *Natural Resources Protection Act*, 38 M.S.R.A. sections 480-A through 480-HH, requires the Department of Environmental Protection to designate areas of "significant wildlife habitat".

Permitting under the *Natural Resources Protection Act* for activities adjacent to significant wildlife habitat areas may require greater setbacks. Contact your local Department of Environmental Protection office to see if additional permitting is required.

In addition:

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- (a) The water body, tributary stream, or wetland setback provision shall neither apply to structures which require direct access to the water body or wetland as an operational necessity, such as piers, docks and retaining walls, nor to other functionally water-dependent uses.
 - (b) All principal structures along Significant River Segments as listed in 38 M.R.S.A. section 437 (see Appendix A), shall be set back a minimum of one hundred and twenty-five (125) feet, horizontal distance, from the normal high-water line and shall be screened from the river by existing vegetation. This provision does not apply to structures related to hydropower facilities.
 - (c) For principal structures, water and wetland setback measurements shall be taken from the top of a coastal bluff that has been identified on Coastal Bluff maps as being “highly unstable” or “unstable” by the Maine Geological Survey pursuant to its “Classification of Coastal Bluffs” and published on the most recent Coastal Bluff map. If the applicant and the permitting official(s) are in disagreement as to the specific location of a “highly unstable” or “unstable” bluff, or where the top of the bluff is located, the applicant may at his or her expense, employ a Maine Registered Professional Engineer, a Maine Certified Soil Scientist, a Maine State Geologist, or other qualified individual to make a determination. If agreement is still not reached, the applicant may appeal the matter to the board of appeals.
 - (d) On a non-conforming lot of record on which only a residential structure exists, and it is not possible to place an accessory structure meeting the required water body, tributary stream or wetland setbacks, the code enforcement officer may issue a permit to place a single accessory structure, with no utilities, for the storage of yard tools and similar equipment. Such accessory structure shall not exceed eighty (80) square feet in area nor eight (8) feet in height, and shall be located as far from the shoreline or tributary stream as practical and shall meet all other applicable standards, including lot coverage and vegetation clearing limitations. In no case shall the structure be located closer to the shoreline or tributary stream than the principal structure.

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

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

- (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.

NOTE: A municipality may also exempt a cupola, dome, widow’s walk or other similar feature from the height limits in accordance with 38 M.R.S.A. Section 439-A(9).

- (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.

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- (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

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- (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;

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

- (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.
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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.

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- (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.

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

- (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).

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

- (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;

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- (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.

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

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

- (1) Campgrounds shall contain a minimum of five thousand (5,000) square feet of land, not including roads and driveways, for each site. Land supporting wetland vegetation, and land below the normal high-water line of a water body shall not be included in calculating land area per site.
- (2) The areas intended for placement of a recreational vehicle, tent or shelter, and utility and service buildings shall be set back a minimum of one hundred (100) feet, horizontal distance, from the normal high-water line of a great pond classified GPA or a river flowing to a great pond classified GPA, and seventy-five (75) feet, horizontal distance, from the normal high-water line of other water bodies, tributary streams, or the upland edge of a wetland.

E. Individual Private Campsites. Individual private campsites not associated with campgrounds are allowed provided the following conditions are met:

- (1) One campsite per lot existing on the effective date of this Ordinance, or thirty thousand (30,000) square feet of lot area within the shoreland zone, whichever is less, may be permitted.
- (2) When an individual private campsite is proposed on a lot that contains another principal use and/or structure, the lot must contain the minimum lot dimensional requirements for the principal structure and/or use, and the individual private campsite separately.
- (3) Campsite placement on any lot, including the area intended for a recreational vehicle or tent platform, shall be set back one hundred (100) feet, horizontal distance, from the normal high-water line of a great pond classified GPA or river flowing to a great pond classified GPA, and seventy-five (75) feet, horizontal distance, from the normal high-water line of other water bodies, tributary streams, or the upland edge of a wetland.
- (4) Only one recreational vehicle shall be allowed on a campsite. The recreational vehicle shall not be located on any type of permanent foundation except for a gravel pad, and no structure except a canopy shall be attached to the recreational vehicle.
- (5) The clearing of vegetation for the siting of the recreational vehicle, tent or similar shelter in a Resource Protection District shall be limited to one thousand (1000) square feet.

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

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

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

(1) Auto washing facilities

(2) Auto or other vehicle service and/or repair operations, including body shops

(3) Chemical and bacteriological laboratories

(4) Storage of chemicals, including herbicides, pesticides or fertilizers, other than amounts normally associated with individual households or farms

NOTE: 22 M.R.S.A. section 1471-U requires municipal ordinances that apply to pesticide storage, distribution or use be filed with the Maine Board of Pesticides Control, 28 State House Station, Augusta, ME 04333.

(5) Commercial painting, wood preserving, and furniture stripping

(6) Dry cleaning establishments

(7) Electronic circuit assembly

(8) Laundromats, unless connected to a sanitary sewer

(9) Metal plating, finishing, or polishing

(10) Petroleum or petroleum product storage and/or sale except storage on same property as use occurs and except for storage and sales associated with marinas

(11) Photographic processing

(12) Printing

G. Parking Areas

(1) Parking areas shall meet the shoreline and tributary stream setback requirements for structures for the district in which such areas are located, except that in the Commercial Fisheries/Maritime Activities District parking areas shall be set back at least twenty-five (25) feet, horizontal distance, from the shoreline. The setback requirement for parking areas

serving public boat launching facilities in Districts other than the General Development I District and Commercial Fisheries/Maritime Activities District shall be no less than fifty (50) feet, horizontal distance, from the shoreline or tributary stream if the Planning Board finds that no other reasonable alternative exists further from the shoreline or tributary stream.

- (2) Parking areas shall be adequately sized for the proposed use and shall be designed to prevent stormwater runoff from flowing directly into a water body, tributary stream or wetland and where feasible, to retain all runoff on-site.
- (3) In determining the appropriate size of proposed parking facilities, the following shall apply:
 - (a) Typical parking space: Approximately ten (10) feet wide and twenty (20) feet long, except that parking spaces for a vehicle and boat trailer shall be forty (40) feet long.
 - (b) Internal travel aisles: Approximately twenty (20) feet wide.

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

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

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

Section 15 (H)(1) does not apply to approaches to water crossings or to roads or driveways that provide access to permitted structures and facilities located nearer to the shoreline or tributary stream due to an operational necessity, excluding temporary docks for recreational uses. Roads and driveways providing access to permitted structures within the setback area shall comply fully with the requirements of Section 15(H)(1) except for that portion of the road or driveway necessary for direct access to the structure.

- (2) Existing public roads may be expanded within the legal road right of way regardless of their setback from a water body, tributary stream or wetland.
- (3) New permanent roads are not allowed within the shoreland zone along Significant River Segments except:
 - (a) To provide access to structures or facilities within the zone; or

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

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- (c) On sections having slopes greater than ten (10) percent, ditch relief culverts shall be placed at approximately a thirty (30) degree angle downslope from a line perpendicular to the centerline of the road or driveway.
 - (d) Ditch relief culverts shall be sufficiently sized and properly installed in order to allow for effective functioning, and their inlet and outlet ends shall be stabilized with appropriate materials.
 - (9) Ditches, culverts, bridges, dips, water turnouts and other storm water runoff control installations associated with roads and driveways shall be maintained on a regular basis to assure effective functioning.
- I. Signs.** The following provisions shall govern the use of signs in the Resource Protection, Stream Protection, 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.

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

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.

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

L. Essential Services

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

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

Mineral extraction may be permitted under the following conditions:

- (1) A reclamation plan shall be filed with, and approved, by the Planning Board before a permit is granted. Such plan shall describe in detail procedures to be undertaken to fulfill the requirements of Section 15 (M)(4) below.
- (2) No part of any extraction operation, including drainage and runoff control features, shall be permitted within one hundred (100) feet, horizontal distance, of the normal high-water line of a great pond classified GPA or a river flowing to a great pond classified GPA, and within seventy-five (75) feet, horizontal distance, of the normal high-water line of any other water body, tributary stream, or the upland edge of a wetland. Extraction operations shall not be permitted within fifty (50) feet, horizontal distance, of any property line without written permission of the owner of such adjacent property.
- (3) Developers of new gravel pits along Significant River Segments shall demonstrate that no reasonable mining site outside the shoreland zone exists. When gravel pits must be located within the zone, they shall be set back as far as practicable from the normal high-water line and no less than seventy-five (75) feet and screened from the river by existing vegetation.

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- (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.

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

- (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.

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

- (4) There shall be no new tilling of soil within one-hundred (100) feet, horizontal distance, of the normal high-water line of a great pond 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.

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- (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. 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 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.

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

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

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

The following shall govern in applying this point system:

- (i) The 25-foot by 50-foot rectangular plots must be established where the landowner or lessee 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.

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

- (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

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- (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.

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- (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.

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

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.
- (42) A permit is not required for an archaeological excavation as long as the excavation is conducted by an archaeologist listed on the State Historic Preservation Officer's level 1 or level 2 approved list, and unreasonable erosion and sedimentation is prevented by means of adequate and timely temporary and permanent stabilization measures.
- (3) Any permit required by this Ordinance shall be in addition to any other permit required by other law or ordinance.

C. Permit Application

- (1) Every applicant for a permit shall submit a written application, including a scaled site plan, on a form provided by the municipality, to the appropriate official as indicated in Section 14.
- (2) All applications shall be signed by an owner or individual who can show evidence of right, title or interest in the property or by an agent, representative, tenant, or contractor of the owner with authorization from the owner to apply for a permit hereunder, certifying that the information in the application is complete and correct.
- (3) All applications shall be dated, and the Code Enforcement Officer or Planning Board, as appropriate, shall note upon each application the date and time of its receipt.

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- (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.
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- (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.
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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;

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- (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:

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- 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.

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

J. Permit Fees

(1) **Small:** General application fee for small items, such as decks, small sheds (under 80 sq. ft.), steps to the shore \$75.00

(2) **Large:** Sheds, outbuildings over 80 sq. ft. \$150.00

(3) **Dwellings:** \$250.00 under 2,000 sq. ft.; \$.15 per sq. ft. over 2,000 sq. ft.

(4) **Float only:** \$150.00

(5) **Dock or pier system (includes walkway):** \$250.00

Given under our hands at Sedgwick, Maine, this 29th day of March, 2018.

/s/

Michael Sheahan

/s/

Robert Publicover

/s/

Benjamin Astbury

Selectmen, Town of Sedgwick, Maine

17. Definitions

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

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

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

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

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

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

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

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

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

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

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

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

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.

DBH – the diameter of a standing 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.

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

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

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

Expansion of a structure - an increase in the footprint of a structure, including all extensions such as, but not limited to: attached decks, garages, porches and greenhouses.

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

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

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

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

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

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

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

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

- (1) Of ten or more contiguous acres; or of less than 10 contiguous acres and adjacent to a surface water body, excluding any river, stream or brook, such that in a natural state, the combined surface area is in excess of 10 acres; and
- (2) Inundated or saturated by surface or ground water at a frequency and for a duration sufficient to support, and which under normal circumstances do support, a prevalence of wetland vegetation typically adapted for life in saturated soils.

Freshwater wetlands may contain small stream channels or inclusions of land that do not conform to the criteria of this definition.

Functionally water-dependent uses - those uses that require, for their primary purpose, location on submerged lands or that require direct access to, or location in, 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.

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.

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

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.

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

Road - a route or track consisting of a bed of exposed mineral soil, gravel, asphalt, or other surfacing material constructed for or created by the repeated passage of motorized vehicles, excluding a driveway as defined.

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.

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

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.

Timber harvesting - the cutting and removal of timber for the primary purpose of selling or processing forest products. “Timber harvesting” does not include the cutting or removal of vegetation within the shoreland zone when associated with any other land use activities. The cutting or removal

of trees in the shoreland zone on a lot that has less than two (2) acres within the shoreland zone shall not be considered timber harvesting. Such cutting or removal of trees shall be regulated pursuant to Section 15 (P), *Clearing or Removal of Vegetation for Activities Other Than Timber Harvesting*.

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

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

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

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

Upland edge of a wetland - the boundary between upland and wetland. For purposes of a coastal wetland, this boundary is the line formed by the landward limits of the salt tolerant vegetation and/or the highest annual tide level, including all areas affected by tidal action. For purposes of a freshwater wetland, the upland edge is formed where the soils are not saturated for a duration sufficient to support wetland vegetation; or where the soils support the growth of wetland vegetation, but such vegetation is dominated by woody stems that are six (6) meters (approximately twenty (20) feet) tall or taller.

Vegetation - all live trees, shrubs, and other plants including without limitation, trees both over and under 4 inches in diameter, measured at 4 1/2 feet above ground level.

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.

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

APPENDIX A

38 §437. Significant river segments identified

For purposes of this chapter, significant river segments include the following:

1. **Aroostook River.** The Aroostook River from St. Croix Stream in Masardis to the Masardis and T.10, R.6, W.E.L.S. townline, excluding segments in T.9, R.5, W.E.L.S.; including its tributary the Big Machias River from the Aroostook River in Ashland to the Ashland and Garfield Plantation townlines;
2. **Dennys River.** The Dennys River from the railroad bridge in Dennysville Station to the dam at Meddybemps Lake, excluding the western shore in Edmunds Township and No. 14 Plantation;
3. **East Machias River.** The East Machias River from 1/4 of a mile above the Route 1 bridge in East Machias to the East Machias and T.18, E.D., B.P.P. townline, and from the T.19, E.D., B.P.P. and Wesley townline to the outlet of Crawford Lake in Crawford, excluding Hadley Lake;
4. **Fish River.** The Fish River from the bridge in Fort Kent Mills to the outlet of Eagle Lake in Wallagrass, and from the Portage Lake and T.14, R.6, townline to the Portage Lake and T.13, R.7, W.E.L.S. townline, excluding Portage Lake;
5. **Machias River.** The Machias River from the Whitneyville and Machias townline to the Northfield T.19, M.D., B.P.P. townline;
6. **Mattawamkeag River.** The Mattawamkeag River from the outlet of Mattakeunk Stream in Winn to the Mattawamkeag and Kingman Township townline, and from the Reed Plantation and Bancroft townline to the East Branch, including its tributaries the West Branch from the Mattawamkeag River to the Haynesville T.3, R.3, W.E.L.S. townline and from its inlet into Upper Mattawamkeag Lake to the Route 2 bridge; the East Branch from the Mattawamkeag River to the Haynesville and Forkstown Township townline and from the T.4, R.3, W.E.L.S. and Oakfield townline to Red Bridge in Oakfield; the Fish Stream from the Route 95 bridge in Island Falls to the Crystal-Patten townline; and the Baskehegan Stream from its inlet into Crooked Brook Flowage in Danforth to the Danforth and Brookton Township townline;
7. **Narraguagus River.** The Narraguagus River from the ice dam above the railroad bridge in Cherryfield to the Beddington and Devereaux Township townline, excluding Beddington Lake;
8. **East Branch of Penobscot.** The East Branch of the Penobscot from the Route 157 bridge in Medway to the East Millinocket and Grindstone Township townline;
9. **Pleasant River.** The Pleasant River from the railroad bridge in Columbia Falls to the Columbia and T.18, M.D., B.P.P. townline, and from the T.24, M.D., B.P.P. and Beddington townline to the outlet of Pleasant River Lake;
10. **Rapid River.** The Rapid River from the Magalloway Plantation and Upton townline to the outlet of Pond in the River;
11. **West Branch Pleasant River.** The West Branch Pleasant River from the East Branch to the Brownville and Williamsburg Township townline; and
12. **West Branch of Union River.** The West Branch of the Union River from the Route 9 bridge in Amherst to the outlet of Great Pond in the Town of Great Pond.

SITE PLAN REVIEW ORDINANCE (Amended)

Adopted March 3, 1990

Amended June 23, 2011

final Amendments January 27, 2016

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TOWN OF SEDGWICK
SITE PLAN REVIEW ORDINANCE (Amended)

SECTION I. Basic Provisions

A. Purpose

The purpose of this ordinance is *to guide and manage new construction*, development or major changes in land use, including the impact on municipal facilities and services, such as schools, sewers, waterlines, parks and recreation, liquid and solid waste disposal, police and fire protection, road systems and circulation, and on the town's aesthetic and visual characteristics, water quality, and on the general health, safety, and welfare of the community.

B. Applicability

This ordinance shall apply to all development proposals for the construction of, for alterations and changes of use to commercial, retail, industrial, institutional buildings and structures, and multiple family dwellings consisting of three or more attached dwelling units and their accessory uses. This ordinance does not apply to detached single and two-family dwelling units, to agricultural land management practices, to forest management practices or to subdivisions. No permit shall be issued by the Sedgwick Planning Board under Section IV of this ordinance for any development subject to this ordinance until provisions stated herein have been met.

C. Effective Date

This ordinance shall take effect *March 5, 2016*.

D. Validity and Separability and Conflict with Other Ordinances

1. Validity and Separability – Should any section or provision of this ordinance be declared by any court to be invalid, such decision shall not invalidate any other section or provision of this ordinance.
2. Conflict with Other Ordinances - Whenever the requirements of this ordinance are inconsistent with the requirements of any other ordinance, code or statute, the more restrictive requirements shall apply.

E. Administration

1. The Planning Board for the Town of Sedgwick, hereinafter called the Board, shall administer these regulations.
2. The Planning Board shall have authority to adopt such forms as may be necessary or appropriate for the proper administration of these regulations.

SECTION II. Performance Standards

The following are to be used by the Planning Board as minimum requirements for approval of a site plan. The site plan shall be approved unless, in the judgment of the Planning Board, the application does not reasonably meet one or more of these standards.

A. Landscaping

The landscaping shall be preserved in its natural state *during construction and for the duration of permitted use* insofar as practicable by minimizing tree removal, disturbance of soil, and retaining existing vegetation during construction. Landscaping shall *delineate* street parking areas from the public right-of-way and abutting properties and structures and shall enhance the physical design of the buildings and site.

B. Relationship of the Proposed Building to Environment

Proposed structures shall relate harmoniously to the terrain and to existing buildings in the vicinity. Special attention shall be paid to the bulk, setback and height of the building(s) and the natural features. The project will not have an undue adverse effect on the scenic or natural beauty of the area, aesthetics, historic sites or rare and irreplaceable natural areas.

Storage areas, building machinery, loading areas, utility buildings and similar structures shall have sufficient setbacks and screening to minimize their adverse impact on other land use within the development area and on surrounding properties.

