

911 Enhanced Addressing Ordinance
for
the Town of Somerville, Maine

For Adoption at Town Meeting

June 17, 2017

Attested as a True Copy

Alissa Yoder, Town Clerk

Town of Somerville Addressing Ordinance

ARTICLE I: PURPOSE

The purpose of this ordinance is to enhance the easy and rapid location of properties by law enforcement, fire, rescue, and emergency medical services personnel in the Town of Somerville, Maine.

ARTICLE II: AUTHORITY

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

ARTICLE III: ADMINISTRATION

This ordinance shall be administered by the Addressing Officer who is authorized to and shall assign road names and numbers to all properties, both on existing and proposed roads, in accordance with the criteria in ARTICLES 4 and 5. The Addressing Officer shall also be responsible for maintaining the following official records of this ordinance:

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

ARTICLE IV: NAMING SYSTEM

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

- 4.1 No two roads shall be given the same name (e.g., no Pine Road and Pine Lane).
- 4.2 No two roads should have similar-sounding names (e.g., Beech St & Peach St).
- 4.3 Each road shall have the same name throughout its entire length.

ARTICLE V: NUMBERING SYSTEM

5.1 Numbers shall be assigned every 50 (fifty) feet along both sides of the road, with even numbers appearing on the left side of the road and odd numbers appearing on the right side of the road, determined by the number origin. (The frontage interval may vary in more densely or lightly populated areas, and it should be so indicated where that particular interval applies).

5.2 The following criteria shall govern the numbering system:

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- 5.2.1 All number origins shall begin from the designated center of Somerville or that end of the road closest to the designated center. (The numbering origin does not have to be the town center but could be a border with another community. For dead end roads, numbering shall originate at the intersection of the adjacent road and terminate at the dead end.
- 5.2.2 The number assigned to each structure shall be that of the numbered interval closest to the front door. If the front door cannot be seen from the main road, the number shall be that of the interval falling closest to the driveway of said structure.
- 5.2.3 Every structure with more than one principle use or occupancy shall have a separate number for each use or occupancy. (i.e. duplexes will have two separate numbers; apartments will have one road number with an apartment number, such as 235 Maple Street, Apt 2).

ARTICLE VI: COMPLIANCE

6.1 All owners of structures, by the date stipulated in Section 8, must display and maintain in a conspicuous piece on said structure, the assigned numbers in the following manner:

- 6.1.1 Number on the Structure or Residence. Where the residence or structure is within 50 (fifty) feet from the edge of the road right-of-way, the assigned number shall be displayed on the front of the residence or structure near the front door or entry.
- 6.1.2 Number at the Street Line. Where the residence or structure is over 50 (fifty) feet from the edge of the road right-of-way, the assigned number shall be displayed on a post, fence, wall, the mail box or some structure at the property line next to the walk or access drive to the residence or structure.
- 6.1.3 Size and color of number. Numbers shall be displayed in a color and size approved for use by the Addressing Officer and shall be located to be visible from the road. The numbering shall be a minimum of three (3) inches in height and of a color that is a visible contrast to the surface upon which it is mounted.
- 6.1.4 Every person whose duty is to display the assigned number shall remove any different number that might be mistaken for, or confused with, the number assigned in conformance with this ordinance.
- 6.1.5 Interior location. All residents and other occupants are requested to post the assigned number and road name to their telephone for emergency reference.

ARTICLE VII: NEW CONSTRUCTION & SUBDIVISIONS

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

- 7.1.1 New construction. Whenever any residence or other structure is constructed or developed, it shall be the duty of the new owner to obtain an assigned

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number from the Addressing Officer. This shall be done prior to the issuance of the building permit.

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

ARTICLE VIII: LOCAL CONTROL

8.1 In assigning a new road name to a particular road, the Addressing Officer must assign a name chosen by a majority of the residents living on the road, provided it does not violate the criteria of Section 4 and provided same road was constructed after April 1, 1994.

8.2 Within six (6) months of the enactment of this amendment, a majority of the residents of a named road may petition the Addressing Officer to change the name of that road, which new name the Addressing Officer must assign.

ARTICLE IX: ENFORCEMENT

This ordinance shall be the responsibility of the Addressing Officer to enforce. Violations of this ordinance are subject to a fine of not more than \$200.

ARTICLE X: EFFECTIVE DATE

10.1 This ordinance shall become effective on the day immediately following its adoption at a regular or special town meeting. A copy of this Ordinance and any amendments hereto shall be filed with the Town Clerk, according to the requirements of State law, and shall be accessible to any member of the public. The adoption of this Ordinance hereby repeals and supersedes all conflicting provisions of all ordinances adopted prior to the effective date of this Ordinance.

10.2 It shall be the duty of the Addressing Officer to notify by mail each property owner and the Somerville Post Office of a new address at least 30 (thirty) days before the effective date of its use.

10.3 It shall be the duty of each property owner to comply with this ordinance, including the posting of new property numbers, within 30 (thirty) days following notification. On new structures, numbering will be installed before final inspection or when the structure is first used or occupied, whichever comes first.

Appeals Board **Ordinance**

**Extracted from Land Use Ordinance
Adopted at Special Town Meeting
November 9, 2012**

Attested as a true copy

/s/

Alissa Yoder, Town Clerk

ARTICLE IX: APPEALS

Section 1. Establishment

There is hereby established a Board of Appeals pursuant to 30-A M.R.S.A. § 2691 and 3001.

Section 2. Appointment

- A. Members of the Board of Appeals shall be appointed by the municipal officers, who shall determine their compensation, and shall be sworn by the municipal clerk or other person authorized to administer oaths.
- B. The Board shall consist of five (5) regular members and two (2) alternate members.
- C. Regular members shall serve three (3) year staggered terms, except that the initial appointments shall be two (2) for one year, two (2) for two years, and (one (1) for three years. Alternate Board members shall be appointed for three year terms.
- D. When there is a permanent vacancy, the municipal officers shall appoint a person to serve for the unexpired term. A vacancy shall occur upon the resignation or death of any member, or when a member fails to attend four (4) consecutive regular meetings without a reasonable excuse, or when a member ceases to be a legal resident of the municipality. The municipal officers may remove members of the Board of Appeals, for just cause by majority vote, after providing notice and an opportunity for a hearing.
- E. Neither a municipal officer nor his or her spouse may serve as a member or alternate member of the Board of Appeals.

Section 3. Organization, Rules, and Procedures

- A. The Board shall elect a chairperson and a secretary from among its full voting members and create and fill such other offices as it may determine. The term of all offices shall be one (1) year with eligibility for reelection. The Board shall elect a chairperson and a secretary at the annual meeting which shall take place on the first Tuesday of May each year.
- B. When a member is unable to act because of interest, physical incapacity, absence or any other reason satisfactory to the chairperson, the chairperson shall designate an alternate member to sit in his or her place.
- C. Any question of whether a particular issue involves a conflict of interest sufficient to disqualify a member from voting thereon shall be decided by a majority vote of the members, except the member who is being challenged.
- D. An alternate member may attend all meetings of the Board. He/she may ask questions or offer comments only when members of the public are allowed to do so, and may make and second motions and vote only when he or she has been designated by the chairperson to sit for a member.
- E. The chairperson shall call a meeting when there is business to conduct. Notice of meetings shall be given in accordance with the Maine Freedom of Information Act.
- F. No meeting of the Board shall be held without a quorum consisting of three (3) members or alternate members authorized to vote. A decision of the Board requires 51% of those voting.

Section 4. Duties and Powers

- A. The Board of Appeals may adopt bylaws governing Board functions.
- B. The Board of Appeals may adopt rules and procedures for transaction of business, and the secretary shall keep a record of its resolutions, transactions, correspondence, findings, and determinations.
- C. The Board of Appeals shall file all bylaws, rules and procedures and subsequent revisions, and decisions with the municipal clerk.
- D. The Board of Appeals shall perform such duties and exercise such powers as are provided by ordinance(s) and the laws of the State of Maine.
- E. The Board of Appeals may obtain goods and services necessary to its proper function within the limits of appropriations made for the purpose by the Board of Selectmen of the Town of Somerville.

Section 5. Administrative Appeals

- 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.
- B. 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.
- C. 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.

Section 6. Variance Appeal

- A. Variance Appeals: To authorize variances upon appeal, within the limitations set forth in this Ordinance.
- B. Variance Appeals. Variances may be granted only under the following conditions:
 - 1. Variances may be granted only from dimensional requirements including, but not limited to, lot width, structure height, percent of lot coverage, and setback requirements.
 - 2. Variances shall not be granted for establishment of any uses otherwise prohibited by this Ordinance.
- C. The Board shall not grant a variance unless it finds that:
 - 1. The proposed structure or use would meet the provisions of Section 15 except for the specific provision which has created the nonconformity and from which relief is sought; and
 - 2. The strict application of the terms of this Ordinance would result in undue hardship. The term "undue hardship" shall mean:
 - a. That the land in question cannot yield a reasonable return unless a variance is granted;
 - b. That the need for a variance is due to the unique circumstances of the property and not to the general conditions in the neighborhood;
 - c. That the granting of a variance will not alter the essential character of the locality; and
 - d. That the hardship is not the result of action taken by the applicant or a prior owner.
- D. The Board of Appeals may grant a variance to an owner of a residential dwelling for the purpose of making that dwelling accessible to a person with a disability who resides in or regularly uses the dwelling. The Board shall restrict any variance granted under this subsection solely to the installation of equipment or the construction of structures necessary for access to or egress from the dwelling by the person with the disability. The Board may impose conditions on the variance, including limiting the variance to the duration of the disability or to the time that the person with the disability lives in the dwelling. The term "structures necessary for access to or egress from the dwelling" shall include railing, wall or roof systems necessary for the safety or effectiveness of the structure.
- E. The Board of Appeals shall limit any variances granted as strictly as possible in order to ensure conformance with the purposes and provisions of this Ordinance to the greatest extent possible, and in doing so may impose such conditions to a variance as it deems necessary. The party receiving the variance shall comply with any conditions imposed.

Section 7. Appeal Procedures

A. Making an Appeal

1. 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. 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.
2. 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.
3. Upon receiving an application for an administrative appeal or a variance, the Code Enforcement Officer, shall transmit to the Board of Appeals all of the papers constituting the record of the decision appealed from.
4. 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

1. A majority of the full voting membership of the Board shall constitute a quorum for the purpose of deciding an appeal.
2. The person filing the appeal shall have the burden of proof.
3. 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.
4. 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 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.

Section 8. 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 written decision of the Board of Appeal

**CEMETERY ORDINANCE
FOR
TOWN OF SOMERVILLE**

**For Adoption at Special Town Meeting
September 29, 2016**

Attested as a True Copy

Alissa Yoder, Town Clerk

TOWN OF SOMERVILLE CEMETERY ORDINANCE

Section I. Purpose

At the 2016 annual Town Meeting, the voters of the Town of Somerville approved a request by the Sand Hill Cemetery association to take over ownership of the Sand Hill Cemetery property and all assets and debts of the cemetery. The Sand Hill Cemetery Association shall remain in existence in some form to serve as a volunteer citizen group to assist the Town and work collaboratively in providing services and oversight of the cemeteries. The purpose of this Ordinance is to: (1) establish rules and standards for the use of the Somerville public cemetery and (2) authorize and clarify the roles of Town officials in managing its cemeteries and the funds allocated for the cemeteries.

Section II. Administration

1. The ultimate responsibility for the care of the public cemetery and lots therein shall be under the supervision of the Board of Selectmen, which is authorized to engage personnel and provide, by purchase or contract, necessary equipment and supplies to accomplish this purpose. The Board of Selectmen, following consultation with the Sand Hill Cemetery Association or its successor on what services might be volunteered, will clarify the scope of maintenance work to be carried out by hired personnel and lay those expectations out clearly in a contract for services. The Board of Selectmen, relying on information provided by the Sexton and the Sand Hill Cemetery Association are ultimately responsible to keep cemetery maps and ownership records as complete and accurate as possible.
2. The position of Sexton is hereby created. A Sexton will be appointed by the Board of Selectmen for a three-year term to manage burials and interpret lot boundaries for current and prospective lot owners. The Sexton will instruct all grave diggers, both professional and authorized lay persons of the deceased, on access routes, location and standards for digging and repairing grave sites. The Sexton will be the official with whom funeral parlors, vault companies and authorized persons of the deceased make all burial arrangements. Any compensation for the Sexton will be voted upon annually at town meeting.
3. It shall be the duty of the Sexton to keep a record of all lots selected and assigned and all transfer of lots in all cemeteries. Plans of the public cemetery shall be accessible to any person desiring information relating thereto, and the Sexton shall enter upon said plans all lots selected and the names of the holders thereof. The Sexton will make every effort to maintain current contact information for the owners of cemetery lots, requesting updated information at any time a burial or other activity is conducted. Finally, the Town Clerk will keep all records of burials, recording information on burial locations as provided by the Sexton. When only part of a lot is utilized for inurnment, the location will be noted by description or drawing.

Section III. Ownership and Title of Lots

1. The term “lot owner” or “ownership” shall be construed to mean the rights to use a lot or part of a lot, as purchased from the Town, for burial purposes under the rules and regulations as prescribed by the Town under this ordinance and by the State of Maine under Title 13 of the Maine Revised Statutes.

TOWN OF SOMERVILLE CEMETERY ORDINANCE

2. Any individual wishing to purchase a cemetery lot shall apply to the Town and then select from those lots available, the lot he/she desires to purchase. Only after full payment for the lot, including perpetual care charges, will a deed be issued and recorded in Town records.
3. A receipt indicating full payment from the Town Treasurer will serve as the right of burial.
4. The Title to a cemetery lot entitles the owner the right to use such lot for burial purposes only, for themselves, their heirs or for any person they choose without compensation and in accordance with the Cemetery rules and regulations.

Section IV. Lot Embellishments and Decorations

1. Hedges, fencing, walls, curbing, railings or similar structures or enclosures shall not be erected around gravesites following adoption of this ordinance. Existing structures or enclosures may be maintained but not expanded.
2. No trees may be planted in the Somerville cemetery without advance written approval by the Sexton.
3. All head stones and monuments shall have a concrete or equivalent foundation. All markers shall be flush with the surface of the ground and do not require a foundation.
4. A lot owner desiring to construct a mausoleum, statue/memorial other than a headstone or install lighting, other than small solar lights, must submit the design to the Board of Selectmen for approval prior to construction/installation. Approval will be granted if deemed to be compatible with the nature of the cemetery and not detract from the value of nearby lots.
5. Permission to plant shrubs (not to exceed 48 inches in breath or height) on lots shall in all cases be obtained from the Sexton, who will record the name and contact information of the person responsible for maintenance. The applicant will be provided with a written copy of these rules, making it clear that they are responsible for maintenance, with the Town reserving the right to prune or remove any tree, shrub or vine, or any part thereof, which may become unsightly or dangerous.
6. Flower urns will be allowed. If there is one urn, it shall be placed in front of the monument. If there are two urns, one will be placed on each side of the monument. The same rules apply to evergreen shrubs (one on either side or one in front.) Shrubs shall be maintained by the family. If not maintained properly, the Town is authorized to remove the shrub.
7. Plants, flowers, shrubs or any memorial container will be placed at the owner's risk. The Town assumes no responsibility for any of the above.
8. The town, in cooperation with the Sand Hill Cemetery Association or its successor shall see that flags are placed on Veterans graves in accordance with the requirements of State law. The family may also place flags.
9. All summer decorations shall be removed prior to October 15th. All winter decorations shall be removed prior to May 1st. The Sexton will remove these items when making his/her rounds.
10. No glass containers or crushed stone shall be used at any time.

Section V. Opening and Closing of Graves

TOWN OF SOMERVILLE CEMETERY ORDINANCE

1. No interment or disinterment shall take place on any lot in the Sand Hill cemetery until such intentions are made known to and approved by the Sexton.
2. Upon receipt of a request for interment or disinterment, the authorized family member or funeral home representative will meet with the Sexton on the gravesite and receive instructions on where and how the grave may be dug, including instructions for dealing with excess material, packing, grading and reseeded. The Sexton will approve scheduled burials such that no more than one will be taking place at the same time to allow for privacy.
3. Following an interment or disinterment, excavators shall be responsible for restoring and leveling the gravesite. No sites shall be mounded. Excavators shall remove all excess material from the site and repair damage to any other plots. Excess material shall be used to level between lots as appropriate. Disturbed areas shall be re-sodded and/or seeded as needed. No mounds shall be raised upon any grave above the general level of the lot.
4. The Town reserves the right at any time to remove unsightly mounds and to re-sod the grave at the general level of the lot. Any grave digger leaving a gravesite improperly restored will be billed for the costs of restoration. Repeated problems will be grounds for grave digging privileges to be revoked. This decision will be made by the Board of Selectmen upon recommendation of the sexton and communicated in writing to the grave digger.
5. Owners or their heirs desiring graves opened shall secure the necessary disinterment permit from the Town Clerk as required by law and make arrangements with the Sexton. All removals will be made under the supervision of a licensed funeral director. All costs will be assumed by the requestor.
6. All caskets shall be enclosed in a permanent outside container to prevent the earth from caving in. The following are considered permanent outside containers; concrete liner, concrete, copper or steel burial vaults and sectional concrete.

Section VI. Care of Cemetery and Cemetery Lots

1. All cemetery lots in the Sand Hill cemetery will be provided with perpetual care, which guarantees mowing, removal of debris, road upkeep and righting of fallen headstones. Cleaning of gravestones and maintenance of lot embellishments are the responsibility of the lot owner.
2. As soon as flowers, wreaths, emblems, etc., become unsightly and faded, they will be removed by the Town or its designee.
3. If any tree, shrub, hedge or plant situated on any lot by means of its roots, branches or otherwise becomes unsightly or obnoxious to adjacent lot owners, or detrimental or inconvenient to avenues or paths, the Town will contact the person of record and request that they repair or remove the nuisance within a reasonable period of time. If the Town needs to repair or removes the nuisance, it may bill the responsible party to recover the costs.
4. As required by State law, excavations may not be made within 25 feet of the boundary of a cemetery or known burial space without a special excavation permit issued by the Board of Selectmen or a court order.

Section VII. Potential Liability of Town

TOWN OF SOMERVILLE CEMETERY ORDINANCE

1. The Town is not liable in any action for:
 - a. a burial, entombment or inurnment in the wrong lot, grave, grave space, burial space, crypt, crypt space or niche;
 - b. a disinterment, disentombment or disurnment of the wrong deceased remains;
 - c. a repositioning of the remains of a deceased that encroach upon an adjacent lot, space, grave, grave space, or burial space;
 - d. setting or installing a marker, monument, or any type of memorial, or an outer burial container on the wrong lot, space, grave, grave space or burial space; or
 - e. installing any kind of foundation or other type of base for a marker, monument or any type of memorial on the wrong lot or burial space.
2. When a wrongful burial, entombment, inurnment, disinterment, disentombment, or disinurnment occurs, the Town shall:
 - a. correct the wrongful burial, entombment, inurnment, disinterment, disentombment or disurnment as soon as practical after becoming aware of the error at its own cost; and
 - b. notify the affected lot owners or family members of the occurrence and corrective action taken with a sincere apology.

Section VIII. Finances

1. The Board of Selectmen, with advice of the Sexton and the Sand Hill Cemetery Association or its successor shall annually establish and publish a schedule of fees for lots, which shall include perpetual care. The Board may also establish a fee for burials and disinterments.
2. Revenue from the sale of lots plus fees collected shall be deposited into a designated cemetery maintenance account, whose balance will carry forward each year. Monies in this account may only be used for cemetery purposes.
3. As required by State law, at least 30% of the proceeds from the sale of lots will be deposited into a Perpetual Care account and invested by the Town Treasurer and Board of Selectmen. Each year interest earned on this account may be transferred to the cemetery maintenance account and expended. Principal may not be spent.
4. In addition to revenue from the sale of lots, the Town shall appropriate funds each year for purposes of cemetery maintenance and improvements, and may elect to establish a capital improvement fund dedicated to cemetery improvements.

Section IX. Definitions and References

1. As used in this Ordinance, unless otherwise indicated, the following terms have the following meanings:

Cemetery: An area set apart for or containing graves, tombs, or funeral urns; burial ground; graveyard. The public cemetery in Somerville shall be known as the Sand Hill Cemetery located on Sand Hill Road.

Disinterment: The removal of a body from a grave.

Disurnment: The removal of cremated remains from a burial site.

Entombment: The placement of a body in a tomb.

TOWN OF SOMERVILLE CEMETERY ORDINANCE

Inurnment: The burial of cremated remains.

Interment: The burial of a body in a grave.

2. References: Title 13, Maine Revised Statutes, Section 1031 through 1386.

Section X. Miscellaneous Provisions

1. This ordinance shall become effective upon passage.
2. This ordinance may be amended at any properly noticed and legally called Town Meeting. The Town Clerk is authorized to renumber sections as needed following any amendment. The Board of Selectmen shall be authorized to adopt rules pertaining to fee structure, types of headstones, mowing schedules, flag placement, and other management concerns of the public cemetery after a notice and public hearing.
3. Should any portion of this ordinance be declared invalid by a Court of Law, the remainder of the ordinance remains legally in effect.

FLOODPLAIN MANAGEMENT ORDINANCE

FOR THE

TOWN OF SOMERVILLE, MAINE

ENACTED: 6/13/15
Date

EFFECTIVE: 6/13/15
Date

CERTIFIED BY: Susan O'Greer
Signature

CERTIFIED BY: Susan O'Greer
Print Name

First Selectman
Title

Affix Seal

FLOODPLAIN MANAGEMENT ORDINANCE

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ARTICLE I - PURPOSE AND ESTABLISHMENT

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

The areas of special flood hazard, Zones A and AE, for the Town of Somerville, Lincoln County, Maine, identified by the Federal Emergency Management Agency in a report entitled "Flood Insurance Study - Lincoln County, Maine," dated July 16, 2015 with accompanying "Flood Insurance Rate Map" dated July 16, 2015 with panels: 35D, 42D, 44D, 53D, 55D, 60D, 61D, 65D, 151D, 152D, 156D, derived from the county wide digital Flood Insurance Rate Map entitled "Digital Flood Insurance Rate Map, Lincoln 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 XIII), including the placement of manufactured homes, begins within any areas of special flood hazard established in Article I, a Flood Hazard Development Permit shall be obtained from the Code Enforcement Officer. This permit shall be in addition to any other permits which may be required pursuant to the codes and ordinances of the Town of Somerville, Maine.

ARTICLE III - APPLICATION FOR PERMIT

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

- A. The name, address and phone number of the applicant, owner, and contractor;
- B. An address and a map indicating the location of the construction site;
- C. A site plan showing location of existing and/or proposed development, including but not limited to structures, sewage disposal facilities, water supply facilities, areas to be cut and filled, and lot dimensions;

- D. A statement of the intended use of the structure and/or development;
- E. A statement of the cost of the development including all materials and labor;
- F. A statement as to the type of sewage system proposed;
- G. Specification of dimensions of the proposed structure and/or development;

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

- H. The elevation in relation to the National Geodetic Vertical Datum (NGVD), North American Vertical Datum (NAVD) or to a locally established datum in Zone A only, of the:
 - 1. base flood at the proposed site of all new or substantially improved structures, which is determined:
 - a. in Zone AE, from data contained in the "Flood Insurance Study - Lincoln 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), including information obtained pursuant to Article VI.K. and VIII.D.;
 - (2) from the contour elevation extrapolated from a best fit analysis of the floodplain boundary when overlaid onto a USGS Quadrangle Map or other topographic map prepared by a Professional Land Surveyor or registered professional engineer, if the floodplain boundary has a significant correlation to the elevation contour line(s); or, in the absence of all other data,
 - (3) to be the elevation of the ground at the intersection of the floodplain boundary and a line perpendicular to the shoreline which passes along the ground through the site of the proposed building.
 - 2. highest and lowest grades at the site adjacent to the walls of the proposed building;
 - 3. lowest floor, including basement; and whether or not such structures contain a basement; and,
 - 4. level, in the case of non-residential structures only, to which the structure will be floodproofed;
- I. A description of an elevation reference point established on the site of all developments for which elevation standards apply as required in Article VI;
- J. A written certification by a Professional Land Surveyor, registered professional engineer or architect, that the base flood elevation and grade elevations shown on the application are accurate;
- K. The following certifications as required in Article VI by a registered professional engineer or architect:

1. a Floodproofing Certificate (FEMA Form 81-65, as amended), to verify that the floodproofing methods for any non-residential structures will meet the floodproofing criteria of Article III.H.4.; Article VI.G.; and other applicable standards in Article VI;
 2. a Hydraulic Openings Certificate to verify that engineered hydraulic openings in foundation walls will meet the standards of Article VI.L.2.a.;
 3. a certified statement that bridges will meet the standards of Article VI.M.;
 4. a certified statement that containment walls will meet the standards of Article VI.N.;
- L. A description of the extent to which any water course will be altered or relocated as a result of the proposed development; and,
- M. A statement of construction plans describing in detail how each applicable development standard in Article VI will be met.

ARTICLE IV - APPLICATION FEE AND EXPERT'S FEE

A non-refundable application fee of \$50.00 shall be paid to the Town Clerk and a copy of a receipt for the same shall accompany the application.