All exterior lighting shall be designed to minimize adverse impact on the neighboring properties.

C. Advertising Features

The size, location, design, lighting and materials of all exterior signs and outdoor advertising structures or features shall not detract from the design of proposed buildings and structures and the surrounding properties. *Nationally branded or chain logos may be restricted at the discretion of the Board.*

D. Vehicular Access, Parking and Circulation

The proposed site layout shall provide for adequate location, number and control of access points and shall incorporate adequate *sight* distance and turning lanes where justified by existing and projected traffic flow, *and approved by the State Department of Transportation or Town Road Commissioner*

The layout and design of vehicular and pedestrian ways, including walkways, interior drives, and parking areas, shall provide for safe general interior circulation, separation of pedestrian and vehicular traffic, service traffic, and loading areas.

Provisions shall be made for providing and maintaining convenient and safe emergency vehicle access to all buildings and structures at all times. Heights of buildings may not exceed 30 feet so as to insure adequate service by fire suppression equipment.

E. Water Quality

Adequate provisions shall be made for surface drainage so that removal of surface waters will not adversely affect neighboring properties, downstream water quality, potential for soil erosion, *or any* public storm drainage system. Whenever possible, on-site absorption of run-off waters shall be utilized to *minimize* off-site discharge.

F. Air Quality

The project shall comply with all federal and state regulations.

G. Water Supply

The project shall not cause an unreasonable burden on an existing water supply, *the aquifer, adjacent wells and water sources*, and there shall be sufficient water available for the reasonable foreseeable needs of the development.

H. Sewage Disposal

The project will provide an appropriate system for sewage waste disposal *designed and approved by a certified soil evaluator and licensed engineer*.

I. Conformity with Comprehensive Plan

Any proposed project shall be in conformity with the comprehensive plan of the Town of Sedgwick and with provisions of all pertinent state laws and local ordinances and regulations.

SECTION III. Design Standards

A. Monuments

1. Pertinent monuments shall be set at all corners and angle points of the subdivision boundaries, and at all street intersections.
2. Monuments shall be concrete, stone, or iron pipe, located in the ground and indicated on the Final Plan.

B. Off-Street Parking and Loading

1. Off-street parking, either by means of unenclosed suitable spaces each having a minimum area of 220 square feet plus necessary maneuvering space, or by enclosed garage space, shall be provided in the case of new construction, alterations, substantial enlargements and change of use, according to the following minimum requirements:
 - a. Off-street parking either by means of open air spaces or by garage space, in addition to being a permitted use, shall be considered as an accessory use when required or provided to serve conforming uses located in any district.
 - b. Required off-street parking spaces shall be located on the same or *directly adjacent* lot as the principle building or use.
 - c. The following minimum off-street parking requirements shall be provided and maintained in the case of new construction, alterations and changes of use:
 - 1) Dwellings2 parking spaces for each dwelling unit.
 - 2) Schools 5 parking spaces for each room plus 1 space for each 4 employees.
 - 3) Health Institutions (bed facilities only).....1 parking space for every 3 beds, plus 1 for each employee based on the expected average employee occupancy.
 - 4) Theaters, churches, & other public assembly places 1 parking space for every 4 seats for every 100 square feet or major fraction thereof of assemblage space if no fixed seats.
 - 5) Retail stores1 parking space for every 200 square feet of retail area, plus one space for every 2 employees.
 - 6) Restaurants, eating and drinking establishments 1 parking space for every 4 seats, plus 1 space for 2 employees.

7) Professional offices and public buildings 1 parking space for every 200 square feet of gross leasable area, exclusive of cellar and bulk storage areas.

8) Marinas Minimum of 30 parking spaces plus 1 parking space for each docking and mooring space.

9) Other commercial recreation establishments (mini-golf courses, touring/sightseeing buses, etc.) Minimum of 30 parking spaces, or the number of spaces deemed appropriate by the Planning Board in Site Plan Review.

10) Industrial 1 parking space for each 1.5 employees, based on the highest expected average employee occupancy, plus visitor and customer parking to meet the needs of specific operations.

C. Roads

1. Roads shall be located, constructed, and maintained so that erosion is kept to a minimum. Adequate provisions shall be made to prevent soil erosion and sedimentation of surface waters.
2. Additionally, all roads constructed shall conform to the following standards:
 - a. Road crossing of watercourses shall be kept to the minimum number necessary.
 - b. Diameter of culverts shall be suitable and installed at streambed elevation.
 - c. All cut or filled banks and areas of exposed mineral soil shall be re-vegetated or otherwise stabilized as soon as possible.
 - d. When road crossings of watercourses are to be used on unfrozen surface water, bridges or culverts of adequate size and design shall be provided as to support a Gross Vehicle Weight of 100,000 pounds.
 - e. The arrangement, character, extent, width, grade, and location of all roads shall be considered in their relation to existing or planned roads to topographical conditions, to public convenience and to safety, and their appropriate relation to the proposed use of the land to be served by such roads. Grades of roads shall conform as closely as possible to the original topography.
 - f. All roads shall be constructed according to design specifications herein as overseen by the municipal road commissioner, appointed engineer, or agent. Waiver to these specifications will be considered by the Planning Board upon written request by the applicant.

Height clearance 13'6"

Minimum width of right-of-way	66'
Minimum width of pavement	20'
Minimum grade5%
Maximum grade	6%
Maximum grade at intersection	3% within 50' at intersection
Minimum angle of intersection	60 deg.
Minimum width of shoulder	3'
Minimum centerline radii on curves	200'
Minimum tangent length between reverse curves	200'
Minimum setback from shoreline boundary	100'
Road base (minimum)	24"
Base (bank gravel)	18"
Gravel surface sources (screened gravel)	6"
Bituminous paving	1 ½"
Road crown (minimum)	¼ x 1"
Sidewalks/walkways (minimum where required)	4'
Base course (gravel)	12'

Dead-end or cul-de-sac right-of-way:

Minimum width	66'
Length, not more than	1,000'
Radii or turn-around at enclosed end of	
Property line (minimum)	80'
Pavement (minimum)	65'
Property line radii at intersections (minimum)	10'
Curb radii at intersections:	
90 degree intersections	25'
Less than 90 degree intersections	30'

g. Road intersections and curves shall be so designated as to permit adequate visibility for both pedestrian and vehicular traffic. That portion of any corner lot which is necessary to allow 25 foot sight lines between intersecting roads shall be cleared of all growth (except isolated trees) and obstructions above the level three feet higher than the center line of the road. If directed, ground shall be excavated to achieve visibility.

h. A vehicle turn out shall be provided every 500 feet. Each shall be a minimum of fifteen (15) feet wide, twenty-five (25) feet deep.

i. All dead-end streets shall be constructed to provide a cul-de-sac turn-around. The Board may require the reservation of a fifty (50) foot easement in line with the street to provide continuation of the road where future development is possible.

D. Street Signs

1. Streets which join or are in alignment with streets of abutting or neighboring properties shall bear the same name. Names of new streets shall not duplicate, nor bear phonetic resemblance to the names of existing streets within the municipality and shall be subject to the approval of the Board.

2. Street name signs shall be furnished and installed by the Town.

E. Sidewalks

Sidewalks shall be installed at the expense of the applicant where the development abuts or fronts onto a major street, and at such locations as the Board may deem necessary.

F. Storm Water Management

1. Adequate provisions shall be made for disposal of all storm water generated, and any drained groundwater through a management system of swales, culverts, underdrains and storm drains. The storm water management system shall be designed to conduct storm water flows to existing water courses and storm drains.

- a. All components of the storm water management system shall be designed to meet the criteria of a twenty-five year storm based on rainfall data for the Sedgwick area.

- b. The minimum pipe size for any storm drainage pipe shall be twenty-five inches. Maximum trench width at the pipe crown shall be the outside diameter of the pipe plus two feet. Pipe shall be bedded in a fine granular material, containing no stones larger than 3 inches, lumps of clay, or organic matter, reaching a minimum of six inches below the bottom of the pipe extending to six inches above the top of the pipe.

- c. Catch basins shall be installed where necessary and located at the curve line.

- d. Outlets shall be stabilized against soil erosion by stone rip rap or other suitable materials to reduce storm water velocity.

2. The storm water management system shall be designed to accommodate upstream drainage, taking into account existing conditions and approved for planned development not yet built and shall include a surplus design capacity factor of 25% for potential increases in upstream runoff.

3. Downstream drainage requirements shall be studied to determine the effect of the proposed development. The storm drainage shall not overload existing or future planned storm drainage systems downstream from the site. The applicant shall be responsible for financing any improvements to existing drainage systems required to handle the increased storm flows, as determined by a civil engineer or other professional in the field licensed by the State of Maine.

4. Where a development is traversed by a watercourse, drainageway, or future sewer line, or where the Board feels that surface water drainage to be created by the development and owners of property abutting it, there shall be provided an easement or drainage right-of-way within such development and over the

property of owners abutting upon it, of such nature, width, and location as the Board or Municipal Engineer deems adequate.

5. Wherever the storm drainage system is not within the right-of-way of a public street, perpetual easements shall be provided to the Town allowing maintenance and improvement of the system.

6. Where soils require a subsurface drainage system, the drains shall be installed and maintained separately from the storm water drainage system.

G. Water Supply

1. A public water supply system with fire hydrants *may be required to be installed* at the expense of the applicant, or if in the opinion of the Board service is not feasible, the Board may allow individual wells to be used, which shall be installed at the expense of the applicant on lots containing dwellings erected by the applicant.

2. The Planning Board may require that water storage be provided to meet fire protection needs of such a nature as the municipal fire chief deems necessary.

3. Because they are difficult to maintain in a sanitary condition, dug wells shall be permitted only if it is not economically or technically feasible to develop other groundwater sources.

4. If a central water supply system is provided by the *applicant*, location and protection of the source, design, construction and operation of the distribution system and appurtenances and treatment facilities shall conform to the recommendations included in the "Manual for Evaluation of Public Drinking Water Supplies", Public Health Service No. 1180 (1969).

H. Sewage Disposal

A sanitary sewer system shall be installed at the expense of the applicant or if in the opinion of the Board, service by the sanitary sewer system is not feasible, the Board may allow individual septic tanks to be used, which shall be *designed, installed, and certified by a licensed engineer* at the expense of the applicant on lots containing structures erected by the applicant. In no instance shall a septic disposal system be allowed in soils rated poor or very poor for such purpose by the Soil Suitability Guide for Land Use Planning in Maine or on lots below the minimum size shown for particular soil types in Appendix 1 of the "State of Maine Plumbing Code, Part II, Private Sewage Disposal Regulations", as amended.

I. Height Restrictions

No principal or accessory structure shall exceed *thirty (30)* feet in the height above the average ground level, except for steeples, silos, detached barns, water towers, transmission towers, and other structures not intended for human habitation.

J. Multi-Family and Lodging Units

Multi-family and motels/hotels may be constructed and/or installed on parcels of land consisting of the aggregate of one half acre per individual lodging unit and/or dwelling unit, provided that such construction and/or installation shall fully comply with the setback requirements of this subsection and the provisions of the Town's ordinances, and further provided that the first lodging or dwelling unit shall be on a parcel consisting of at least two acres. By way of example, a three unit structure would require a lot of at least three acres. Setback from a public road shall be a minimum of fifty (50) feet.

Commercial activities serving or open to persons other than persons occupying the lodging unit, which are constructed or included as part of the lodging units shall require a minimum of one acre of additional land for each separate commercial activity.

SECTION IV. Procedures

A. Application

The site plan *application review* procedure is a two-step application submittal Process: *first, a pre-application conference is held, then a formal application review is held.* A formal application will not be accepted unless a pre-application conference has been held within the previous four months.

1. Pre-Application Review

a. **Sketch Plan Required.** Before submitting a formal application for approval, the applicant or his agent shall *request to appear* before the Planning Board to discuss the proposed development. *The purpose of the pre-application conference shall be to understand what is proposed, what is possible, and what is acceptable prior to the formal application review.* A sketch plan must be presented for informal review, and arrangements made with the Planning Board for an inspection of the site.

b. **Contents.** The sketch plan should include a rough *drawing* of the proposed development including road layout, buildings, and other features which may assist the Board in understanding the proposal.

c. **Non-Binding.** No binding commitments shall be made between the applicant and the Board *during this meeting.*

2. Formal Application

a. **Contents.** The application shall include as a minimum:

1) Site Plan map with the following information:

- Name and address of the applicant or his authorized agent, name of the proposed development, and identification of any land within 500 feet of the proposed development in which the applicant has title or interest;
- Existing soil conditions as described by either a soil scientist, geologist, engineer or SCS medium intensity soil survey;
- Municipal tax maps and lot numbers and names of abutting landowners;
- *Most recent* perimeter survey of the parcel prepared and certified by a registered land surveyor with reference points, true or magnetic north point, scale, corner of parcel, date of survey, and total acreage;
- For areas within 200 feet of the proposed development site: existing and proposed locations and dimensions of utility lines, sewer lines, *septic systems*, *wells*, water lines, easements, drainage ways, and public or private rights-of-way;

- Location of buildings and other structures on parcels abutting the site;
- If the site is to be served by a public sewer line, an on-site soils investigation report by a licensed soil evaluator. The report shall contain the types of soil, location of test pits, and proposed location of the best practical subsurface disposal system for the site;
- Location and dimension of on-site pedestrian and vehicular access ways, parking and loading areas, curb and sidewalk lines;
- Landscape plan showing location, type and approximate size of plantings, and location and dimensions of all fencing and screening;
- Topographic contours at intervals of either 15 or 10 feet in elevation, as specified by the Planning Board; and
- Location of aquifers and aquifer recharge areas, if mapped.

2) *Project Overview Statement* – A written statement by the applicant shall be submitted with the formal application with the following information:

- Evidence of title and interest in the land for which the application covers;
- A description of the proposed uses to be located on the site, including quantity and type of residential units, if any;
- Gross floor area and ground coverage of each proposed building and structure and percentage of lot covered by each building or structure;
- Summary of existing and proposed easements, restrictions and covenants placed on the property;
- Method of solid waste disposal;
- Erosion and sedimentation control plan;
- *Copies of certified letters with mailing receipts* to abutting landowners, Town Manager, Selectmen, Road Commissioner/Public Works Director, Fire Chief, Police Chief, etc., notifying them of the proposed development;
- A statement from the Fire Chief as to the availability and adequacy of fire protection resources and services
- If public water and/or sewer are to be used, a statement from the water and/or sewer district or utility as to availability of public water and/or sewer lines; *if no such public systems are to be used, then a designation of private water supply and septic system location with specifications certified by licensed engineer*
- A recommendation from the Town Engineer, Public Works Director, Road Commissioner or Selectmen on proposed design and layout; and
- An estimate of the date when construction will start and when the development will be completed;

** Evidence of appropriate construction and liability insurance.*

b. Submission: Notice of completeness

A complete application for site plan approval shall be submitted *to the Code Enforcement Officer* at least 15 days prior to the Planning Board meeting at which the applicant wishes to be heard. *The CEO will review the application for completeness, and submit it to the Board.* Any application which is not complete shall not be placed on the agenda but shall be returned to the applicant within 10 days by the Code Enforcement Officer with *written* instructions as to the additional information required.

c. Fees

1) Every application for a site plan shall be accompanied by application fees as follows:

- \$50 for projects up to \$100,000 budgets
- \$250 for projects \$101,000 up to \$250,000 budgets
- \$500 for projects \$251,000 and above budgets

2) All advertising and hearing costs shall be paid by the applicant.

3) The Planning Board reserves the right to obtain an independent evaluation of a proposed development to assist them in making necessary findings of fact. If the Planning Board deems such study necessary, it will request a reasonable additional sum from the applicant to defray the cost of study or studies. Any funds not utilized for consultant studies will be returned to the developer.

B. Planning Board Action

1. Public Hearing – The Planning Board may hold a public hearing within 30 days of the filing of the completed application. The Planning Board shall publish the time, date and place of the hearing in a newspaper of area-wide circulation *and shall notify the abutting landowners by certified mail* of the hearing.

2. Decision – Within 30 days of the public hearing or 60 days of receiving the application the Planning Board shall either approve, approve with conditions, or disapprove the application. The time limit for review may be extended by mutual agreement between the Planning board and the applicant. Within 7 days of reaching a decision the Planning Board shall notify the applicant, and any other person at the public hearing who requested such notification, in writing of any action taken and the reason for such action.

3. Waiver – The Planning Board may modify or waive any of the above application requirements or performance standards if the following findings can be made:

- That the land in question cannot yield a reasonable return unless a waiver is granted;
- That the need for a waiver is due to the unique circumstances of the property.
- That the granting of a waiver will not *negatively* alter the essential character of the locality; and
- That the hardship is not the result of action taken by the applicant or a prior owner.

4. Performance Guarantee – Prior to the issuance of a permit, the Planning Board shall require the applicant to file with the Board one of the following performance guarantees for an amount adequate to cover the total construction costs of all required improvements, taking into account the time-space of the construction schedule and the inflation rate for construction costs:

- a. Either a certified check payable to the Town or a savings account or certificate of deposit naming the Town as owner, for the establishment of an escrow account;
- b. A performance bond payable to the Town issued by a surety company, approved by the municipal officers;
- c. An irrevocable letter of credit from a financial institution establishing funding for the construction, from which the Town may draw if construction is inadequate, approved by the municipal officers; and
- d. An offer of conditions approval limiting the number of units built or sold until all required improvements have been constructed.

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

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

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

g. Performance Bond – A performance bond shall detail the conditions of the bond, the method for release of the bond or portions of the bond to the developer, and the procedures for collection by the municipality. The bond document shall specifically reference the development for which approval is sought.

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

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

g. Default – If, upon inspection, the Town Engineer finds that any of the required improvements have not been constructed in accordance with the application, he shall so report in writing to the Code Enforcement Officer. The municipal officers shall take any steps necessary to preserve the Town's rights.

k. Extension: The Planning Board may recommend a maximum extension of 12 months, the guaranteed performance period when the applicant can demonstrate, to the satisfaction of the Board and the Selectmen, good cause for such extension. The applicant *shall provide* the surety company's *policy* revision to reflect documentation of the surety the extension in the case of a performance bond. Such recommendation shall be referred to the Selectmen for official action *if required*.

l. Release: Before an applicant may be released from any obligation requiring his guarantee of performance, the Planning Board will require certification from appropriate Municipal Officers and consultants, if any, to the effect that all applicable State, Federal and local codes, ordinances, laws, regulations and standards have been met.

5. Issuance of Permit -- If the application is approved or conditionally approved, the Planning Board shall issue a site development permit. The permit shall expire if work has not begun within 12 months of the permit issue date.

C. Appeals

The applicant or any party adversely affected by the decision of the Planning Board may, within 30 days after the decision of the Planning Board, appeal in writing to the *Town Board of Appeals* *which* must act on the appeal within 30 days of the filing thereof. Further appeals shall be filed in the superior Court within 30 days pursuant to Title 30 MRSA 2411.

D. Violations

1. Violation and Enforcements - The Board of Selectmen upon finding that any provision of this ordinance or any condition of a permit issued under this ordinance is being violated is authorized to institute legal proceedings to enjoin violations of this Ordinance.

2. Fines – A person who violates the provisions of this ordinance or the conditions (s) of a permit shall be guilty of a civil violation and on conviction shall be fined not less than \$100 or more than \$2,500. Each day that such violation continues shall constitute a separate violation. Such persons shall also be liable for court costs and attorney fees incurred by the municipality.

E. Liability

The Town of Sedgwick agrees to defend and indemnify the Code Enforcement Officer, the Planning Board, the Board of Appeals, and individual member of the boards with regard to lawsuits filed against any or all of them based on their actions or inactions under this ordinance.

F. Responsibilities

The responsibilities of various Town entities and officials pertaining to the Site Plan Review process follow:

- *Planning Board: To administer the requirements of the Site Plan Review Ordinance, to include review Site Plan Applications; to keep the Selectmen informed; to receive permit fees; and issue permits*
- *Code Enforcement Officer: To deliver building permits, to ensure work is completed as per approved site plan and specifications, to keep the Planning Board apprised of project progress and all issues related to the application procedure,*
- *Town Engineer: To ensure and inform the Planning Board that project implementation is completed and certified according to approved plans and specifications.*
- *Road Commissioner: To ensure site plan contains proper entrance and exit details, road measurements and set-backs, and parking lay-outs as approved.*
- *Plumbing Inspector: To monitor construction and ensure that water supply and sewage systems are constructed to approved specifications.*
- *Fire Chief: To review Site Plan applications for any and all issues that pertain to fire protection and public safety.*
- *Board of Selectmen: To enforce the Town ordinances as required.*

SECTION V. Definitions

Accessory Use or Structure – A subordinate use of a building, other structure of land, or a subordinate building or other structure where:

- **Customary** - in connection with the principal building, other structure or use of land
- **Clearly incidental** - to the use of the principal building, other structure or use of land, and
- **Located on the same lot** – with the principal building, other structure or use of land, or on a lot adjacent to such lot if in the same ownership or part of the same establishment.

Adequate – see Sufficient

Agricultural Land Management Practices – Those devices and procedures utilized in the cultivation of land in order to further crop and livestock production and conservation of related soil and water resources.

Alteration – A structural change, rearrangement, change of location, or addition to a building or structure, other than repairs and modification in building equipment whether horizontally or vertically, involving more than a three hundred (300) square foot increase in the overall floor space of bulk of the building or structure at any time or in total since the effective date of the ordinance.

Applicant – the word applicant, licensee, or owner are interchangeable unless the context clearly indicates otherwise.

Appropriate – see Sufficient

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.

Change of Use – A change of the purpose or activity for which land or buildings are designed, arranged or intended, or for which land or buildings are occupied or maintained at the time of enactment of this ordinance.

Commenced – Means either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings or any work beyond the state of excavation. Permanent construction does not include land preparation; nor does it include the installation of streets and/or walkways; nor does it include excavation or erection of temporary forms; nor does it include the installation of accessory buildings.

Commercial – Any business, housed in a permanent structure, engaged primarily in the sale of goods or services to the consumer for direct consumption and/or use and/or resale, excluding home occupations.

Dwelling Unit – A room or group of rooms designed and equipped exclusively for the use as living quarters for one family including provisions for living, cooking and eating.

Forest Management Activities – Timber cruising and other forest resource evaluation activities, pesticide application, management planning activities, insect and disease control, timber stand improvement, pruning, timber harvesting and other forest harvesting, regeneration of forest stands, and other similar associated activities, but not the construction, creation, or maintenance of land management roads.

Home Occupation – An occupation or profession which is customarily carried on in a dwelling or in a structure customarily accessory to a dwelling unit; conducted by only an occupant or occupants residing in the dwelling unit and a maximum of one (1) non-resident employee; clearly incidental and secondary to the use of the dwelling unit for residential purpose.

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

Institutional – A building devoted to public, governmental, educational, charitable, medical or similar purpose.

Lodging Unit – A dwelling or part thereof, in which sleeping accommodations are furnished and meals or other services may be furnished by the owner or operator to more than three (3) individuals other than a member of the family. Lodging units shall include bed and breakfast, inn, boarding house, rooming house, hotels or motels.

Major Street – A street with signals at important intersections and stop signs on the side streets and/or roads and which collects and distributes traffic to and from collector streets and/or roads.

Mean High Water Mark of Coastal Waters – That line on the shores of tidal water reached by the shoreward limit of the rise of the medium tides between the spring and the neap.

Multiple Family Dwelling – A building having three or more dwelling units.

Normal High Water Mark of Inland Waters – That line on the shores and banks of non-tidal waters if apparent because of the contiguous different character of the soil or the vegetation due to the prolonged action of the water. Relative to vegetation is that line where the vegetation changes from the predominantly aquatic to predominantly terrestrial (by way of illustration, aquatic vegetation includes but is not limited to the following plants and plant groups – water lily, pond lily, pickerel weed, cattail, wild rice, sedges, rushes, and marsh grasses; and terrestrial vegetation includes but is not limited to the following plants and plant groups – inland grasses, aster, lady slipper, wintergreen, partridge berry, sarsaparilla, pines, cedars, oaks, ashes, alders, elms, and maples).

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

Official Submittal Date – The date upon which a complete application has been submitted to the Board.

Persons – Any person, firm, association, partnership, corporation, municipal or other local governmental entity, quasi-municipal entity, state agency, educational or charitable organization or institution or other legal entity.

Principal Structure – The structure in which the primary use of the lot is conducted.

Recreational Vehicle – A vehicular type portable structure without permanent foundation which can be towed, hauled or driven and primarily designed as temporary living accommodations for recreational camping and travel use.

Retail – The sale of goods to the ultimate consumer for the direct use and consumption and not for trade.

Roads – A vehicular way over 500 feet in length or a vehicular way serving more than one principle structure or more than one lot upon which dwellings could be built.

Structure – Anything constructed, erected, or placed except a boundary wall or fence, the use of which requires location on the ground or attachment to something on the ground including, but not limited to buildings, mobile homes, recreational vehicles, piers and floats.

Substantial Enlargement – An increase of 20% of the area and/or 10% of the assessed value.

Sufficient – The term shall mean to do as much as needed to address any and all existing and/or potential negative impacts resulting from the proposed development. The term “sufficient” shall include the terms “adequate”, “suitable” and “appropriate”. In instances where there exists questions as to how much is needed, the developer and/or the Board may request a written determination from a consultant licensed in the State of Maine in the appropriate field to identify the necessary actions needed at the developers expense.

Suitable – See Sufficient

Temporary Structure – A structure without any foundation or footings which is established for a fixed time period, activity or use which is removed upon the expiration for which the structure was erected has ceased.

Sedgwick

SPECIAL
AMUSEMENT PERMIT
ORDINANCE

Given under our hands at Sedgwick, Maine
this 5th day of March, 2016

Neil Davis

Nelson Grindal

Benjamin L. Astbury

A True Copy

Attest:

TOWN OF SEDGWICK SPECIAL AMUSEMENT PERMIT ORDINANCE

Enacted March 5, 2016

1. Title, Purpose and Definitions

- A. This Ordinance shall be known and may be cited as the “Special Amusement Permit Ordinance of the Town of Sedgwick.”
- B. The purpose of this Ordinance is to control, as required by Title 28-A §1054 MRSA, the issuance of Special Permits for music, dancing or entertainment in facilities licensed by the State of Maine to sell liquor or malt liquor or wine for on-premises consumption in the Town of Sedgwick.
- C. Definitions
 - 1) Entertainment. For the purposes of this Ordinance, “entertainment” shall include any amusement, performance, exhibition or diversion for patrons or customers of the licensed premises whether provided by professional entertainers or by full-time or part-time employees of the licensed premises whose incidental duties include activities with an entertainment value.
 - 2) Licensee. For purposes of this Ordinance, the term “Licensee” means the holder of a license for on-premises consumption of liquor, malt liquor or wine issued pursuant to the provisions of Title 28-A, MRSA, Liquors, as amended; or any person, individual, partnership, firm, association, corporation or other legal entity acting as agent or employee of any holder of such license.

2. General Permit

- A. Permit Required:
 - 1) No Licensee for the sale of liquor, malt liquor or wine to be consumed on a licensed premise situated in the Town of Sedgwick shall permit on the licensed premise the following:
 - (a) Any music, except radio or other mechanical device,
 - (b) Any dancing, or
 - (c) Entertainment of any sort,unless the Licensee shall have first obtained from the Board of Selectmen of Sedgwick a Special Amusement Permit approved in accordance with this Ordinance and signed by at least a majority of the members of said Board.
 - 2) Applications for all Special Amusement Permits shall be made in writing to the said Board of Selectmen and shall include the following:
 - (a) the name of the applicant, if an individual. If the applicant is a corporation, partnership, Limited Liability Company or other legal entity, principal officers, together with the names and state of residence of all principals. For this purpose, any person or entity owning or controlling a ten percent (10%) or greater

ownership interest in the applicant, directly or indirectly, shall be deemed a principal of the applicant.

- (b) the applicant's residence address, if an individual; or principal office address if a corporation, partnership, limited liability corporation, or other legal entity;
 - (c) the name of the business to be conducted;
 - (d) the applicant's business address, if an individual;
 - (e) the nature of the applicant's business;
 - (f) the location of the licensed premises;
 - (g) all places of residence of the applicant during the past 5 years, if an individual;
 - (h) whether the applicant has ever had a license to conduct the business therein described either denied or revoked and, if so, a description of those circumstances specifically;
 - (i) whether the applicant, including all partners or corporate officers, has ever been convicted of a felony or liquor law violation in any jurisdiction, and, if so, a description of those specific circumstances;
 - (j) copies of all alcohol licenses currently held by the applicant for the premises concerned or, if a liquor license application is pending, a copy of the application; and
 - (k) any additional information as may be needed by the Board of Selectmen in the issuing of the permit including but not limited to a copy of the applicant's current liquor license.
- 3) No permit shall be issued under this Ordinance, unless the premises to be used for the purposes fully complies with all Ordinances, articles, bylaws, or rules and regulations of the Town of Sedgwick.
- 4) The annual fee for a Special Amusement Permit shall be fifty dollars (\$50) to cover administrative costs.
- 5) Within 30 days of the date the request for a Special Amusement Permit is received, the Board of Selectmen shall, prior to granting a permit and after reasonable notice to the Town and the applicant, hold a public hearing. The testimony of the applicant and that of any interested members of the public shall be taken. For a new permit, reasonable notice shall mean notification to the abutting landowners as well as notice in a newspaper of general circulation at least 7 days prior to the hearing. For renewals, the newspaper notification is considered reasonable – unless there have been complaints.
- 6) The Board of Selectmen shall grant a permit unless it finds that issuance of the permit will be detrimental to the public health, safety or welfare, or would violate Town ordinances, or rules and regulations, articles, or bylaws.
- 7) A permit shall be valid only for the license year of the applicant's existing liquor license.

- B. The application for a Special Amusement Permit shall set forth the type of music and entertainment intended by the applicant to be permitted on the licensed premises and whether the entertainment will include dancing.
- C. Classes of Permits. Special Amusement Permits granted by the Board of Selectmen shall be limited to the following classes:
- Class A – Single Instrumentalist without mechanical amplifications;
 - Class B – Single Instrumentalist and Vocalist without mechanical amplification;
 - Class C – One or more vocalists and/or instrumentalist without mechanical amplification;
 - Class D – Any one of the above with mechanical amplification;
 - Class E – Dancing with any of the above or accompanied by music produced by radio or other mechanical device;
- and any permit granted shall be for one of the above noted classes. A Licensee shall not permit on the Licensee's premises any music, dancing or entertainment which exceeds that permitted by the Class of his Permit, during the period for which this Permit is valid as otherwise determined by this Ordinance.
- D. During the period for which the license is valid, the Licensee may reapply for a new Special Amusement Permit, if he/she elects to permit dancing, music or entertainment that exceeds that permitted by the current permit. Said reapplication shall be governed by all the provisions of this Ordinance with respect to applications for a Special Amusement Permit in general including the payment of the permit fee of fifty dollars (\$50).
- E. Inspections
- 1) The Board of Selectmen shall require an initial inspection of the premises and Licensee for overall ability to comply with the provisions of this Ordinance and for the purpose of imposing conditions on any Permit issued.
 - 2) Whenever inspections of the premises used for, or in connection with, the operation of a licensed business which has obtained a Special Amusement Permit are provided for or required by Ordinance or State law, or are reasonably necessary to secure compliance with any Ordinance provision or State law, it shall be the duty of the Licensee, or the person in charge of the premises to be inspected, to admit any officer, official or employee of the Town of Sedgwick authorized to make the inspection at any reasonable time that admission is requested.
 - 3) In addition to any other penalty which may be provided, the Board of Selectmen may revoke the Special Amusement Permit of any Licensee in the Town who refuses to permit any such officer, official or employee to make an inspection or take sufficient samples for analysis, or who interferes with such officer, official or employee while in the performance of his duty. Provided that no license or Special Amusement Permit shall be revoked unless written demand for the inspection or sample is made upon the Licensee or person in charge of the premises at the time it is sought to make the inspection.
- F. Permit Procedures

- 1) Any Licensee requesting a Special Amusement Permit from the Board of Selectmen shall be notified in writing of its decision no later than fifteen (15) days from the date the application was heard.
 - 2) In the event that a Licensee is denied a permit, the Licensee shall be provided with the reasons for the denial in writing.
- G. The Licensee may not reapply for a permit within thirty (30) days after denial of an application, except with the consent of the Board of Selectmen. The reasons for denial must be corrected before reapplication.
- H. Suspension or Revocation of a Permit
- 1) The Board of Selectmen may, after a public hearing preceded by notice to interested parties, suspend or revoke any Special Amusement Permits which have been issued under this Ordinance on the grounds that the music, dancing or entertainment so permitted constitutes a detriment to the public health, safety or welfare or violates any Town ordinances, articles, bylaws, or rules and regulations.
- I. Rules and Regulations
- 1) The Board of Selectmen are hereby authorized, after public notice and hearing, to establish written rules and regulations governing the issuance, suspension, and revocation of Special Amusement Permits and placing other limitations of these activities required – to protect the public health, safety and welfare. These rules and regulations may specifically determine the location and size of permitted premises, the facilities that may be required for the permitted activities on those premises and the hours during which the permitted activities are permitted. Such rules and regulations shall be additional to and consistent with all sections of this ordinance.
 - 2) Rules and regulations which may be adopted under this Ordinance include, but are not limited to, the following:
 - (a) To require Licensee to have doors and windows closed at a particular time.
 - (b) To require police officer attendance if necessary.
 - (c) To require the local fire inspector to inspect the premises prior to the issuance of a license.
 - 3) Time Limits: All outdoor permitted activities at the permitted premises shall cease at 9 pm. All indoor permitted activities at the permitted premises shall cease at 11 pm.
- J. Appeal Procedures
- 1) Any Licensee who has requested a Permit and has been denied, or whose Permit has been revoked or suspended, may, within thirty (30) days of the denial, suspension or revocation, appeal the decision to the Sedgwick Board of Appeals as defined in Title 30A §2691, MRSA, as amended.
 - 2) The Board of Appeals may grant or reinstate the permit if it finds that the permitted activities would not constitute a detriment to the public health, safety, or welfare; or that the denial, revocation or suspension was arbitrary or capricious

or was not based by a preponderance of the evidence, on a violation of any Ordinance, article, bylaw, or rule or regulation of the Town.

3. Admission

A licensed hotel, Class A restaurant, Class A tavern or restaurant malt liquor licensee who has been issued a Special Amusement Permit may charge admission in the designated areas approved by the Town.

4. Penalty, Separability

A. Penalty

- 1) Whoever violates any of the provisions of the Ordinance shall be deemed guilty of a civil violation and upon conviction thereof, shall be penalized by a fine of not more than \$500 for the first offense and \$1000 for subsequent offenses.
- 2) Any violation of this Ordinance or any provision thereof, shall be deemed a public nuisance and may be subject to abatement by a restraining order or injunction issued by a court of competent jurisdiction.

B. Separability

The invalidity of any provision of this ordinance shall not invalidate any other part.

5. Period of Ordinance

This Ordinance shall remain in effect for a period of fifteen (15) years from the effective date.

TOWN OF SEDGWICK, MAINE, WIND ENERGY FACILITIES ORDINANCE

1.0 Title

This Ordinance shall be known as the Town of Sedgwick, Maine, Wind Energy Facilities Ordinance.

2.0 Purpose; Permit Required

The purpose of this Ordinance is to establish reasonable and uniform regulations for the construction and operation of potential Wind Energy Facilities (WEF) in Sedgwick that will protect the public health, safety, and general welfare.

2.1 Permit: No new Wind Energy Facility, and no alteration or expansion of an existing Wind Energy Facility, for either residential or commercial use, shall be constructed in the Town of Sedgwick without the owner or operator first obtaining a permit from the Sedgwick Planning Board pursuant to the Ordinance. As provided in Section 16 a person who violates this provision may incur penalties."

3.0 Authority, Conflicts, and Validity

3.1 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.A. Section 3001 (Home Rule), and the provisions of the Planning and Land Use Regulation Act 30-A M.R.S.A. Section 4312, *et seq.*

3.2 Conflicts: If there is a conflict between provisions in this Ordinance or between a provision in this Ordinance and a provision of any other ordinance, regulation, or statute from any jurisdiction, the more restrictive provision shall apply.

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

4.0 Effective Date

This Ordinance shall become effective on the date of its passage. If this Ordinance is enacted within 90 days after the expiration of an Ordinance entitled "Wind Power Development Moratorium Ordinance, Sedgwick, Maine" (the Moratorium) adopted November 2, 2010, the effective date of this Ordinance shall be retroactive to the expiration date of the Moratorium.