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

ARTICLE V - REVIEW STANDARDS FOR FLOOD HAZARD DEVELOPMENT PERMIT APPLICATIONS

The Code Enforcement Officer shall:

- A. Review all applications for the Flood Hazard Development Permit to assure that proposed developments are reasonably safe from flooding and to determine that all pertinent requirements of Article VI (Development Standards) have been, or will be met;
- B. Utilize, in the review of all Flood Hazard Development Permit applications:
 1. the base flood and floodway data contained in the "Flood Insurance Study - Lincoln County, Maine," as described in Article I;
 2. in special flood hazard areas where base flood elevation and floodway data are not provided, the Code Enforcement Officer shall obtain, review and reasonably utilize any base flood elevation and floodway data from federal, state, or other technical sources, including information obtained pursuant to Article III.H.1.b.; Article VI.K.; and Article VIII.D., in order to administer Article VI of this Ordinance; and,

3. when the community establishes a base flood elevation in a Zone A by methods outlined in Article III.H.1.b., the community shall submit that data to the Maine Floodplain Management Program.
- 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 an Elevation Certificate completed by a Professional Land Surveyor, registered professional engineer or architect based on the Part I permit construction, "as built", for verifying compliance with the elevation requirements of Article VI, paragraphs F, G, or H. Following review of the Elevation Certificate data, which shall take place within 72 hours of receipt of the application, the Code Enforcement Officer shall issue Part II of the Flood Hazard Development Permit. Part II shall authorize the applicant to complete the construction project; or,
 2. A Flood Hazard Development Permit for Floodproofing of Non-Residential Structures that are new construction or substantially improved non-residential structures that are not being elevated but that meet the floodproofing standards of Article VI.G.1.a., b., and c. The application for this permit shall include a Floodproofing Certificate signed by a registered professional engineer or architect; or,
 3. A Flood Hazard Development Permit for Minor Development for all development that is not new construction or a substantial improvement, such as repairs, maintenance, renovations, or additions, whose value is less than 50% of the market value of the structure. Minor development also includes, but is not limited to: accessory structures as provided for in Article VI.J., mining, dredging, filling, grading, paving, excavation, drilling operations, storage of equipment or materials, deposition or extraction of materials, public or private sewage disposal systems or water supply facilities that do not involve structures; and non-structural projects such as bridges, dams, towers, fencing, pipelines, wharves and piers.
- G. Maintain, as a permanent record, copies of all Flood Hazard Development Permit Applications, corresponding Permits issued, and data relevant thereto, including reports of the Board of Appeals on variances granted under the provisions of Article IX of this Ordinance, and copies of Elevation Certificates, Floodproofing Certificates, Certificates of Compliance and certifications of design standards required under the provisions of Articles III, VI, and VII of this Ordinance.

ARTICLE VI - DEVELOPMENT STANDARDS

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

A. All Development - All development shall:

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

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

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

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

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

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

1. 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 VIII.D.

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

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

1. 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 VIII.D.; and
 - b. meet the anchoring requirements of Article VI.H.1.c.

I. Recreational Vehicles - Recreational Vehicles located within:

1. Zones A and AE shall either:

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

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

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

K. Floodways -

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

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

- a. the structural design and methods of construction shall meet the elevation requirements of this section and the floodway standards of Article VI.K.; and
- b. the foundation and superstructure attached thereto are designed to resist flotation, collapse and lateral movement due to the effects of wind and water loads acting simultaneously on all structural components. Water loading values used shall be those associated with the base flood.

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

1. Zones AE and A shall:

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

O. Wharves, Piers and Docks - New construction or substantial improvement of wharves, piers, and docks are permitted in Zones AE and A, in and over water if the following requirements are met:

1. wharves, piers, and docks shall comply with all applicable local, state, and federal regulations; and
2. for commercial wharves, piers, and docks, a registered professional engineer shall develop or review the structural design, specifications, and plans for the construction.

ARTICLE VII - CERTIFICATE OF COMPLIANCE

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

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

2. upon determination that the development conforms with the provisions of this ordinance, shall issue a Certificate of Compliance.

ARTICLE VIII - REVIEW OF SUBDIVISION AND DEVELOPMENT PROPOSALS

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

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

ARTICLE IX - APPEALS AND VARIANCES

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

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

- A. Variances shall not be granted within any designated regulatory floodway if any increase in flood levels during the base flood discharge would result.
- B. Variances shall be granted only upon:
 1. a showing of good and sufficient cause; and,
 2. a determination that should a flood comparable to the base flood occur, the granting of a variance will not result in increased flood heights, additional threats to public safety, public expense, or

create nuisances, cause fraud or victimization of the public or conflict with existing local laws or ordinances; and,

3. a showing that the issuance of the variance will not conflict with other state, federal or local laws or ordinances; and,
 4. a determination that failure to grant the variance would result in "undue hardship," which in this sub-section means:
 - a. that the land in question cannot yield a reasonable return unless a variance is granted; and,
 - b. that the need for a variance is due to the unique circumstances of the property and not to the general conditions in the neighborhood; and,
 - c. that the granting of a variance will not alter the essential character of the locality; and,
 - d. that the hardship is not the result of action taken by the applicant or a prior owner.
- C. Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief, and the Board of Appeals may impose such conditions to a variance as it deems necessary.
- D. Variances may be issued for new construction, substantial improvements, or other development for the conduct of a functionally dependent use provided that:
1. other criteria of Article IX and Article VI.K. are met; and,
 2. the structure or other development is protected by methods that minimize flood damages during the base flood and create no additional threats to public safety.
- E. Variances may be issued for the repair, reconstruction, rehabilitation, or restoration of Historic Structures upon the determination that:
1. the development meets the criteria of Article IX, paragraphs A. through D. above; and,
 2. the proposed repair, reconstruction, rehabilitation, or restoration will not preclude the structure's continued designation as a Historic Structure and the variance is the minimum necessary to preserve the historic character and design of the structure.
- F. Any applicant who meets the criteria of Article IX, paragraphs A. through E. shall be notified by the Board of Appeals in writing over the signature of the Chairman of the Board of Appeals that:
1. the issuance of a variance to construct a structure below the base flood level will result in greatly increased premium rates for flood insurance up to amounts as high as \$25 per \$100 of insurance coverage;
 2. such construction below the base flood level increases risks to life and property; and,
 3. the applicant agrees in writing that the applicant is fully aware of all the risks inherent in the use of land subject to flooding, assumes those risks and agrees to indemnify and defend the municipality against any claims filed against it that are related to the applicant's decision to use

land located in a floodplain and that the applicant individually releases the municipality from any claims the applicant may have against the municipality that are related to the use of land located in a floodplain.

G. Appeal Procedure for Administrative and Variance Appeals

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

ARTICLE X - ENFORCEMENT AND PENALTIES

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

4. evidence that the property owner has been provided notice of the violation and the prospective denial of insurance; and,
5. a clear statement that the declaration is being submitted pursuant to Section 1316 of the National Flood Insurance Act of 1968, as amended.

ARTICLE XI - VALIDITY AND SEVERABILITY

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

ARTICLE XII - CONFLICT WITH OTHER ORDINANCES

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

ARTICLE XIII - DEFINITIONS

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

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

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

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

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

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

Building - see **Structure**.

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

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

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

operations or storage of equipment or materials.

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

Elevated Building - means a non-basement building

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

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

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 - means:

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

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

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

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

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

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

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

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

Floodway - see **Regulatory Floodway**.

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

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

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

Historic Structure - means any structure that is:

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

Locally Established Datum - means, for purposes of this ordinance, an elevation established for a specific site to which all other elevations at the site are referenced. This elevation is generally not

referenced to the National Geodetic Vertical Datum (NGVD), North American Vertical Datum (NAVD) or any other established datum and is used in areas where Mean Sea Level data is too far from a specific site to be practically used.

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

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

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

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

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

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

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

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

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

Recreational Vehicle - means a vehicle which is:

- a. built on a single chassis;
- b. 400 square feet or less when measured at the largest horizontal projection, not including slideouts;

- c. designed to be self-propelled or permanently towable by a motor vehicle; and
- d. designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.

Regulatory Floodway -

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

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

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

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

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

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

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

- a. Any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions; or

- b. Any alteration of a Historic Structure, provided that the alteration will not preclude the structure's continued designation as a historic structure, and a variance is obtained from the community's Board of Appeals.

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

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

ARTICLE XIV - ABROGATION

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

60.3 (c) Rev. 01/15

Prepared by DACF/SB

TOWN OF SOMERVILLE HOLDING TANK ORDINANCE

For Adoption at Special Town Meeting

November 9, 2012

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HOLDING TANK ORDINANCE Town of Somerville, Maine

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

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

“Authority” means Selectmen of Town of Somerville Lincoln County, Maine.

“Holding tank” means: a closed, watertight structure, designed and used to receive and store wastewater or septic tank effluent. A holding tank does not discharge wastewater or septic tank effluent to surface or ground water or onto the surface of the ground. Holding tanks are designed and constructed to facilitate ultimate disposal of wastewater at another site.

“Improved property” means any property within the municipality upon which there is a structure intended for continuous or periodic habitation, occupancy, or use by humans or animals and from which structure wastewater may be discharged.

“Municipality” means Town of Somerville Lincoln County, Maine.

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

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

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

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

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

Section 5. Rates and changes. The Authority shall have the right and power to fix, alter, charge, and collect rates, assessments, and other charges in the area served by its facilities at reasonable and uniform rates, as authorized by applicable law.

HOLDING TANK ORDINANCE Town of Somerville, Maine

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

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

- A. Maintain the holding tank in conformance with this or any other Ordinance of this Town of Somerville, the provisions of any applicable law, the rules and regulations of the Authority, and any administrative agency of the State of Maine; and
- B. Permit only the Authority, or its agent, to collect, transport, and dispose of the contents therein.

Section 8. Violations. Any person who violates any provisions of Section 7 must, upon conviction thereof be ordered to pay a fine of not less than One Hundred and not more than Three Hundred dollars, plus costs and the town's attorney's fees. The town shall have the authority to enter into consent agreements which shall be enforceable as land use violations under the provisions of M.R.S.A. Title 30-A, section 4452. Any consent agreement shall be enforced under the provisions of 30-A section 4452 and shall entitle the town to recover its cost and attorney's fees

Section 9. Abatement of nuisances. In addition to any other remedies provided in this ordinance, any violation of Section 7 above constitutes a nuisance and must be abated by the municipality by seeking appropriate equitable or legal relief from a court of competent jurisdiction and said town shall be entitled to its attorney's fees in pursuing such court action.

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

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

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

Section 13. Effective date. This ordinance becomes effective five days after its adoption.

ENACTED AND ORDAINED into an Ordinance this ninth day of November 2012, A.D., by the Town of Somerville, Lincoln County in lawful session duly assembled.

SOMERVILLE LAND USE ORDINANCE

**For Adoption at Special Town Meeting
November 9, 2012**

Town of Somerville Land Use Ordinance

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Town of Somerville Land Use Ordinance

ARTICLE I: General

Section 1 TITLE

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

ARTICLE II: Purpose

The purposes of this Ordinance, prepared as part of a comprehensive plan for the promotion of health, safety, and the general welfare of the Town of Somerville, is to encourage the most appropriate use of the land throughout the town, to promote traffic safety and safety from fire, to prevent housing development in unsanitary areas, and to ensure that building sites and the placement of structures and other land uses are compatible with resource capability, to prevent and control water pollution, to protect fish, birds, spawning grounds and other wildlife habitat, to conserve shore cover, to enhance visual as well as actual points of access on inland waters and to retain natural beauty.

ARTICLE III: Establishment of Districts

Section 1. Land Use Districts

The Town is divided into the following five (5) districts, three of which are shown on the Town of Somerville Shoreland Zoning Map and the remaining two as defined in Section 3:

- Development
- Management
- Limited Residential (See Shoreland Zoning Ordinance)
- Resource Protection (See Shoreland Zoning Ordinance)
- Stream Protection (See Shoreland Zoning Ordinance)

Section 2. District Boundaries

Where uncertainty exists with respect to the boundaries of the various districts the following rules shall apply:

- A. Boundaries indicated as approximately following the center lines of State or Town maintained roads, highways, or rights-of-way shall be construed to follow paved or travelled centerline of said roads;
- B. Boundaries indicated as approximately following municipal limits shall be construed as following municipal limits;
- C. Boundaries indicated as following shorelines shall be construed to follow the normal high water line, and in the event of natural change in the shoreline shall be construed as moving with the actual shoreline;

Town of Somerville Land Use Ordinance

- D. Boundaries indicated as approximately following the center line of streams or other water bodies shall be construed to follow such center lines;
- E. Boundaries indicated as following contour lines and ridge lines shall be construed to follow such lines as indicated by U.S.G.S. topographic maps, which may, however, be superseded by field surveys sealed by registered land surveyors.

Section 3. Establishment of Districts

- A. The Development District includes the following:
 - 1. All land within 400 feet northerly and southerly of Route 105 extending westerly of the intersection of Route 105 and the Sand Hill Road a distance of 2,300 feet and all land within 400 feet easterly and westerly of the Sand Hill Road extending northerly from Route 105 to the Maine Electric Power Company right-of-way excepting that area within 75 feet of Crummett Brook.
 - 2. All land within 400 feet northerly and southerly of Route 105 extending a distance of 1500 feet east and 1500 feet west from the intersection of the Palermo Road (Turner Ridge Road) and all land within 400 feet easterly and westerly of the Palermo Road (Turner Ridge Road) from Route 105 to the Maine Electric Power Company right-of-way excepting that area within 250 feet of the Sheepscot River.
 - 3. All land within 400 feet northerly and southerly of Route 17 extending from the Washington town line a distance of 6,000 feet westerly, measured along the center line of the highway, excepting that area within 75 feet of Hewett Brook..

- B. Management District:

This district includes all land not included in the other four (4) districts.

ARTICLE IV: ADMINISTRATION AND ENFORCEMENT

Section 1. Administrative Officials

Unless otherwise specifically stated, the Town Planning Board and, as applicable, the Code Enforcement Officer shall administer this Ordinance. The Code Enforcement Officer shall enforce this Ordinance

Section 2. Permits Required

- A. After adoption of this Ordinance, a permit issued by the Code Enforcement Officer shall be required for all buildings or other structures to be erected, moved, altered, retrofitted, or added to except as stated in Section 3, Work For Which a Permit is Not Required, below.
- B. Other activity which may be referenced elsewhere in this Ordinance as requiring a permit shall not commence without a permit issued by the Code Enforcement Officer or Planning Board, as applicable.

Town of Somerville Land Use Ordinance

- C. Permits shall be issued in conformity with the provisions of this Ordinance and the provisions of other applicable State statutes, codes, rules, and regulations and local ordinances or codes, and after the necessary approvals have been secured from local officials.

Section 3. Work for which a Permit is Not Required.

Provided all required performance standards and State standards for the applicable district are met, a building permit shall not be required for:

- A. Replacement of exterior steps and walkways.
- B. Fences or stone walls that are out of the public right of way.
- C. Re-siding, re-roofing, changing windows or changing doors.
- D. Alterations or repairs of structures which do not change the building footprint or volume.
- E. Structures with no plumbing and less than 180 sq. ft. and not used for human habitation.

Section 4. Permit Applications

Applications for permits shall be made on forms available at the Town Office. Each application for a building permit shall be accompanied by the following:

- A. A subsurface wastewater disposal permit is required, if the proposed structure will have pressurized water, in compliance with the Maine State Plumbing Code.
- B. A site plan drawn to approximate scale, showing the bounds of the lot and of all buildings, setbacks, disposal fields, the location of abutting streets or ways.
- C. A clear statement as to the intended use of the property.
- D. An assigned 911 Address.
- E. An MDOT or town access, driveway or entrance permit, if required.
- F. Any State or Federal permits that may be required.

Section 5. Permit Fees and Administrative Costs

- A. Permit applications shall be accompanied by a fee or fees in accordance with a fee schedule determined by the Board of Selectmen.
- B. The completed application, all other required permits, and required fee(s) shall be filed at the Town Office. The fee(s) shall be given to the Town Treasurer for use in administering and enforcing this Ordinance
- C. The Board, as a prerequisite to reviewing any matter or at the conclusion of review of any matter, may request the applicant before the Board to pay the Town such sums as the Board may reasonably request to offset and/or pay for legal counsel for the Board in reviewing the matter or the cost or expense of any expert(s) or professional(s) the Board may reasonably require to assist it in reviewing any matter. No permit shall in any event

Town of Somerville Land Use Ordinance

be issued by the Board until and unless all sums have been paid. Additional sums may also be requested of the applicant at any time during the review process (or prior thereto) as may be reasonably be deemed necessary by the Board to offset its cost as above referenced as changing circumstances may dictate during the review process.

D. No permit shall be issued until all costs and fees are paid.

Section 6. Action on Permit Applications

- A. For applications for CEO Permitted Uses as defined in Article VI, Zoning District Regulations, the Code Enforcement Officer shall review the application for completeness and, when the activity is found to be in conformance with this Ordinance and other applicable codes and regulations, the Code Enforcement Officer shall issue a written permit within 15 days of a completed application. The Code Enforcement Officer may refer any application to the Planning Board for approval as per Section 6 B, below. The Code Enforcement Officer shall notify the applicant in writing if the application is approved, approved with conditions, referred to the Planning Board, or denied.
- B. For all other applications, the Code Enforcement Officer shall review the application for completeness and advise the Planning Board as to the effect of this Ordinance on the application. The Planning Board may request further explanation of the application. After it is determined by the Planning Board that the application is complete, the Planning Board shall schedule a Public Hearing within 45 days of receipt of a completed application. When the activity is found to be in conformance with this Ordinance and other applicable codes and regulations, the Planning Board shall issue a written decision within 45 days of the public hearing, notifying the applicant in writing if the application is approved, approved with conditions, or denied. The Code Enforcement Officer shall issue applicable permits based on the Planning Board approval or approval with conditions.

Section 7. Time Limits

The work authorized by a building permit and/or the uses authorized under a use permit must be started within 12 months and completed within 24 months.

Section 8. Violations

If the Code Enforcement Officer finds that any provision of this Ordinance is being violated, he shall notify by certified mail, return receipt requested, the property owner and such other person as may be responsible for the violations, indicating the nature of the violations, ordering the action necessary to correct it, including, but not limited to, the issuance of a Stop Work Order, and the date by which it must be corrected. The Board of Selectmen, may institute, in the name of the Town, any and all actions, legal and equitable, that may be appropriate or necessary for the enforcement of the provisions of this Ordinance. Any person, firm or corporation owning or having control of any building or premises or part thereof violating any provision of this Ordinance, or failing to take the required corrective measures, after receiving written notice of violation, shall be guilty of a civil violation and, upon conviction thereof,

Town of Somerville Land Use Ordinance

shall be subject to fines, payment of the town's attorney's fees and costs, in accordance with 30-A M.R.S.A. §4452. Each day such violation exists shall constitute a separate offense. Any consent agreement shall be enforced under the provisions of 30-A, M.R.S.A. section 4452 and shall entitle the Town to recover its costs and attorney's fees.

ARTICLE V: NONCONFORMANCE

Section 1. Purpose

The purpose of this Article is to regulate nonconforming lots, structures, and uses, as defined in this Ordinance, such that they can be reasonably developed, maintained, or repaired, or changed to other less nonconforming or to conforming uses.

NOTE: This provision only applies to the Development and Management Districts. See Shoreland Zoning Ordinance for Resource Protection, Limited Residential and Stream Protection

Section 2. Continued Nonconformance

- A. Any nonconforming lot which, at the effective date of this Ordinance, does not meet the minimum lot area, minimum lot area per dwelling unit, or minimum frontage requirements of the district in which it is located is allowed to continue if it was in lawful existence at the time this Ordinance or subsequent amendment took effect.
- B. Any nonconforming structure that does not meet the minimum setback, maximum lot coverage, or maximum height standards of the district in which it is located is allowed to continue if it was in lawful existence at the time this Ordinance or subsequent amendment took effect.
- C. Any nonconforming use that is not permitted in the district in which it is located is allowed to remain if it was in lawful existence at the time this Ordinance or subsequent amendment took effect.

Section 3. Nonconforming Lots

A. Vacant Lots

A nonconforming lot may be built upon provided that such lot is not contiguous with any other lot in the same ownership, and that all provisions of this Ordinance except lot size and road or shore frontage can be met. If two or more vacant contiguous lots or parcels are in the same ownership of record at the time of adoption or amendment of this Ordinance, and if these lots do not individually meet the minimum lot size, minimum lot area per dwelling unit, or minimum road frontage standards, the lots shall be combined to the extent necessary to meet these standards, except:

- 1. where the contiguous lots front onto different roads; or
- 2. where the lots each have at least 20,000 square feet of lot area, and have soils suitable for on-site sewage disposal.

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B. Lots with Structures

1. A structure built on a lot prior to enactment of this Ordinance, which lot does not conform to lot size, lot area per dwelling unit, or frontage requirements, may be repaired, maintained, or improved, and may be enlarged in conformity with the applicable space, bulk, and performance standards other than minimum lot size or minimum frontage. Structures shall not be enlarged in a manner that violates or worsens the standard relative to minimum lot area per dwelling unit.
2. If two or more contiguous lots or parcels are in the same ownership of record at the time of adoption or amendment of this Ordinance, if all or part of the lots do not meet the minimum lot or minimum frontage requirements, and if a principal use exists on each lot, or if the lots were legally created as part of a recorded subdivision after the effective date of the Maine Subdivision Act (September 22, 1971), the nonconforming lots may be conveyed separately or together, providing all other State law and local ordinance requirements are met.
3. 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.

Section 4. Nonconforming Uses

- A. Continuance. Except as provided in paragraph D(3) "Expansion of Use" below, the use of land, building, or structure, lawful at the time of adoption or subsequent amendment of this Ordinance, may continue, although such use does not conform to the provisions of this Ordinance.
- B. Resumption. Whenever a nonconforming use of land and/or a structure is superseded by a permitted use, such structure and/or land shall thereafter conform to the provisions of this Ordinance and the nonconforming use may not be resumed.
- C. Discontinuance. A nonconforming use which is discontinued for a period of two years or that has been discontinued for two years prior to the enactment of this Ordinance may not be resumed. The uses of the land, building, or structure shall thereafter conform to the provisions of this Ordinance.
- D. Expansion of Use. A nonconforming use in lawful existence as of the effective date of this Ordinance, including a nonconforming outdoor use of land, may not be expanded except upon the following conditions:
 1. The expansion shall occur only on the lot of record on which the nonconforming use existed as of the effective date of this Ordinance.

Town of Somerville Land Use Ordinance

2. The person proposing such expansion shall document his/her right, title, or interest in the land.
3. The expansion shall meet all space and bulk requirements set forth in this Ordinance, or if the use includes a nonconforming lot or structure, the nonconforming aspect may not be worsened.
4. Expansion of a nonconforming use may be granted by the Planning Board only in the event that the applicant has established to the satisfaction of the Planning Board that all applicable standards required by this Ordinance have been met.

Section 5. Nonconforming Structure

A. Maintenance and Enlargement: Subject to Code Enforcement Officer review and approval, a structure in existence as of the effective date of this Ordinance that does not meet the minimum setback, maximum lot coverage, or maximum height requirements of the district in which it is located, including shoreland area standards, may be repaired, maintained, and improved. It may be enlarged and/or accessory structures may be added to the site without a variance, provided that:

1. The enlargement or accessory structure does not itself exceed the prescribed height standard; and
2. The enlargement in combination with the existing structure does not exceed, or worsen, the existing violation of the prescribed maximum lot coverage; and
3. The enlargement or accessory structure itself meets the prescribed setback requirements; or, if the enlargement of an existing structure is no closer to the front, side, or rear lot line than the nonconforming structure, except that unenclosed stairs or wheelchair ramp that serve specifically as an entrance to the structure may be placed closer to the lot lines than the prescribed setback.

B. Reconstruction

Any nonconforming building or structure which is hereafter damaged or destroyed by fire or any cause may be restored or reconstructed and used as before within 24 months of the date of said damage or destruction; provided, however, that such reconstruction and use shall not be more nonconforming than the prior nonconforming building, structure, or use. Expansion of prior structure during reconstruction shall be governed by Sections 5A and 7.

Section 6. Transfer of Ownership

Ownership of nonconforming lots, structures, or uses as defined in this Ordinance may be transferred without loss of their lawful use but will still retain their nonconforming status.

Section 7. Changes in Nonconforming Lots, Structures, and Uses

Town of Somerville Land Use Ordinance

Upon approval of the Planning Board, a nonconforming aspect of a lot, structure, or use may be changed upon a finding by the Board that such a change will bring the lot, structure, or use into closer conformance with the provisions of this Ordinance, or will make the nonconforming aspect no worse. A lot or structure will be deemed to have been brought into closer conformance with the provisions of this Ordinance, or have been made no worse, if its dimensions are unchanged or more nearly meet the prescribed standards. A use will be deemed to have been brought into closer conformance with the provisions of this Ordinance, or have been made no worse, if it is less or no more intensive than the previous nonconforming use, as measured by volume and type of traffic expected to be generated, size of building or structure housing the use, number of potential customers, number of bedrooms, or similar measures of intensity of the use. The Planning Board may approve, approve with condition, or disapprove requests under this section.

Article VI : ZONING DISTRICT REGULATION

Section 1 Development District

- A. Purpose: This district comprises the area where future residential, commercial, public and industrial development is planned and is considered to be the most desirable in terms of highway access, economic viability, concentration of development, and the retention of natural character in the remainder of the town.
- B. Uses permitted without a permit (use by right):
 - 1. Primitive recreational uses, including boating, fishing, hiking, hunting, trapping, wildlife study and photography, wild crop harvesting, horseback riding, tent and shelter camping, cross country skiing, and snowshoeing.
 - 2. Motorized vehicular traffic roads and trails, and snowmobiling.
 - 3. Forest management activities including timber harvesting except where prohibited or limited, fire prevention activities, wildlife management practices, and soil and water conservation practices.
 - 4. Mineral exploration to determine the nature or extent of mineral resources provided such exploration is accomplished by hand sampling; test boring; and other methods which create mineral disturbances.
 - 5. Surveying and other resource analysis.
 - 6. Emergency operations conducted for public health, safety, or general welfare, such as resource protection, law enforcement and search and rescue operations.
 - 7. Agricultural activities
 - 8. Forest management.
 - 9. Wildlife management.
 - 10. Emergency and fire protection activities as determined by the Somerville Fire Department.