5.0 Applicability

This Ordinance applies to all Wind Energy Systems and Meteorological Towers in the Town of Sedgwick proposed to be constructed or operated after the effective date of this Ordinance.

6.0 Definitions

6.1 Acoustic Hazard: Annoyance and hazard (health, environment, and property values) owing to the sound produced by a WEF.

6.2 Ambient Sound: Ambient sound is all sound present in a given environment, which is a composite of sounds from many sources, near and far, intermittent and steady, including the facility of interest once it is constructed and operating.

6.3 ANSI: American National Standards Institute

6.4 Applicant: Person, or persons or entity applying for a Meteorological Tower permit or Wind Energy Facilities permit to the Town of Sedgwick Planning Board.

6.5 CEO: Town of Sedgwick Code Enforcement Officer

6.6 Community-owned Wind Facilities: A WEF planned with wide community participation that meets any one of the following criteria: 1) a municipality owning 51% or more of the project, 2) the majority of the direct financial benefits of the project accruing to all of the residents of the municipality, exclusive of any tax considerations. Community-owned Wind may include or incorporate consumer-owned transmission and distribution utilities, rural electric cooperatives, municipal electric districts, or other electrical generation and transmission models established by State law to facilitate and encourage local electrical generation. Community-owned Wind does not include partial or minority municipal ownership of WEFs without the municipality (or municipalities in the case of joint municipal ownership) being the managing partner, and does not include WEFs located in Sedgwick having majority ownership or control by private individuals, private businesses, or non-profit organizations not under direct control of the municipality (or municipalities).

6.7 Covenant: A legal agreement, convention or promise by two or more parties by deed in writing, signed, and delivered, by which one of the parties pledges himself to the other that something is done, or shall be done, or shall not be done, or stipulates the truth of certain facts. For this Ordinance this legal agreement shall contain stipulations required and put forth herein and shall be a covenant running with land.

6.8 Comprehensive Plan: Town of Sedgwick Comprehensive Plan, adopted 1993

6.9 D: Distance measured in feet

6.10 Debris and Falling Hazard: Hazard owing to the possibility that the parts of a WEF, or material (ice or other debris) accumulated on its rotating elements, could be dislodged and fall or be thrown some distance onto surrounding property

6.11 Decibel (dB): Unit of measurement for sound pressure level; the number of decibels of a measured sound is equal to 20 times the logarithm to the base 10 of the ratio of the sound pressure of the measured sound to the sound pressure of a standard sound (20 micropascals); abbreviated "dB"

6.12 dB(A) or dBA: Abbreviation designating both the unit of measure sound level, the decibel, and the mode of measurement that uses the A-weighting of a sound level meter

6.13 dB(C) or dBC: Abbreviation designating both the unit of measure sound level, the decibel, and the mode of measurement that uses the C-weighting of a sound level meter

6.14 DEP Certification: Certification issued by the Maine Department of Environmental Protection (MDEP) pursuant to 35-A MRSA §3456 for construction or operation of a wind energy facility.

6.15 Engineering Drawing: Rendering of an object or land area using drafting instruments or computer automated design (CAD) showing all critical features and appropriate dimensions to describe the subject, to include engineering design drawings representing the proposed facility and engineering as-built drawings representing the facility as actually constructed

6.16 Flicker Hazard: Annoyance and hazard (health, environment, and property values) owing to the shadows and reflections produced by the rotating elements of a WEF

6.17 Geological Instability: Can include possible fault lines, areas of potential landslides, heavily fractured or unstable bedrock that would cause the tower and/or structure to fall or collapse

6.18 Historic Area: An Historic Site administered by the Bureau of Parks and Lands, Maine Department of Conservation, with the exception of the Arnold Trail

6.19 Historic Site: Any site, structure, district, or archaeological site that is included on the National Register of Historic Places or on the Maine Historic Resource Inventory or that is established by qualified testimony as being of historic significance

6.20 Ho (Height overall): Height of a Meteorological Tower or wind energy facility turbine from the base of the tower pad to the highest point on the structure or the highest point of any rotating element, whichever is higher

6.21 kW: Power expressed in kilowatts

6.22 LAeq: Energy-equivalent sound pressure level measured in decibels with a sound level meter set for A-weighting, "Fast" response over a measurement period; expressed as LAeq or Leq in dBA

6.23 Lc: Criterion sound level in dBA, set to 30 dBA for this Ordinance consistent with the World Health Organization's Night Noise Guideline 2009, to prevent biological effects, to protect public health in risk groups including children, elderly and those with disease or pre-existing health conditions and to minimize sleep disturbance at night

6.24 LCeq: Energy-equivalent sound pressure level measured in decibels with a sound level meter set for C-weighting and "Fast" response over a measurement period; expressed as LCeq or Leq in dBC

6.25 Lp: Sound pressure level measured in dBA in accordance with ANSI Standards S12.9 – Part 3, "Quantities and Procedures for Description and Measurement of Environmental Sound" or ANSI S12.18

6.26 Ls: Safety factor to account for variations in meter total instrument response; shall be 2 dBA unless otherwise authorized by the Planning Board

6.27 Lu: Uncertainty factor; shall be 5 dBA unless otherwise authorized by the Planning Board, based on measured maximum hourly sound levels at wind turbine facilities compared to predicted sound levels and the resulted required corrections of 5 dB.

6.28 Lw: Manufacturer's guaranteed maximum sound power level, in dBA re 1pW, under any operating conditions, including high winds, yawing, furling, and power outages, whether electrically loaded or unloaded

6.29 Maximum Sound Level (also Lmax): Maximum sound pressure level measured in decibels with a sound level meter set for A-weighting, "Fast" meter response over a measurement period; expressed as Lmax in dBA

6.30 Measurement Point: Location where sound measurements are taken, such that no significant obstruction blocks sound from being measured in the line of sight between the measurement point and the location of the nearest wind turbine. Proximity to large buildings or other structures should be twice the largest dimension of the structure, if possible. Measurement points should be at quiet locations remote from local noise sources, to the extent possible.

6.31 Meteorological Tower (MT): Tower constructed to mount instruments at one or more heights above grade for the purpose of collecting wind or other meteorological data

6.32 MW: Power expressed in megawatts

6.33 Nameplate Capacity: Electrical power rating of an individual wind turbine, as certified by the turbine manufacturer, normally expressed in watts, kilowatts (kW), or megawatts (MW)

6.34 N: Number (quantity) of wind turbines, where the expression $4\log(n)$ represents the change in sound level due to the increase in the number of turbines based on independent analysis of measured noise levels around wind turbine facilities in Maine, and -0.5 dB is required when converting from sound power level to sound pressure level assuming spherical spreading, for dimensions in feet

6.35 Owner/Operator: Person or entity that is the legal owner of the WEF, including successors and assigns, and that has the authority and responsibility to operate the WEF on a day-to-day basis; must have the legal authority to represent and bind

6.36 Planning Board: Town of Sedgwick Planning Board

6.37 Property Line: Imaginary line along the ground surface and the vertical extension of that line which constitutes a legally enforceable boundary which separates real property owned or controlled by owner(s) from contiguous real property owned or controlled by another person

6.38 Residence: Building or structure including manufactured housing, but excluding recreational vehicles, tents, and watercraft, that is maintained for permanent or seasonal residential occupancy and having living, cooking, sleeping facilities, and permanent indoor or outdoor sanitary facilities

6.39 Resident: User of a property adjacent to, or within the area affected by, the WEF. This may be either a permanent resident or a temporary resident, without respect to ownership of the property in question

6.40 Sf/d: Falling and Debris Hazard setback requirement (ft)

6.41 Sc: Flicker Hazard setback requirement (ft)

6.42 Ss: Acoustic Hazard setback requirement (ft)

6.43 Scenic Resource: Scenic Resource of state or national significance, as defined in 35-A MRSA §3451(9) or a scenic resource of local significance located within the Town of Sedgwick and identified as such in the Comprehensive Plan

6.44 Sensitive Receptor: Residence or other place or structure intended for human habitation, whether inhabited or not, public park, state or federal wildlife area, school, daycare center, elder care facility, place of seated assemblage, nonagricultural business, or manicured area of a recreational establishment designed for public use, including but not limited to a golf course, campground, natural area with maintained hiking trails, or other planned nonagricultural use

6.45 Sound Level Meter: Instrument for the measurement of sound levels conforming to ANSI Type I or type II standards

6.46 Sound Pressure Level: Level of a sound measured in dB made with a sound level meter that has a uniform (flat) response over the band of frequencies measured

6.47 Sound Power Level: Calculated from sound pressure level at a given distance in accordance with ANSI Standard S12.9 – Part 3 or ANSI S12.18, or in accordance with AWEA/IEC 61400-11

6.48 Setback Area: Entire land base that falls within the Setback for a particular MT or WEF

6.49 Setback: Distance measured horizontally in feet from the center axis of any WEF turbine or Meteorological Tower radially for 360 degrees

6.50 Structure: Anything built for the support, shelter or enclosure of persons, animals, goods or property of any kind

6.51 Turbine: A rotating device used to convert the physical energy exerted by wind passing across its blades into electrical energy.

6.52 Type 0 – Micro Wind Energy Facilities: A single wind turbine with a nameplate capacity of 10 kW or less and a turbine height (measured to the top of an upright blade) of 35 feet or less. With the exception of braking requirements described in Section 8 (Design, Manufacture, and Construction Standards), acoustic hazard setbacks described in Section 9 (Public Health and Safety Standards), and the requirements described in Section 15 (Permit and Operational License Requirements), the restrictions of this Ordinance do not apply to Type 0 wind energy facilities.

6.53 Type 1 – Small Wind Energy Facilities: One or more wind turbines, with a nameplate capacity of 100 kW or less and a turbine height (measured to the top of an upright blade) of 80 feet or less, and with a construction disturbance area of less than 20 acres. With the exception of braking requirements described in Section 8 (Design, Manufacture, and Construction Standards), acoustic hazard setbacks described in Section 9, (Public Health and Safety Standards), and Section 15 (Permit and Operational License Requirements), the restrictions of this Ordinance do not apply to Type 1 wind energy facilities.

6.54 Type 2 – Intermediate/Mixed Use Wind Energy Facilities: One or more wind turbines, each with an individual nameplate capacity of less than 100 kW and or a turbine height (measured to the top of an upright blade) of between 80 and 150 feet, with a construction disturbance area of greater than 20 acres and with a total post-construction un-revegetated land disturbance of less than 3 acres per Maine Department of Environmental Protection guidelines. All restrictions of this Ordinance apply to Type 2 wind energy facilities.

6.55 Type 3 – Large/Commercial Wind Energy Facilities: One or more wind turbines, each with an individual nameplate capacity of greater than 100 kW or a turbine height (measured to the top of an upright blade) of more than 150 feet or that would require DEP site plan review pursuant to 38 M.R.S.A §482(2)(A) or (C). All restrictions of this Ordinance apply to Type 3 WEFs.

6.56 Visual Impact Assessment: As defined in 35-A M.R.S. Section 3452

6.57 W: Power expressed in watts

6.58 Waiver: A legal decision that may be made by the Planning Board that grants the Covenantees and the Covenantors of a Covenant presented to the Board a right of waiving or relinquishing protection for them in this Ordinance.

6.59 Wildlife Protection Plan: A pre-construction field study designed in consultation with the Maine Department of Inland Fisheries and Wildlife, and carried out by a qualified wildlife biologist, that describes the possible adverse effects of the WEF on birds, bats, animals, and their habitats, and proposes remedies for these effects

6.60 Wind Energy Facilities (WEF): All equipment, structures, roads, and power lines that together form a system for the production of electrical power using ambient wind as a source of motive power

7.0 Documents

7.1 Documents Cited: The following documents are cited in this Ordinance:

7.1.1 American National Standards Institute (ANSI) Standard S1.4 "Specifications for General Purpose Sound Level Meters,"

7.1.2 ANSI Standard S12.9 – Part 3, "Quantities and Procedures for Description and Measurement of Environmental Sound" or ANSI S12.18

7.1.3 ANSI Standard S12.18-1994 "Outdoor Measurements of Sound Pressure."

7.1.4 Bureau of Land and Water Quality, Site Location Development Law, 38 M.R.S.A. §§481-490, with regulations 06-096 CMR 371-377

7.1.5 Maine Erosion and Sediment Controls Best Management Practices, Bureau of Land and Water Quality, Maine Department of Environmental Protection, March 2003, DEP LW0588

7.1.6 Night Noise Guidelines for Europe, World Health Organization, October 2009, ISBN 9789289041737

7.1.7 Town of Sedgwick Comprehensive Plan, Adopted 1993; Town of Sedgwick Shoreland Zoning Ordinance; Town of Sedgwick Site Plan Review Ordinance, and any other applicable Town of Sedgwick ordinances

7.2 Potentially Useful Documents: The following documents may be of use to Applicants contemplating constructing and operating WEF facilities:

7.2.1 12 M.R.S., Sections 685-B, 2-C, 4, and 4-B of the Commission's statutes; 35-A M.R.S., Ch. 34-A, Sections 3451, 3452, 3454, and 3455, and other applicable provisions of the Legislature statute, 12 M.R.S., Sections 681 through 689

7.2.2 Maine Association of Wetland Scientists (MAWS): Vernal Pool Technical Committee (VPTC) 2010 Interim Vernal Pool Survey Protocol, April 2010

7.2.3 Maine Endangered Species Act, State of Maine, Inland Fisheries and Wildlife Laws, 12 MRSA Part 13, Chapter 925, Subchapter 3, Endangered Species

7.2.4 Federal Endangered Species Act of 1973 (16 U.S.C. 1531-1544, 87 Stat. 884), as amended -- Public Law 93-205

7.2.5 Management Guidelines, for Land Use In or Adjacent to Spring Salamander and Roaring Brook Mayfly Habitat Maine Department of Inland Fisheries and Wildlife, dated March 4, 2010

7.2.6 Natural Resource Protection Act, 38 M.R.S.A. §§ 480-A through 480-BB, statute and application

7.2.7 Public Law, 123rd Legislature, Second Regular Session, Chapter 533, H.P. 1390-L.D. 1952, An Act to Streamline the Administration of Significant Vernal Pool Habitat Protection

8.0 Design, Manufacture, and Construction Standards

8.1 General Requirements: The design and manufacture of all meteorological towers, all wind turbines, and all other components of a WEF shall conform to applicable national, state, and local standards for the wind industry, such as those established by ANSI, Underwriters Laboratories, and similar certifying organizations. All MTs and all components of a WEF shall conform to local, state, and national building codes, as applicable.

8.2 Meteorological Towers: Meteorological towers (MTs) must be less than 200 feet in height, and must be designed so as not to require lighting. Guy wires are allowed, but must be designed to limit Environmental Hazard to wildlife, especially birds and bats. For MTs connected with the potential development of a commercial WEF, a Decommissioning Bond will be required to ensure timely removal of the equipment, as specified in Section 12.3.5.

8.3 Underground Power Transmission: Underground power and transmission lines shall be buried at a depth consistent with state public utility engineering standards to prevent transient ground currents and stray voltage. Utilities shall be installed underground except as otherwise approved by the Planning Board.

8.4 Public Grid Connections: An application for a permit for a Type 2 or Type 3 WEF that will be connected to the Public Utility Grid shall include a Public Utility Grid Impact Statement documenting all anticipated changes to the public utility grid within the Town of Sedgwick due to the WEF. The Statement shall be signed and approved by the Maine Public Utilities Commission and shall include proof of leases or rights of way for transmission lines, and an analysis of the residual capacity in the grid that will be available to other local generating projects after the construction of the WEF.

8.5 Type 0 WEF Braking Requirements: A WEF with a nameplate capacity less than 10 kW shall be equipped with a braking system designed to limit rotor speed and prevent blade flutter.

8.6 Type 1 and Type 2 WEF Braking Requirements: A WEF with a nameplate capacity equal to or greater than 10 kW, but less than or equal to 100 kW, shall be equipped with a redundant braking system that includes stall regulation.

8.7 Type 3 WEF Braking Requirements: A WEF with a nameplate capacity of more than 10 kW shall be equipped with a redundant braking system that includes both aerodynamic over-speed controls (including variable pitch, tip, and other similar systems) and mechanical brakes. Mechanical brakes shall operate in fail-safe mode. Stall regulation shall not be considered a sufficient braking system for over-speed protection on WEFs with a nameplate capacity of more than 10 kW.

8.8 Electrical Interference: WEFs shall be designed and sited, at time of installation, to prevent the disruption or loss of emergency or private radio, telephone, television, internet connections, or similar signals. Interference with such communications shall be grounds for ordering the immediate shut down of the WEF until the interference has been remedied.

8.9 Blade Clearance: The minimum distance between the ground and the blades of a WEF, for horizontal axis turbine systems, shall be 25 feet as measured at the lowest point in the arc of the blades.

8.10 Mounting Requirements: WEFs shall be mounted on monopole towers with no guy wires, except that WEFs with a nameplate capacity of less than 1 kW may be mounted on structure roof tops.

8.11 Color: The color of WEFs and MTs shall be off-white or grey or some other unobtrusive color approved by the Planning Board.

8.12 Signage: WEFs shall not be used to display signs or advertising except for signs at ground level identifying the turbine manufacturer, the WEF Owner/Operator, emergency contact information, and appropriate warnings as required by national, state, and local laws.

8.13 Construction: All construction activities must conform to the approved site plan, including any conditions of approval and changes approved by the CEO and/or the Planning Board.

8.14 Modifications: If at any time it appears necessary or desirable to modify the approved plans before or during construction of MTs or WEFs, the CEO, with assistance at the Applicant's expense from such staff, consultants or experts as the CEO deems appropriate, is authorized to approve minor modifications due to unforeseen circumstances such as encountering hidden outcrops of bedrock, natural springs, etc.

8.14.1 The CEO shall issue any approval under this section in writing and shall transmit a copy of the approval to the Selectmen and Planning Board.

8.14.2 Revised plans shall be filed with the Planning Board for the record.

8.14.3 For major modifications such as relocation, change in rights-of-way, relation of WEFs to one another, changes in grade by more than 1%, etc., the Applicant shall submit to the Planning Board an amended plan for review and approval.

9.0 Public Health and Safety Standards

9.1 Setback Standards: All MTs and WEFs must be sited so as to satisfy the Setback Standards calculated in Table 1 for the following hazards:

9.1.1 Falling and Debris Hazard

9.1.2 Flicker Hazard

9.1.3 Acoustic Hazard (See Table 2 for calculations of typical setback distances)

9.2 Setback Evaluation: The applicant shall compute or look up, as appropriate, and graph the required setback for each hazard as a circle for a single unit or as a series of connected arcs for multiple units centered on each turbine and submitted with the required setback graphically superimposed to scale on town maps identifying lot owners and lot property lines.

9.3 Operational Sound Evaluation: Sound levels due to the operation of the WEF shall not exceed 30 dBA at the WEF property lines and/or structures in the Town of Sedgwick. Owner/Operators may request a waiver of these standards by means of written Covenants as specified in section 15.16 of this Ordinance.

9.3.1 Sound measurements shall be carried out at appropriate property lines and/or structures as soon as possible after the Planning Board determines that a violation of the noise standards may have occurred.

9.3.2 All sound measurements shall be made by a professional acoustical engineer who is a Full Member of the Institute of Noise Control Engineering (INCE) or who possesses some comparable qualification. The engineer shall be chosen and paid by the Owner/Operator and approved by the Planning Board.

9.3.3 Except as specifically noted otherwise, sound measurements shall be conducted in compliance with ANSI Standard S12.18-1994 "Outdoor Measurements of Sound Pressure."

9.3.4 Sound level meters and calibration equipment shall comply with the latest version of ANSI Standard S1.4 "Specifications for General Purpose Sound Level Meters," and shall have been calibrated at a recognized laboratory within one year before the sound measurements are carried out.

9.4 Fire Prevention and Control: The Owner/Operator of a Type 2 or Type 3 WEF with one or more turbines shall include a Fire Prevention and Fire Fighting Plan that has been approved by the Town of Sedgwick Fire Department. The plan shall identify a response plan to address all potential WEF fire scenarios and include a list of hazardous materials that may be encountered. The Owner/Operator shall also ensure that the WEF complies with the following fire control and prevention measures and assumes responsibility for all associated incremental costs.

9.4.1 Use of fireproof or fire resistant building materials and buffers as required by state law or the Sedgwick Fire Department.

9.4.2 Incorporation of a self-contained fire protection system in the WEF turbine nacelle.

9.4.3 Maintenance of firebreak areas, cleared of vegetation, as required by state law or the Sedgwick Fire Department.

9.4.4 Provision for any additional fire fighting or rescue personnel, services, training, materials, and vehicles as may be required to deal with any emergency related to the WEF that is beyond the current capabilities of the Sedgwick Fire Department.

9.5 Compliance with Regulations: The Owner/Operator of any WEF shall be responsible for compliance with all ordinances, regulations, and laws applicable to the generation, storage, cleanup, and disposal of hazardous materials connected with the WEF.

9.6 Extraordinary Events: The Owner/Operator of any WEF shall notify the CEO of any "extraordinary event" within 24 hours after that event. Extraordinary events shall include but not be limited to tower collapse, catastrophic turbine failure, fires, leakage of hazardous materials, unauthorized entry into a tower base, thrown blade or hub, injury caused by the WEF, and any other event that affects the public health and safety of the town or its residents.

10.0 Road and Property Risk Assessment

An application for a permit to construct a Type 2 or Type 3 WEF shall include a Road and Property Risk Assessment that has been approved by the Town of Sedgwick Road Commissioner.

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

10.1.1 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(Q).

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

10.1.3 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.

10.1.4 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 Spacing (Percent) (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.

10.1.5 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.

10.2 Risk Assessment Evaluation: The Planning Board shall review the Public Road and Property Risk Assessment and require any changes to the plan that it deems appropriate to protect public safety, to protect public property, to protect private property of adjacent landowners, and to address anticipated costs to the town.

10.3 Engineering Review: A qualified third party engineer, chosen and paid by the Applicant and approved by the Planning Board, shall document road conditions prior to the construction of the WEF, and again within thirty days after construction is complete.

10.4 Mitigation of Construction Damages: Any road damage determined by the third party engineer to have been caused by the applicant or its contractors shall be promptly repaired at the applicant's expense.

11.0 Environmental Requirements

11.1 Compliance with Standards: The siting and construction of all WEFs shall meet all the applicable standards of the Site Plan Review Ordinance, and the Shoreland Zoning Ordinance of the town of Sedgwick, Maine, and be consistent with the Comprehensive Plan. Any other applicable local, state, and federal standards must also be met.

11.2 Site Development Permit: If required by the laws of the State of Maine, a Department of Environmental Protection Site Location of Development permit shall be obtained and submitted with an application for a WEF permit.

11.3 Environmentally Sensitive Areas: The design, construction, and maintenance of a WEF shall protect all environmentally sensitive areas that may be affected by its siting. Such areas shall include but not limited to wetlands, vernal pools, seeps or springs, steep slopes (equal to or greater than 15%), watersheds, flood plains, significant habitat for wildlife, fish, plants, and properties owned by public or private, not-for-profit organizations and protected by ownership restrictions and conservation easements. An application for a Type 2 or Type 3 WEF permit shall demonstrate appropriate measures for protecting all such areas during construction, operation, and decommissioning of the WEF.

11.4 Wildlife Protection Plan: The application for a Type 2 or Type 3 WEF shall include a Wildlife Protection Plan based on pre-construction field studies designed and carried out by a qualified wildlife biologist chosen and paid by the Applicant and approved by the Planning Board. Such studies shall describe the possible adverse effects of the WEF on birds, bats, animals and their habitats, and shall propose remedies for these effects.

11.5 Wildlife Protection Plan Validation: Within three years after completion of construction of a Type 2 or Type 3 WEF, studies to ascertain its actual effect on wildlife shall be designed and carried out by a qualified wildlife biologist chosen and paid by the Owner/Operator, and approved by the Planning Board, and submitted to the Planning Board for review. If these studies demonstrate undue adverse effects, as defined by the Planning Board and/or Maine Department of Inland Fisheries and Wildlife, on wildlife or their habitats caused by the WEF, the Owner/Operator in consultation with the Maine Department of Inland Fisheries and Wildlife (MDIFW) shall design and implement a mitigation plan. The plan shall be submitted to the Planning Board for approval. The Owner/Operator shall be responsible for the full cost of carrying out the plan under the supervision of the MDIFW.

11.6 Erosion Control: Type 2 or Type 3 WESs shall be designed, constructed, and maintained in accordance with accepted erosion and sediment control methods as set out in the Maine Erosion Control Handbook for Construction; The Best Management Practices, dated March (2003).

11.7 Groundwater Impacts: Type 2 and 3 WESs shall be designed, constructed, and maintained so as to avoid undue adverse impacts to groundwater, including sand and gravel aquifers. The Planning Board shall require as condition of issuing a permit for a Type 2 or Type 3 WEF that a pre-construction baseline study of all wells, springs, and public water sources within the watershed of the WEF site, as defined by the area projected to be disturbed by construction and operation of the WEF, be conducted. The study shall be designed and carried out by a water quality professional chosen and paid by the Applicant and approved by the Planning Board.

11.8 Post-construction Water Quality Study: Within two years after completion of construction of a Type 2 or Type 3 WEF for which the Planning Board has required a pre-construction baseline Water Quality Study as described in section 11.7 of this Ordinance, a Post Construction Water Quality study of all wells, springs, and public water sources within the watershed of the WEF site shall be designed and carried out by a water quality professional chosen and paid by the

Owner/Operator and approved by the Planning Board. If degradation or contamination is found to have occurred, fines and/or permanent remedies as required by the Town of Sedgwick or the State of Maine shall be the responsibility of the Owner/Operator.

11.9 Hazardous Wastes: The Owner/Operator shall be responsible for compliance with all state and federal regulations applicable to the use and safe and lawful disposal of hazardous wastes involved in or generated by the WEF's construction, operation, and decommissioning.

11.10 Blasting Notification: The Owner/Operator of a WEF shall not undertake any blasting without notifying the Town of Sedgwick and submitting a blasting plan in accordance with the latest DEP Standards. The blasting plan shall be reviewed and approved by the Planning Board before any blasting takes place.

11.11 Light Pollution: All WESs shall be designed and sited to minimize nighttime light pollution and shall not exceed the minimal requirements by the Federal Aviation Authority. Red lights shall be used instead of white if possible and shall be shielded to the greatest extent possible from viewers on the ground. An applicant for a WEF shall provide a plan showing all lighting on and around the WEF.

11.12 Visual Effects: If a Type 2 or Type 3 WEF is proposed for a location in, or visible from, an Historic Area, an Historic Site, or a Scenic Resource, the applicant shall provide to the Planning Board a Visual Impact Assessment as part of its application, as defined in 35-A M.R.S., Section 3452.

12.0 Financial Standards for a Type 2 or Type 3 WEF

12.1 Financial Viability: An applicant for a Type 2 and Type 3 WEF shall provide evidence satisfactory to the Planning Board that the project is financially viable. Evidence of financial viability shall include the following:

12.1.1 A budget for the construction and operation of the WEF

12.1.2 Proof of financing for all aspects of the construction and operation

12.1.3 Proof of long-term power purchase contracts if 25% or more of the WEF output is intended for sale

12.1.4 Proof of funds for decommissioning as specified in section 12.3 of this Ordinance

12.2 General Liability Insurance: The Owner/Operator of a Type 2 or Type 3 WEF shall maintain a current general liability policy for the WEF covering bodily injury and property damage commensurate with the scope and scale of the project, as determined by the Planning Board. Proof of current insurance must be presented to the Planning Board with the application for a permit and every year thereafter on the date of the insurance's annual renewal.

12.3 Decommissioning: The Owner/Operator of a Type 2 or Type 3 WEF shall be responsible for complete Decommissioning of the WEF within twelve months after it ceases to generate electricity, or after its operational license has been revoked.

12.3.1 Decommissioning shall include removal and disposal off-site of all parts of the WEF in accordance with local, state, and federal laws and regulations. Areas of disturbed earth shall be graded, seeded, or otherwise re-vegetated.

12.3.2 A Professional Engineer shall be chosen and paid by the Applicant and approved by the Planning Board to estimate the total cost of Decommissioning without

consideration of the salvage value of the equipment. The amount of this estimate shall be the amount of the Decommissioning Funds required to be posted at the time of the initial Application.

12.3.3 No permit for a Type 2 or Type 3 WEF shall be issued until Decommissioning Funds have been posted by the Applicant with a bonding company or a Federal or State-chartered lending institution (the Escrow Agent) authorized to conduct such business in the State of Maine and approved by the Select Board of the Town of Sedgwick.

12.3.4 Estimates, as described in section 12.3.2, shall be redone annually on the anniversary of the granting of a WEF Permit, and the Owner/Operator of the WEF shall be required to maintain Decommissioning Funds that are at least equal to the most recent estimate.

12.3.5 Decommissioning funds may be in the form of a performance bond, surety bond, letter of credit or other form of financial assurance acceptable to the Select Board of the Town of Sedgwick.

12.3.6 If the Owner/Operator of the WEF does not complete decommissioning within the time prescribed in section 12.3 of this Ordinance, the Town of Sedgwick may take such action as necessary (including court action) to secure the posted decommissioning funds and to ensure completion of the decommissioning.

12.3.7 The Escrow Agent shall not release the decommissioning funds except upon written approval of the Select Board of the Town of Sedgwick.

12.4 Tax Valuation Agreement and Tax Impact Statement: An Applicant for a WEF that will have a taxable property value of more than \$10 million or that will be qualified as a "designated business" for the purposes of state tax incremental financing as defined in Title 30-A M.R.S. Section 5241 shall enter into a written Tax Valuation Agreement with the Town of Sedgwick and shall also present to the Town a Tax Impact Statement.

12.4.1 The Tax Valuation Agreement shall describe the methodology that will be used for tax valuation of the WEF throughout the period of its useful life. The Tax Valuation Agreement shall be reviewed by a qualified tax attorney chosen by the Planning Board and paid by the Applicant. No Permit shall be issued until the Tax Valuation Agreement has been approved by the Planning Board.

12.4.2 The Tax Impact Statement shall estimate the annual tax burden on the citizens of Sedgwick over a 10 year period beginning with the first full year of the WEF's operation. The Tax Impact Statement's estimates shall be based on the following data and assumptions: 1) the estimated tax contribution from the WEF that will result from the Tax Valuation Agreement; 2) estimated reduction in tax revenue due to any reductions in the value of properties covered by waivers (assuming that other property values remain constant); 3) estimated adjustments to the amount received from the State for aid to education (assuming a constant school budget); 4) estimated adjustments to the amount received as part of the State municipal revenue sharing program; 5) a constant mill rate. The Tax Impact Statement shall be prepared by an Accountant chosen by the Planning Board and paid by the Applicant.

12.5 Benefits to the Town: Applicants shall be encouraged to provide voluntary benefits to the town such as license fees and/or percentage of gross revenues. Promises of benefits made to the Town of Sedgwick by the applicant shall be documented and submitted with the Final Application. These benefits shall become a legally enforceable provision of the permit.

13.0 Ethical Standards

13.1 Public Meetings: All deliberations concerning the permitting and regulation of WEFs and Community-owned Wind facilities shall be conducted at public meetings for which notice has been duly given.

13.2 Conflict of Interest: No elected or appointed official or employee of the Town of Sedgwick who has a financial interest in the WEF or Community-owned Wind facility under consideration shall be directly or indirectly involved in the permitting or other regulation of that WEF or Community-owned Wind facility. Financial interest includes, but is not limited to, the following:

13.2.1 Having right, title or interest in land on which any part of the WEF or Community-owned Wind facility will be constructed

13.2.2 Having signed for the Applicant's benefit a Covenant with financial remuneration

13.2.3 Having a financial arrangement such as employment or the promise of employment—including employment as an outside contractor—with the Applicant

13.2.4 Serving as a paid representative of an individual or company that derives income from the development of wind power

13.3 Bidding and Contracting: All bidding, contracts, and employment for Community-owned Wind projects must be awarded through a process of public notice and competitive bidding.

14.0 MET Tower and WEF Licensing Authority

The Planning Board shall review all applications for permits to erect and operate MET towers and WEFs and determine whether an operating license is appropriate. In doing so, the Planning Board shall approve, reject, or conditionally approve applications in accordance with the standards of this Ordinance.

14.1 Site Access: In making its licensing decisions, the Planning Board and/or its designated agents or representatives shall have the right to access and inspect WEF sites.

14.2 Simultaneous Application Review: The Planning Board reserves the right to limit the number of applications for WEF permits that are under review at any given time. Only one application for a Type 3 WEF permit will be accepted or processed at any given time.

14.3 MDEP Review: All Type 2 and Type 3 applications shall be submitted to both the Planning Board and to the MDEP. The MDEP may elect to review and comment on WEF applications within the Town of Sedgwick. When making its own determination about such applications, the Planning Board shall consider, to the extent available and applicable, any findings resulting from the MDEP review.

15.0 Permit Application and Operational License Requirements

15.1 Meteorological Tower (MT) Permit Application Submittals: In addition to what is required in the Site Plan Review Ordinance, the Shoreland Zoning Ordinance, and any applicable ordinances for the Town of Sedgwick, the application for a permit for an MT shall be submitted in seven hard copies to the Planning Board and shall include the following information:

15.1.1 Applicant and property owner name, address and contact information

15.1.2 Proposed location of the MT including lot designation

15.1.3 Engineering drawing of proposed tower structure, instrument package, and guy system, if any

15.1.4 Engineering drawing of proposed tower base

15.1.5 Engineering drawing of tower location showing property lines and setback requirements (as specified in Table 1 of this Ordinance)

15.1.6 Any building, use or construction permits required by other authorities because of the size or construction of the tower

15.1.7 Intended period of data collection and date MT will be removed

15.1.8 Plans for mitigation of Environmental Hazard to wildlife for towers requiring guy systems

15.1.9 Description of intention

15.1.10 Decommissioning Bond for MT

15.1.11 A legally enforceable agreement that the applicant shall pay (in advance if required by the Planning Board) for the services of all consultants that the Planning Board deems necessary to evaluate the application.

15.1.12 Fees, as established by the Board of Selectmen

15.2 MET Tower Permit Application Review

15.2.1 Within 30 days of the Planning Board's receiving a Meteorological Tower (MT) application the Planning Board shall, with assistance from such staff, consultants, committees or commissions as it deems appropriate, notify the applicant in writing that the application is complete or, if the application is incomplete, shall inform the applicant of the specific additional material needed to complete the application.

15.2.2 Within 60 days of determining the MT application is complete, the Planning Board shall approve the MT Application, approve the MT Application with conditions, or disapprove the MT Application. The time limit for review may be extended by mutual agreement between the Planning Board and the Applicant.

15.3 Type 0 WEF Preliminary Application: The preliminary application for a Type 0 WEF shall include the following items in addition to what is required by the Planning Board and any applicable ordinances:

15.3.1 Applicant and property owner's name, address and contact information

15.3.2 Nameplate data for the type of WEF turbine to be used including manufacturer, model, rated power output and maximum sound power level

15.3.3 Fees, as established by the Board of Selectmen

15.4 Type 1 WEF Preliminary Application: The Preliminary Application for a Type 1 WEF shall include the following items in addition to what is required by the Planning Board and any applicable ordinances and shall be submitted in seven hard copies:

15.4.1 Applicant and property owner's name, address and contact information

15.4.2 Nameplate data for the type of WEF turbine(s) to be used including manufacturer, model, rated power output and maximum sound power level

15.4.3 Certification of the non-reflecting properties of the WEF turbine's external surfaces

15.4.4 Engineering drawing of the WEF turbine location(s)

15.4.5 Calculations and supporting data for all setback requirements (as specified in Table 1 of this Ordinance)

15.4.6 Overlay of Town of Sedgwick property maps showing the setback area and all property lines and rights of way affected by setback requirements, as well as any affected Scenic Resources, Historic Areas, and Historic Sites

15.4.7 List of property owners whose property, wholly or in part, lies within the setback areas

15.4.8 A legally enforceable agreement that the applicant shall pay (in advance if required by the Planning Board) for the services of all consultants that the Planning Board deems necessary to evaluate the application

15.4.9 Fees, as established by the Board of Selectmen

15.5 Type 2 and Type 3 WEF Preliminary Applications: The Preliminary Application for a Type 2 or Type 3 WEF shall include the following items in addition to what is required by the Planning Board and any applicable ordinances and shall be submitted in seven hard copies:

15.5.1 One year of meteorological data to establish the feasibility of the proposed project

15.5.2 Applicant and property owner's name, address and contact information

15.5.3 Nameplate data for the type of WEF turbine(s) to be used including manufacturer, model, rated power output and maximum sound power level

15.5.4 Engineering drawings of the type of WEF turbine to be used and the interconnection, if applicable, to the electrical grid, including rights of way

15.5.5 Certification of the non-reflecting properties of the WEF turbine's external surfaces

15.5.6 Engineering drawing of the tower base for the type of WEF turbine to be used

15.5.7 Engineering drawing of the WEF turbine location(s)

15.5.8 Engineering or architectural drawings of all planned structures, including structures for support and maintenance of the WEF

15.5.9 Description of intended use, including energy storage and grid connections, and the percentage (if any) of generation intended for sale or use by entities or persons other than the applicant

15.5.10 Engineering drawings and/or electrical schematics of any energy storage equipment or facilities

15.5.11 Calculations and supporting data for all setback requirements (as specified in Table 1 of this Ordinance). For Type 2 and Type 3 WEFs, setback requirements must be calculated for each WEF turbine.