Town of Somerville Land Use Ordinance

11. Traditional hunting, fishing, and trapping.
12. Farm ponds and fire protection ponds less than 5,000 square feet in size.
13. Home Farming
14. Commercial or non-commercial Agriculture (except piggeries), including the storage and application of fertilizers, pesticides, herbicides, or manure.
15. Timber harvesting and approved construction clearing in compliance with this Ordinance and the laws and rules adopted by the State of Maine.
16. Home occupations.
17. Replacement of exterior steps and walkways which do not increase the existing footprint by more than 240 square feet, or as required by ADA or NFPA standards.
18. Fences or stone walls that are out of the public right of way.
19. Re-siding, re-roofing, changing windows or changing doors.
20. Alterations or repairs of structures which do not change the building footprint or volume.
21. Municipal structures and uses.
22. Aquaculture.
23. Soil and water conservation practices.
24. Individual private campsites.
25. Satellite dishes.

C. Uses requiring a permit from the Code Enforcement Officer:

1. Single structures containing one or two dwelling units.
2. Commercial structures containing 2500 square feet or less of floor area.
3. Park, playground, public landing, and other municipal uses.
4. Campgrounds meeting all state regulations and having a buffer strip of 25 feet from adjacent lots.
5. Road and utility construction
6. Accessory structures and uses
7. Filling, grading, or other earth-moving activity operated in accordance with state laws.

D. Conditional Uses:

1. Uses requiring a permit from the Planning Board (Conditional Use)
 - a. Multi-family dwelling units.
 - b. Commercial structures containing more than 2500 square feet of floor area.

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- c. All industrial buildings and uses.
 - d. Churches and other public buildings.
 - e. Electrical power transmission lines
 - f. Other structures, uses or services which the Planning Board determines are in conformity with the Comprehensive Plan.
2. In considering a Conditional Use Permit, the Planning Board shall consider the following factors in terms of the purposes of this Ordinance, no such use shall be approved unless the Planning Board finds:
- a. The maintenance of safe and healthful conditions.
 - b. The prevention and control of water pollution, erosion, and sedimentation.
 - c. The protection of wildlife habitat and natural beauty.
 - d. The compatibility of the proposed use with adjacent land uses.
 - e. Access to the site from the highway.
 - f. The amount and types of waste to be generated by the proposed use and the adequacy of the proposed disposal systems.
 - g. Existing topographic and drainage features and vegetative cover on the site.
 - h. The impact of the proposed use on the highway system, community facilities including schools, and the local ground water supply.
- E. Prohibited Uses. All buildings and uses not specifically permitted in this District are prohibited.
- F. Performance, review, space and bulk standards for this District:
- 1. Minimum lot size: 2 acres
 - 2. Minimum highway frontage: 200 feet
 - 3. Minimum road setback 50 feet from edge of the traveled way
 - 4. Minimum setback side and rear 40 feet

Section 2: Management District

- A. Purpose:
- 1. The purpose of this District is to permit forestry and agricultural management activities to occur with minimal interference from unrelated development. In addition, it is necessary to provide protection for the food supply of the large number of deer and other wildlife habitat that inhabit the forested areas in Town.
 - 2. This District includes all the land not regulated by the Shoreland Zoning Ordinance or located in the Development District of this Ordinance.
- B. Uses permitted without a permit (by right):

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1. Primitive recreational uses, including boating, fishing, hiking, hunting, trapping, wildlife study and photography, wild crop harvesting, horseback riding, tent and shelter camping, cross country skiing, and snowshoeing.
2. Motorized vehicular traffic roads and trails, and snowmobiling.
3. Forest management activities including timber harvesting except where prohibited or limited, fire prevention activities, wildlife management practices, and soil and water conservation practices.
4. Mineral exploration to determine the nature or extent of mineral resources provided such exploration is accomplished by hand sampling; test boring; and other methods which create mineral disturbances.
5. Surveying and other resource analysis.
6. Emergency operations conducted for public health, safety, or general welfare, such as resource protection, law enforcement and search and rescue operations.
7. Agricultural activities.
8. Forest management.
9. Wildlife management.
10. Emergency and fire protection activities as determined by the Somerville Fire Department.
11. Traditional hunting, fishing, and trapping.
12. Farm ponds and fire protection ponds less than 5,000 square feet in size.
13. Home farming.
14. Commercial or non-commercial Agriculture (except piggeries), including the storage and application of fertilizers, pesticides, herbicides, or manure.
15. Timber harvesting and approved construction clearing in compliance with this Ordinance and the laws and rules adopted by the State of Maine.
16. Home occupations.
17. Replacement of exterior steps and walkways which do not increase the existing footprint or as required by ADA or NFPA standards.
18. Fences or stone walls that are out of the public right of way.
19. Re-siding, re-roofing, changing windows or changing doors.
20. Alterations or repairs of structures which do not change the building footprint or volume.
21. Municipal structures and uses.
22. Aquaculture.
23. Soil and water conservation practices.
24. Individual private campsites.

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25. Satellite dishes.

C. Uses requiring a permit from the Code Enforcement Officer

1. The erection of a building used primarily for agricultural or forestry uses.
2. Single family dwellings, service drops and accessory structures customarily incidental to a single family dwelling.
3. Water impoundments.

D. Uses requiring a permit from the Planning Board. NONE

E. Prohibited Uses. All buildings and uses not specifically permitted in this District are prohibited.

F. Performance, review, space and bulk standards for this District:

- | | |
|----------------------------------|---|
| 1. Minimum lot size | 4 acres |
| 2. Minimum lot frontage | 300 feet |
| 3. Minimum road setback | 50 feet from the edge of the traveled way |
| 4. Minimum setback side and rear | 40 feet |

ARTICLE VII: GENERAL STANDARDS: These Standards shall apply to all uses and activities in all the districts herein set forth. No use or activity shall be allowed unless in compliance with the following standards.

Section 1. Environmental

A. General Requirements

1. In all districts, if the building will have a septic tank and disposal field, the applicant shall provide evidence of adequate soil conditions for a subsurface wastewater disposal system, by presentation of a completed Maine Department of Human Services Bureau of Health Engineering Site Evaluation Form, commonly referred to as a “plumbing permit”.

NOTE: Existing seasonal camps located in the Shoreland Zone may qualify for a holding tank.

2. The Maine State Internal Plumbing Code requirements shall be met.
3. The applicable requirements and standards of the Maine Department of Environmental Protection (MDEP) shall be met and required permits acquired prior to construction.

B. 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

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designated uses such as neighboring wells or the water classification of a water body in accordance with State and Federal regulations or violates State Drinking Water Standards.

C. Aquifer Protection

1. To provide an adequate buffer for ground water and allow for filtration of impurities from surface water (except for temporary digging for foundation work), development excavation shall not be any closer than five (5) feet above the maximum seasonal high water level. The applicant shall provide documentation of the groundwater table. Monitoring of groundwater levels and quality to ensure there are no adverse impacts to any water supplies or wells within 500 feet of the site may be required.
2. Any new or expansion of non-residential land use activity situated over any part of any sand and gravel aquifer identified in the most recent Town of Somerville Comprehensive Plan or by MDEP or Maine Geologic Survey (MGS), hereinafter referred to as “the aquifer”, shall develop and follow a written management plan for any contaminants that might pollute the groundwater.
3. No potential pollutant shall be stored above the aquifer unless placed in an approved containment system approved by DEP.

D. Storm Water Control

1. All new construction and development shall be designed to reflect or resemble, as nearly as possible, natural runoff conditions in terms of volume, velocity and location of runoff. All storm water control (SWC) systems shall be designed so as to have no significant adverse effect on neighboring properties, downstream water quality, soil stability, or public drainage systems. Where possible, existing natural features such as berms, swales, terraces, and wooded areas shall be retained in order to control runoff and encourage infiltration of storm water.
2. The following stormwater standards shall apply to development that exceeds 3,000 square feet of building footprint or has more than 20,000 square feet of impervious area. Agricultural activities and single family dwellings are exempt from these standards.
 - a. Stormwater drainage systems shall be designed to limit peak discharge from the site to predevelopment levels. The storm water system shall be designed to accommodate peak discharge of the 2, 10, and 25 year frequency, 24 hour duration storms
 - b. Stormwater measures shall be selected from best practices as described in the “Stormwater Management for Maine, Best Management Practices, MDEP, 1995” or latest revised version thereof.
 - c. A stormwater control plan prepared by a professional engineer registered in the State of Maine, or a certified erosion and sedimentation control professional, according to the requirements of DEP Regulations Chapter 500, “Stormwater Management” and Chapter 502 “Direct Watersheds of Water bodies most at risk from new development” shall be deemed suitable to meet these standards.

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- d. Stormwater control systems shall be maintained by the property owner in accordance with this Ordinance.
- E. Floodplain. All development shall comply with the Town of Somerville Floodplain Ordinance.
- F. Natural Resource Protection
 - 1. Any proposed development shall identify areas as referenced below which shall be examined and the results certified in writing as a part of the application.
 - a. If any portion of the parcel to be developed has been identified as a Critical Natural Area by the Maine Natural Areas Program or as containing threatened or endangered species of plants or animals by the Maine Department of Inland Fisheries and Wildlife, these areas should not be developed. If development of these areas is proposed because no other reasonable alternative exists, the applicant shall develop a mitigation plan in cooperation with the Maine Department of Conservation (MDOC) and/or the Maine Department of Inland Fisheries and Wildlife (MDIFW) and/or the Maine Department of Environmental Protection (MDEP) and/or the Army Corps of Engineers (ACOE) as appropriate. The Code Enforcement Officer or the Planning Board shall incorporate the provisions of the mitigation plan as conditions of the permit.
 - b. If any portion of the parcel to be developed includes areas mapped or identified by the MDIFW as Deer Wintering Areas, the applicant shall consult with the Department or a qualified wildlife biologist on means to limit the impact of the development on the habitat and incorporate those recommendations into the plan.
 - c. If any portion of the development contains a wetland as identified by the Town of Somerville, the MDEP, or listed on the most recent map edition of the National Wetland Inventory Maps, the applicant shall avoid, minimize, or mitigate impacts on the wetland both during and after construction. The applicant shall comply with all applicable State and Federal regulations per the Natural Resources Protection Act (NRPA).
 - 2. No person shall perform any act or use of the land in a manner which would cause erosion that results in soil or other material reaching a water body or which would have a significant adverse effect on the property of another land owner.
- G. Erosion Control
 - 1. All soil disturbances must be conducted in a manner which avoids sediment leaving the property. Development must employ erosion control best management practices. Temporary and permanent erosion control measures shall be selected for the development according to “Maine Erosion and Sediment Control BMPs” (Bureau of Land and Water Quality, MDEP, March 2003, DEPLW0588) or latest revised version thereof, and the provisions of this section.

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2. All proposals for development shall submit and follow a written erosion control plan unless the Code Enforcement Officer certifies in writing that the nature of the site and the proposed development poses minimal risk of erosion.
3. The Code Enforcement Officer may establish additional erosion control requirements based upon site conditions and the nature and extent of the construction. These requirements shall be listed on the permit.
4. All temporary erosion control measures shall be installed prior to any digging, soil removal, stripping of vegetation, or soil disturbance. The measures may be installed in phases to match the construction schedule.
5. Additional measures must be installed by the owner in order to address the failure or limited effectiveness of any measure previously installed. These additional measures shall be made a part of the permit.

H. Sanitary and Liquid Waste

1. All land use activities shall provide for the disposal of all solid waste on a timely basis as not to create a health hazard and in an environmentally safe manner.
2. All necessary Subsurface Wastewater Disposal permits required by State law and regulation shall be obtained by the applicant and filed with the application.
3. Internal plumbing permits must be obtained prior to installation of any internal plumbing fixture as required by State law and regulations.
4. The specific amount and nature of all industrial or chemical waste to be generated by the proposed operation or development shall be listed in the permit application. Industrial or commercial waste may be discharged only in such quantities and/or quality as to be able to be accepted into the applicable disposal system. Wash water or other process water carrying stone dust, stone particles, silt or other mineral matter shall be treated by an acceptable system. The handling, use and disposal of all industrial and chemical waste shall conform to all applicable State and Federal regulations.

I. Material Storage

All outdoor storage areas including areas used for the storage or collection of solid waste, junk automobiles, auto parts, tires, building materials, machinery, sand and gravel, or other such items, shall have screening sufficient so that it cannot be seen from a public way, any residence except the owner's, or any regulated body of water. Walls, fencing, dense plant material, or a combination of material can be used to achieve this intent.

J. Air Pollution

1. All air pollution control shall comply with minimum Federal, State and local requirements.

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2. Emission of dust, dirt, fly ash, fumes, vapors, or gases which could damage human health, animals, vegetation, or property, or which could soil or stain persons or property, at any point beyond the lot line of the commercial or industrial establishment creating that emission shall be prohibited.
3. No land use or development shall be permitted to produce offensive or harmful odors perceptible beyond their lot lines either at ground or habitable elevation. Agricultural uses are exempt from this provision.

K. Timber Harvesting

1. There shall be no clear cutting of trees within 50 feet of any public right-of-way, except that it may be cleared:
 - a. For an approved development; or
 - b. For development of agricultural land or
 - c. For approved timber management purposes as indicated by a licensed forester.
2. Any trees so marked as to determine a property boundary between two abutting land owners shall not be cut, unless mutually agreed to, in writing, by the abutting land owners.
3. Timber harvesting within shoreland areas shall be governed by the State of Maine Department of Conservation's Bureau of Forestry Management.

Section 2. Abutter Protection

A. Glare

1. All exterior lighting and all reflective properties of the proposed development will be designed to minimize adverse impact on neighboring properties.
2. No land use or development shall be permitted to produce a strong dazzling light or reflection of that light beyond its lot lines onto neighboring properties, or onto any public way so as to impair the vision of the driver of any vehicle upon that public way or create a nuisance disturbance for neighboring property owners.
3. All such arrangements shall also comply with applicable Federal and State regulations.

B. Buffers

1. Any non-residential use abutting a residential area shall maintain a buffer strip to prevent adverse effects on environmental or aesthetic qualities of abutting properties. Natural features such as topography, stands of trees, shrubbery, and rock outcroppings shall be maintained to provide a break between the proposed development and abutting properties. When natural features do not exist or are insufficient buffers, the yard shall be landscaped with vegetation, fenced, or screened so the use cannot be seen from the abutting properties.

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2. All buffers shall be properly maintained to meet the preceding standard and the conditions of the permit.
- C. Noise. The following standards shall apply to all commercial uses over 3,000 square feet, industrial uses, mineral extraction operations junkyards, and commercial outdoor Recreation Facilities.
1. Noise shall be required to be muffled so as not to be objectionable due to intermittence, beat frequency, shrillness, or volume outside of the boundaries of the project.
 2. The maximum permissible sound pressure level of any continuous regular, or frequent source of sound produced by any activities shall be limited by the time period and receiving district listed below:

	6 AM to 8 PM
All Districts	50 dB(A) 62 dB(C)
 3. Sound pressures shall be measured per Subsection 4, below, at any lot line of the project site, at a height of at least four feet above the ground surface. Both dB(A) and dB(C) scales shall be used, and a violation of either standard shall be deemed to constitute a violation of this Ordinance.
 4. Noise shall be measured with a sound level meter meeting the standards of the American National Standards Institute (ANSI S1.4-1961) "American Standard Specification for General Purpose Sound Level Meters." The instrument shall be set to the appropriate weight response scales and the meter to the slow response. Measurements shall be conducted in accordance with ANSI S1.2-1962 "American Standard Method for the Physical Measurement of Sound."
 5. The following activities shall be exempt from these standards:
 - a. Agricultural, home occupations, and cottage industry uses.
 - b. Noises emanating from site construction and occasional site maintenance activities between 6:00 a.m. and 8:00 p.m. This shall be waived in emergency situations by a special permit from the Code Enforcement Officer.
 - c. The noises of safety signals, warning devices, and emergency pressure relief valves and other emergency activity.
 - d. Traffic noise on public ways.
- D. Signs. The following standards shall regulate sign display:
1. All signs shall comply with State Law and Regulations.
 2. No sign shall be located in or extend over, the road right-of-way, nor shall any sign reduce or obstruct traffic visibility or present a safety hazard.

Section 3. Lot Access

A. Access to Lots

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All new developed lots shall be provided with an access to the development by means of a driveway, common driveway, lane or road. The driveway shall provide for a vehicle turn around so as to prevent backing onto a state or town road.

B. Rear Lot Access and Frontage

New lots proposed to be created behind a legal lot that has existing town road frontage shall be deemed to comply with the minimum road frontage requirements if it meets the following:

1. The lot conforms to all the bulk and space requirements of this Ordinance except for road frontage.
2. The lot has legal access that complies with the requirements for a driveway or common driveway as appropriate.

Section 4 Abandoned Vehicles

No person shall allow more than two unregistered vehicles, except for tractors and farm implements, to remain on any property more than ninety days, where such vehicle may be seen from a residence, public way, or body of water, unless the owner of the vehicle is a licensed to sell new or used automobiles on the premises. Trailers, truck bodies, railroad cars, school busses, or other items originally constructed for the transportation of goods may only be used as storage buildings if they may not be seen from any residence (except the owner's), public way, or body of water.

Section 5. Automobile Graveyard, Automobile Recycling, and Junkyard Operations

No person shall operate any junkyard or automobile salvage operation unless such operation meets State guidelines and is licensed by the Town. All junkyards and automobile salvage operations shall be buffered from abutting properties and public ways by natural vegetation or a fence which hides the operation from outside view. No vehicles or junk shall be stored within 300 feet of any waterbody or wetland or within 500 feet of any residence (other than the owner's), private well, or school. All vehicles and junk shall be located no closer than 100 feet from all lot lines. All Federal and State solid, special, and hazardous waste laws shall be complied with.

Section 6. Accumulation of Debris and Junk

No person shall allow the exterior accumulation of debris, including but not limited to trash, garbage, demolition material, appliances, automobile parts, barrels, drums, tires, or other items, to be stored on any property where such items would cause a fire danger, health risk, impact on surrounding scenic views, or environmental damage.

Section 7. Uninhabitable Structures

Any structure or manufactured housing unit deemed uninhabitable by the Code Enforcement Officer by reason of fire, wind, abandonment, or other cause, or any structure in such a state of disrepair as to cause a safety, health, or fire danger is prohibited and shall be repaired or removed within sixty days of notification by the Code Enforcement Officer.

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Section 8: Gravel Extraction Operations

All gravel extraction operations shall comply with the provisions of Maine Revised Statutes, Title 38, Chapter 3, Subchapter 1, Article 7. (Performance Standards for Excavations for Borrow or Silt) as revised and amended from time to time.

Section 9: State Adopted Codes and Standards

- A. Maine Erosion and Sediment Control BMPS (Standard adopted by Maine Department of Environmental Protection)
- B. Electrical Installations. All electrical installations shall be installed in compliance with the National Electrical Code (NFPA 70).
- C. Plumbing Installations (plumbing permits are issued by the Town of Somerville Plumbing Inspector)
 - 1. Internal Plumbing (State of Maine Internal Plumbing Code)
 - 2. Subsurface Wastewater Disposal System (State of Maine Subsurface Waste Water Disposal Rules)
- D. Life Safety Code. The latest version of the NFPA 101 Life Safety Code that has been adopted by State of Maine Fire Marshall's Office shall apply to all buildings that are used for human occupancy.
- E. Each dwelling unit shall have a minimum of 2 separate means of egress that meet the requirements of the latest version of the NFPA 101 Life Safety Code that has been adopted by State of Maine Fire Marshall's Office.
- F. Miscellaneous NFPA Standards
 - NFPA 211: Standard for Chimneys, Fireplaces, Vents and Solid Fuel-Burning Appliances.
 - NFPA 31: Standards for the Installation of Oil-Burning Equipment.

ARTICLE VIII: MANUFACTURED HOUSING

Section 1. Purpose

Manufactured housing provides an alternative to more expensive traditional residential housing. This article allows for the use of manufactured housing within the Town while insuring for the safety of occupants and the environmental and aesthetic values of a given district.

Section 2. Definition of Manufactured Housing

- A. Mobile Homes: Those units constructed after June 15, 1976, commonly called "newer mobile homes," which the manufacturer certifies are constructed in compliance with the United States Department of Housing and Urban Development standards, meaning structures transportable in one or more sections, which in the traveling mode are 14 body

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feet or more in width and are 750 or more square feet, and which are built on a permanent chassis and designed to be used as dwellings, with or without permanent foundations, when connected to the required utilities, including the plumbing, heating, air conditioning and electrical systems contained in the unit.

This term also includes any structure which meets all the requirements of this subparagraph, except the size requirements and with respect to which the manufacturer voluntarily files a certification required by the Secretary of the United States Department of Housing and Urban Development and complies with the standards established under the National Manufactured Housing Construction and Safety Standards Act of 1974, US Code, Title 42, Section 5401, et seq.

- B. Modular Homes: Units which the manufacturer certifies are constructed in compliance with Title 10, Chapter 957, Section 9001, et seq., and rules adopted under that chapter, meaning structures, transportable in one or more sections, which are not constructed on a permanent chassis and are designed to be used as dwellings on permanent foundations when connected to the required utilities, including the plumbing, heating, air conditioning and electrical systems contained in the unit.

Section 3. Performance Standards. All manufactured housing moved into or relocated within the Town after adoption of this Ordinance shall meet industry standards and the following standards shall be met.

- A. Manufactured housing units shall conform to the residential space and bulk standards of the district in which they are located.
- B. The minimum width of the structure when installed on site shall be 12 feet.
- C. The roof shall have a minimum pitch of 3 inches vertical rise for each 12 inches of horizontal run.
- D. The exterior wall surfaces shall be covered with materials similar to conventional construction, such as cedar shakes; wood, vinyl, or metal clapboards; board and batten, etc. The exterior walls shall not be covered with flat, rigid, or corrugated metal or plastic panels.
- E. The unit shall be properly grounded and placed on a pad installed according to Maine State Manufactured Housing Board Standards.
- F. Each manufactured dwelling unit shall be connected to its own approved septic system.
- G. Relocation of mobile homes constructed prior to June 15, 1976 is prohibited everywhere in Town.

Section 4. Temporary Housing Units

The Code Enforcement Officer may approve Mobile Homes as temporary residential units, to be used until a permanent structure is built or located on a lot. Temporary housing units shall conform to the Performance Standards in Section 3 above. Permits for temporary housing shall not be issued for longer than 2 years, with a one time renewal for an additional 2 years. Temporary housing units shall be removed from the lot (see Section 5 below) when the

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permanent unit is ready for occupancy, or the temporary unit shall be upgraded to meet all the Performance Standards of Section 3 above, without exceptions, when the permit expires.

Section 5. Removal of Manufactured Housing Units (New or Existing)

When a manufactured housing unit is removed from a lot or replaced, the Code Enforcement Officer may approve the temporary storage of the unit on the lot, unoccupied, for not more than 6 months. Temporary storage permits may be renewed or extended up to 3 times for good cause, but may not be extended for more than 18 months. The Code Enforcement Officer may require a bond or refundable fee to be charged to ensure compliance.

ARTICLE IX: APPEALS

Section 1. Establishment

There is hereby established a Board of Appeals pursuant to 30-A M.R.S.A. § 2691 and 3001.

Section 2. Appointment

- A. Members of the Board of Appeals shall be appointed by the municipal officers, who shall determine their compensation, and shall be sworn by the municipal clerk or other person authorized to administer oaths.
- B. The Board shall consist of five (5) regular members and two (2) alternate members.
- C. Regular members shall serve three (3) year staggered terms, except that the initial appointments shall be two (2) for one year, two (2) for two years, and (one (1) for three years. Alternate Board members shall be appointed for three year terms.
- D. When there is a permanent vacancy, the municipal officers shall appoint a person to serve for the unexpired term. A vacancy shall occur upon the resignation or death of any member, or when a member fails to attend four (4) consecutive regular meetings without a reasonable excuse, or when a member ceases to be a legal resident of the municipality. The municipal officers may remove members of the Board of Appeals, for just cause by majority vote, after providing notice and an opportunity for a hearing.
- E. Neither a municipal officer nor his or her spouse may serve as a member or alternate member of the Board of Appeals.

Section 3. Organization, Rules, and Procedures

- A. The Board shall elect a chairperson and a secretary from among its full voting members and create and fill such other offices as it may determine. The term of all offices shall be one (1) year with eligibility for reelection. The Board shall elect a chairperson and a secretary at the annual meeting which shall take place on the first Tuesday of May each year.
- B. When a member is unable to act because of interest, physical incapacity, absence or any other reason satisfactory to the chairperson, the chairperson shall designate an alternate member to sit in his or her place.

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- C. Any question of whether a particular issue involves a conflict of interest sufficient to disqualify a member from voting thereon shall be decided by a majority vote of the members, except the member who is being challenged.
- D. An alternate member may attend all meetings of the Board. He/she may ask questions or offer comments only when members of the public are allowed to do so, and may make and second motions and vote only when he or she has been designated by the chairperson to sit for a member.
- E. The chairperson shall call a meeting when there is business to conduct. Notice of meetings shall be given in accordance with the Maine Freedom of Information Act.
- F. No meeting of the Board shall be held without a quorum consisting of three (3) members or alternate members authorized to vote. A decision of the Board requires 51% of those voting.

Section 4. Duties and Powers

- A. The Board of Appeals may adopt bylaws governing Board functions.
- B. The Board of Appeals may adopt rules and procedures for transaction of business, and the secretary shall keep a record of its resolutions, transactions, correspondence, findings, and determinations.
- C. The Board of Appeals shall file all bylaws, rules and procedures and subsequent revisions, and decisions with the municipal clerk.
- D. The Board of Appeals shall perform such duties and exercise such powers as are provided by ordinance(s) and the laws of the State of Maine.
- E. The Board of Appeals may obtain goods and services necessary to its proper function within the limits of appropriations made for the purpose by the Board of Selectmen of the Town of Somerville.

Section 5. Administrative Appeals

- 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.
- B. 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.

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- C. 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.

Section 6. Variance Appeal

- A. Variance Appeals: To authorize variances upon appeal, within the limitations set forth in this Ordinance.
- B. Variance Appeals. Variances may be granted only under the following conditions:
1. Variances may be granted only from dimensional requirements including, but not limited to, lot width, structure height, percent of lot coverage, and setback requirements.
 2. Variances shall not be granted for establishment of any uses otherwise prohibited by this Ordinance.
- C. The Board shall not grant a variance unless it finds that:
1. The proposed structure or use would meet the provisions of Section 15 except for the specific provision which has created the nonconformity and from which relief is sought; and
 2. The strict application of the terms of this Ordinance would result in undue hardship. The term "undue hardship" shall mean:
 - a. That the land in question cannot yield a reasonable return unless a variance is granted;
 - b. That the need for a variance is due to the unique circumstances of the property and not to the general conditions in the neighborhood;
 - c. That the granting of a variance will not alter the essential character of the locality; and
 - d. That the hardship is not the result of action taken by the applicant or a prior owner.
- D. The Board of Appeals 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

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Board may impose conditions on the variance, including limiting the variance to the duration of the disability or to the time that the person with the disability lives in the dwelling. The term "structures necessary for access to or egress from the dwelling" shall include railing, wall or roof systems necessary for the safety or effectiveness of the structure.

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

Section 7. Appeal Procedures

A. Making an Appeal

1. 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. 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.
2. 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.
3. Upon receiving an application for an administrative appeal or a variance, the Code Enforcement Officer, shall transmit to the Board of Appeals all of the papers constituting the record of the decision appealed from.
4. 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

1. A majority of the full voting membership of the Board shall constitute a quorum for the purpose of deciding an appeal.
2. The person filing the appeal shall have the burden of proof.
3. 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.
4. 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 within seven (7) days of the Board's decision. Copies of written decisions of the

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Board of Appeals shall be given to the Planning Board, Code Enforcement Officer, and the municipal officers.

Section 8. 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 written decision of the Board of Appeals.

ARTICLE X: AMENDMENTS AND OTHER LEGAL PROVISIONS

Section 1. Interpretation

Interpretation of what may not be clear in this Ordinance shall be according to the intent of the Ordinance and the Comprehensive Plan.

Section 2. Conflict with Other Ordinances

Whenever the regulations of this Ordinance conflict with those of another Ordinance, the stricter shall apply except that notwithstanding any provision of any other ordinance review and approval of a Conditional Use Permit and approvals may be processed concurrently with other permits and approvals.

Section 3. Severability

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

Section 4. Amendment

Any amendment to this ordinance shall be voted at a Town Meeting.

Section 5. Effective Date and Repeal

- A. The provisions of this Ordinance were enacted at a special Town Meeting held on November 9, 2012
- B. Any Land Use or Zoning Ordinances of the Town of Somerville in effect prior to enactment of this Ordinance are hereby repealed.

ARTICLE XI: DEFINITIONS

Section 1. Meaning of Words

All words not defined herein shall carry their customary and usual meanings. Words used in the present tense shall include the future. Words used in the singular shall include the plural. The word "lot" shall include "parcel" and "plot." The word "shall" is used to indicate the

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mandatory and the word “may” is used to indicate the permissive. The words “occupied” or “used” shall be considered as though followed by the words “or intended, arranged, or designed to be used or occupied.”

Section 2. Definitions

ABUTTING PROPERTY: Any lot which is physically contiguous with the lot in question even if only at a point and any lot which is located directly across a public or private road or way from the lot in question.

ACCESSORY USES: Uses clearly incidental and subordinate to a principal building or use allowed in the district in which it is located, and located on the same lot with such principal building or use.

ACCESSORY STRUCTURE: A building or structure detached from the principal building and having a use incidental and subordinate to the principal use. Accessory buildings include but are not limited to woodsheds, toolsheds, garages, dog houses, etc.

AGRICULTURAL BUILDINGS: A non-residential building used for an agricultural use or in conjunction with an agricultural activity, including, but not limited to, barns, sheds, farm animal shelters, coops for domestic birds, silos, and equipment storage buildings.

AGRICULTURE: The cultivation of the soil, production of crops, or the raising of livestock, including animal husbandry, in number exceeding five of any one species or fifteen in the aggregate.

ALL TERRAIN VEHICLES (ATV): A motor-driven, off-road, recreational vehicle capable of cross-country travel on land, snow, ice, marsh, swampland or other natural terrain. "All-terrain vehicle" or "ATV" includes, but is not limited to, a multi-track, multi-wheel or low-pressure tire vehicle; a motorcycle or related 2-wheel, 3-wheel or belt-driven vehicle; an amphibious machine; or other means of transportation deriving motive power from a source other than muscle or wind.

ATV TRAILS: An improved or rustic public trail which has been cleared for use by ATV's.

AUTOMOBILE GRAVEYARDS: A yard, field or other area used to store 3 or more unregistered or uninspected motor vehicles as defined in 29-A MRSA §101(42), or parts of such vehicles.

1. Does not include any area used for temporary storage by an establishment or place of business that is primarily engaged in doing auto body repair work to make repairs to render a motor vehicle serviceable.
2. Includes an area used for automobile dismantling, salvage and recycling operations.

AUTOMOBILE RECYCLING OPERATIONS: Except as this term may otherwise be defined by State law, an automobile recycling business shall mean the business premises of a person who purchases or acquires salvage vehicles for the purpose of reselling the vehicles or component parts of the vehicles or rebuilding or repairing salvage vehicles for the purpose of resale or for selling the basic materials in the salvage vehicles, provided that 80% of the business premises specified in the application for an automobile recycling business permit is used for automobile recycling operations.

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

AUTOMOBILE SALVAGE OPERATION: The dismantling of motor vehicles for the purpose of reselling the component parts of the vehicles or rebuilding or repairing salvage vehicles for the purpose of resale or for selling the basic materials in the salvage vehicles.

AUTOMOBILE SERVICE STATION BUILDING: A place where gasoline, or any other automobile engine fuel (stored only in underground tanks), kerosene, or motor oil and lubricants or grease are retailed directly to the public on the premises; including storage of unlicensed vehicles and not including body, frame or fender straightening and repair.

BABY SITTING SERVICE: Persons providing in-home daycare on a regular basis for less than 3 children under the age of 13 unrelated to the provider.

BED AND BREAKFAST: Any establishment where the general public can stay overnight and are provided with a breakfast meal, full or continental, and if providing no more than four rooms for overnight guests.

BOARDING HOME: A licensed boarding care facility having more than five (5) residents.

BUFFER YARD: A unit of land, together with a specified type and amount of planting thereon, and any structures, such as but not limited to fences, retaining walls and/or berms, which may be required between land uses to eliminate or minimize conflicts.

BUILDING: Any structure with a floor area greater than 64 square feet, having a roof supported by columns or walls and intended for the shelter, housing, or enclosure of persons, animals, or chattel. Each portion of a building, separated from other portions by a fire wall, shall be considered a separate building.

BUSINESS SERVICE: A service, other than home occupations, exemplified by the types of services listed under U.S. Standard Industrial Classification Code 73, including but not limited to: advertising, credit reporting and collection, mailing and reproduction services, services to buildings, personnel supply services, computer and data processing services, management and public relations, and the business offices of corporations or firms.

CAMPGROUND: A plot of ground upon which 2 or more campsites are located, established, or maintained for occupancy by camping units of the general public as temporary living quarters for recreation, education, or vacation purposes, including erection of tents, trailers, lean-to, overnight cabins, or similar structures and parking facilities.

CLEARCUTTING OF TREES: Any timber harvesting on a forested site greater than 5 acres in size that results in a residual basal area of trees over 4 1/2 inches in diameter measured at 4 1/2 feet above the ground of less than 30 square feet per acre, unless, after harvesting, the site has a well-distributed stand of acceptable growing stock, as defined by rule, of at least 3 feet in height for softwood trees and 5 feet in height for hardwood trees that meets the regeneration standards defined under Title 12 M.S.R.A. Section 8869, Subsection 1.

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CLUSTER DEVELOPMENT: A form of development that allows a subdivision design in which individual lot sizes and setbacks are reduced in exchange for the creation of common open space and recreation areas, the preservation of environmentally sensitive areas, agriculture and silviculture and the reduction in the size of road and utility systems. Total land involved must be “good” land, not swamp or road, etc. and a percentage dedicated to common open space or other types of protected open space. In exchange for this dedication, density can be increased by up to 150% but each dwelling lot has to be no smaller than 20,000 square feet. All clustered residential developments shall be subject to subdivision regulations and approvals.

CODE ENFORCEMENT OFFICER: The official responsible for enforcement of this Ordinance and for other duties set forth by State statute and other ordinances.

COMMERCIAL AGRICULTURE: The production, keeping, or maintenance for sale or lease to the public as a business enterprise, of plants and/or animals, including but not limited to: forages and sod crops; grains and seed crops; dairy animals and dairy products; poultry and poultry products; livestock; fruits and vegetables; and ornamental and green house products; also including composting, slaughtering and meat processing activities. Commercial agriculture does not include forest management and timber harvesting activities. See the definition of Agriculture.

COMMERCIAL STORAGE AND/OR WAREHOUSING: A structure with areas for rent for the storage of items by the public; or the storage, deposit, or stocking of merchandise or commodities in a structure or room, or on the premise, and includes temporary storage of materials normally associated with construction and landscaping.

COMMERCIAL WOOD PROCESSING AND/OR SALES: The commercial storage, sawing, chipping, splitting, compacting and related activities associated with producing combustible wood products for sale to the public in excess of 50 cords per year. Firewood harvesting and processing for one’s personal use is a “use by right” in all districts if all other requirements are met.

COMMUNITY BUILDING: A private building used by a fraternal, philanthropic or other civic organization and which may be made available from time to time for community functions.

CORNER LOT: A lot that is located at the intersection of two streets. For purposes of determining setbacks from the road right-of-way, the setback requirement from the road right-of-way shall apply to the main street (911 addresses) and the side yard setback requirement shall apply to the side street.

DAY CARE FACILITY: A house or other place in which a person or combination of persons maintains or otherwise carries out a regular program, for consideration, for any part of the day providing care and protection for 3 or more children under the age of 13; or any location or locations operated as a single childcare program or by a single person or persons when there are more than twelve (12) children being cared for.

Does not include a facility operated by a family child care provider, a summer camp established solely for recreational and educational purposes, programs offering instruction to children for the purpose of teaching a skill such as karate, dance or basketball or a private school recognized by the Department of Education as a provider of

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equivalent instruction for the purpose of compulsory school attendance, or a formal public or private school in the nature of a kindergarten or elementary or secondary school approved by the Commissioner of Education in accordance with Title 20-A.

DEBRIS: Any cast-off or used materials including but not limited to trash, garbage, demolition material, appliances, automobile parts, barrels, drums, or tires, that are accumulated but are not offered for sale.

DECK: See “open porch”.

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.

DRIVEWAY: A vehicular access way less than five hundred (500) feet in length serving two lots or less.

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

SINGLE-FAMILY DETACHED DWELLING: A structure containing only one dwelling unit for occupation by not more than one family. The term shall include multi-sectional modular homes, and shall be deemed to include manufactured housing units or older mobile homes.

SINGLE-FAMILY ATTACHED DWELLING: A building containing single family dwelling units each with two or more fire separation walls, or one fire separation wall in the case of a dwelling unit at the end of a group of attached units; which have no dwelling units above or below them; and which have no common hallways. Single family attached dwellings are permitted as part of clustered residential developments or in any district which allows multifamily dwellings.

TWO-FAMILY DWELLING: A building used for residential occupancy by two families living independently of each other.

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

DWELLING UNIT: A room or group of rooms designed and equipped exclusively for use as living quarters for one family, including provisions for living, sleeping, cooking, and eating. The term shall include seasonal dwellings (designed for occupancy for less than three months), but shall not include motor homes or recreational vehicles, nor shall it include hotel or motel rooms or suites, rooming house rooms, or similar accommodations. Living area shall mean actual enclosed space suitable for year-round occupancy and shall not include porches, patios and similar areas whether or not enclosed.

ESSENTIAL SERVICES: The construction, alteration or maintenance of gas, electrical or communication facilities; steam, fuel, electric power or water transmission or distribution

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

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

EXPANSION OF USE: The addition of weeks or months to a use's operating season; additional hours of operation; or the use of more floor area or ground area devoted to a particular use.

FAMILY: One or more persons occupying a premises and living as a single housekeeping unit, as distinguished from a group occupying a boarding house, lodging house, hotel, or other transient visitor quarters. Such unit shall not exceed five persons not related by blood or marriage.

FARM PONDS OR FIRE PROTECTION PONDS: A constructed pond used for agricultural, recreational, safety, or landscaping purposes and not for the purpose of mineral extraction. Farm ponds will be constructed in adherence with plans approved by the Knox and Lincoln County Soil and Conservation District or prepared by an engineer or other certification approved by the Planning Board.

FINANCIAL SERVICE: A service other than home occupations exemplified by the types of services listed under U.S. Standard Industrial Classification Codes 60 through 67, inclusive, and including banking, other credit agencies, security and commodity brokers and services, and insurance, real estate, and investment offices.

FLEA MARKET: An outdoor market selling antiques, used household goods, curios, and the like, at a frequency of more than four days in any six month period.

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

FOREST MANAGEMENT: Timber cruising and other forest evaluation activities, management planning activities, insects and disease control, pruning and other stand improvement, regeneration of forest stands, and other similar associated activities, including removal of dead or diseased trees, but not timber harvesting.

FORTY PERCENT (40%) NO CUT BUFFER: In any area that requires a buffer, as in a 30 foot buffer between residential and non-residential, or along property lines, the amount of thinning, clearing and cutting of brush shall be regulated by the same standards as shown in the Limited Residential District.

FRESHWATER WETLAND: Freshwater swamps, marshes, bogs and similar areas which are:

1. Shown as shaded areas on the Town of Shoreland Zoning Map, or which are

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2. Land areas which are 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.

GARBAGE: All waste from the preparation, cooking and consumption of food, market refuse, waste from handling, storage and sale of produce, whether in containers or not, excepting a properly constructed and functional compost pile, bin or receptacle.

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.

HAZARDOUS WASTE: Substances identified under 38 MRSA §1319 that present a present or potential danger to the people of the State or to its natural environment when deposited on land or discharged on or into the waters of the State or ambient air. (38 MRSA §1317(2))

HEIGHT OF BUILDING: The vertical measurement from a point on the ground at the mean original grade adjoining the foundation as calculated by averaging the highest and lowest original points around the building or structure, to the highest point of the building or structure, excluding incidental protrusions such as chimneys and antennae.

HOME FARMING: The keeping of cattle, pigs, sheep, horses, and other similar farm animals; the keeping of chickens, ducks, geese or similar fowl; and/or the growing of fruits and vegetables in a garden area for family consumption and not for sale as either wholesale or retail.

HOME OCCUPATION: An occupation or profession for financial gain which is carried on in a dwelling unit or structure accessory to a dwelling unit and which is clearly incidental and secondary to the use of the dwelling for residential purposes and which does not change the character thereof. Sale of products shall be limited to those which are assembled or substantially altered on the premises. The term "home occupation," shall include both professional and personal services, within the limits of number of employees established below.

1. The home occupation shall be carried on wholly within the dwelling or accessory structure.
2. The home occupation shall be carried on primarily by a member or members of the family residing in the dwelling unit. Not more than two persons other than family members residing in the dwelling unit shall be employed on the premise in connection with the home occupation.
3. There shall be no exterior display, no exterior signs other than those permitted by the Land Use Ordinance.

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4. Objectionable conditions such as noise, vibration, smoke, dust, electrical disturbance, odors, heat, glare or activity at unreasonable hours, shall not be permitted. Any waste/hazardous waste shall be disposed of in accordance with D.E.P. regulations.
5. The traffic generated by such home occupation shall not increase the volume of traffic so as to create a traffic hazard or disturb the residential character of the immediate neighborhood.
6. If existing off-street parking is required to be expanded, it shall be adequately screened from the road and from adjacent lots.
7. Should all the above conditions not be maintained on a continual basis, the Planning Board shall determine whether the home occupation has become a commercial operation requiring site review.

INDUSTRIAL USES: Activity involving the extraction of or bringing in of raw materials or of components, manufacturing, packaging, assembly, or distribution of finished products, including the processing of raw materials; mining and mineral extraction; and junk and salvaging operations. See also the definition of **LIGHT INDUSTRIAL USES**.

INN OR MOTEL: A commercial building or group of buildings with 4 or more rooms built primarily to accommodate for a fee travelers and other transient guests, who are staying for a limited duration, with sleeping and associated rooms.

JUNK: Items described in “**JUNKYARD**” below.

JUNKYARD: Except as this term may otherwise be defined by State law, a junkyard shall mean a yard, field or other area used to store and/or sell junk, specifically any of, but not limited to, the following items:

1. Discarded, worn-out, old, junked or scrap plumbing, heating supplies, household appliances, automobile parts, barrels, drums, copper, brass, batteries, and all scrap iron, steel and other scrap ferrous or nonferrous material; or
2. Discarded, scrap and junked lumber or furniture; or
3. Old or scrap rope, rags, garbage, trash, rubber debris, tires or other solid waste.

Junkyard items not offered for sale shall be considered debris and are subject to the provisions of Section 4 of Article X of this Ordinance.

LICENSED BABY SITTING SERVICES: A service conducted or maintained in a house or other place by anyone who provides, on a regular basis and for consideration, care and protection which is required to be licensed by the State of Maine as a “Family Child Care Provider”, for three to twelve unrelated persons under 13 years of age for any part of a day. In addition to any other review required under this ordinance, a family child care provider operating out of their own residence shall be considered a home occupation and shall be allowed under the conditions and regulations applicable to home occupations.

LIGHT INDUSTRIAL USES: Industrial activity involving the manufacturing, packaging, assembly, or distribution of finished products from previously prepared material, including, by way of example only, the following; bakeries, bottling, printing and publishing, pharmaceuticals, machine shops, precision instruments, watchmakers, musical instruments, toys and sporting goods, pottery and ceramics using only previously

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pulverized clay, wood products, jewelry, assembly of electrical components, canteen services, tool and die shops, and the packaging of foods. Light industrial uses do not include the processing of raw materials or salvaging operations.

LOT: A contiguous parcel of land in single or joint ownership described on a deed, plot plan, or similar legal document and having frontage, as defined in this Article.

MANUFACTURED HOUSING:

1. **MOBILE HOMES:** Those units constructed after June 15, 1976, commonly called "newer mobile homes," which the manufacturer certifies are constructed in compliance with the United States Department of Housing and Urban Development standards, meaning structures transportable in one or more sections, which in the traveling mode are 14 body feet or more in width and are 750 or more square feet, and which are built on a permanent chassis and designed to be used as dwellings, with or without permanent foundations, when connected to the required utilities, including the plumbing, heating, air conditioning and electrical systems contained in the unit;

This term also includes any structure which meets all the requirements of this subparagraph, except the size requirements and with respect to which the manufacturer voluntarily files a certification required by the Secretary of the United States Department of Housing and Urban Development and complies with the standards established under the National Manufactured Housing Construction and Safety Standards Act of 1974, US Code, Title 42, Section 5401, et seq.

2. **MODULAR HOMES:** Units which the manufacturer certifies are constructed in compliance with Title 10, chapter 957, section 9001 et seq., and rules adopted under that chapter, meaning structures, transportable in one or more sections, which are not constructed on a permanent chassis and are designed to be used as dwellings on permanent foundations when connected to the required utilities, including the plumbing, heating, air conditioning and electrical systems contained in the unit.

MINERAL EXTRACTION: Any extraction of mineral deposits, including gravel, other than mineral exploration to determine location, extent, and composition or deposits.

MINERAL EXTRACTION ACTIVITY: Any excavation or removal, handling or storage of on-site extracted sand, gravel, borrow, rock, clay, minerals, or topsoil to include, but is not limited to, sand or gravel pits, clay pits, borrow pits, quarries, mines, and topsoil mining or removal.

MINERAL EXTRACTION SITE OR AREA: All of the land area disturbed or otherwise developed for the extraction, removal, processing, or storage of sand, gravel, clay, minerals, stone, rock, or topsoil; including any access roads and cleared areas adjacent to a pit or excavated area.

MINERAL PROCESSING: The processes and related mechanical equipment to wash, crush, or otherwise process rock or earth materials, including the mixing of concrete or asphalt or other aggregate processes. This does not include the loading of material into trucks for transport to off-site processing or the screening of material.

MUNICIPAL USE OR STRUCTURES: Any use or building maintained by the Town of Somerville.

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NEIGHBORHOOD STORE: A retail store that occupies less than 4,000 square feet of total floor space and within which no alcoholic beverages are consumed.

NET DEVELOPABLE ACRES: The gross acreage available for development, excluding the area for roads or access and the areas which are unsuitable for development.

NONCONFORMING LOT: A single lot or contiguous lots of record which, at the effective date of this Ordinance, does not meet the minimum lot area, minimum lot area per dwelling unit, or minimum frontage requirements of the District in which it is located. It is allowed solely because it was in lawful existence at the time this Ordinance or subsequent amendment took effect.

NONCONFORMING STRUCTURE: A structure that does not meet the minimum setback, maximum lot coverage, or maximum height standards of the District in which it is located. It is allowed solely because it was in lawful existence at the time this Ordinance or subsequent amendment took effect.

NONCONFORMING USE: A use of premises that is not permitted in the District in which it is located, but which is allowed to remain solely because it was in lawful existence at the time this Ordinance or subsequent amendment took effect.

NORMAL HIGH-WATER LINE: That line which is apparent from visible markings, changes in the character of soils due to prolonged action of the water, or changes in vegetation, and which distinguishes between predominantly aquatic and predominantly terrestrial land. In the case of wetlands adjacent to rivers and great ponds, the normal high water line is the upland edge of the wetland, and not the edge of the open water.

NURSING FACILITIES OR CONVALESCENT HOME: A facility in which nursing care and medical services are performed under the general direction of persons licensed to practice medicine in the State of Maine for the accommodation of convalescent or other persons who are not in need of hospital care, but who do require, on a 24 hour basis, nursing care and related medical services.

OPEN PORCH or DECK: A deck is a platform structure usually with railings but no walls or roof while an open porch is the same with a roof. An open porch may have screens installed but will have no permanent windows.

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.

PLANNING BOARD: The Municipal Reviewing Authority of the Town of Somerville, Maine as defined by 30A M.R.S.A. Section 4301, Subsection 12.

PREMISES: One or more parcels of land which are in the same ownership and contiguous.

PIGGERIES: A type of factory farm specialized for the raising of domestic pigs up to slaughter weight. In this system of pig production, grower pigs are housed indoors in group-housing or straw-lined sheds, whilst pregnant sows are confined in sow stalls (gestation crates) and give birth in farrowing crates. Also known as hog lots.

PRIMITIVE RECREATION: Recreational uses that do not require buildings or structures, or significant alteration of the terrain, such as hunting, fishing, hiking, primitive camping,

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snowmobiling, cross-country ski trails, and parks of primarily undeveloped, natural character.

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

PRINCIPAL USE: A use other than one which is wholly incidental or accessory to another use on the same premises.

PRIVATE CAMPSITES: An area of land which is not associated with a campground, but which is developed for repeated camping by one group only, not to exceed 10 individuals and which involves site improvements which may include, but not be limited to, a gravel pad, parking area, fireplace, or tent platform.

PRIVATE WAY: A road or driveway wholly owned and maintained by one or more abutting landowners.

PROFESSIONAL AND MEDICAL OFFICES: Places of business maintained by one or more individuals who have recognized professional accreditation in their field, which requires an appropriate academic degree, as determined by the permitting authority. Including but not limited to doctors, lawyers, engineers, health care professionals, accountants, insurance offices, but not including tradesmen or beauty salons.

PUBLIC FACILITY: Any facility, including, but not limited to, buildings, property, recreation areas, and roads, which are owned, leased, or otherwise operated, or funded by a governmental body or public entity.

PUBLIC ROAD OR PUBLIC WAY: A road which has been accepted as a town road, for which the Town owns a right-of-way, and is maintained by the Town.

PROHIBITED USES: Any use, activity or development that is not allowed or permitted in a District or a portion thereof is, thereby, strictly prohibited.

REAR LOT LINE: The most parallel side to, or opposite side from, the road that defines the street address of the building(s) or proposed building(s) as determined by the Planning Board.

RECENT FLOOD PLAIN SOILS: The following soil series as described and identified by the National Cooperative Soil Survey:

Alluvial	Cornish	Charles
Fryeburg	Hadley	Limerick
Lovewell	Medomak	Ondawa
Podunk	Rumney	Saco
Suncook	Sunday	Winooski

RECREATIONAL FACILITY: Structure(s) or infrastructure(s) 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

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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. The term shall include mobile homes, but not recreational vehicles.

RETAIL ENTERPRISES AND SALES: Activity involving the buying and selling of goods and finished products on a small scale, including, by way of example only, the following: auto service stations; motels, inns and bed and breakfast establishments; small scale retail and grocery stores; restaurants; and retail vehicle/farm machinery sales. This definition includes activity whereby a client or customer purchases goods, finished products or raw materials and transports it off site in their own vehicles. See also the definitions of **BED AND BREAKFAST**, **MOTELS & INNS**, **NEIGHBORHOOD STORES**, and **TRADESMAN SHOPS**.

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

RIVER: A free flowing body of water including its associated flood plain wetlands from that point at which it provides drainage for a watershed of twenty five (25) square miles to its mouth.

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.

SERVICES: Providing the use of something such as skills, knowledge, training, technical expertise; or of something for the public benefit; generally not involving goods or products except as repairs or replacements for existing products; including, by way of example only, the following: licensed baby sitting services and day care facilities; business services; financial services; nursery schools; nursing homes; personal services; professional & medical offices; diagnostic and repair facilities for household appliances and personal computers; schools, colleges and universities; places of worship; utilities; and veterinary clinics and kennels. See also the definitions of **BABY SITTING SERVICE**; **DAY CARE FACILITY**; **BUSINESS SERVICE**; **FINANCIAL SERVICE**; **NURSING FACILITIES OR CONVALESCENT HOME**; and **PERSONAL SERVICE**.

SETBACK, BACK YARD or REAR: The distance between the rear line of the lot, extending the full width of the lot, and the nearest part of principal or accessory structure. Back yard and rear yard are synonymous terms.