15.5.12 Overlay of Town of Sedgwick property maps showing the setback area and all property lines and rights of way affected by setback requirements, as well as any affected Scenic Resources, Historic Areas, and Historic Sites

15.5.13 List of property owners whose property, wholly or in part, lies within the setback areas

15.5.14 Flicker Modeling Report as specified in Table 1 of this Ordinance

15.5.15 A legally enforceable agreement that the applicant shall pay (in advance if required by the Planning Board) for the services of all consultants that the Planning Board deems necessary to evaluate the application

15.5.16 Fees, as established by the Board of Selectmen

15.6 WEF Preliminary Application Completeness Review: Within 30 days of the Planning Board's receiving a Type 0 or Type 1 Preliminary Application, or within 60 days of receiving a Type 2 or Type 3 Preliminary Application, the Planning Board shall, with assistance from such staff, consultants, committees, or commissions as it deems appropriate, notify the applicant in writing that the application is complete or, if the application is incomplete, shall inform the applicant of the specific additional material needed to complete the application.

15.7 Local Ordinance Review: After the Planning Board determines that a Preliminary WEF Application is complete, the Planning Board shall determine within 30 days for a Type 0 or Type 1 application, or within 60 days for a type 2 or Type 3 application, whether the Preliminary WEF Application meets all requirements of this Ordinance and any other applicable ordinances of the Town of Sedgwick. In determining whether the Application meets the requirements of this Ordinance, the Planning Board may obtain assistance from such staff and consultants as it deems appropriate.

15.8 Preliminary Application Decision and Findings of Fact

15.8.1 Within 30 days of completion of the local ordinance review for a Type 0 or Type 1 WEF, or within 60 days for a Type 2 or Type 3 WEF, the Planning Board shall approve the Preliminary WEF Application, approve the Preliminary Application with conditions, or disapprove the Preliminary WEF Application. The time limit for review may be extended by mutual agreement between the Planning Board and the Applicant.

15.8.2 In support of its Preliminary WEF Application Decision, the Planning Board shall make findings of fact and conclusions relative to the standards contained in this Ordinance and any other applicable ordinances of the Town of Sedgwick. If the Planning Board finds that all standards have been met, they shall approve the Preliminary WEF Application. If the Planning Board finds that any of the standards of this Ordinance or the Ordinances of the Town of Sedgwick, Maine, have not been met, the Planning Board shall either deny the Preliminary WEF Application or approve the application with conditions to ensure that all of the standards will be met. The reasons for any conditions shall be stated in the findings of facts and conclusions.

15.9 Type 0 WEF Final Application: The final application for a Type 0 WEF shall include the following items in addition to what is required in the Site Plan Review Ordinance and any other applicable ordinances of the Town of Sedgwick:

15.9.1 Updates to information provided in the preliminary permit, including additions, corrections, and any other changes

15.9.2 Verification by the CEO that any applicable building use or construction permits required by other authorities due to the scope of the intended project have been obtained

15.9.3 Fees, as established by the Board of Selectmen

15.10 Type 1 WEF Final Application: The final Application for a Type 1 WEF shall include the following items in addition to what is required in the Site Plan Review Ordinance and any other applicable ordinances of the Town of Sedgwick:

15.10.1 Updates to information provided in the preliminary permit, including additions, corrections, and any other changes

15.10.2 Verification by the CEO that any applicable building use or construction permits required by other authorities due to the scope of the intended project have been obtained

15.10.3 Proof of general liability insurance

15.10.4 Decommissioning bond

15.10.5 Plan to protect Environmentally Sensitive Areas

15.10.6 Wildlife Protection Plan

15.10.7 Plan for the handling and disposal of Hazardous Wastes, if applicable

15.10.8 Blasting Plan, if blasting is required for construction

15.10.9 A legally enforceable agreement that the applicant shall pay (in advance if required by the Planning Board) for the services of all consultants that the Planning Board deems necessary to evaluate the application

15.10.10 Fees, as established by the Board of Selectmen

15.11 Type 2 or Type 3 WEF Final Application: The Final Application for a Type 2 or Type 3 WEF shall include the following items in addition to what is required in the Site Plan Review Ordinance and any other applicable ordinances of the Town of Sedgwick:

15.11.1 Updates to information provided in the preliminary permit, including additions, corrections, and any other changes

15.11.2 Results of any meteorological testing

15.11.3 Verification by the CEO that any applicable building use or construction permits required by other authorities due to the scope of the intended project have been obtained

15.11.4 Public Utility Grid Impact Statement

15.11.5 Financial analysis for Types 2 and 3 WEFs, including evidence of financial capacity to carry out the project

15.11.6 Proof of general liability insurance

15.11.7 Decommissioning bond for Type 2 and 3 WEFs

15.11.8 Tax Valuation Agreement

15.11.9 Tax Impact Statement

15.11.10 Statement of Benefits promised to the Town of Sedgwick, if any

15.11.11 Fire Prevention and Fire Fighting Plan

15.11.12 Road and Property Risk Assessment

15.11.13 Plan to protect Environmentally Sensitive Areas

15.11.14 Wildlife Protection Plan

15.11.15 Baseline Water Quality Study

15.11.16 Plan for the handling and disposal of Hazardous Wastes

15.11.17 Plan to minimize Light Pollution

15.11.18 Visual Impact Assessment, if required, as specified in Section 11.12 of this Ordinance

15.11.19 Blasting Plan, if blasting is required for construction

15.11.20 A legally enforceable agreement that the applicant shall pay (in advance if required by the Planning Board) for the services of all consultants that the Planning Board deems necessary to evaluate the application.

15.11.21 Fees, as established by the Board of Selectmen

15.12 WEF Final Application Completeness Review: Within 30 days of the Planning Board's receiving a Type 0 or Type 1 Final Application, or within 60 days of receiving a Type 2 or Type 3 Final Application, the Planning Board shall, with assistance from such staff, consultants, committees, or commissions as it deems appropriate, notify the applicant in writing that the application is complete or, if the application is incomplete, shall inform the applicant of the specific additional material needed to complete the application.

15.13 Public Hearing: The Planning Board shall hold a public hearing within 30 days of the date of determination of a complete Final WEF Application for a Type 2 or Type 3 WEF. (Note: Public hearings are not required for Type 0 and Type 1 WEFs.) The Planning Board shall publish the time, date, and place of the hearing two times, the date of the first publication to be at least seven days prior to the hearing in a newspaper of area-wide circulation. The abutting landowners shall be notified in writing by the Planning Board of the hearing. Public hearings by the Planning Board shall be modeled after the procedures outlined in title 30-A M.R.S.A. Section 2691, Subsection 3 (A), (B), (C), (D), and (E).

15.14 Local Ordinance Review: After the Planning Board determines that a Final WEF Application is complete, the Planning Board shall determine within 30 days for a Type 0 or Type 1 application, or within 60 days for a type 2 or Type 3 application, whether the Final WEF Application meets all requirements of this Ordinance and the Site Plan Review Ordinance and the Shoreland Zoning Ordinance for the Town of Sedgwick, or any other town Ordinances. In determining whether the Application meets the requirements of this Ordinance, the Planning Board may obtain assistance from such staff and consultants as it deems appropriate.

15.15 Final Application Decision and Findings of Fact:

15.15.1 Within 30 days of completion of the local ordinance review for a Type 0 or Type 1 WEF, or within 90 days for a Type 2 or Type 3 WEF, and taking into account the matters brought forth at the Public Hearing, the Planning Board shall approve the Final WEF Application, approve the application with conditions, or disapprove the application. The time limit for review may be extended by mutual agreement between the Planning Board and the Applicant.

15.15.2 In support of its Final WEF Application Decision, the Planning Board shall make findings of fact and conclusions relative to the standards contained in this Ordinance and any other applicable ordinances of the Town of Sedgwick. If the Planning Board finds that all standards have been met, they shall approve the Preliminary WEF Application. If the Planning Board finds that any of the standards of this Ordinance or the Ordinances of the Town of Sedgwick, Maine, have not been met, the Planning Board shall either deny the Final WEF Application or approve the application with conditions to ensure that all of the standards will be met. The reasons for any conditions shall be stated in the findings of facts and conclusions.

15.16 Availability of Waivers: A waiver may be granted by the Planning Board If a Covenant is signed by the Applicant and each Property Owner or other party of legal status in the Town of Sedgwick whose residence and/or property falls within the Flicker Hazard and Acoustic Hazard setback areas for the WEF declaring that the Owner is willing to waive with respect to his/her residence and/or property the Flicker Hazard and/or Acoustic Hazard Setback Standards of this Ordinance and also the Acoustic Standards specified in section 9.3, including the protections they afford for the value of his/her property and for his/her personal health, safety, and welfare. An Applicant for a WEF permit may apply for a waiver of the Flicker Hazard and Acoustic Hazard Standards specified in Section 9.1 (Setback Standards). The Waiver Application (in seven hard copies) shall be submitted with the Final WEF Application and shall include the following items:

15.16.1 A declaration signed by parties to the Covenant that it has been recorded at the Registry of Deeds office appropriate to the affected property, and that the Covenant contains such legal language as may be necessary to make the agreement binding on current and future Residents and/or Property Owners.

15.16.2 A declaration signed by parties to the Covenant of the amount and terms of any consideration(s) provided to the Property Owner for entering into the Covenant.

15.16.3 A declaration signed by parties to the Covenant that they recognize that the burden of proof as to the legality of the Covenant and any Waiver of Standards of this Ordinance that may be granted by the Planning Board rests on the Applicant.

15.16.4 No Waivers of other requirements and standards in this Ordinance shall be permitted.

15.17 Operational License: An Operational License is required for the operation of any Type 2 or Type 3 WEF built in the Town of Sedgwick after the effective date of this Ordinance. (Note: An operational license is not required for a Type 0 or Type 1 WEF; however, a pre-operational inspection by the CEO is required prior to operating the machinery for the first time.) An application for an Operational License shall be submitted in seven hard copies to the Town of Sedgwick Planning Board after the WEF has been fully built.

15.18 Operational License Submittals: The application for an original Operational License shall include the following items:

15.18.1 An Inspection Report certifying the structural and operational integrity of the WEF. This Report shall be signed by a Maine licensed professional engineer chosen by the Planning Board and paid by the Owner/Operator of the WEF.

15.18.2 A signed statement that the Applicant has read this Ordinance, understands all its provisions, and agrees to abide by them.

15.18.3 Fees, as established by the Selectmen.

15.19 Operational License Duration: An Operational License shall be valid for two years and can be renewed by submission of a new Inspection Report and Fee as specified in section 15.18.1 of this Ordinance at least thirty days before expiration of the License.

15.20 Operational License Revocation: An Operational License shall be revoked and the WEF shall be required to cease operations if the Planning Board determines that the WEF is violating any of the standards and requirements of this Ordinance. The Operational License shall not be reinstated until the Planning Board is satisfied that all violations have ceased and all problems have been corrected.

15.21 Transfer of Ownership: An Operational License shall automatically terminate upon transfer of ownership of the WEF. The new Owner/Operator shall apply for a new Operational License and shall not operate the Type 2 and Type 3 WEF until the new License has been issued.

15.22 New Ownership Operational License Submittals: The Application for an Operational License by a new Owner/Operator shall contain the following items:

15.22.1 Copies of the original Permit Applications, updated as necessary, and signed by the new Applicant

15. 22.2 A copy of the original Operational License Application, updated as necessary, and signed by the new Applicant

15. 22.3 A statement, signed by the new Applicant, that he/she has read this Ordinance, understands it, and will abide by all of its provisions

15.22.4 Fees, as established by the Selectman

15.23 New Ownership Financial Viability: A new Owner/Operator of a Type 2 or Type 3 WEF shall provide evidence satisfactory to the Planning Board that the project remains financially viable. Evidence of financial viability shall include the following:

15.23.1 Proof of new owner's capacity and financial capability, per the specifications required by this Ordinance, to operate the WEF per specifications required by this Ordinance

15.23.2 Proof of long-term power purchase contracts

15.23.3 Proof of adequate funds for Decommissioning as specified in Section 11.3 of this Ordinance

15.24 Operational License Renewal: Within 60 days of the Planning Board receiving an Application for the renewal of an operational license for a Type 2 or Type 3 WEF, the Planning Board shall, with assistance from such staff, consultants, committees or commissions as it deems appropriate, notify the applicant in writing that the application is complete or, if the application is

incomplete, shall inform the applicant of the specific additional material needed to complete the application. An operational license renewal is not required of a new Type 0 Owner/Operator.

15.25 Operational License Renewal Decision: Within 60 days of the determining that the operational license renewal application is complete, the Planning Board shall determine whether the Type 2 or Type 3 WEF Application meets the requirements for an Operational License. In determining whether the Type 2 or Type 3 WEF Application meets the requirements of this Ordinance, the Planning Board may obtain assistance from such staff and consultants as it deems appropriate.

15.26 Findings of Fact: The Planning Board shall make findings of fact and conclusions relative to the standards contained in this Ordinance. If the Planning Board finds that all standards have been met, it shall approve the Type 1, Type 2 or Type 3 WEF application. If the Planning Board finds that any of the standards of this Ordinance have not been met, the Planning Board shall either deny the application or approve the application with conditions to ensure all of the standards will be met. The reasons for any conditions shall be stated in the findings of facts and conclusions.

15.27 Application Form: The Planning Board shall be authorized to develop the application forms required for all of the above actions.

16.0 Enforcement and Violations

16.1 CEO Responsibilities: It shall be the duty of the CEO to enforce the provisions of this Ordinance. If the CEO 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 it. He/she shall order discontinuance of illegal use of land, buildings or structures, removal of illegal buildings, structures, additions, or work being done, or shall take any other action authorized by this Ordinance to ensure compliance with or to prevent violation of its provisions.

16.2 CEO Record-keeping: The CEO shall keep a complete set of all records pertaining to essential WEF transactions, including applications submitted, consultant reports, permits granted or denied, variances granted or denied, revocation actions, revocation of permits, appeals, court actions, violations investigated, violations found, and fees collected.

16.3 Legal Action and Violations: When any violation of any provision of this Ordinance shall be found to exist, the Town of Sedgwick Attorney, as designated by the Board of Selectmen, either on his own initiative, or upon notice from the CEO, is hereby authorized and directed to institute any and all actions and proceedings, either legal or equitable, that may be appropriate or necessary to enforce the provisions of this Ordinance in the name of the Town of Sedgwick.

16.4 Fines: Any person, including, but not limited to, a landowner, a landowner's agent, or a contractor, who orders or conducts any activity in violation of this Ordinance, shall be penalized in accordance with Title 30-A, Maine Revised Statutes, Annotated, Subsection 4452. Each day such violation continues after notification of violation by the CEO shall constitute a separate offense for which the civil penalties may be assessed on a per-day basis as provided in Section 4452(3). In addition, the violator shall be subject to correct violations and to pay the Town's attorney and expert witness fees as provided in Section 4452. The Board of Selectmen is authorized to enter into a Consent Agreement and in such cases court action is not necessary. 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.

17.0 Appeals

17.1 Authority: The Town of Sedgwick Board of Appeals shall have the authority to hear and decide administrative appeals by a party that alleges that an error in applying this Ordinance has been committed by the Planning Board or the CEO.

17.2 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.

17.3 Appeal Procedure:

17.3.1 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.

17.3.2 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.

17.4 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.

17.5 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.

TABLE 1

SETBACK DISTANCE STANDARDS ALL MEASUREMENTS AND DISTANCES IN FEET

SETBACK (FT)	METEOROLOGICAL TOWER	TYPE 0 & TYPE 1	TYPE 2	TYPE 3
FALLING & DEBRIS HAZARD	$S_{FD} = H_o \times 1.5$ Where: S_{FD} Setback Distance H_o Height Overall	$S_{FD} = H_o \times 1.5$ Where: S_{FD} Setback Distance H_o Height Overall	$S_{FD} = H_o \times 1.5$ Where: S_{FD} Setback Distance H_o Height Overall	$S_{FD} = H_o \times 1.5$ Where: S_{FD} Setback Distance H_o Height Overall
FLOCKER HAZARD	Not Applicable	$S_F = (H_o / 178) \times 1.5$ Where: S_F Setback Distance H_o Height Overall Not including 120° to 240° True	$S_F = (H_o / 178) \times 1.5$ Where: S_F Setback Distance H_o Height Overall Not including 120° to 240° True	Flocker Analysis Report
ACOUSTIC HAZARD	Not Applicable	$S_A = 10^{((L_w + L_p + L_s + 4 \log(n) - 5 - 30) / 20)}$ Where: S_A Setback Distance L_w Manufacturer's Guaranteed Maximum Sound Power Level, in dBA, re 1pW L_p Uncertainty Factor = 5 L_s Safety Factor = 2 n No. of Turbines for one turbine $4 \log(n) = 0$	$S_A = 10^{((L_w + L_p + L_s + 4 \log(n) - 5 - 30) / 20)}$ Where: S_A Setback Distance L_w Manufacturer's Guaranteed Maximum Sound Power Level, in dBA, re 1pW L_p Uncertainty Factor = 5 L_s Safety Factor = 2 n No. of Turbines for one turbine $4 \log(n) = 0$	$S_A = 10^{((L_w + L_p + L_s + 4 \log(n) - 5 - 30) / 20)}$ Where: S_A Setback Distance L_w Manufacturer's Guaranteed Maximum Sound Power Level, in dBA, re 1pW L_p Uncertainty Factor = 5 L_s Safety Factor = 2 n No. of Turbines

TABLE 2

Acoustic Setback Distance in Feet

Property Line Criteria, dBA:	30
Uncertainty Factor, dBA:	5
Safety Factor, dBA:	2

Manufacturer's Guaranteed Maximum Sound Power Level, dBA re 1pW	Number of Wind Turbines									
	1	2	3	4	5	6	7	8	9	10
70	211	243	263	275	292	302	312	320	328	337
71	237	272	295	313	327	338	350	358	368	373
72	265	306	331	351	367	381	393	403	413	422
73	295	343	372	394	412	427	441	452	463	473
74	337	395	417	442	462	478	494	505	520	531
75	375	432	468	495	519	535	555	570	583	598
76	422	484	525	558	582	603	622	639	654	670
77	473	544	590	624	653	677	698	717	734	750
78	531	610	661	701	732	755	783	805	824	841
79	595	684	742	785	822	852	879	903	924	944
80	663	756	833	882	922	955	986	1,013	1,037	1,059
81	735	851	934	985	1,035	1,073	1,107	1,137	1,164	1,189
82	811	947	1,048	1,110	1,161	1,201	1,242	1,275	1,306	1,334
83	894	1,054	1,176	1,248	1,303	1,351	1,393	1,431	1,465	1,495
84	1,050	1,217	1,320	1,395	1,461	1,513	1,563	1,608	1,644	1,675
85	1,180	1,355	1,461	1,538	1,604	1,657	1,704	1,751	1,784	1,814
86	1,334	1,533	1,661	1,732	1,804	1,858	1,908	1,953	1,999	2,033
87	1,496	1,718	1,864	1,974	2,064	2,141	2,208	2,268	2,322	2,371
88	1,670	1,925	2,091	2,215	2,319	2,408	2,478	2,543	2,605	2,661
89	1,854	2,134	2,347	2,485	2,590	2,695	2,780	2,853	2,923	2,985
90	2,113	2,435	2,633	2,785	2,916	3,033	3,139	3,233	3,320	3,397
91	2,371	2,734	2,954	3,125	3,272	3,393	3,500	3,594	3,680	3,758
92	2,661	3,055	3,315	3,511	3,671	3,807	3,927	4,033	4,129	4,217
93	2,985	3,438	3,710	3,935	4,110	4,272	4,406	4,525	4,633	4,732
94	3,350	3,845	4,173	4,420	4,622	4,793	4,943	5,077	5,196	5,309
95	3,758	4,317	4,682	4,955	5,186	5,375	5,547	5,697	5,832	5,967
96	4,217	4,844	5,253	5,554	5,818	6,034	6,223	6,392	6,544	6,683
97	4,732	5,435	5,894	6,243	6,528	6,771	6,983	7,173	7,343	7,499
98	5,300	6,055	6,613	7,005	7,325	7,597	7,835	8,047	8,239	8,414
99	5,957	6,843	7,420	7,830	8,210	8,524	8,791	9,029	9,244	9,441
100	6,689	7,677	8,326	8,815	9,221	9,554	9,853	10,130	10,372	10,593
101	7,490	8,574	9,342	9,855	10,347	10,731	11,037	11,366	11,697	11,955
102	8,414	9,695	10,488	11,002	11,505	12,040	12,417	12,753	13,057	13,335
103	9,441	10,844	11,730	12,457	13,025	13,590	14,032	14,399	14,685	14,932
104	10,583	12,168	13,155	13,977	14,515	15,158	15,632	16,055	16,438	16,755
105	11,855	13,632	14,620	15,462	16,095	16,797	17,320	17,814	18,244	18,556
106	13,335	15,318	16,410	17,396	18,295	19,262	19,880	20,212	20,604	21,135
107	14,952	17,187	18,333	19,743	20,844	21,811	22,821	23,579	24,213	24,714
108	16,755	19,284	20,513	22,152	23,163	24,223	24,775	25,446	26,052	26,537
109	18,835	21,697	23,055	24,855	25,985	27,254	27,798	28,551	29,231	29,854
110	21,135	24,278	25,735	27,668	28,980	30,343	31,130	32,035	32,708	33,397
111	23,714	27,240	28,841	31,290	32,715	34,234	34,996	35,843	36,505	37,154
112	26,507	30,564	32,145	34,708	36,311	38,074	38,893	40,329	41,202	42,170
113	29,554	34,203	37,150	40,392	42,115	43,720	44,657	45,250	46,325	47,315
114	33,487	38,477	41,725	44,790	46,515	48,339	49,433	50,771	51,981	53,256
115	37,754	43,172	46,515	49,592	51,355	53,761	55,483	56,966	58,324	59,556

Town of Sedgwick, Maine

Wireless Telecommunications Facilities Ordinance

Section 1. Ordinance Administration

A. Title

This Ordinance shall be known as the "Town of Sedgwick Wireless Telecommunications Facilities Ordinance"

B. Purpose

The purposes of this Ordinance are (a) to provide reasonable conditions, standards for and regulation of wireless telecommunications facilities in order to protect the public's health, safety and general welfare, and (b) to balance the interests of the residents of the Town of Sedgwick with the needs of modern telecommunications providers and their customers in the siting of wireless telecommunications facilities within the town.

C. Authority

This Ordinance has been prepared in accordance with the provisions of Article VIII, Part 2, §1 of the Maine Constitution (Municipal Home Rule), the provisions of 30-A, M.R.S.A. § 3001 (Home Rule) and the provisions of the Planning and Land Use Regulation Act, 30-A M.R.S.A. § 4312, etc. seq. *{Comprehensive Planning and Land Use Regulation, or "Growth Management Act"}* and 30-A M.R.S.A. § 4452 ("Enforcement and Land Use Laws and Ordinances")

D. Conflicts with Other Ordinances, Laws and Regulations

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

E. Validity and Severability

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

F. Permitting Authority

The Planning Board shall review applications for wireless telecommunications facilities.

G. Applicability

This Ordinance applies to all construction, maintenance, repair, replacement, removal and expansion of wireless telecommunications facilities, existing or proposed, within the Town of Sedgwick except as provided in Section 2.

H. Effective Date

The effective date of this Ordinance is March 2, 2013, as adopted by the Municipal Legislative body.

I. Availability

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

Section 2. Exemptions

The following are exempt from the provisions of this Ordinance as long as the fall setback distance from the property perimeter meets or exceeds one and one-half (1 1/2) times the height of the antenna and the individually listed restrictions on tower and antenna height are followed.

A. Emergency Wireless Telecommunications Facility: Temporary wireless communications facilities for emergency communications by public agencies.

B. Amateur (Ham) Radio Stations: Amateur (ham) radio station antennas licensed by the Federal Communications Commission (FCC) that are less than thirty-five (35) feet high.

C. Parabolic Antennas: Parabolic Antennas less than (7) seven feet in diameter, that are an accessory use of the property under thirty-five (35) feet high.

D. Routine repair and maintenance or repair: Routine maintenance or repair of a wireless telecommunications facility and related equipment provided that there is no change in height or any other dimension of the facility.

E. Temporary Wireless Telecommunication Facility: Temporary wireless telecommunications facility in operation for a maximum period of less than one hundred and eighty (180) days. This may include, but is not limited to, "cellular on wheels" mobile equipment. Prior written notice to the Code Enforcement Officer and height limited to 190 feet or less is required.

F. Antennas as accessory uses:

An antenna that is an accessory use to a residential dwelling unit and is under thirty-five (35) feet high.

G. "Special event"¹¹ (see Definitions) Wireless Telecommunication Facility:

Temporary special event wireless telecommunication facilities for a period not to exceed five days preceding an event and five days after a special event. The height is restricted to one hundred ninety (190) feet or less.

Section 3. Review and Approval Authority

A. Approval Required

No person shall construct, reconstruct or expand a wireless telecommunications facility without approval of the Planning Board and notice to the Code Enforcement Officer as follows:

1. New Construction, Expansion of an Existing Facility.

Approval by the Planning Board is required for construction of a new wireless telecommunications facility; and expansion of an existing wireless telecommunications facility that increases the height or any other dimension of the facility or adds any accessory use not originally permitted for an existing wireless telecommunications facility.

2. Reconstruction of an Existing Facility.

Approval by the Code Enforcement Officer is required for reconstruction of a damaged wireless telecommunications facility. Reconstruction is allowed provided there is no change in the use, height or any other dimension of the facility. All damaged materials must be removed from the site as a condition of replacement and the CEO must be notified, inspect, and provide written approval before the facility can recommence operations. Reconstruction is allowed only within eighteen (18) months of date of damage and the full surety bond must be maintained during this time. After eighteen (18) months, a new application and surety bond must be submitted to the Planning Board or the facility will be declared abandoned and subject to removal pursuant to Section 8 (C) of this Ordinance.

3. Expiration of Approved Applications.

All site plan approvals shall expire within (1) one year of the date of issuance unless work thereunder is substantially commenced (substantially commenced means at least 30% of the total value of the project is completed). If work is not substantially completed (substantially completed means work equal to at least 90% of the estimated total project cost has been completed) within two (2) years from the date of issuance, a new application to the Planning Board must be made or the partially completed structure will be declared abandoned and subject to removal pursuant to Section 8 (C) of this Ordinance.

B. Approval Authority

In accordance with Section 3A above, the Planning Board shall review applications for all wireless telecommunications facilities, and make written findings in accordance with Section 6.C.5 of this Ordinance.

Section 4. Requirements for All Applicants

A. Pre-Application Conference

The Pre-application conference is not optional. All persons seeking approval of the Planning Board under this Ordinance shall meet with the Code Enforcement Officer, no less than thirty (30) days before filing an application. The Code Enforcement Officer has the authority to request a pre-application conference with the Planning Board. At this meeting, the Code Enforcement Officer shall explain to the applicant the Ordinance provisions, possible locations to avoid for tower sites (including areas identified as Scenic Resources in the Town Comprehensive Plan) as well as application forms and submissions that will be required under this Ordinance. There is no fee for the Pre-Application Review. Any review or comment by the Code Enforcement Officer is not binding upon either the Code Enforcement Officer or the Planning Board. The use of this procedure shall not render an application to be a pending application.

Section 5. Application Submission Requirements for Planning Board Review

All persons seeking review by the Planning Board for construction, reconstruction, or replacement of a wireless telecommunications facility under this Ordinance shall submit an application with the information as provided below. These materials shall be contained in a bound report or a three-ring notebook.

A. General Information:

1. Name of landowner of record and address;
2. Applicant's name and address or his authorized agent;
3. The name of the proposed development;
4. Names and addresses of all abutting and adjacent property owners;

5. Location of the site within the Town of Sedgwick shown on a USGS 7.5 minute topographic map including the location of all structures and wireless telecommunications facilities above one hundred fifty (150) feet in height above ground level, except antennas located on rooftops, within a five (5) mile radius of the proposed facility, unless this information has been previously made available to the municipality. This requirement may be met by submitting current information (within thirty (30) days of the date the application is filed) from the FCC Tower Registration Database;
6. Tax map(s) with lot numbers showing the relationship of the proposed project to adjacent properties and to the general surrounding area within three thousand + -(3,000+ -) feet of any property line of the site. The scale shall not be smaller than 1"=400';
7. A copy of the deed to the property, option to purchase or lease the property and all other documentation to demonstrate the applicant's legal standing, right, title, or interest in the property upon which the facility is to be sited;
8. A copy of the FCC license for the facility, or a signed statement from the owner or operator of the wireless telecommunications facility attesting that the facility complies with current FCC regulations;
9. A schedule of construction, including anticipated beginning and completion dates;
10. Projects involving the storing, generating, handling, and disposal of hazardous wastes or materials, oil or radioactive wastes shall specify the exact amount and nature of all such substances that will be on the site and the specific method of handling, containing, and removing those substances that will be used;
11. Notification of the application must be sent by the Applicant, by Registered US Mail, return receipt required, to all abutting and adjacent landowners of the proposed development, the Sedgwick Board of Selectmen, the Code Enforcement Officer and Planning Board notifying them of the proposed development; and
12. A surety performance bond indemnifying the town for 100 % of the costs of removal, allowing for inflation over the estimated useful life of the facility, less salvage value, as determined by the Planning Board shall be submitted to the Selectmen and Code Enforcement Officer before construction starts and renewed annually as long as the structure exists. The bond must be provided by an insurance company licensed to do business in the State of Maine and presented in a format and monetary amount acceptable to the Board of

Selectmen and reviewed by the Sedgwick Town Attorney. Notice of the renewal of the surety bond, the coverage amount and penal sum adjusted for inflation by the CPI, shall be sent by US Registered Mail to the Selectmen yearly thirty (30) days prior to the anniversary date of the initial surety bond purchase by the owner or the bonding agent. Should the surety bond not be renewed, the bonding company must give the Selectmen and CEO sixty (60) days notice of non-renewal and advise the Selectmen of steps required to renew the bond. For the Selectmen to assure and approve adequate coverage by the surety bond, the owner or the bonding agent should provide written estimates, adjusted for inflation, of salvage value, removal costs, procedures, and timeline by two removal contractors licensed to do business in the State of Maine. When the removal of the facility has been completed and certified by the CEO, the owner may apply to the Planning Board for release of all or part of the surety bond, such requested release not to be unreasonably withheld.

B. Consent to Terms of the Surety Bond

Consent by the Planning Board to the terms of any surety bond submitted by the Applicant must be obtained prior to the following:

1. Approval by the Planning Board of any wireless telecommunications facility;
2. Sale or assignment of any existing wireless telecommunications facility to a third party; and
3. Cancellation or substitution of an existing surety bond.

C. Location Information-Mapping

1. The following information regarding proposed development and existing conditions are required. This information must accompany, or be submitted on, a site plan prepared and certified by a professional engineer registered in the State of Maine using the following scale and showing the date of the plan, magnetic north, the scale and the identity of the draftsman:

Acres	Scale
1-10	1"=10' to 1" = 50'
10-50	1"=50' to 1" = 100'

50+ (lots 4 acres) 1" = 100'

50+ (lots>4acres) 1" = 200'

a. Zoning classification(s) of the property and the location of zoning district boundaries if the property is wholly or partially located in an area subject to Shoreland Zoning;

b. Listings, locations, descriptions, and maps of all historic, archaeological, environmental, and natural features, as defined in Section 11, located on the site, on adjacent and abutting properties, or on additional properties located within twenty-five hundred (2500) feet of the site boundaries.

c. The location, type and height of the proposed Facility, antenna capacity, on-site and abutting off-site land uses, means of access, setbacks from property lines, and all applicable American National Standards Institute (ANSI) technical and structural codes;

d. Location and size of all existing and proposed wells, sewer and water mains, culverts, drains, above or below ground utilities and waste water disposal systems on the property to be developed, and of any of these items that currently serves or will serve the development from abutting streets;

e. Location, names, and widths of all existing and proposed streets and rights-of-way adjacent to the proposed development;

f. The location, dimensions, and ground floor elevations of all existing and proposed buildings on the site;

g. The location and dimensions of all existing and proposed driveways, streets, parking and loading areas, and walkways on the site;

h. The existing and proposed topography of the site at an appropriate contour interval (not greater than five (5) feet) depending on the nature of the use and character of the site

i. The delineation of all the fall zones, one and a half (1 and 1/2) times the height of the tower from existing and proposed buildings, yards, property lines and buffers required by this Ordinance shall be shown on the applicant's plan.

2. A boundary survey for the project performed by a licensed professional surveyor licensed by the State of Maine including the following:

a. The bearings and distance of all property lines of the property to be developed and the source of this information shall be on the survey; and

b. A survey of the lessor's or current owner's entire property shall be presented.

3. A copy of such covenants or deed restrictions, if any, as are intended to cover all or part of the site. Such covenants or deed restrictions shall be referenced on the site plan.

D. Location Information- Soils and Erosion Control

1. Soils information if on-site sewage disposal is proposed. This information should be detailed enough to allow those portions of the site not suitable for on-site disposal systems to be identified, if applicable.

a. The direction and amount of pre-development and proposed surface water drainage flow across and from the site, based upon 24-hour, 2-, 10- and 25-year storms. Where proposed flow exceeds pre-development flows by 10% or more, the applicant shall submit a storm-water management plan, showing the steps taken to minimize the impact of storm water runoff. The storm water management plan shall be based upon 24-hour, 2-, 10- and 25-year storms.

b. An erosion control and sedimentation control plan shall be included which sets forth the measures to be taken to comply with BMP's in Maine Erosion and Sedimentation Control Laws M.R.S.A. 420-C and all other applicable Environmental Laws pertaining to erosion and sedimentation control.

E. Location Information- Visual Impact

1. The location, front view, dimensions and type of all existing and proposed exterior signs.

2. A visual assessment consisting of the following:

- a.** Elevation drawings of the proposed wireless telecommunications facility, and any other proposed structures, showing height above ground level;
- b.** A landscaping plan indicating the proposed placement of the wireless telecommunications facility on the site: location of existing structures, trees and other significant features; the type and location of plants proposed to screen the facility; the method of fencing, the color of the structure, and the proposed lighting method.
- c.** Photo simulations of the proposed wireless telecommunications facility taken from perspectives determined by the Planning Board, or their designee. Each photo must be labeled with the line of sight, elevation, and with the date taken imprinted on the photograph. The photos must show the color of the facility and method of screening.
- d.** A narrative discussing the extent to which the proposed wireless telecommunications facility would be visible from or within a designated scenic resource, the tree line elevation of vegetation within 100 feet of the facility, and the distance to the proposed facility from the designated scenic resource's noted viewpoints.