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SETBACK, FRONT YARD: The distance between the road right-of-way or easement line extending the width of the frontage, and the nearest part of any principal or accessory structure; provided, however, that signs erected in accordance with the sign standards of this Ordinance may be placed in the front yard area. In the Shoreland Limited Residential District, the front yard faces the water.

SETBACK, NORMAL HIGH-WATER LINE: The distance from the normal high-water line of any perennial stream or pond or freshwater wetland to the nearest part of a structure.

SETBACK, SIDE YARD: The distance between the side property line and the nearest part of any principal or accessory structure. Any lot line not a back lot line or a front lot line shall be deemed a side lot line.

SHOOTING RANGE: A business open to the public or a private gun club whereby the firing of firearms at fixed or movable targets is a prevalent activity to include skeet ranges, trap ranges, or firearm competition. It does not include gun shops or individual target practice.

SHORE FRONTAGE: The length of a lot's shoreline as measured in a straight line between the points of intersection of the side lot lines with the shoreline at normal high water elevation.

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

SIGN: Structure, device, letter, banner, symbol, or other representation which is used as or is in the nature of an advertisement, announcement, or direction; which is erected, assembled, affixed, or painted out of doors; and which is visible from a public way.

SIGN AREA: The area of the smallest square, rectangle, triangle, circle, or combination thereof, which encompasses the facing of a sign, including copy insignia, background and borders, but not including structural supports of the sign. A double-sided sign counts as one sign. A wall sign's area includes such background as is not the same color as the building.

SNOWMOBILE: A vehicle propelled by mechanical power that is primarily designed to travel over ice or snow and is supported in part by skis, belts, or cleats.

SOLID WASTE: All non-liquid debris, garbage or trash.

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 edition of a United States Geological Survey 7.5 minute series topographic map, or if not available, a 15 minute series topographic map, to the point where the body of water becomes a river.

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

STUMP DUMP: An area where stumps, logs and brush are collected off site and brought to a location for storage, disposal, or decomposing.

TIMBER HARVESTING: The cutting or removal of at least 50 cords of timber for the primary purpose of selling or processing forest products (12 M.R.S.A. § 8868(4)). Also

Town of Somerville Land Use Ordinance

the cutting of trees on any parcel over 1/2 acre that requires an Intent to Harvest certificate from the State Forestry Bureau.

TRADESMAN SHOP: The shop of a self-employed craftsman or person in a skilled trade.

TRASH: All combustible materials such as, but not limited to, paper cartons, boxes, barrels, wood and excelsior, tree branches, yard trimmings, wood furniture and bedding and non-combustible materials such as, but not limited to, metals, tin cans, plastic containers, dirt, glass crockery, and other mineral refuse.

TRIBUTARY STREAM: A channel between defined banks created by the action of surface water, whether intermittent or perennial, and which is characterized by the lack of upland vegetation or presence of aquatic vegetation and by the presence of a bed devoid of topsoil containing waterborne deposits on exposed soil, parent material or bedrock, and which flows to a water body or wetland as defined. This definition does not include the term "stream" as defined elsewhere in this Ordinance, and only applies to that portion of the tributary stream located within the Shoreland Zone of the receiving water body or wetland.

UPLAND EDGE: The boundary between upland and wetland. The upland edge is formed where the soils are not saturated for the 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 20 foot tall or taller. {DEP § 17}

USES BY RIGHT: Any use, activity or development in a District, or a portion thereof, that is allowed subject to the specific restrictions applicable to that District and other applicable portions of this Ordinance, and which requires no permit.

USES REQUIRING A CEO PERMIT: Any use, activity or development permitted in a District, or a portion thereof, and subject to the restrictions applicable to that District, which after a complete application by the applicant may be permitted by the Code Enforcement Officer without Planning Board review.

USES REQUIRING PLANNING BOARD REVIEW: A use, activity, or development that owing to some special characteristics attendant to its operation or installation requires approval by the Planning Board subject to special requirements different from the usual requirements of this Ordinance.

UTILITY STRUCTURES AND 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 wastewater 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. Does not include cell towers.

Satellite dishes serving a residential use on a single lot shall be considered accessory to such use.

VARIANCE: A grant of permission by the Board of Appeals to relax the space and bulk standards or performance standards of this Ordinance. Any such grant shall strictly

Town of Somerville Land Use Ordinance

comply with the standards and procedures of Article VII of this Ordinance. A variance is not authorized for establishment or expansion of a use otherwise prohibited.

VEGETATION: All live trees, shrubs, ground cover, and other plants including without limitation, trees both over and under 4 inches in diameter, measured at 4-1/2 above ground level.

VOLUME OF A STRUCTURE: The volume of all portions of a structure enclosed by roof and fixed exterior walls as measured from the exterior faces of these walls and roof.

WATER BODY: Any great pond, river, or stream.

WETLAND: Areas delineated as numbered wetlands on the Maine DEP Wetlands Map that are characterized as being 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.

WETLANDS ASSOCIATED WITH GREAT PONDS AND RIVERS: Wetlands contiguous with or adjacent to a great pond or river, and which during normal high water, are connected by surface water to the great pond or river. Also included are wetlands which are separated from the great pond or river by a berm, causeway, or similar feature less than 100 feet in width, and which have a surface elevation at or below the normal high water line of the great pond or river. Wetlands associated with great ponds or rivers are considered to be part of that great pond or river.

YARD (OR GARAGE) SALE: A sale of used household goods, curios, and the like. Yard (or garage) sales, distinguished from flea markets, shall be considered to be residential accessory uses under this Ordinance.

TOWN OF SOMERVILLE PLANNING BOARD ORDINANCE

For Adoption at Special Town Meeting

November 9, 2012

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Town of Somerville Planning Board Ordinance

Article I: Establishment.

Pursuant to Art. VIII, pt. 2, Section 1 of the Maine Constitution and 30-A M.R.S.A. § 3001, the Town of Somerville hereby establishes a Planning Board.

Article II: Appointment.

- A. Board members shall be appointed by the municipal officers and sworn by the clerk or other person authorized to administer oaths. (Note: This section may be modified to provide for the election of board members.)
- B. The board shall consist of 5 members and 2 associate members.
- C. The term of each member shall be 3 years, except the initial appointments which shall be 1 for 1 year, 2 for 2 years, and 2 for 3 years respectively. The term of office of an associate member shall be 3 years.
- D. When there is a permanent vacancy, the municipal officers shall within 60 days of its occurrence appoint a person to serve for the unexpired term. A vacancy shall occur upon the resignation or death of any member, or when a member fails to attend four (4) consecutive regular meetings, or fails to attend at least 75% of all meetings during the preceding twelve (12) month period. When a vacancy occurs, the chairperson of the board shall immediately so advise the municipal officers in writing. The board may recommend to the municipal officers that the attendance provision be waived for the cause, in which case no vacancy will then exist until the municipal officers disapprove the recommendation. The municipal officers may remove members of the planning board by unanimous vote, for cause, after notice and hearing.
- E. A municipal officer may not be a member or associate member.

Article III: Organization and Rules.

- A. The board shall elect a chairperson and vice chairperson from among its members. The board may either elect a secretary from among its members or hire a non-board member to serve as secretary. The term of all offices shall be 1 year(s) with eligibility for re-election.
- B. When a member is unable to act because of interest, physical incapacity, absence or any other reason satisfactory to the chairperson, the chairperson shall designate an associate member to sit in that member's place.
- C. An associate member may attend all meetings of the board. He/she may ask questions or offer comments only when members of the public are allowed to do so and may make and second motions and vote only when he or she has been designated by the chairperson to sit for a member.

Town of Somerville Planning Board Ordinance

- D. Any question of whether a member is disqualified from voting on a particular matter shall be decided by a majority vote of the members except the member who is being challenged.
- E. The chairperson shall call at least one regular meeting of the board each month, provided there is business to conduct. Special meetings may be called at any time by the chairperson or by a majority of the members. Notice of regular, special and emergency meetings shall be given in accordance with the Maine Freedom of Information Act.
- F. No meeting of the board shall be held without a quorum consisting of 3 members or associate members authorized to vote. The board shall act by majority vote of the members present and voting.
- G. The board shall adopt rules for transaction of business and the secretary shall keep a record of its resolutions, transactions, correspondence, findings and determinations. All records shall be deemed public and may be inspected at reasonable times.

Article IV: Duties; Powers

- A. The board shall perform such duties and exercise such powers as are provided by ordinance and the laws of the State of Maine.
- B. The board may obtain goods and services necessary to its proper function within the limits of appropriations made for the purpose.
- C. The Board shall make written finding of fact, conclusion of law (if any) and written decision relative to any matter reviewed by it in which said Board has authority to act under the various land use ordinances of the Town of Somerville as enacted and here after enacted from time to time.
- D. The Board, as a prerequisite to reviewing any matter or at the conclusion of review of any matter, may request the applicant before the Board to pay the town such sums as the Board may reasonably request to offset and/or pay for legal counsel for the Board in reviewing the matter or the cost or expense of any expert(s) or professional(s) the Board may reasonably require to assist it in reviewing any matter. No permit shall in any event be issued by the Board until and unless all sums have been paid. Additional sums may also be requested of the applicant at any time during the review process(or prior thereto) as may be reasonably be deemed necessary by the Board to offset its cost as above referenced as changing circumstances may dictate during the review process.

Town of Somerville Planning Board Ordinance

Article V Effective date.

This ordinance becomes effective five days after its adoption. **ENACTED AND ORDAINED** into an Ordinance this ninth day of November 2012 A.D., by the Town of Somerville, Lincoln County in lawful session duly assembled.

Town of Somerville, Maine

Shoreland

Zoning

Ordinance

November 9, 2012

Adopted at Special Town Meeting
November 9, 2012

Attested as a True Copy

Kelly Payson-Roopchand
Town Clerk, Somerville

Town of Somerville
Shoreland Zoning Ordinance

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Town of Somerville

Shoreland Zoning Ordinance

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.

4. **Effective Date**

A. Effective Date of Ordinance and Ordinance Amendments. This Ordinance, which was adopted by the municipal legislative body on November 9, 2012, 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.

B. Sections 15(O) and 15(O-1). Section 15(O) is repealed on the statutory date established under 38 M.R.S.A. section 438-A(5), at which time Section 15(O-1) shall become effective. Until such time as Section 15(O) is repealed, Section 15(O-1) is not in effect.

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.

Town of Somerville Shoreland Zoning 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.
- 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.

Town of Somerville

Shoreland Zoning Ordinance

12. Non-conformance

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

B. General

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

C. Non-conforming Structures

- (1) **Expansions.** A non-conforming structure may be added to or expanded after obtaining a permit from the same permitting authority as that for a new structure, if such addition or expansion does not increase the non-conformity of the structure and is in accordance with subparagraphs (a) and (b) below.
 - (a) After January 1, 1989 if any portion of a structure is less than the required setback from the normal high-water line of a water body or tributary stream or the upland edge of a wetland, that portion of the structure shall not be expanded, as measured in floor area or volume, by 30% or more, during the lifetime of the structure. If a replacement structure conforms with the requirements of Section 12(C)(3), and is less than the required setback from a water body, tributary stream or wetland, the replacement structure may not be expanded if the original structure existing on January 1, 1989 had been expanded by 30% in floor area and volume since that date.
 - (b) 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)(2) Relocation, below. If the completed foundation does not extend beyond the exterior dimensions of the structure, except for expansion in conformity with Section 12(C)(1)(a) above, and the foundation does not cause the structure to be elevated by more than three (3) additional feet, as measured from the uphill side of the structure (from original ground level to the bottom of the first floor sill), it shall not be considered to be an expansion of the structure.
- (2) **Relocation.** A non-conforming structure may be relocated within the boundaries of the parcel on which the structure is located provided that the site of relocation conforms to all setback requirements to the greatest practical extent as determined by the Planning Board or

Town of Somerville Shoreland Zoning Ordinance

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 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.

- (3) **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 floor area and volume of the reconstructed or replaced structure at its new location. If the total amount of floor area and volume 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

Town of Somerville Shoreland Zoning Ordinance

to remove vegetation in order to replace or reconstruct a structure, vegetation shall be replanted in accordance with Section 12(C)(2) 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)(2) above, the physical condition and type of foundation present, if any.

- (4) **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)(a) 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)(4) above.

Town of Somerville Shoreland Zoning Ordinance

E. Non-conforming Lots

- (1) **Non-conforming Lots:** A non-conforming lot of record as of the effective date of this Ordinance or amendment thereto may be built upon, without the need for a variance, provided that such lot is in separate ownership and not contiguous with any other lot in the same ownership, and that all provisions of this Ordinance except lot area, lot width and shore frontage can be met. Variances relating to setback or other requirements not involving lot area, lot width or shore frontage shall be obtained by action of the Board of Appeals.
- (2) **Contiguous Built Lots:** If two or more contiguous lots or parcels are in a single or joint ownership of record at the time of adoption of this Ordinance, if all or part of the lots do not meet the dimensional requirements of this Ordinance, and if a principal use or structure exists on each lot, the non-conforming lots may be conveyed separately or together, provided that the State Minimum Lot Size Law (12 M.R.S.A. sections 4807-A through 4807-D) and the State of Maine Subsurface Wastewater Disposal Rules are complied with.

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

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

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

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

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

Town of Somerville Shoreland Zoning Ordinance

- (1) Floodplains along rivers and floodplains along artificially formed great ponds along rivers, defined by the 100 year floodplain as designated on the Federal Emergency Management Agency's (FEMA) Flood Insurance Rate Maps or Flood Hazard Boundary Maps, or the flood of record, or in the absence of these, by soil types identified as recent floodplain soils. This district shall also include 100 year floodplains adjacent to tidal waters as shown on FEMA's Flood Insurance Rate Maps or Flood Hazard Boundary Maps.
- (2) Areas of two or more contiguous acres with sustained slopes of 20% or greater.
- (3) Areas of two (2) or more contiguous acres supporting wetland vegetation and hydric soils, which are not part of a freshwater or coastal wetland as defined, and which are not surficially connected to a water body during the period of normal high water.
- (4) Land areas along rivers subject to severe bank erosion, undercutting, or river bed movement, and lands adjacent to tidal waters which are subject to severe erosion or mass movement, such as steep coastal bluffs.

B. Limited Residential District. The Limited Residential District includes those areas suitable for residential and recreational development.

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:

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TABLE 1. LAND USES IN THE SHORELAND ZONE
LAND USES

	<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. Forest management activities except for timber harvesting & land management roads	yes	yes	yes
4. Timber harvesting	yes	CEO	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 ⁶	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. Land management roads	yes	PB	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.

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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.

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

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

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

NOTE: 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.

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

A. Minimum Lot Standards

	Minimum Lot Area (sq. ft.)	Minimum Shore Frontage (ft.)
(1)		
(a) Residential per dwelling unit Within the Shoreland Zone	30,000	150
(b) Governmental, Institutional, Commercial or Industrial per principal structure Within the Shoreland Zone	60,000	300
(c) Public and Private Recreational Facilities Within the Shoreland Zone Adjacent	40,000	200

(2) Land below the normal high-water line of a water body or upland edge of a wetland and land beneath roads serving more than two (2) lots shall not be included toward calculating minimum lot area.

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

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- (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. In the Resource Protection District the setback requirement shall be 250 feet, horizontal distance, except for structures, roads, parking spaces or other regulated objects specifically allowed in that district in which case the setback requirements specified above shall apply.

In addition:

- (a) The water body, tributary stream, or wetland setback provision shall neither apply to structures which require direct access to the water body or wetland as an operational necessity, such as piers, docks and retaining walls, nor to other functionally water-dependent uses.
 - (b) All principal structures along Significant River Segments as listed in 38 M.R.S.A. section 437 (see Appendix B), 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) 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. but are not limited to: areas of steep slope; shallow or erodible soils; or where an adequate vegetative buffer does not exist.
- (2) Principal or accessory structures and expansions of existing structures which are permitted in the Resource Protection, Limited Residential and Stream Protection Districts, shall not exceed thirty-five (35) feet in height. This provision shall not apply to structures such as transmission towers, windmills, antennas, and similar structures having no floor area.
 - (3) The lowest floor elevation or openings of all buildings and structures, including basements, shall be elevated at least one foot above the elevation of the 100 year flood, the flood of

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record, or in the absence of these, the flood as defined by soil types identified as recent flood-plain soils. In those municipalities that participate in the National Flood Insurance Program and have adopted the April 2005 version, or later version, of the Floodplain Management Ordinance, accessory structures may be placed in accordance with the standards of that ordinance and need not meet the elevation requirements of this paragraph.

- (4) The total footprint area of all structures, parking lots and other non-vegetated surfaces, within the shoreland zone shall not exceed twenty (20) percent of the lot or a portion thereof, located within the shoreland zone, including land area previously developed.
- (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;
 - (d) 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;
 - (e) The total height of the wall(s), in the aggregate, are no more than 24 inches;
 - (e) Retaining walls are located outside of the 100-year floodplain on rivers, streams, coastal wetlands, and tributary streams, as designated on the Federal Emergency Management Agency's (FEMA) Flood Insurance Rate Maps or Flood Hazard Boundary Maps, or the flood of record, or in the absence of these, by soil types identified as recent flood plain soils.
 - (f) The area behind the wall is revegetated with grass, shrubs, trees, or a combination thereof, and no further structural development will occur within the setback area, including patios and decks; and
 - (g) A vegetated buffer area is established within 25 feet, horizontal distance, of the normal high-water line of a water body, tributary stream, or upland edge of a wetland when a natural buffer area does not exist. The buffer area must meet the following characteristics:
 - (i) The buffer must include shrubs and other woody and herbaceous vegetation. Where natural ground cover is lacking the area must be supplemented with leaf or bark mulch;
 - (ii) Vegetation plantings must be in quantities sufficient to retard erosion and provide for effective infiltration of stormwater runoff;
 - (iii) Only native species may be used to establish the buffer area;

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- (iv) A minimum buffer width of 15 feet, horizontal distance, is required, measured perpendicularly to the normal high-water line or upland edge of a wetland;
- (v) A footpath not to exceed the standards in Section 15(P)(2)(a), may traverse the buffer;
- (6) Notwithstanding the requirements stated above, stairways or similar structures may be allowed with a permit from the Code Enforcement Officer, to provide shoreline access in areas of steep slopes or unstable soils provided: that the structure is limited to a maximum of four (4) feet in width; that the structure does not extend below or over the normal high-water line of a water body or upland edge of a wetland, (unless permitted by the Department of Environmental Protection pursuant to the Natural Resources Protection Act, 38 M.R.S.A. section 480-C); and that the applicant demonstrates that no reasonable access alternative exists on the property.

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

- (1) Access from shore shall be developed on soils appropriate for such use and constructed so as to control erosion.
- (2) The location shall not interfere with existing developed or natural beach areas.
- (3) The facility shall be located so as to minimize adverse effects on fisheries.
- (4) 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.
- (5) 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.
- (6) 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.
- (7) 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.
- (8) 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.

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

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- (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) 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.
- (3) 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.
- (4) 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.
- (5) 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.
- (6) 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

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

G. Parking Areas

- (1) Parking areas shall meet the shoreline and tributary stream setback requirements for structures for the district in which such areas are located. The setback requirement for parking areas serving public boat launching facilities shall be no less than fifty (50) feet, horizontal distance, from the shoreline or tributary stream if the Planning Board finds that no other reasonable alternative exists further from the shoreline or tributary stream.
- (2) Parking areas shall be adequately sized for the proposed use and shall be designed to prevent stormwater runoff from flowing directly into a water body, tributary stream or wetland and where feasible, to retain all runoff on-site.
- (3) In determining the appropriate size of proposed parking facilities, the following shall apply:
 - (a) Typical parking space: Approximately ten (10) feet wide and twenty (20) feet long, except that parking spaces for a vehicle and boat trailer shall be forty (40) feet long.
 - (b) Internal travel aisles: Approximately twenty (20) feet wide.

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

- (1) Roads and driveways shall be set back at least one-hundred (100) feet, 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

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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
 - (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(Q).
- (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

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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.
- (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.

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- (3) Residential users may display a single sign not over three (3) square feet in area relating to the sale, rental, or lease of the premises.
- (4) Signs relating to trespassing and hunting shall be allowed without restriction as to number provided that no such sign shall exceed two (2) square feet in area.
- (5) Signs relating to public safety shall be allowed without restriction.
- (6) No sign shall extend higher than twenty (20) feet above the ground.
- (7) Signs may be illuminated only by shielded, non-flashing lights.

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J. Storm Water Runoff

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

K. Septic Waste Disposal

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

L. Essential Services

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

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

Mineral extraction may be permitted under the following conditions:

- (1) A reclamation plan shall be filed with, and approved, by the Planning Board before a permit is granted. Such plan shall describe in detail procedures to be undertaken to fulfill the requirements of Section 15 (M)(4) below.
- (2) No part of any extraction operation, including drainage and runoff control features, shall be permitted within one hundred (100) feet, horizontal distance, of the normal high-water line of a great pond classified GPA or a river flowing to a great pond classified GPA, and within

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seventy-five (75) feet, horizontal distance, of the normal high-water line of any other water body, tributary stream, or the upland edge of a wetland. Extraction operations shall not be permitted within fifty (50) feet, horizontal distance, of any property line without written permission of the owner of such adjacent property.

- (3) Developers of new gravel pits along Significant River Segments shall demonstrate that no reasonable mining site outside the shoreland zone exists. When gravel pits must be located within the zone, they shall be set back as far as practicable from the normal high-water line and no less than seventy-five (75) feet and screened from the river by existing vegetation.
- (4) Within twelve (12) months following the completion of extraction operations at any extraction site, which operations shall be deemed complete when less than one hundred (100) cubic yards of materials are removed in any consecutive twelve (12) month period, ground levels and grades shall be established in accordance with the following:
 - (a) All debris, stumps, and similar material shall be removed for disposal in an approved location, or shall be buried on-site. Only materials generated on-site may be buried or covered on-site.
 - (b) The final graded slope shall be two and one-half to one (2 1/2:1) slope or flatter.
 - (c) Top soil or loam shall be retained to cover all disturbed land areas, which shall be reseeded and stabilized with vegetation native to the area. Additional topsoil or loam shall be obtained from off-site sources if necessary to complete the stabilization project.
- (5) In keeping with the purposes of this Ordinance, the Planning Board may impose such conditions as are necessary to minimize the adverse impacts associated with mineral extraction operations on surrounding uses and resources.

N. Agriculture

- (1) All spreading of manure shall be accomplished in conformance with the *Manure Utilization Guidelines* published by the Maine Department of Agriculture on November 1, 2001, and the Nutrient Management Law (7 M.R.S.A. sections 4201-4209).
- (2) Manure shall not be stored or stockpiled within one hundred (100) feet, horizontal distance, of a great pond classified GPA or a river flowing to a great pond classified GPA, or within seventy-five (75) feet horizontal distance, of other water bodies, tributary streams, or wetlands. All manure storage areas within the shoreland zone must be constructed or modified such that the facility produces no discharge of effluent or contaminated storm water.
- (3) Agricultural activities involving tillage of soil greater than forty thousand (40,000) square feet in surface area, within the shoreland zone shall require a Conservation Plan to be filed with the Planning Board. Non-conformance with the provisions of said plan shall be considered to be a violation of this Ordinance.
- (4) There shall be no new tilling of soil within one-hundred (100) feet, horizontal distance, of the normal high-water line of a great pond classified GPA; within seventy-five (75) feet, horizontal distance, from other water bodies and coastal wetlands; nor within twenty-five

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(25) feet, horizontal distance, of tributary streams and freshwater wetlands. Operations in existence on the effective date of this ordinance and not in conformance with this provision may be maintained.

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

O. Timber Harvesting

- (1) In a Resource Protection District abutting a great pond, timber harvesting shall be limited to the following:
- (a) Within the strip of land extending 75 feet, horizontal distance, inland from the normal high-water line, timber harvesting may be conducted when the following conditions are met:
 - (1) The ground is frozen;
 - (2) There is no resultant soil disturbance;
 - (3) The removal of trees is accomplished using a cable or boom and there is no entry of tracked or wheeled vehicles into the 75-foot strip of land;
 - (4) There is no cutting of trees less than 6 inches in diameter; no more than 30% of the trees 6 inches or more in diameter, measured at 4 ½ feet above ground level, are cut in any 10-year period; and a well-distributed stand of trees and other natural vegetation remains; and
 - (5) A licensed professional forester has marked the trees to be harvested prior to a permit being issued by the municipality.
 - (b) Beyond the 75 foot strip referred to in Section 15(O)(1)(a) above, timber harvesting is permitted in accordance with paragraph 2 below except that in no case shall the average residual basal area of trees over 4 ½ inches in diameter at 4 1/2 feet above ground level be reduced to less than 30 square feet per acre.

NOTE: Consistent with 38 M.R.S.A. section 439-A(5)(B), a municipality may elect to replace subparagraph 15(O)(1)(a) with the following: (a) Within the strip of land extending 75 feet inland from the normal high-water line in a shoreland area zoned for resource protection abutting a great pond there shall be no timber harvesting except to remove safety hazards.