F. Location Information -- Propagation Studies

- 1.** Propagation studies of areas already covered by wireless telecommunications facilities as well as areas proposed to be covered by the applicant.
- 2.** A written description of how the proposed wireless telecommunications facility fits into the applicant's telecommunications network. This submission requirement does not require disclosure of confidential business information.
- 3.** Certification by the applicant that the proposed wireless telecommunications facility complies with all FCC standards for radio emissions is required.
- 4.** Evidence demonstrating that no existing building, site, or structure can accommodate the applicant's proposed wireless telecommunications facility, the evidence for which may consist of any one of the following:
 - a.** Evidence that no existing wireless telecommunications facilities are located within the targeted market coverage area as required to meet the applicant's engineering requirements.

b. Evidence that existing wireless telecommunications facilities do not have sufficient height or cannot be increased in height at a reasonable cost to meet the applicant's engineering requirements up to the limit of 190 feet.

c. Evidence that existing wireless telecommunications facilities do not have sufficient structural strength to support the applicant's proposed antenna and related equipment. Specifically:

i. Planned, necessary equipment would exceed the structural capacity of the existing wireless telecommunications facility, considering the existing and planned use of those facilities, and these existing facilities cannot be reinforced to accommodate the new equipment.

ii. The applicant's proposed antenna or equipment would cause electromagnetic interference with the antenna on the existing towers or structures, or the antenna or equipment on the existing wireless telecommunications facility would cause interference with the applicant's proposed antenna.

iii. Existing or approved wireless telecommunications facilities do not have space on which planned equipment can be placed so it can function effectively.

d. For wireless telecommunications facilities existing prior to the effective date of this Ordinance, there is evidence that the fees, costs, or contractual provisions required by the owner in order to share, or adapt an existing wireless telecommunications facility are unreasonable. Costs exceeding the pro rata share of a new wireless telecommunications facility development are presumed to be unreasonable. This evidence shall also be satisfactory for a tower built after the passage of this Ordinance.

e. Evidence that the applicant has made diligent good faith efforts to negotiate co-location on an existing wireless telecommunications facility, building, or structure, and has been denied access.

G. Location Information -- Submission Waivers

1. The Planning Board, as appropriate, may waive any of the submission requirements based upon a written list of requested waivers submitted by the

applicant at the time of application, accompanied by the written reasons why each waiver is being requested.

2. A waiver of any submission requirement may be granted only if the Planning Board finds in writing that due to special circumstances of the application, the information is not required to determine compliance with the standards of the Ordinance.

Section 6. Fees, Public Hearing and Final Application Review Procedure

A. Permit Application Fee

An application for Planning Board approval shall include payment of a permit application fee of \$2,500 or .25 cents per square foot of total area fenced compound, whichever is higher. Each accessory building included in this area requires an additional fee of \$500.00. The application shall not be considered complete until these fees are paid. An applicant is entitled to a refund of the application portion of the fee if the application is withdrawn within fifteen (15) days of the date of filing.

B. Planning Board Review Fee (held in Escrow)

1. An applicant requesting approval by the Planning Board shall deposit with the Town a \$5,000.00 fee to cover all reasonable and customary fees to include engineering studies, consultant fees, legal costs, and out-of-pocket expenses incurred by the municipality that are necessary to review the application and to hold public meetings and render its decision. The review fee shall be paid at the time of application. If the applicant appeals the final decision to a court of competent jurisdiction, that applicant shall pay the Town's costs and reasonable expert witness and attorney fees should the Town prevail.

2. This Review Fee shall be held in Escrow. That portion of the review fee not used shall be returned to the applicant with an accounting of expenditures within thirty (30) days of the Planning Board's final decision.

C. Application Procedure

1. Filing the Application & Fees

Nine (9) copies of the application shall be filed with the Code Enforcement Officer or Planning Board two (2) weeks prior to the scheduled meeting for review. The application shall be accompanied by the Permit Application Fees (Section 6 A) and the Planning Board Review Fee (Section 6 B.1).

2. Planning Board Preliminary Review

Within forty-five (45) days of the filing of the application, the Planning Board shall review the application and determine if the application meets the submission requirements. The Planning Board, as appropriate, shall review any written requests for a waiver from the submission requirements and shall act on these requests prior to determining the completeness of the application. An application will be considered to be complete, and pending under 1 M.R.S.A. Section 302, when the Board has conducted at least one substantive application review and found by affirmative vote that it meets all applicable submission requirements under Section 5.

3. Complete Application

If the application is complete, the Planning Board shall notify the applicant in writing of this determination, or if the application is incomplete, the Planning Board shall notify the applicant in writing, specifying the additional materials or information required to complete the application. After the Planning Board has determined that a complete application has been filed, and has notified the applicant in writing of such, it will begin the review process of the proposed development.

4. Public Hearing & Abutter's Notices

The Planning Board will hold a Public Hearing within thirty-five 35 days after finding the application complete. The Code Enforcement Officer or the Planning Board shall publish the time, date and place of the hearing at least two (2) times at least fourteen (14) days prior to the hearing in a newspaper of area-wide circulation. The applicant must supply to the Planning Board a list of the abutting landowners. The Code Enforcement Officer shall send notice by registered mail, return receipt requested, to each abutting or adjacent landowner of record as listed in the town office. Said notice shall be sent at least twenty-one days in advance of any hearing. The Planning Board shall maintain a list of property owners to whom notice is mailed, together with return receipts, in the application file. Failure on the part of any abutter or adjacent property owner to receive such notice shall not be grounds for delay of any consideration of the application nor denial of the project.

5. Final Planning Board Review

The review period from the date of application is considered complete to the final public hearing is one hundred and eighty (180) days. Within sixty (60) days of the final Public Hearing, the Planning Board shall approve, approve with conditions, or deny the application in writing, together with the findings on which that decision is based. This time limit for review may be extended by mutual agreement between the Planning Board and the applicant.

Section 7. Planning Board Review Standards

An application for approval by the Planning Board for New Construction or Expansion of an Existing Facility must meet the following standards:

A. Designed for Co-Location

A new wireless telecommunications facility and related equipment must be designed and constructed to accommodate expansion for future co-location of at least three additional wireless telecommunications facilities or providers at commercially reasonable rental rates which will be subject to review and approval of the Planning Board.

B. Height

A wireless telecommunications facility must be no more than one hundred ninety (190) feet in height.

C. Setbacks

A new or expanded wireless telecommunications facility must be set back one and one half (1-1/2) times its height, measured from the outer edge of the fence, from all property lines. The setback may be satisfied by including the areas outside the property boundaries if secured by an easement. The height of the tower shall be measured from the base of the Tower.

D. Landscaping and Noise

A new wireless telecommunications facility and related equipment must be screened with plants from view by abutting and adjacent properties, to the maximum extent practicable. Existing plants and natural landforms on the site shall also be preserved to the maximum

extent practicable. The noise of operation, generators, or other structural parts of the installation must be designed to protect adjacent property owners. Complaints shall be reviewed by the Code Enforcement Officer and recommended solutions required of the facility operator.

E. Fencing

A new wireless telecommunications facility must be fenced to discourage trespass on the facility by persons and animals and to discourage climbing on any structure by trespassers. The fence must encircle the entire facility, stand no less than ten (10) feet tall, and be constructed of materials that conform to the security requirements and the requirements of Section 7 G below.

F. Lighting

A new wireless telecommunications facility must be illuminated only as necessary to comply with FAA or other applicable state and federal requirements. Lighting must meet the standards of the Sedgwick Site Plan Review Ordinance.

G. Color and Materials

A new wireless telecommunications facility must be constructed with materials and colors that match or blend with the surrounding natural or built environment, to the maximum extent practicable. Unless otherwise required, muted colors, earth tones, and subdued hues shall be used.

H. Structural Standards

A new wireless telecommunications facility must comply with the current Electronic Industries Association/Telecommunications Industries Association (EIA/TIA) 222 Revision Standard entitled "Structural Standards for Steel Antenna Towers and Antenna Supporting Structures," and with Hancock County Standards for wind shear and ice load.

I. Visual Impact

(i) The proposed wireless telecommunications facility shall not have an unreasonable adverse visual impact upon (1) designated scenic resources as defined in Sections 11 of this Ordinance or by any other State or Federal Agency; and (2) an historic district, site or structure which is currently listed or eligible for listing on the National Register of Historic Places.

(ii) Determination of Adverse Visual Impact of Scenic Resources:

In determining whether the proposed facility has an unreasonable adverse visual impact upon the designated scenic resources, the Planning Board shall consider the following criteria:

- a. The extent to which the proposed wireless telecommunications facility is visible above the tree line from designated scenic resources and viewpoints from public roads within one (1) mile in any direction of designated scenic resources.
- b. The distance of the proposed facility from said viewpoints and the designated scenic resources.
- c. The type, number, height and proximity of existing structures and features, and background features within the same line of sight as the proposed facility from the designated scenic resources.
- d. The amount of vegetative screening.
- e. The presence of reasonable alternatives that allow the facility to function consistently with its purpose.

J. Natural & Environmental Resources

The proposed wireless telecommunications facility shall have no unreasonable adverse impact on natural and environmental resources on abutting and adjacent properties or within adjoining natural areas or watersheds surrounding the site as location or habitat containing non-game and endangered species as listed by the United States or State of Maine Departments of Environmental Protection, or as conservation areas owned or protected by easement by the State, the town, adjoining towns, or not-for-profit conservation organizations, such impact to be defined by specific review and findings by the relevant federal and state agencies and/or testimony presented at the

public hearing by qualified non-governmental organizations and individuals.

Section 8. Standard Conditions of Approval

A. Site Plan Review Ordinance --Town of Sedgwick

An approved project must meet the Site Plan Review Ordinance of the Town of Sedgwick in addition to satisfying all the review criteria in this Wireless Telecommunications Facilities Ordinance.

B. Amendment to an Approved Application

Any changes to an approved application must be approved by the Planning Board, in accordance with Section 4.

C. Abandonment

1. A wireless telecommunications facility that is not operated for a continuous period of twelve (12) months shall be considered abandoned. The Code Enforcement Officer shall notify the owner of an abandoned facility and the surety bond provider as described in Section 5.A.12 in writing and order the removal of the facility within ninety (90) days of receipt of the written notice. The owner of the facility shall have thirty (30) days from receipt of the notice to demonstrate to the Code Enforcement Officer that the facility has not been abandoned. If the owner fails to show that the facility is in active operation, the owner shall have sixty (60) days to remove the facility. If the facility is not removed within this time period, the municipality may remove the facility at the owner's expense. The owner of the facility 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 re-establishment of vegetation. The owner of the facility may apply to the Select Board for release of the surety bond when the facility and related equipment are removed to the satisfaction of the Planning Board.

2. A wireless telecommunications facility may also be considered abandoned if it does not complete all lot improvements, fencing, and landscaping, or any other requirements under this ordinance. The CEO shall notify the owner of the facility and surety bond holder in writing and order the completion of said facility within ninety (90) days from the date of notification and, if the required actions are not taken within the specified period, the Town may either complete the requirements at the facility owner's expense with costs first taken from the surety bond, or may take legal action to consider the

facility abandoned and to exercise the requirements for removal as established in Section 8.C.1.

D. Co-Location

As a condition of approval, the owner of the wireless telecommunications facility, his or her successors and assigns agree to:

1. Respond in a timely, comprehensive manner to a request for information from a potential co-location applicant, in exchange for a reasonable fee not in excess of the actual cost of preparing a response.
2. Negotiate in good faith for shared use of the wireless telecommunications facility by third parties;
3. Allow shared use of the wireless telecommunications facility if an applicant agrees in writing to pay reasonable charges for co-location as defined in Section 8.D.4.
4. Require no more than a reasonable charge for shared use of the wireless telecommunications facility, based on community rates and generally accepted accounting principles. This charge may include, but is not limited to, a pro rata share of the cost of site selection, planning project administration, land costs, site design, construction and maintenance, financing, return on equity, depreciation, and all of the costs of adapting the tower or equipment to accommodate a shared user without causing electromagnetic interference. The amortization of the above costs by the facility owner shall be accomplished at a reasonable rate, over the life span of the useful life of the wireless telecommunications facility.

E. Change of Ownership

As a further condition of approval, any new owner of the wireless telecommunications facility whether by assignment, transfer, succession or inheritance shall be bound by the provisions of this permit. The Select Board and Code Enforcement Officer shall be notified in writing sixty (60) days in advance of a change of ownership of the facility and that the permit issued is conditioned upon Planning Board review and the surety bond being continued or replaced in the name of the new owner.

F. Emissions

As a further condition of approval, and upon request by the Town, the applicant shall, no less than annually, while the wireless telecommunications facility is in operation, certify to the Town in writing that it is in full compliance with all applicable FCC radio frequency emissions regulations.

Section 9. Administration and Enforcement

A. Administration

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 this Ordinance, or to violate or fail to comply with any permit issued under the Ordinance, or 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.

2. The Board of Selectmen, following Planning Board review, is authorized to enter into administrative consent agreements for the purpose of eliminating violations of this Ordinance and recovering fines without court action only upon Planning Board review that the consent agreement shall comply with the terms of this Ordinance. Such agreements, however, shall not allow any illegal facility, structure, or use, to continue unless there is clear evidence that the facility, structure or use was constructed or conducted as the direct result of erroneous advice provided by an authorized town official and there is no evidence that the owner or operator acted in bad faith.

B. Enforcement

1. The Code Enforcement Officer, as appointed by the Board of Selectmen, shall enforce this Ordinance and the terms of all permits issued pursuant to this Ordinance. If the Code Enforcement Officer determines that a violation of these ordinances 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.

2. If, after thirty (30) days from the date of notice of violation, the violation has not been resolved, the Board of Selectmen may institute civil proceedings or any other remedy at law to ensure compliance with the Ordinance or permit.

3. In other cases, when directed by the Board of Selectmen, the Code Enforcement Officer and/or Town Attorney are hereby authorized to initiate enforcement proceedings, either legal or equitable, that they deem appropriate to enforce the Ordinance.

4. Each violation identified by the Code Enforcement Officer shall constitute a separate offense for which the civil penalties may be assessed on a per day basis as provided in Title 30-A, Section 4452(3) of the Maine statutes. In addition, the violator may be subject to correct violations and pay the Town's attorney and expert witness fees as provided in Section 4452.

Section 10. Appeals

Any person aggrieved by a decision of the Code Enforcement Officer or the Planning Board under this Ordinance, including the Applicant, an abutter or an objector at a public hearing, may appeal the decision to the Sedgwick Board of Appeals, as provided by Section XI of the town's Site Plan Review Ordinance and/or Section 16.H. 1(a), 3 and 4 of the Sedgwick Shoreline Zoning Ordinance. The Board of Appeals shall commence an appellate hearing to review the record of the Planning Board and Code Enforcement Officer to affirm or reverse the appealed decision based on the provisions of the applicable requirements of this Ordinance, other town and state ordinances, and the facts as presented in the original Planning Board/Code Enforcement Officer hearing and procedures.

Under the Federal Telecommunications Act (TCA) a person adversely affected by the final decision may also commence an action in any court of competent jurisdiction within thirty (30) days of the final municipal decision.

Section 11. Definitions

Accessory Building – Any structure other than an antenna within the property perimeter.

Antenna - A system of poles, guy wires, panels, rods, reflecting discs or similar devices used for the transmission or reception of radio or electromagnetic frequency signals.

Antenna Height - The vertical distance measured from the base of the antenna support structure at grade to the highest point of the structure, even if said highest point is an antenna, not to exceed 190 feet. Measurement of tower height shall include antenna, base pad, and other appurtenances and shall be measured from the finished grade of the facility site. If the support structure is on a sloped grade, then the average between the highest and lowest grades shall be used in calculating the antenna height.

Co-Location - The use of a wireless telecommunications facility by more than one wireless telecommunications provider.

Designated Scenic Resource - The specific location, view or corridor, as identified as a scenic resource in a municipally adopted comprehensive plan or by a State or Federal agency that consists of:

1. A three dimensional area extending out from a particular viewpoint on a public way or within a public recreational area, focusing on a single object, such as a mountain, resulting in a narrow corridor, or a group of objects, such as a downtown skyline or mountain range.
2. Lateral terrain features such as valley sides or woodland as observed to either side of the observer, constraining the view into a narrow or particular field, as seen from a viewpoint on a public way or within a public recreational area.

Environmental or Natural Resources – Threatened natural features such as lakes, ponds, rivers, streams, marshes and other watershed elements, habitats or locations for non-game and endangered species as designated by the United States and State of Maine Departments of Environmental Protection.

Expansion - The addition of antennas, towers or other devices to an existing structure or the addition of new users other than the original owner proposing to utilize the telecommunications facility.

FAA - Federal Aviation Administration

Fall Setback Distance - The distance measured from the base of the wireless communications facility antenna to the property perimeter.

FCC— Federal Communications Commission, or its lawful successor.

Historic or Archeological Resources - Resources that are:

1. Listed individually in the National Register of Historic Places or eligible for listing on The National Register;
2. Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary of the Interior to qualify as a registered historic district;
3. Individually listed on a state inventory of historic places in states with historic preservation programs approved by the Secretary of the Interior;

4. Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified by Secretary of the Interior through the Maine Historic Preservation Commission;

5. Areas identified by a government agency, such as the Maine Historic Preservation Commission, as having significant value as an historic or archaeological resource.

Historic Landmark - Any improvement, building or structure of particular historic or archeological significance to the Town relating to its heritage, cultural, social, economic or political history, or which exemplifies historic personages or important events in local, state, or national history identified in the municipality's comprehensive plan, which have been listed or are eligible to be listed on the National Register of Historic Places.

Line of sight - The direct view of the object from the designated scenic resource.

Parabolic antenna - (also know as a satellite dish antenna) An antenna that is bowl-shaped, designed for the reception and or transmission of radio frequency communication signals in a specific directional pattern.

Principal Use - The use other than one that is wholly incidental or accessory to another use on the same premises.

Propagation Study – A computer simulated model of how a radio telecommunications system should perform, analyzing the coverage, dead-spots and performance of a proposed radio system for planning purposes, as suggested by the Telecommunications Industry Association (TIA) Service Bulletin 88 or TSB-88 with addendum B.

Public Recreational Facility - A regionally or locally significant facility, as defined and identified either by State statute or in the municipality's adopted comprehensive plan, designed to serve the recreational needs of municipal property owners.

Reconstruction - Replacement or repair of a damaged portion or portions of a wireless telecommunications facility.

Special Event - A rare and unpredicted event.

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

Targeted Market Coverage Area - The area that is targeted to be served by this proposed telecommunications facility.

Tree Line – Where the trees meet the horizon when viewed from designated scenic resources and viewpoints from public roads within one (2) mile in any direction of designated scenic resources.

Vegetative Screening – Live trees, shrubs, and other plants used to screen the structures associated with the wireless telecommunications facility.

Viewpoint - That location which is identified either in the municipally adopted comprehensive plan or by a Federal or State agency, and which serves as the basis for the location and determination of a particular designated scenic resource.

Wireless Telecommunications Facility or Facilities - Any structure, antenna, tower, or other device which provides radio/television, commercial mobile wireless services, unlicensed wireless services, cellular phone services, specialized mobile radio communications (SMR), common carrier wireless exchange access services, and personal communications service (PCS) or pager services, or any kind of wireless communication transmissions.