- (2) Except in areas as described in Section 15(O)(1) above, timber harvesting shall conform with the following provisions:
- (a) Selective cutting of no more than forty (40) percent of the total volume of trees four (4) inches or more in diameter measured at 4 1/2 feet above ground level on any lot in any ten (10) year period is permitted. In addition:

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- (i) Within one-hundred (100) feet, horizontal distance, of the normal high-water line of a great pond classified GPA or a river flowing to a great pond classified GPA, and within seventy-five (75) feet, horizontal distance, of the normal high-water line of other water bodies, tributary streams, or the upland edge of a wetland, there shall be no clearcut openings and a well-distributed stand of trees and other vegetation, including existing ground cover, shall be maintained.
- (ii) At distances greater than one-hundred (100) feet, horizontal distance, of a great pond classified GPA or a river flowing to a great pond classified GPA, and greater than seventy-five (75) feet, horizontal distance, of the normal high-water line of other water bodies or the upland edge of a wetland, harvesting operations shall not create single clearcut openings greater than ten-thousand (10,000) square feet in the forest canopy. Where such openings exceed five-thousand (5000) square feet they shall be at least one hundred (100) feet, horizontal distance, apart. Such clearcut openings shall be included in the calculation of total volume removal. Volume may be considered to be equivalent to basal area.
- (b) No accumulation of slash shall be left within fifty (50) feet, horizontal distance, of the normal high-water line of a water body. In all other areas slash shall either be removed or disposed of in such a manner that it lies on the ground and no part thereof extends more than four (4) feet above the ground. Any debris that falls below the normal high-water line of a water body or tributary stream shall be removed.
- (c) Timber harvesting equipment shall not use stream channels as travel routes except when:
 - (i) Surface waters are frozen; and
 - (ii) The activity will not result in any ground disturbance.
- (d) All crossings of flowing water shall require a bridge or culvert, except in areas with low banks and channel beds which are composed of gravel, rock or similar hard surface which would not be eroded or otherwise damaged.
- (e) Skid trail approaches to water crossings shall be located and designed so as to prevent water runoff from directly entering the water body or tributary stream. Upon completion of timber harvesting, temporary bridges and culverts shall be removed and areas of exposed soil revegetated.
- (f) Except for water crossings, skid trails and other sites where the operation of machinery used in timber harvesting results in the exposure of mineral soil shall be located such that an unscarified strip of vegetation of at least seventy-five (75) feet, horizontal distance, in width for slopes up to ten (10) percent shall be retained between the exposed mineral soil and the normal high-water line of a water body or upland edge of a wetland. For each ten (10) percent increase in slope, the unscarified strip shall be increased by twenty (20) feet, horizontal distance. The provisions of this paragraph apply only to a face sloping toward the water body or wetland, provided, however, that no portion of such exposed mineral soil on a back face shall be closer than twenty five (25) feet, horizontal distance, from the normal high-water line of a water body or upland edge of a wetland.

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O-1. Timber Harvesting – Statewide Standards [Effective on effective date established in Section 4(B)]

- (1) **Shoreline integrity and sedimentation.** Persons conducting timber harvesting and related activities must take reasonable measures to avoid the disruption of shoreline integrity, the occurrence of sedimentation of water, and the disturbance of water body and tributary stream banks, water body and tributary stream channels, shorelines, and soil lying within water bodies, tributary streams and wetlands. If, despite such precautions, the disruption of shoreline integrity, sedimentation of water, or the disturbance of water body and tributary stream banks, water body and tributary stream channels, shorelines, and soil lying within water bodies, tributary streams and wetlands occurs, such conditions must be corrected.
- (2) **Slash treatment.** Timber harvesting and related activities shall be conducted such that slash or debris is not left below the normal high-water line of any water body or tributary stream, or the upland edge of a wetland. Section 15(O-1)(2) does not apply to minor, incidental amounts of slash that result from timber harvesting and related activities otherwise conducted in compliance with this section.
 - (a) Slash actively used to protect soil from disturbance by equipment or to stabilize exposed soil, may be left in place, provided that no part thereof extends more than 4 feet above the ground.
 - (b) Adjacent to great ponds, rivers and wetlands:
 - (i) No accumulation of slash shall be left within 50 feet, horizontal distance, of the normal high-water line or upland edge of a wetland; and
 - (ii) Between 50 feet and 250 feet, horizontal distance, of the normal high-water line or upland edge of a wetland, all slash larger than 3 inches in diameter must be disposed of in such a manner that no part thereof extends more than 4 feet above the ground.
- (3) Timber harvesting and related activities must leave adequate tree cover and shall be conducted so that a well-distributed stand of trees is retained. This requirement may be satisfied by following one of the following three options:
 - (a) **Option 1 (40% volume removal),** as follows:
 - (i) Harvesting of no more than 40 percent of the total volume on each acre of trees 4.5 inches DBH or greater in any 10 year period is allowed. Volume may be considered to be equivalent to basal area;
 - (ii) A well-distributed stand of trees which is windfirm, and other vegetation including existing ground cover, must be maintained; and,
 - (iii) Within 75 feet, horizontal distance, of the normal high-water line of rivers, streams, and great ponds, and within 75 feet, horizontal distance, of the upland edge of a freshwater or coastal wetlands, there must be no cleared openings. At distances greater than 75 feet, horizontal distance, of the normal high-water line of a river or great pond or upland edge of a wetland, timber harvesting and related activities must not create single cleared openings greater than 14,000 square feet in the forest canopy. Where

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such openings exceed 10,000 square feet, they must be at least 100 feet, horizontal distance, apart. Such cleared openings will be included in the calculation of total volume removal. Volume may be considered equivalent to basal area.

(b) Option 2 (60 square foot basal area retention), as follows:

- (i) The residual stand must contain an average basal area of at least 60 square feet per acre of woody vegetation greater than or equal to 1.0 inch DBH, of which 40 square feet per acre must be greater than or equal to 4.5 inches DBH;
 - (ii) A well-distributed stand of trees which is windfirm, and other vegetation including existing ground cover, must be maintained; and,
 - (iii) Within 75 feet, horizontal distance, of the normal high-water line of water bodies and within 75 feet, horizontal distance, of the upland edge of wetlands, there must be no cleared openings. At distances greater than 75 feet, horizontal distance, of the normal high-water line of a river or great pond, or upland edge of a wetland, timber harvesting and related activities must not create single cleared openings greater than 14,000 square feet in the forest canopy. Where such openings exceed 10,000 square feet, they must be at least 100 feet, horizontal distance, apart. Such cleared openings will be included in the calculation of the average basal area. Volume may be considered equivalent to basal area.
- (c) Option 3 (Outcome based)**, which requires: An alternative method proposed in an application, signed by a Licensed Forester or certified wildlife professional, submitted by the landowner or designated agent to the State of Maine Department of Conservation's Bureau of Forestry (Bureau) for review and approval, which provides equal or better protection of the shoreland area than this rule.

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

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

- (4) Skid trails, yards, and equipment operation.** This requirement applies to the construction, maintenance, and use of skid trails and yards in shoreland areas.
- (a) Equipment used in timber harvesting and related activities shall not use river, stream or tributary stream channels as travel routes except when surface waters are frozen and snow covered, and the activity will not result in any ground disturbance.
 - (b) Skid trails and yards must be designed and constructed to prevent sediment and concentrated water runoff from entering a water body, tributary stream, or wetland. Upon termination of their use, skid trails and yards must be stabilized.

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(c) **Setbacks:**

- (i) Equipment must be operated to avoid the exposure of mineral soil within 25 feet, horizontal distance, of any water body, tributary stream, or wetland. On slopes of 10 percent or greater, the setback for equipment operation must be increased by 20 feet, horizontal distance, plus an additional 10 feet, horizontal distance, for each 5 percent increase in slope above 10 percent. Where slopes fall away from the resource, no increase in the 25-foot setback is required.
 - (ii) Where such setbacks are impracticable, appropriate techniques shall be used to avoid sedimentation of the water body, tributary stream or wetland. Such techniques may include the installation of sump holes or settling basins, and/or the effective use of additional ditch relief culverts and ditch water turnouts placed to avoid sedimentation of the water body, tributary stream, or wetland. If, despite such precautions, sedimentation or the disruption of shoreline integrity occurs, such conditions must be corrected.
- (5) **Land Management Roads.** Land management roads, including approaches to crossings of water bodies, tributary stream channels, and freshwater wetlands, ditches and other related structures, must be designed, constructed, and maintained to prevent sediment and concentrated water runoff from directly entering the water body, tributary stream or wetland. Surface water on or adjacent to water crossing approaches must be diverted through vegetative filter strips to avoid sedimentation of the watercourse or wetland. Because roadside ditches may not extend to the resource being crossed, vegetative filter strips must be established in accordance with the setback requirements in Section 15(O-1)(7) of this rule.
- (a) Land management roads and associated ditches, excavation, and fill must be set back at least:
 - (i) 100 feet, horizontal distance, from the normal high-water line of a great pond, river or freshwater or coastal wetland;
 - (ii) 50 feet, horizontal distance, from the normal high-water line of streams; and
 - (iii) 25 feet, horizontal distance, from the normal high-water line of tributary streams
 - (b) The minimum 100 foot setback specified in Section 15(O-1)(5)(a)(i) above may be reduced to no less than 50 feet, horizontal distance, and the 50 foot setback specified in Section 15(O-1)(5)(a)(ii) above may be reduced to no less than 25 feet, horizontal distance, if, prior to construction, the landowner or the landowner's designated agent demonstrates to the Planning Board's satisfaction that no reasonable alternative exists and that appropriate techniques will be used to prevent sedimentation of the water body, tributary stream, or wetland. Such techniques may include, but are not limited to, the installation of settling basins, and/or the effective use of additional ditch relief culverts and turnouts placed to avoid sedimentation of the water body, tributary stream or wetland. If, despite such precautions, sedimentation or the disruption of shoreline integrity occurs, such conditions must be corrected.
 - (c) On slopes of 10 percent or greater, the land management road setback must be increased by at least 20 feet, horizontal distance, plus an additional 10 feet, horizontal distance, for each 5 percent increase in slope above 10 percent.

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- (d) New land management roads are not allowed within the shoreland area along Significant River Segments as identified in 38 M.R.S.A. section 437, nor in a Resource Protection District, unless, prior to construction, the landowner or the landowner's designated agent makes a clear demonstration to the Planning Board's satisfaction that no reasonable alternative route exists outside the shoreland zone, and that the new road must be set back as far as practicable from the normal high-water line and screened from the river by existing vegetation.
 - (e) Ditches, culverts, bridges, dips, water turnouts and other water control installations associated with roads must be maintained on a regular basis to assure effective functioning. Drainage structures shall deliver a dispersed flow of water into an unscarified filter strip no less than the width indicated in the setback requirements in Section 15(O-1)(7). Where such a filter strip is impracticable, appropriate techniques shall be used to avoid sedimentation of the water body, tributary stream, or wetland. Such techniques may include the installation of sump holes or settling basins, and/or the effective use of additional ditch relief culverts and ditch water turnouts placed to avoid sedimentation of the water body, tributary stream, or wetland. If, despite such precautions, sedimentation or the disruption of shoreline integrity occurs, such conditions must be corrected.
 - (f) **Road closeout and discontinuance.** Maintenance of the water control installations required in Section 15(O-1)(5)(e) must continue until use of the road is discontinued and the road is put to bed by effective installation of water bars or other adequate road drainage structures at appropriate intervals, constructed to avoid surface water flowing over or under the water bar, and extending a sufficient distance beyond the traveled way so that water does not reenter the road surface.
 - (g) **Upgrading existing roads.** Extension or enlargement of presently existing roads must conform to the provisions of Section 15(O-1). Any nonconforming existing road may continue to exist and to be maintained, as long as the nonconforming conditions are not made more nonconforming.
 - (h) **Exception.** Extension or enlargement of presently existing roads need not conform to the setback requirements of Section 15(O-1)(5)(a) if, prior to extension or enlargement, the landowner or the landowner's designated agent demonstrates to the Planning Board's satisfaction that no reasonable alternative exists and that appropriate techniques will be used to prevent sedimentation of the water body, tributary stream, or wetland. Such techniques may include, but are not limited to, the installation of settling basins, and/or the effective use of additional ditch relief culverts and turnouts placed to avoid sedimentation of the water body, tributary stream, or wetland. If, despite such precautions, sedimentation or the disruption of shoreline integrity occurs, such conditions must be corrected.
 - (i) **Additional measures.** In addition to the foregoing minimum requirements, persons undertaking construction and maintenance of roads and river, stream and tributary stream crossings must take reasonable measures to avoid sedimentation of surface waters.
- (6) **Crossings of waterbodies.** Crossings of rivers, streams, and tributary streams must allow for fish passage at all times of the year, must not impound water, and must allow for the maintenance of normal flows.

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- (a) **Determination of flow.** Provided they are properly applied and used for the circumstances for which they are designed, methods including but not limited to the following are acceptable as a means of calculating the 10 year and 25 year frequency water flows and thereby determining water crossing sizes as required in Section 15(O-1): The United States Geological Survey (USGS) Methods; specifically: Hodgkins, G. 1999. Estimating the Magnitude of Peak Flows for Streams in Maine for Selected Recurrence Intervals. U.S. Geological Survey. Water Resources Investigations Report 99-4008. 45 pp.
- (b) **Upgrading existing water crossings.** Extension or enlargement of presently existing water crossings must conform to the provisions of Section 15(O-1). Any nonconforming existing water crossing may continue to exist and be maintained, as long as the nonconforming conditions are not made more nonconforming; however, any maintenance or repair work done below the normal high-water line must conform to the provisions of Section 15(O-1).
- (c) **Other Agency Permits.** Any timber harvesting and related activities involving the design, construction, and maintenance of crossings on waterbodies other than a river, stream or tributary stream may require a permit from the Land Use Regulation Commission, the Department of Environmental Protection, or the US Army Corps of Engineers.
- (d) Any timber harvesting and related activities involving the design, construction, and maintenance of crossings of freshwater wetlands identified by the Department of Inland Fisheries and Wildlife as essential wildlife habitat require prior consultation with the Department of Inland Fisheries and Wildlife.
- (e) **Notice to Bureau of Forestry.** Written notice of all water crossing construction maintenance, alteration and replacement activities in shoreland areas must be given to the Bureau prior to the commencement of such activities. Such notice must contain all information required by the Bureau, including:
 - (i) a map showing the location of all proposed permanent crossings;
 - (ii) the GPS location of all proposed permanent crossings;
 - (iii) for any temporary or permanent crossing that requires a permit from state or federal agencies, a copy of the approved permit or permits; and
 - (iv) a statement signed by the responsible party that all temporary and permanent crossings will be constructed, maintained, and closed out in accordance with the requirements of this Section.
- (f) **Water crossing standards.** All crossings of rivers require a bridge or culvert sized according to the requirements of Section 15(O-1)(6)(g) below. Streams and tributary streams may be crossed using temporary structures that are not bridges or culverts provided:
 - (i) concentrated water runoff does not enter the stream or tributary stream;
 - (ii) sedimentation of surface waters is reasonably avoided;
 - (iii) there is no substantial disturbance of the bank, or stream or tributary stream channel;
 - (iv) fish passage is not impeded; and,
 - (v) water flow is not unreasonably impeded.

Subject to Section 15(O-1)(6)(f)(i-v) above, skid trail crossings of streams and tributary streams when channels of such streams and tributary streams are frozen and snow-covered or

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are composed of a hard surface which will not be eroded or otherwise damaged are not required to use permanent or temporary structures.

- (g) **Bridge and Culvert Sizing.** For crossings of river, stream and tributary stream channels with a bridge or culvert, the following requirements apply:
- (i) Bridges and culverts must be installed and maintained to provide an opening sufficient in size and structure to accommodate 10 year frequency water flows or with a cross-sectional area at least equal to 2 1/2 times the cross-sectional area of the river, stream, or tributary stream channel.
 - (ii) Temporary bridge and culvert sizes may be smaller than provided in Section 15(O-1)(6)(g)(i) if techniques are effectively employed such that in the event of culvert or bridge failure, the natural course of water flow is maintained and sedimentation of the water body or tributary stream is avoided. Such crossing structures must be at least as wide as the channel and placed above the normal high-water line. Techniques may include, but are not limited to, the effective use of any, a combination of, or all of the following:
 - 1. use of temporary skidder bridges;
 - 2. removing culverts prior to the onset of frozen ground conditions;
 - 3. using water bars in conjunction with culverts;
 - 4. using road dips in conjunction with culverts.
 - (iii) Culverts utilized in river, stream and tributary stream crossings must:
 - 1. be installed at or below river, stream or tributary stream bed elevation;
 - 2. be seated on firm ground;
 - 3. have soil compacted at least halfway up the side of the culvert;
 - 4. be covered by soil to a minimum depth of 1 foot or according to the culvert manufacturer's specifications, whichever is greater; and
 - 5. have a headwall at the inlet end which is adequately stabilized by riprap or other suitable means to reasonably avoid erosion of material around the culvert.
 - (iv) River, stream and tributary stream crossings allowed under Section 15(O-1), but located in flood hazard areas (i.e. A zones) as identified on a community's Flood Insurance Rate Maps (FIRM) or Flood Hazard Boundary Maps (FHBM), must be designed and constructed under the stricter standards contained in that community's National Flood Insurance Program (NFIP). For example, a water crossing may be required to pass a 100-year flood event.
 - (v) **Exception.** Skid trail crossings of tributary streams within shoreland areas and wetlands adjacent to such streams may be undertaken in a manner not in conformity with the requirements of the foregoing subsections provided persons conducting such activities take reasonable measures to avoid the disruption of shoreline integrity, the occurrence of sedimentation of water, and the disturbance of stream banks, stream channels, shorelines, and soil lying within ponds and wetlands. If, despite such precautions, the disruption of shoreline integrity, sedimentation of water, or the

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disturbance of stream banks, stream channels, shorelines, and soil lying within ponds and wetlands occurs, such conditions must be corrected.

(h) **Skid trail closeout.** Upon completion of timber harvesting and related activities, or upon the expiration of a Forest Operations Notification, whichever is earlier, the following requirements apply:

- (i) Bridges and culverts installed for river, stream and tributary stream crossings by skid trails must either be removed and areas of exposed soil stabilized, or upgraded to comply with the closeout standards for land management roads in Section 15(O-1)(6)(i) below.
- (ii) Water crossing structures that are not bridges or culverts must either be removed immediately following timber harvesting and related activities, or, if frozen into the river, stream or tributary stream bed or bank, as soon as practical after snowmelt.
- (iii) River, stream and tributary stream channels, banks and approaches to crossings of water bodies and tributary streams must be immediately stabilized on completion of harvest, or if the ground is frozen and/or snow-covered, as soon as practical after snowmelt. If, despite such precautions, sedimentation or the disruption of shoreline integrity occurs, such conditions must be corrected.

(i) **Land management road closeout.** Maintenance of the water control features must continue until use of the road is discontinued and the road is put to bed by taking the following actions:

- (i) Effective installation of water bars or other adequate road drainage structures at appropriate intervals, constructed to reasonably avoid surface water flowing over or under the water bar, and extending sufficient distance beyond the traveled way so that water does not reenter the road surface.
- (ii) Water crossing structures must be appropriately sized or dismantled and removed in a manner that reasonably avoids sedimentation of the water body or tributary stream.
- (iii) Any bridge or water crossing culvert in roads to be discontinued shall satisfy one of the following requirements:
 - 1. it shall be designed to provide an opening sufficient in size and structure to accommodate 25 year frequency water flows;
 - 2. it shall be designed to provide an opening with a cross-sectional area at least $3 \frac{1}{2}$ times the cross-sectional area of the river, stream or tributary stream channel; or
 - 3. it shall be dismantled and removed in a fashion to reasonably avoid sedimentation of the river, stream or tributary stream.

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

(7) Slope Table

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Filter strips, skid trail setbacks, and land management road setbacks must be maintained as specified in Section 15(O-1), but in no case shall be less than shown in the following table.

Average slope of land between exposed mineral soil and the shoreline (percent)	Width of strip between exposed mineral soil and shoreline (feet along surface of the ground)
0	25
10	45
20	65
30	85
40	105
50	125
60	145
70	165

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 safety hazards.

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, and except to allow for the development of permitted uses, 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, and 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 footpath not to exceed six (6) feet in width as measured between tree trunks and/or shrub stems is allowed 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

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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.

NOTE: A municipality may elect to retain their present "point system" that is based on 25-foot by 25-foot plots. If so, the paragraph above must be modified as follows:

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 three (3) saplings less than two (2) inches in diameter at four and one-half (4 ½) feet above ground level for each 25-foot by 25-foot rectangular area. If three (3) saplings do not exist, no woody stems less than two (2) inches in diameter can be removed until 3 saplings have been recruited into the plot.

Subparagraph 15 (P)(2)(b) must also be modified to make it clear that the point system establishes only a "well-distributed stand of trees" not a well-distributed stand of trees and other vegetation. "Other vegetation" is described elsewhere.

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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, diseased, unsafe, or dead trees results in the creation of cleared openings, these openings shall be replanted with native tree species unless existing new tree growth is present.

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

- (3) At distances greater than one hundred (100) feet, horizontal distance, from a great pond classified GPA 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 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. 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.

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- (c) Permanent stabilization structures such as retaining walls or rip-rap.
 - (2) In order to create the least potential for erosion, development shall be designed to fit with the topography and soils of the site. Areas of steep slopes where high cuts and fills may be required shall be avoided wherever possible, and natural contours shall be followed as closely as possible.
 - (3) Erosion and sedimentation control measures shall apply to all aspects of the proposed project involving land disturbance, and shall be in operation during all stages of the activity. The amount of exposed soil at every phase of construction shall be minimized to reduce the potential for erosion.
 - (4) Any exposed ground area shall be temporarily or permanently stabilized within one (1) week from the time it was last actively worked, by use of riprap, sod, seed, and mulch, or other effective measures. In all cases permanent stabilization shall occur within nine (9) months of the initial date of exposure. In addition:
 - (a) Where mulch is used, it shall be applied at a rate of at least one (1) bale per five hundred (500) square feet and shall be maintained until a catch of vegetation is established.
 - (b) Anchoring the mulch with netting, peg and twine or other suitable method may be required to maintain the mulch cover.
 - (c) Additional measures shall be taken where necessary in order to avoid siltation into the water. Such measures may include the use of staked hay bales and/or silt fences.
 - (5) Natural and man-made drainage ways and drainage outlets shall be protected from erosion from water flowing through them. Drainageways shall be designed and constructed in order to carry water from a twenty five (25) year storm or greater, and shall be stabilized with vegetation or lined with riprap.
- R. 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.
- S. 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.

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- T. 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.

16. Administration

A. Administering Bodies and Agents

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

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

- (1) A permit is not required for the replacement of an existing road culvert as long as:
 - (a) The replacement culvert is not more than 25% longer than the culvert being replaced;
 - (b) The replacement culvert is not longer than 75 feet; and
 - (c) Adequate erosion control measures are taken to prevent sedimentation of the water, and the crossing does not block fish passage in the watercourse.
- (2) A permit is not required for an archaeological excavation as long as the excavation is conducted by an archaeologist listed on the State Historic Preservation Officer's level 1 or level 2 approved list, and unreasonable erosion and sedimentation is prevented by means of adequate and timely temporary and permanent stabilization measures.
- (3) Any permit required by this Ordinance shall be in addition to any other permit required by other law or ordinance.

C. Permit Application

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

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- (2) All applications shall be signed by an owner or individual who can show evidence of right, title or interest in the property or by an agent, representative, tenant, or contractor of the owner with authorization from the owner to apply for a permit hereunder, certifying that the information in the application is complete and correct.
- (3) All applications shall be dated, and the Code Enforcement Officer or Planning Board, as appropriate, shall note upon each application the date and time of its receipt.
- (4) If the property is not served by a public sewer, a valid plumbing permit or a completed application for a plumbing permit, including the site evaluation approved by the Plumbing Inspector, shall be submitted whenever the nature of the proposed structure or use would require the installation of a subsurface sewage disposal system.

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

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

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

- (1) Will maintain safe and healthful conditions;
- (2) Will not result in water pollution, erosion, or sedimentation to surface waters;
- (3) Will adequately provide for the disposal of all wastewater;
- (4) Will not have an adverse impact on spawning grounds, fish, aquatic life, bird or other wildlife habitat;
- (5) Will conserve shore cover and visual, as well as actual, points of access to inland and coastal waters;
- (6) Will protect archaeological and historic resources as designated in the comprehensive plan;
- (7) Will not adversely affect existing commercial fishing or maritime activities in a Commercial Fisheries/Maritime Activities district;
- (8) Will avoid problems associated with floodplain development and use; and

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(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 ground-floor area, 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

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start is made within one year of the issuance of the permit, the applicant shall have one additional year to complete the project, at which time the permit shall expire.

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

H. Appeals

(1) Powers and Duties of the Board of Appeals. The Board of Appeals shall have the following powers:

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

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

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

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

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

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

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

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

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

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- b. That the need for a variance is due to the unique circumstances of the property and not to the general conditions in the neighborhood;
 - c. That the granting of a variance will not alter the essential character of the locality; and
 - d. That the hardship is not the result of action taken by the applicant or a prior owner.
- (d) Notwithstanding Section 16(H)(2)(c)(ii) above, the Board of Appeals may grant a variance to an owner of a residential dwelling for the purpose of making that dwelling accessible to a person with a disability who resides in or regularly uses the dwelling. The board shall restrict any variance granted under this subsection solely to the installation of equipment or the construction of structures necessary for access to or egress from the dwelling by the person with the disability. The board may impose conditions on the variance, including limiting the variance to the duration of the disability or to the time that the person with the disability lives in the dwelling. The term “structures necessary for access to or egress from the dwelling” shall include railing, wall or roof systems necessary for the safety or effectiveness of the structure.
- (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.

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(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

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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. On a biennial basis, a summary of this record shall be submitted to the Director of the Bureau of Land and Water Quality within the Department of Environmental Protection.
- (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

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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).

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 and/or animals, including but not limited to: forages and sod crops; grains and seed crops; dairy animals and dairy products; poultry and poultry products; livestock; fruits and vegetables; and ornamental and greenhouse products. Agriculture does not include forest management and timber harvesting activities.

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 – State of Maine Department of Conservation's 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.

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

Coastal wetlands may include portions of coastal sand dunes.

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

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

DBH – the diameter of a 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.

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

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

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

Essential services - gas, electrical or communication facilities; steam, fuel, electric power or water transmission or distribution lines, towers and related equipment; telephone cables or lines, poles and related equipment; gas, oil, water, slurry or other similar pipelines; municipal sewage lines, collection or supply systems; and associated storage tanks. Such systems may include towers, poles,

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wires, mains, drains, pipes, conduits, cables, fire alarms and police call boxes, traffic signals, hydrants and similar accessories, but shall not include service drops or buildings which are necessary for the furnishing of such services.

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

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

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, plus the horizontal area of any unenclosed portions of a structure such as porches and decks.

Forest management activities - timber cruising and other forest resource evaluation activities, pesticide or fertilizer application, management planning activities, timber stand improvement, pruning, regeneration of forest stands, and other similar or associated activities, exclusive of timber harvesting and the construction, creation or maintenance of roads.

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

Forest Stand - a contiguous group of trees sufficiently uniform in age class distribution, composition, and structure, and growing on a site of sufficiently uniform quality, to be a distinguishable unit.

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.

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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, excluding recreational boat storage buildings, finfish and shellfish processing, fish storage and retail and wholesale fish marketing facilities, waterfront dock and port facilities, shipyards and boat building facilities, marinas, navigation aids, basins and channels, retaining walls, 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.

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

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

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

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

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.

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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.

Land Management Road - a route or track consisting of a bed of exposed mineral soil, gravel, or other surfacing materials constructed for, or created by, the passage of motorized vehicles and used primarily for timber harvesting and related activities, including associated log yards, but not including skid trails or skid roads.

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.

Town of Somerville Shoreland Zoning Ordinance

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

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

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

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

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

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

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

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

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

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

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

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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.

Residual basal area - the average of the basal area of trees remaining on a harvested site.

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.

Residual Stand - a stand of trees remaining in the forest following timber harvesting and related activities

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

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

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

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

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

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- 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.

Skid Road or Skid Trail - a route repeatedly used by forwarding machinery or animal to haul or drag forest products from the stump to the yard or landing, the construction of which requires minimal excavation.

Slash - the residue, e.g., treetops and branches, left on the ground after a timber harvest.

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 edition of a United States Geological Survey 7.5 minute series topographic map, or if not available, a 15-minute series topographic map, to the point where the body of water becomes a river or flows to another water body or wetland within the shoreland area.

Structure - anything built for the support, shelter or enclosure of persons, animals, goods or property of any kind, together with anything constructed or erected with a fixed location on or in the ground, exclusive of fences, and poles, wiring and other aerial equipment normally associated with service drops as well as guying and guy anchors. The term includes structures temporarily or permanently located, such as decks, patios, and satellite dishes.

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

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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 maximum spring tide.

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

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

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 maximum spring 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) foot) 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.

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Volume of a structure - the volume of all portions of a structure enclosed by roof and fixed exterior walls as measured from the exterior faces of these walls and roof.

Water body - any great pond, river or stream.

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

Wetland - a freshwater or coastal wetland.

Windfirm - the ability of a forest stand to withstand strong winds and resist windthrow, wind rocking, and major breakage.

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

Town of Somerville Shoreland Zoning Ordinance

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.

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

Town of Somerville

Shoreland Zoning Ordinance

EFFECTIVE DATE:

January 13, 1988 (filed as 06-101, Ch. 1)

AMENDED:

March 24, 1990 (filed as 06-096, Ch. 1000)

June 19, 1991 - Sections 15 and 17

July 14, 1992 - Sections 4, 8, 9, 12, 15, 16 & 17

August 7, 1994 - Sections 3, 14 & 16

EFFECTIVE DATE (ELECTRONIC CONVERSION): May 5, 1996

NON-SUBSTANTIVE CORRECTIONS:

December 29, 1997 - minor spelling and formatting.

April 1, 1998 - minor renumbering and formatting.

AMENDED:

February 6, 1999

February 13, 2000

May 1, 2006 – filing 2006-115

November 22, 2010 – filing 2010-581

May 5, 2012 – filing 2012-134

Town of Somerville
Shoreland Zoning Ordinance

Town of Somerville, Maine

**Site Plan Review
Ordinance**

January 12, 2015

FOR PUBLIC VOTE
AT SPECIAL TOWN MEETING
FEBRUARY 7, 2015

**Site Plan Review Ordinance
For Commercial Development in the
Town of Somerville, Maine**

SECTION 1:	Administration
SECTION 2:	Performance Standards
SECTION 3:	General Provisions
SECTION 4:	Performance Guarantees
SECTION 5:	Violation, Enforcement and Appeals
SECTION 6:	Definitions
SECTION 7:	Site Plan Content and Application Procedure
SECTION 8:	Effective Date

Town of Somerville Site Plan Review Ordinance

SECTION 1: Administration

A. Title

This ordinance shall be known as and may be cited as the Site Plan Review Ordinance for the Town of Somerville, Maine and will be referenced to herein as the "Ordinance."

B. Purpose

Substantial development or major changes in the use of land can cause a profound impact upon the cost and efficiency of municipal services and upon the environment of the Town. Such development can affect schools, sewers, waterlines and other public utilities; recreational facilities; liquid and solid waste disposal, police and fire protection, open space, road systems and circulation, traffic congestion; placement of building(s) and structure(s), property values; water quality; the aesthetic and visual characteristics of the neighborhood and Town, the general health, safety, and welfare of Somerville. It is the purpose of this Ordinance to avoid such negative effects when caused by development(s) including commercial, retail, industrial, institutional building(s) and structure(s) and multiple family dwelling(s) consisting of three (3) or more attached dwelling units.

C. Authority

This Ordinance is adopted pursuant to the Home Rule Powers as provided for in Article VIII-A of the Maine Constitution and Title 30-A, M.R.S.A., § 3001, et seq.

D. Applicability

This ordinance shall apply to all new developments in the Town of Somerville involving commercial, retail, industrial or institutional buildings and structures, and multiple family dwellings consisting of three (3) or more attached dwelling units. It shall also apply to alterations or substantial enlargements to such structures. The accessory uses and structures of these developments or businesses shall also be included. This ordinance does not apply to home occupations (as defined herein), detached single and two-family dwelling units, their accessory structures or agricultural land management practices and forest management practices.

E. Availability

A certified copy of this Ordinance shall be filed with the Town Clerk. Copies shall be made available to the public at reasonable cost at the expense of the person making the request.

Town of Somerville Site Plan Review Ordinance

F. 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.

G. Conflicts

Whenever a provision of this ordinance conflicts with or is inconsistent with another provision of this ordinance or of any other Town of Somerville ordinance, regulation or code, the more restrictive provision shall control.

H. Amendments

This Ordinance may be amended in part or in whole by majority vote of the citizens of the Town at a regular or special Town meeting.

I. Administration:

1. The Planning Board of the Town of Somerville shall administer this Ordinance.
2. No building permit or plumbing permit or certificate of occupancy shall be issued by the Selectmen or Code Enforcement Officer or plumbing inspector for any use or development within the scope of this Ordinance until a Site Plan for Development Application has been reviewed and approved by the Planning Board.
3. Any question of whether a particular issue involves a conflict of interest sufficient to disqualify a member of either the Planning Board or Board of Appeals from voting thereon, shall be decided by a majority vote of the respective Boards, except the member whose potential conflict is under consideration.

SECTION 2: Performance Standards

In approving a Site Plan Application, the Planning Board shall first determine that the requirements for site plan content and application procedures have been met. Following such determination, the Board shall proceed to find that the proposed plan adequately meets the following standards, where applicable to the proposed development. These standards shall serve as minimum requirements for approval of the application. The application shall be approved, unless in the judgment of the Planning Board the applicant is not able to reasonably meet one (1) or more of these standards. All decisions of the Planning Board under this section shall be accompanied by written statements that set forth the precise reasons why the findings were made. In all instances the burden of proof shall be on the applicant and such burden of proof shall include the production of evidence necessary to complete the application. These standards shall include:

- A. Preservation and Enhancement of the Landscape:** The landscape shall be preserved in its natural state insofar as practicable by minimizing tree removal, disturbance of soil, retaining existing vegetation during construction.

Town of Somerville Site Plan Review Ordinance

Environmentally sensitive areas such as aquifers, significant wildlife habitat, wetlands, steep slopes, floodplains, historic buildings and sites, existing archaeological sites, and unique natural areas shall be maintained and preserved to the maximum extent.

- B. Vehicular Access:** The proposed site layout shall provide for safe access and egress from public and private roads by providing adequate location, numbers and control of access points including sight distances, turning lanes, and traffic signalization when required by existing and projected traffic flow on the municipal road systems. Provisions shall be made for providing and maintaining convenient and safe emergency vehicle access to all buildings and structures at all times.
- C. Parking and Circulation:** The layout and design of all means of vehicular and pedestrian circulation, including walkways, interior drives, and parking areas shall provide for safe general interior circulation, separation of pedestrian and vehicular traffic, service traffic, loading areas, and arrangement and use of parking areas.
- D. Surface Water Drainage:** Adequate provision shall be made for surface water drainage so that removal of surface waters will not adversely affect neighboring properties, downstream water quality, soil erosion or the public storm drainage system. Whenever possible, on-site absorption of run-off waters shall be utilized to minimize discharges from site.
- E. Existing Utilities:** The development shall not impose an unreasonable burden on sewers, sanitary and storm drains, water lines or other public utilities.
- F. 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 structures and surrounding properties.
- G. Special Features of the Development:** Exposed storage areas, exposed machinery installation, service areas, truck loading areas, utility buildings and similar structures shall have sufficient setbacks and screening to provide an audio/visual buffer sufficient to minimize their adverse impact on other land uses within the development area and surrounding properties.
- H. Exterior Lighting:** All exterior lighting shall be designed to minimize adverse impact and to minimize glare and reflection on neighboring properties and public ways.
- I. Municipal Services:** The development will not have an unreasonable adverse impact on the municipal services including municipal road systems, fire department, police department, solid waste program, sewage treatment plant, schools, open space, recreational programs and facilities, and other municipal services and facilities.

Town of Somerville Site Plan Review Ordinance

- J. Water Pollution:** The proposed development will not result in undue surface or ground water pollution. In making this determination the Planning Board shall at least consider the elevation of land above sea level and its relation to the flood plains, the nature of soils and sub-soils and, if necessary, their ability to adequately support waste disposal and/or any other Maine DEP approved licensed discharge; the slope of the land and its effect on effluents; the aquifers and aquifer recharged areas; the availability of streams for disposal of surface run-off; the applicable federal, state, and local laws, ordinances, codes and regulations.
- K. Air Pollution:** The proposed development will not result in undue air pollution. In making this determination the Planning Board shall consult federal and state authorities to determine applicable air quality laws and regulations.
- L. Water Supply:** The proposed development shall have sufficient water available for the reasonably foreseeable needs, and will not adversely affect adjacent water supplies.
- M. Soil Erosion:** The proposed development will not cause unreasonable soil erosion or reduction in the capacity of the land to hold water so that a dangerous or unhealthy condition may result. Soil erosion and sedimentation of watercourses must be minimized by a plan that follows the requirements of the Maine Erosion and Sedimentation Control Best Management Practices, dated March 2003 and as may be amended.
- N. Sewage:** The proposed development will provide for adequate sewage waste disposal as required by state laws.
- O. Historic and Scenic Areas:** The proposed development 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.
- P. Shoreline:** Whenever situated in whole or in part, within 250 feet of any pond, lake, or river, the proposed development will not adversely affect the shoreline of such body of water.
- Q. Solid Waste:** The proposed development must provide for adequate disposal of solid wastes at a licensed disposal facility having adequate capacity to accept the project's waste.

Town of Somerville Site Plan Review Ordinance

SECTION 3: General Provisions

- A. The Planning Board may modify or waive any of the above application requirements or performance standards when the Planning Board determines that because of the special circumstances of the site such application requirements or standards would not be applicable or would be an unnecessary burden upon the applicant and not adversely affect the abutting land owners and the general health, safety and welfare of the Town.
- B. All construction performed under the authorization of a building permit or certificate of occupancy issued for development within the scope of this Ordinance shall be in conformance with the approved site plan.

SECTION 4: Performance Guarantees

- A. At the time of approval of the application for Site Plan Review, the Planning Board shall require the applicant to tender a performance guarantee in the form of a certified check payable to the Town, a letter of credit payable to the Town or a performance bond payable to the Town issued by a financial institution or surety company acceptable to the Planning Board in an amount adequate to cover the total costs of all **required improvements**, taking into account the time span of the performance guarantee and the effects of inflation upon costs. Required improvements may include but shall not be limited to monuments, street signs, streets, sidewalks, parking lots, water supply, sewage disposal and storm drainage facilities and required landscaping. The conditions and the amount of the certified check, letter of credit or bond shall be determined by the Planning Board with advice from the Code Enforcement Officer.
- B. Prior to the release of the check, letter of credit, or bond, or any part thereof, the Planning Board shall determine to its satisfaction that the proposed improvements meet or exceed the design and construction requirements for that portion of the improvements for which the release is requested. Any interest accumulated on an escrow account shall be returned to the applicant after it has been determined that the proposed improvements meet all design and construction requirements.
- C. If the Planning Board determines that any of the improvements have not been constructed in accordance with the plans and specifications filed by the applicant, the Planning Board shall then notify the applicant, and take all necessary steps to preserve the Town's rights.
- D. The applicant shall notify the Code Enforcement Officer in writing of the time when he or she proposes to commence construction of the improvements, so that the Code Enforcement Officer can ensure that all municipal specifications and requirements are met during the construction of required improvements, and to assure the satisfactory completion of improvements and utilities required by the Board.

Town of Somerville Site Plan Review Ordinance

SECTION 5: Violation, Enforcement and Appeals

- A. Violation and Enforcement:** The Code Enforcement Officer, upon a finding that any provision of this Ordinance or the condition(s) of a permit issued under this ordinance is being violated, is authorized to institute legal or equitable proceedings to enjoin violations of this Ordinance.
- B. Penalties:** As provided by State Law a person who violates the provisions of this Ordinance or condition(s) of a permit shall be guilty of a civil violation and on conviction shall be fined not less than One Hundred Dollars (\$100.00) nor more than Two Thousand Five Hundred (\$2,500.00). Each day such violation continues, shall constitute a separate violation. Such persons shall also be liable for court costs and reasonable attorney fees incurred by the municipality.

C. Appeal Procedure

See Appeals Board Ordinance.

SECTION 6: Definitions

Terms not defined shall have the customary dictionary meaning. When used in this Ordinance, the following terms shall have the meanings herein ascribed to them:

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

1. Whose use is customary in connection with the principal structure, or use of land;
2. Whose use is clearly incidental to the use of the principal structure, or use of land, and
3. Which is located on the same lot with the principal structure, accessory structure, or use of land, or on a lot adjacent to such lot if in the same ownership or part of the same establishment.

Aggrieved Party - A person whose land is directly or indirectly affected by the grant 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 a group of five (5) or more citizens of the Town of Somerville who represent an interest adverse to the grant or denial of such a permit or variance.

Agricultural Development - The construction or conversion of structures or buildings or the conversion of land for the commercial cultivation, production, or processing of agricultural products.

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 water resources.

Town of Somerville Site Plan Review Ordinance

Alteration - Structural change(s), rearrangement, change of location, or addition to a building, or structure other than repairs and modification in building equipment, involving more than 25% increase in the overall floor space or bulk of the building, or structure, at any time or in total, since the effective date of this Ordinance.

Building - Any structure having a roof or partial roof supported by columns or walls used for the shelter or enclosure of persons, animals, goods or property of any kind. A building shall include a multiple family dwelling.

Commercial - Connected with the buying and selling of goods or services or the provisions of facilities for a fee.

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

Family - An individual living upon the premises as a separate housekeeping unit; or a collective body of persons living together upon the premises as a single housekeeping unit.

Forest Management Practices - Includes timber cruising and other forest resource evaluation activities, pesticide application, timber stand improvement, pruning, 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 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.

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

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

Lot - A parcel of land undivided by any street or private road, in single ownership, described by deed, plot, or similar legal document. Occupied by, or designated to be developed for, one (1) building or principle use and the accessory building(s) or use(s) customarily incidental to such building, use or development, including such open spaces and yards as designed and arranged or required by this Ordinance for such building(s), use(s), or development.

Multiple Family Dwelling - A building(s) consisting of three (3) or more attached dwelling units.

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Person(s) - Any person, firm, association, partnership, corporation, municipal or other local government entity, quasi-municipal entity, State agency, educational or charitable organization or institution or other legal entity.

Recreational Vehicle - A vehicle or vehicular attachment for temporary sleeping or living quarters for one or more persons, which is not a dwelling unit and which may include a pick-up, camper, travel trailer, tent trailer, or motor home.

Retail - Connected with the sale of goods to the ultimate consumer for direct use and consumption.

Stand - A small open-air structure for a small retail business.

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, recreational vehicles, piers and floats.

Substantial Enlargement - An expansion of the land area of the development site by more than 25 % at any one time or in total since the effective date of this Ordinance.

Timber Harvesting - The cutting or removal of trees from their growing site, and the attendant operation of cutting and skidding machinery but not the construction or creation of roads. Timber harvesting does not include the clearing of land for approved construction.

Variance - A relaxation of the terms of this Ordinance by the Board of Appeals where such variance would not be contrary to the public interest and where, owing to conditions peculiar to the property and not the result of the actions of the applicant, a literal enforcement of this Ordinance would result in unnecessary or undue hardship. A financial hardship shall not constitute grounds for granting a variance. The crucial points of variance are undue hardship (as defined in Title 30-A, M.R.S.A. § 4353(4) and unique circumstances applying to the property. A variance is not justified unless both elements are present in the case.

SECTION 7: Site Plan Content and Application Procedures

A. The Site Plan Application shall include, at a minimum:

1. A map or maps prepared at a scale of not less than one (1) inch to 50 feet and shall include:
 - a. Name and address of the applicant or his/her authorized agent, name of proposed development land within 500 feet of the proposed development in which the applicant has right, title or interest, scale, north point;
 - b. Existing soil conditions on the site as described by either a soil scientist, geologist, engineer, or Soil Conservation Service medium intensity soil survey;
 - c. Municipal tax maps, lot numbers, and names of abutting landowners;

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- d. Perimeter survey of the parcel, certified by a registered land surveyor relating to reference points. Showing true north point, graphic scale, corners of parcel, date of survey, and total acreage. Areas within 500 feet of the proposed development site shall be included;
 - e. Existing structures, proposed development, and dimensions of: utility lines, sewer lines, water lines, easements, drainage ways, and public or private rights-of-way;
 - f. Location, ground floor area, elevations of buildings and other structures on parcels abutting the site;
 - g. If the site is not to be served by a public sewer line, then an on-site soils investigation report by a Department of Human Services licensed site-evaluator shall be provided. The report shall contain the types of soil, location of test pits, wells, steep slopes, proposed disposal location, design of the best practical subsurface disposal system and other pertinent existing physical features;
 - h. Location and dimensions of on-site pedestrian and vehicular access ways, parking areas, loading and unloading facilities, design of ingress and egress of vehicles to and from the site on to public streets, and curb and sidewalk lines;
 - i. Landscaping plan showing location, type, approximate size of plantings, location and dimensions of all fencing and screening
 - j. Topography indicating contours at intervals of either 5, 10 or 20 feet in elevation as specified by the Planning Board;
 - k. Location of aquifers and aquifer recharge areas (if mapped); and
 - l. Location of watercourses, marshes, rock outcroppings, wooded areas, and single trees with a diameter of 10 inches measured three feet from the base of the trunk.
2. A written statement by the applicant that shall consist of:
- a. Evidence by the applicant of his/her title and interest in the land proposed for development;
 - b. A description of the proposed use(s) to be located on the site, including quantity
 - c. Total floor area of each proposed building or structure and percentage of lot covered by the total development;
 - d. Existing easements, restrictions, covenants or other restrictions placed on the property, adjacent property, or intersecting the property;
 - e. Method of solid waste disposal with letter from authorities stating approval of the disposal;
 - f. Erosion and sedimentation control plan;

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- g. Copies of letters sent to: the abutting landowners, selectmen, road commissioner/public works director, fire chief, police chief, etc., notifying them of the proposed development;
- h. Statement of financial capacity, including names and sources of the financing parties including banks, whether these sources of financing are for construction loans or long term mortgages or both; including: governmental agencies, private corporation, partnerships and limited partnerships;
- i. List of applicable local, state, and federal ordinances, statutes, laws, codes and regulations such as, but not limited to, zoning ordinances, Great Ponds Act, the flood prone areas subject to the National Flood Insurance Act, etc.;
- j. In cases where off-site facilities are proposed for primary or secondary use applicants shall provide a statement of evaluation of the availability and suitability of off-site public facilities including sewer, water, and streets;
- k. A statement from the Fire Chief as to the availability of the fire protection services, including; fire hydrants and/or fire ponds;
- l. If public water and/or sewer are to be used, a statement from the water and/or sewer district, or utility, as to the availability of public water and/or sewer lines;
- m. A statement from the Board of Selectmen that the proposed road or street construction will meet Town specifications and;
- n. A proposed start-up date and completion date, specifying start-up and completion phase dates, if applicable.

B. Traffic Data:

A plan may be required to have an accompanying traffic engineering study should the project propose a total building coverage in excess of 5,000 square feet (ground floor area) or an area in excess of 30,000 square feet which is to be roofed, paved, or stripped of vegetation. Should a traffic study be requested by the Planning Board, the following data shall be included:

- 1. The estimated peak-hour traffic to be generated by the proposal.
- 2. Existing traffic counts and volumes on surrounding roads.
- 3. The capacity of surrounding roads and any improvements which may be necessary on such roads to accommodate anticipated traffic generation.
- 4. The need for traffic signals and signs or other directional markers to regulate anticipated traffic.

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C. Application Procedures:

1. The application shall be filed with the Planning Board for review and accompanied by a fee of \$1.00 for every \$1,000 of proposed construction money. In addition, the Planning Board may set an amount to be added to the base fee paid by the developer, sufficient to enable the Board to secure outside technical assistance in reviewing the proposed development, if, in the Board's sole discretion, such assistance will be required. Within 30 days of the filing of an application, the Planning Board shall notify the applicant in writing either that the application is a complete application or, if the application is incomplete, the specific additional material needed to make a complete application. After the Planning Board has determined that a complete application has been filed, it shall notify the applicant in writing and begin its review of the proposed development.
2. The Planning Board may hold a public hearing within thirty (30) days of the filing of the completed application. The Planning Board shall publish the time, date and place of the hearing at least two times, the date of the first publication to be at least seven days prior to the hearing in a local newspaper of general circulation. The abutting landowners shall be notified of the hearing.
3. Within thirty (30) days of the public hearing or sixty (60) days of receiving the application the Planning Board shall make their decision to either approve, approve with conditions, or disapprove the application. The time limit for review may be extended by a written mutual agreement between the Planning Board and the applicant.
4. Within seven (7) days of reaching their decision, the Planning Board shall determine findings of fact and notify the applicant in writing of any action taken and the reason for taking such action.

SECTION 8: Effective Date

The effective date of this ordinance or any amendments thereto shall be the day immediately following its/their adoption at a regular or special town meeting. The effective date of this Ordinance is _____.

A copy of this Ordinance and any amendments hereto shall be filed with the Town Clerk, according to the requirements of State law, and shall be accessible to any member of the public. The adoption of this Ordinance hereby repeals and supersedes all conflicting provisions of all ordinances adopted prior to the effective date of this Ordinance.

TOWN OF SOMERVILLE

SUBDIVISION
ORDINANCE

FOR ADOPTION AT
SPECIAL TOWN MEETING
FEBRUARY 7, 2015

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ARTICLE I - PURPOSES

The purposes of this ordinance are to assure the comfort, convenience, safety, health and welfare of the people of the Town of Somerville, to protect the environment and to promote the development of an economically sound and stable community. To this end, in approving subdivisions within the Town of Somerville, Maine, the Planning Board shall consider the following criteria and before granting approval shall make findings of fact that the provisions of this ordinance have been met and that the proposed subdivision will meet the guidelines of Title 30-A, M.R.S.A. §4404. The subdivision:

- 1.1. Will not result in undue water or air pollution. In making this determination, the Board shall at least consider the elevation of the land above sea level and its relation to the flood plains; the nature of soils and subsoils and their ability to adequately support waste disposal; the slope of the land and its effect on effluents;
- 1.2. Has sufficient water available for the reasonably foreseeable needs of the subdivision;
- 1.3. Will not cause an unreasonable burden on an existing water supply;
- 1.4. Will not cause unreasonable soil erosion or reduction in the capacity of the land to hold water so that a dangerous or unhealthy condition may result;
- 1.5. Will not cause unreasonable highway or public road congestion or unsafe conditions with respect to use of the highways or public roads existing or proposed;
- 1.6. Will provide for adequate solid and sewage waste disposal;
- 1.7. Will not cause an unreasonable burden on the ability of the Town of Somerville to dispose of solid waste and sewage;
- 1.8. Will not have an undue adverse effect on the scenic or natural beauty of the area, aesthetics, historic sites or rare and irreplaceable natural areas or any public rights for physical or visual access to the shoreline; and
- 1.9. Is in conformance with a duly adopted subdivision regulation or ordinance, comprehensive plan, development plan or land use plan, districting ordinance, or shoreland zoning ordinance.
- 1.10. The subdivider has adequate financial and technical capacity to meet the above stated standards.
- 1.11. Whenever situated in whole or in part, within 250 feet of any pond, lake, river or tidal waters, will not adversely affect the quality of the body of water or unreasonably affect the shoreline of that body of water.
- 1.12. Will not, alone or in conjunction with existing activities, adversely affect the quality or quantity of ground or surface water.
- 1.13. All principal structures within the subdivision shall be constructed with their lowest floor, including the basement, at least one foot above the 100-year flood elevation.

ARTICLE II - AUTHORITY AND ADMINISTRATION

2.1. Authority.

- 2.1.1 This ordinance has been prepared in accordance with the provisions of Title 30-A M.R.S.A., §4403.
- 2.1.2 This ordinance shall be known and may be cited as "Subdivision Ordinance of the Town of Somerville, Maine."

2.2. Administration.

- 2.2.1 The Planning Board of the Town of Somerville, hereinafter called the Board, shall administer this ordinance.
- 2.2.2 The provisions of this ordinance shall pertain to all land proposed for subdivision, as defined in Title 30-A M.R.S.A., §4401, Subsection 4, within the boundaries of the Town of Somerville.

Town of Somerville Subdivision Ordinance

ARTICLE III - DEFINITIONS

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

Cluster Subdivision: A subdivision in which the lot sizes are reduced below those normally required in the zoning district in which the development is located in return for the provision of permanent open space owned in common by lot/unit owners, the Town, or a land conservation organization.

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

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

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

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

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

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

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

High Intensity Soil Survey: A map prepared by a Certified Soil Scientist, identifying the soil types down to 1/8 acre or less at a scale equivalent to the subdivision plan submitted. The soils shall be identified in accordance with the National Cooperative Soil Survey. The map shall show the location of all test pits used to identify the soils, and shall be accompanied by a log of each sample point identifying the textural classification and the depth to seasonal high water table or bedrock at that point. Single soil test pits and their evaluation for suitability for subsurface wastewater disposal systems shall not be considered to constitute high intensity soil surveys.

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

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

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

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

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

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Planned Unit Development: A development controlled by a single developer for a mix of residential, commercial, and industrial uses. A PUD is undertaken in a manner that treats the developed area in its entirety to promote the best use of land, including the creation of open space, a reduction in the length of road and utility systems, and the retention of the natural characteristics of the land.

Planning Board: The Municipal Reviewing Authority of the Town of Somerville, Maine as defined by 30A M.R.S.A. Section 4301, Subsection 12.

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

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

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

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

Road Classification:

Arterial road: A major thoroughfare which serves as a major traffic way for travel between and through the municipality. The following roadways shall be considered arterial roads: Routes 17, 105, 126, 206, 220.

Collector road: A road servicing at least fifteen lots or dwelling units, or roads which serve as feeders to arterial roads, and collectors of traffic from minor roads.

Industrial or Commercial road: Roads servicing industrial or commercial uses.

Minor road: A road servicing less than fifteen lots or dwelling units.

Private Right of Way: A vehicular accessway serving no more than eight dwelling units, which is not intended to be dedicated as a public way.

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

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

Subdivision: The division of a tract or parcel of land into three or more lots or dwelling units within any five-year period, which period begins after September 23, 1971, as defined by Title 30-A M.R.S.A., § 4401(4)(c) as amended, lots of forty or more acres shall be counted as lots.

For the purposes of these regulations, a tract or parcel of land is defined as all contiguous land in the same ownership, provided that lands located on opposite sides of a public or private road shall be considered each a separate tract or parcel of land unless such road was established by the owner of land on both sides of the road after September 22, 1971.

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

Subdivision, Minor: Any subdivision containing not more than four lots or dwelling units, and in which no road is proposed to be constructed.

Tract, or Parcel, of Land: All contiguous land in the same ownership, whether or not the tract is separated at any point by: an intermittent or non-navigable stream, or a private road established by the owner of the land on both sides of the road after September 22, 1971..

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ARTICLE IV - ADMINISTRATIVE PROCEDURE

- 4.1. Purpose.** The purpose of this Article is to establish an orderly, equitable and expeditious procedure for reviewing subdivisions.
- 4.2. Agenda.** In order to avoid unnecessary delays in processing applications for subdivision review, the Board shall prepare an agenda for each regularly scheduled meeting. Applicants shall request to be placed on the Board's agenda at least three weeks in advance of a regularly scheduled meeting by contacting the Chairman. Applicants who attend a meeting but who are not on the Board's agenda may be heard but only after all agenda items have been completed, and then only if a majority of the Board so votes.

ARTICLE V - PREAPPLICATION

- 5.1. Procedure.**
- 5.1.1 Applicant presentation and submission of sketch plans.
 - 5.1.2 Question and answer period. Board makes specific suggestions to be incorporated by the applicant into subsequent submissions.
 - 5.1.3 Scheduling of on-site inspection.
- 5.2. Submission.** The Preapplication Sketch Plan shall show, in simple sketch form, the proposed layout of roads, lots, buildings and other features in relation to existing conditions. The Sketch Plan, which may be a free-hand pencilled sketch, should be supplemented with general information to describe or outline the existing conditions of the site and the proposed development. It is recommended that the sketch plan be superimposed on or accompanied by a copy of the Assessor's Map(s) on which the land is located. The Sketch Plan shall be accompanied by a copy of a portion of the U.S.G.S. topographic map of the area showing the outline of the proposed subdivision, unless the proposed subdivision is less than ten acres in size.
- 5.3. Contour Interval and On-Site Inspection.** Within thirty days, the Board shall determine and inform the applicant in writing of the required contour interval on the Preliminary Plan, or Final Plan in the case of a Minor Subdivision. The Board or its designated agent shall, at its earliest convenience and normally within 30 days, make an on-site inspection. If any conditions such as snow exist to prevent an adequate inspection in the opinion of the Board, the applicant shall be notified in writing, and any time limits for review shall be extended accordingly until an on-site inspection can be made. The applicant shall place "flagging" at the centerline of any proposed roads, and at the approximate intersections of the road centerlines and lot corners, prior to the on-site inspection.
- 5.4. Rights not Vested.** The submittal or review of the preapplication sketch plan shall not be considered the initiation of the review process for the purposes of bringing the plan under the protection of Title 1, M.R.S.A., §302.

ARTICLE VI - MINOR SUBDIVISIONS

- 6.1. General.** The Board may require, where it deems it necessary for the protection of public health, safety, and welfare, that a Minor Subdivision comply with all or any of the submission requirements for a Major Subdivision.
- 6.2. Procedure.**
- 6.2.1 Within six months after the preapplication submission or the on-site inspection by the Board, the subdivider shall submit an application for approval of a Final Plan at least seven days prior to a scheduled meeting of the Board. Failure to do so shall require resubmission of the Sketch Plan to the Board. The Final Plan shall approximate the layout shown on the Sketch Plan, plus any recommendations made by the Board.
 - 6.2.2 All applications for Final Plan approval for Minor Subdivision shall be accompanied by an application fee of \$80.00 payable by check to the Town of Somerville Planning Board Account. If a public hearing is deemed necessary by the Board, an additional fee shall be required to cover the additional costs of advertising and postal notification.

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- 6.2.3 The subdivider, or his duly authorized representative, shall attend the meeting of the Board and be prepared to discuss the Preliminary Plan.
- 6.2.4 The Planning Board shall notify all owners of abutting property that an application for subdivision approval has been submitted to the Board, and the Board shall publish notification in a local newspaper of general circulation that an application has been submitted, noting the size in total acres of the proposed subdivision and the location of the proposed subdivision.
- 6.2.5 Upon determination that a complete application has been submitted for review, the Board shall issue a dated receipt to the subdivider. The Board shall determine whether to hold a public hearing on the Final Plan application.
- 6.2.6 If the Board decides to hold a public hearing, it shall hold the hearing within thirty days of receipt of a complete application, and shall publish notice of the date, time, and place of the hearing in a local newspaper of general circulation at least two times, the date of the first publication to be at least seven days prior to the hearing.
- 6.2.7 Within thirty days of a public hearing, or within sixty days of receipt of a complete application, if no hearing is held, or within another time limit as may be otherwise mutually agreed to by the Board and the subdivider, the Board shall make findings of fact on the application, and approve, approve with conditions, or deny the Final Plan. The Board shall specify in writing its findings of facts and reasons for any conditions or denial.

6.3. Submissions.

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

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

- 6.3.1 Proposed name of the subdivision, or identifying title, and the name of the municipality in which it is located, plus the Assessor's Map and Lot numbers.
- 6.3.2 Verification of right, title, or interest in the property.

ARTICLE VII - PRELIMINARY PLAN FOR MAJOR SUBDIVISION

7.1. Procedure.

- 7.1.1. Within six months after the preapplication submission or on-site inspection by the Board, the subdivider shall submit an application for approval of a Preliminary Plan at least seven days prior to a scheduled meeting of the Board. Failure to do so shall require resubmission of the Sketch Plan to the Board. The Preliminary Plan shall approximate the layout shown on the Sketch Plan, plus any recommendations made by the Board.
- 7.1.2 All applications for Preliminary Plan approval for a Major Subdivision shall be accompanied by an application fee of \$25 per lot or dwelling unit, payable by check to the Town of Somerville Planning Board Account. In addition, at its discretion the Board may consult with agencies or persons of recognized special authority in the fields of traffic engineering, environmental protection, land use, fish and wildlife management, geology, air or water quality, solid or liquid waste disposal, or other fields as appropriate. Consultation from sources without fee shall be used first, if available. If not, the fees shall be the responsibility of the applicant who shall be notified in advance of the estimated fees. The amount of said

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fees shall be paid by the applicant. If a public hearing is deemed necessary by the Board, an additional fee shall be required to cover all costs of advertising and postal notification and dissemination of information.

- 7.1.3 The subdivider, or his duly authorized representative, shall attend the meeting of the Board and be prepared to discuss the Preliminary Plan.
- 7.1.4 The Planning Board shall notify all owners of abutting property that an application for subdivision approval has been submitted to the Board, and the Board shall publish notification in a local newspaper of general circulation that an application has been submitted, noting the size in total acres of the proposed subdivision and the location of the proposed subdivision.
- 7.1.5 Within thirty days of receipt of a Preliminary Plan application form and fee, the Board shall notify the applicant in writing whether or not the application is complete, and what, if any, additional submissions are required for a complete application.
- 7.1.6 Upon determination that a complete application has been submitted for review, the Board shall issue a dated receipt to the subdivider. The Board shall determine whether to hold a public hearing on the Preliminary Plan application. If the Board decides to hold a public hearing, it shall hold the hearing within thirty days of receipt of a complete application, and shall publish notice of the date, time, and place of the hearing in a newspaper of general circulation in the municipality at least two times, the date of the first publication to be at least seven days prior to the hearing.

When a subdivision is located within 500 feet of a municipal boundary, and a public hearing is to be held, the Board shall notify the Clerk and the Chairman of the Planning Board of the adjacent municipality involved, at least ten days prior to the hearing.

- 7.1.7 The Board shall, within thirty days of a public hearing, or within sixty days of receipt of a complete application, if no hearing is held, or within another time limit as may be otherwise mutually agreed to by the Board and the subdivider, make findings of fact on the application, and approve, approve with conditions, or deny the Preliminary Plan. The Board shall specify in writing its findings of facts and reasons for any conditions or denial.
- 7.1.8 When granting approval to a Preliminary Plan, the Board shall state the conditions of such approval, if any, with respect to:
 - 7.1.8.1 The specific changes which it will require in the Final Plan;
 - 7.1.8.2 The character and extent of the required improvements for which waivers may have been requested and which in the Board's opinion may be waived without jeopardy to the public health, safety, and general welfare; and
 - 7.1.8.3 The amount and type of all performance guarantees which it will require as prerequisite to the approval of the Final Plan;
- 7.1.9 Approval of a Preliminary Plan shall not constitute approval of the Final Plan or intent to approve the Final Plan, but rather it shall be deemed an expression of approval of the design of the Preliminary Plan as a guide to the preparation of the Final Plan. The Final Plan shall be submitted for approval of the Board upon fulfillment of the requirements of these regulations and the conditions of preliminary approval, if any. Prior to the approval of the Final Plan, the Board may require additional changes as a result of the further study of the subdivision or as a result of new information received.

7.2. Submissions.

- 7.2.1 Location Map. The Preliminary Plan shall be accompanied by a Location Map adequate to show the relationship of the proposed subdivision to the adjacent properties, and to allow the Board to locate the subdivision within the municipality. The Location Map shall show:
 - 7.2.1.1 Existing subdivisions in the proximity of the proposed subdivision.
 - 7.2.1.2 Locations and names of existing and proposed roads.

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- 7.2.1.3 Boundaries and designations of districts.
- 7.2.1.4 An outline of the proposed subdivision and any remaining portion of the owner's property if the Preliminary Plan submitted covers only a portion of the owner's entire contiguous holding.
- 7.2.2 Preliminary Plan. The Preliminary Plan shall be submitted in three copies of one or more maps or drawings which may be printed or reproduced on paper, with all dimensions shown in feet or decimals of a foot. The Preliminary Plan shall be drawn to a scale of not more than one hundred feet to the inch. The Board may allow plans for subdivisions containing more than one hundred acres to be drawn at a scale of not more than two hundred feet to the inch provided all necessary detail can easily be read. In addition, one copy of the Plan(s) reduced to a size of 8 1/2 by 11 inches, and all accompanying information shall be mailed to each Board member no less than seven days prior to the meeting. The following information shall either be shown on the Preliminary Plan or accompany the application for preliminary approval:
 - 7.2.2.1 Proposed name of the subdivision and the name of the municipality in which it is located, plus the Tax Assessor's Map and Lot numbers.
 - 7.2.2.2 Verification of right, title, or interest in the property.
 - 7.2.2.3 An actual field survey of the boundary lines of the tract, giving complete descriptive data by bearings and distances, made and certified by a licensed land surveyor. The corners of the tract shall be located on the ground and marked by monuments.
 - 7.2.2.4 A copy of the deed from which the survey was based. A copy of all covenants or deed restrictions, easements, rights-of-way, or other encumbrances currently affecting the property.
 - 7.2.2.5 A copy of any covenants or deed restrictions intended to cover all or part of the lots in the subdivision.
 - 7.2.2.6 Contour lines at the interval specified by the Planning Board, showing elevations in relation to Mean Sea Level.
 - 7.2.2.7 The number of acres within the proposed subdivision, location of property lines, existing buildings, watercourses, vegetative cover type, and other essential existing physical features. The location of any trees larger than 24 inches in diameter at breast height shall be shown on the plan.
 - 7.2.2.8 Indication of the type of sewage disposal to be used in the subdivision:

When sewage disposal is to be accomplished by subsurface sewage disposal systems, test pit analyses, prepared by a Licensed Site Evaluator shall be provided. A map showing the location of all test pits dug on the site shall be submitted.
 - 7.2.2.9 Indication of the type of water supply system(s) to be used in the subdivision:

When water is to be supplied by private wells, evidence of adequate ground water supply and quality shall be submitted by a well driller or a hydrogeologist familiar with the area.
 - 7.2.2.10 The date the Plan was prepared, magnetic north point, graphic map scale, names and addresses of the record owner, subdivider, and individual or company who prepared the plan. If the subdivider is not the owner of the property, evidence of the subdivider's right, title or interest to the property.
 - 7.2.2.11 The names and addresses of owners of record of adjacent property, including any property directly across an existing public road from the subdivision.
 - 7.2.2.12 The location of any districting boundaries within 1000 feet of any part of the proposed subdivision.
 - 7.2.2.13 The location and size of existing and proposed sewers, water mains, culverts, and drainage ways on or adjacent to the property to be subdivided.

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- 7.2.2.14. The location, names, and present widths of existing and proposed roads, highways, easements, building lines, parks and other open spaces on or adjacent to the subdivision.
- 7.2.2.15 The width and location of any roads or public improvements shown upon the Official Map and the Comprehensive Plan, if any, within the subdivision.
- 7.2.2.16 The proposed lot lines with approximate dimensions and lot areas.
- 7.2.2.17. All parcels of land proposed to be dedicated to public use and the conditions of such dedication.
- 7.2.2.18 The location of any open space to be preserved and a description of proposed improvements and its management.
- 7.2.2.19 A copy of that portion of the county Soil Survey covering the subdivision. When the medium intensity soil survey shows soils which are generally unsuitable for the uses proposed, the Board may require the submittal of a high intensity soil survey or a report by a Registered Soil Scientist or Registered Professional Engineer experienced in geotechnics, indicating the suitability of soil conditions for those uses.
- 7.2.2.20 If any portion of the subdivision is in a flood-prone area, the boundaries of any flood hazard areas and the 100-year flood elevation shall be delineated on the plan.
- 7.2.2.21 A hydrogeologic assessment, prepared in accordance with Section 11.12.A of this Ordinance by a Certified Geologist or Registered Professional Engineer, experienced in hydrogeology, when
 - 7.2.2.21.1 Any part of the subdivision is located over a sand and gravel aquifer, as shown on a map entitled "Hydrogeologic Data for Significant Sand and Gravel Aquifers," by the Maine Geological Survey, Map No. 18; or a primary recharge area to an aquifer, or
 - 7.2.2.21.2 The subdivision has an average density of less than 100,000 square feet per dwelling unit.
- 7.2.2.22 An estimate of the amount and type of vehicular traffic to be generated on a daily basis and at peak hours. A traffic impact analysis shall be required for subdivisions proposed to be accessed by roads that do not meet minimum standards as outlined in Article 12 of this document.
- 7.2.2.23 For subdivisions involving 40 or more parking spaces or projected to generate more than 400 vehicle trips per day, a traffic impact analysis, prepared by a Registered Professional Engineer with experience in traffic engineering, shall be submitted. The analysis shall indicate the expected average daily vehicular trips, peak-hour volumes, access conditions at the site, distribution of traffic, types of vehicles expected, effect upon the level of service of the road giving access to the site and neighboring roads which may be affected, and recommended improvements to maintain the desired level of service on the affected roads. Trip generation rates used shall be the mean value reported in Table 3 of Development and Application of Trip Generation Rates, Kellerco, Inc., published by the Federal Highway Administration, January 1985.
- 7.2.2.24 For projects within lake watershed districts a phosphorus control analysis and plan shall be submitted for review and approval.

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ARTICLE VIII - FINAL PLAN FOR MAJOR SUBDIVISION

8.1. Procedure.

- 8.1.1 The subdivider shall, within six months after the approval of the Preliminary Plan, file with the Board an application for approval of the Final Plan at least seven days prior to a scheduled meeting of the Board. If the application for the Final Plan is not submitted within six months after Preliminary Plan approval, the Board may refuse without prejudice to act on the Final Plan, and require resubmission of the Preliminary Plan. The Final Plan shall approximate the layout shown on the Preliminary Plan, plus any recommendations made by the Board.
- 8.1.2 All applications for Final Plan approval for Major Subdivision shall be accompanied by an application fee of \$30 per lot or dwelling unit payable by check to the Town of Somerville Planning Board Account. If a public hearing is deemed necessary by the Board, an additional fee shall be required to cover the costs of advertising, postal notification and dissemination of information.
- 8.1.3 Prior to submittal of the Final Plan application, the following approvals shall be obtained in writing, where appropriate:
 - 8.1.3.1. Maine Department of Environmental Protection, under the Site Location of Development Act, Great Ponds Act, Fresh Water Wetlands Act, Alteration of Streams and Rivers Act, or if a Wastewater Discharge License is needed.
 - 8.1.3.2. Maine Department of Human Services, if the subdivider proposes to provide a central water supply system.
 - 8.1.3.3. Maine Department of Human Services, if a centralized or shared subsurface sewage disposal system(s) is to be utilized.
- 8.1.4 The subdivider, or his duly authorized representative, shall attend the meeting of the Board to discuss the Final Plan.
- 8.1.5 Upon determination that a complete application has been submitted for review, the Board shall issue a dated receipt to the subdivider. The Board shall determine whether to hold a public hearing on the Final Plan application.
- 8.1.6 A public hearing may be held by the Board within thirty days after the issuance of a receipt for the submittal of a complete application. This hearing shall be advertised in a local newspaper of general circulation at least two times, the date of the first publication to be at least seven days before the hearing and the notice of the hearing shall be posted in at least three prominent places at least seven days prior to the hearing.
- 8.1.7 The Board shall notify the Selectmen, Code Enforcement Officer, Road Commissioner, School Superintendent, Law Enforcement Agencies, and Fire Chief of the proposed subdivision, the number of dwelling units proposed, the length of roadways, and the size and construction characteristics of any multi-family, commercial or industrial buildings. The Board shall request that these officials submit written statements, signed and dated, attesting to the adequacy of their department's existing capital facilities to service the proposed subdivision. Comment on the adequacy before and after the proposed development of the Town of Somerville's a. Solid waste disposal facility, b. roads, c. schools, d. fire protection, and e. police protection shall be included
- 8.1.8 Before the Board grants approval of the Final Plan, the subdivider shall meet the performance guarantee requirements contained in Article XIII.
- 8.1.9 If the subdivision is located in more than one municipality, the Board shall have a joint meeting with the Planning Board of the adjacent municipality to discuss the Plan.
- 8.1.10 The Board, within thirty days from the public hearing or within sixty days of receiving a complete application, if no hearing is held, shall make findings of fact, and conclusions relative to the standards contained in Title 30-A, M.R.S.A. §4404, and in these regulations. If the Board finds that all standards of

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the Statute and these regulations have been met, they shall approve the Final Plan. If the Board finds that any of the standards of the Statute or these regulations have not been met, the Board shall either deny the application or approve the application with conditions to ensure all of the standards will be met by the subdivision. The reasons for any conditions shall be stated in the records of the Board.

8.2. Submissions.

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

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

- 8.2.1 Proposed name of the subdivision and the name of the municipality in which it is located, plus the Assessor's Map and Lot numbers.
- 8.2.2 An actual field survey of the boundary lines of the tract, giving complete descriptive data by bearings and distances, made and certified by a licensed land surveyor. The corners of the tract shall be located on the ground and marked by monuments. The plan shall indicate the type of monument set or found at each lot corner.
- 8.2.3 The number of acres within the proposed subdivision, location of property lines, existing buildings, watercourses, and other essential existing physical features.
- 8.2.4 Indication of the type of sewage disposal to be used in the subdivision.
- 8.2.5 Indication of the type of water supply system(s) to be used in the subdivision.
 - 8.2.5.1 When water is to be supplied by private and/or communal wells, evidence of adequate ground water supply and quality shall be submitted by a well driller or a hydrogeologist familiar with the area.
 - 8.2.5.2 A written statement shall be submitted from the Fire Chief approving all hydrant locations or other fire protection measures deemed necessary.
- 8.2.6 The date the Plan was prepared, magnetic and true north point, graphic map scale, names and addresses of the record owner, subdivider, and individual or company who prepared the plan.
- 8.2.7 The location of any districting boundaries within 1000 feet of any part of the subdivision, and the location of the proposed subdivision within the Town of Somerville boundaries.
- 8.2.8 The location and size of existing and proposed sewers, water mains, culverts, and drainage ways on or adjacent to the property to be subdivided.
- 8.2.9 The location, names, and present widths of existing and proposed roads, highways, easements, building lines, parks and other open spaces on or adjacent to the subdivision. The plan shall contain sufficient data to allow the location, bearing and length of every road line, lot line, and boundary line to be readily determined and be reproduced upon the ground. These lines shall be tied to reference points previously established. The length of all straight lines, the deflection angles radii, length of curves and central angles of curves, tangent distances and tangent bearings for each road shall be included.
- 8.2.10 A soil erosion and sedimentation control plan, prepared in accordance with the standards contained in the

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latest revised edition of the *Environmental Quality Handbook* published by the U.S. Soil Conservation Service.

- 8.2.11 A plan for the disposal of surface drainage waters prepared by a Registered Professional Engineer, in accordance the latest revised edition of Technical Release 55, *Urban Hydrology for Small Watersheds* published by the U.S. Soil Conservation Service.
- 8.2.12 The width and location of any roads or public improvements shown upon the Official Map and the Comprehensive Plan, if any, within the subdivision.
- 8.2.13 All parcels of land proposed to be dedicated to public use and the conditions of such dedication. Written offers of cession to the municipality of all public open spaces shown on the Plan, and copies of agreements or other documents showing the manner in which open spaces to be retained by the developer or lot owners are to be maintained shall be submitted. If open space or other land is to be offered to the municipality, written evidence that the Municipal Officers are satisfied with the legal sufficiency of the written offer of cession shall be included.
- 8.2.14 A list of construction items with cost estimates that will be completed by the developer prior to the sale of lots. A separate list of construction and maintenance items, with both capital and annual operating cost estimates, that must be financed by the municipality, or quasi-municipal districts. These lists shall include but not be limited to:
 - Schools, including busing
 - Road maintenance and snow removal
 - Police and fire protection
 - Solid waste disposal
 - Recreation facilities
 - Storm water drainage
 - Wastewater treatment
 - Water supply

The developer shall provide an estimate of the net increase in taxable assessed valuation at the completion of the construction of the subdivision.
- 8.2.15 If any portion of the subdivision is in a flood-prone area, the boundaries of any flood hazard areas and the 100-year flood elevation shall be delineated on the plan.

8.3. Final Approval and Filing.

- 8.3.1 No plan shall be approved by the Board as long as the subdivider is in violation of the provisions on a previously approved Plan.
- 8.3.2 Upon findings of fact and determination that all standards in Title 30-A, M.R.S.A. §4404, and these regulations have been met, and upon voting to approve the subdivision, the Board shall sign the Final Plan. The Board shall specify in writing its findings of facts and reasons for any conditions or denial. One copy of the signed plan shall be retained by the Board as part of its permanent records. One copy of the signed plan shall be forwarded to the Tax Assessor. One copy of the signed plan shall be forwarded to the Code Enforcement Officer. Any subdivision not recorded in the Registry of Deeds within ninety days of the date upon which the plan is approved and signed by the Board shall become null and void.
- 8.3.3 At the time the Board grants Final Plan approval, it may permit the Plan to be divided into two or more sections subject to any conditions the Board deems necessary in order to insure the orderly development of the Plan. If any municipal or quasi-municipal department head notified of the proposed subdivision informs the Board that their department or district does not have adequate capital facilities to service the subdivision, the Board shall require the Plan to be divided into two or more sections subject to any conditions the Board deems necessary in order to allow the orderly planning, financing and provision of public services to the subdivision. If the superintendent of schools indicates that there is less than 20% excess classroom capacity existing in the school(s) which will serve the subdivision, considering previously approved but not built subdivisions, the Board shall require the Plan to be divided into sections to prevent classroom overcrowding.

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- 8.3.4 No changes, erasures, modifications, or revisions shall be made in any Final Plan after approval has been given by the Board and endorsed in writing on the Plan, unless the revised Final Plan is first submitted and the Board approves any modifications, except in accordance with Article IX. The Board shall make findings that the revised plan meets the standards of Title 30-A, M.R.S.A. §4404, and these regulations. In the event that a Plan is recorded without complying with this requirement, it shall be considered null and void, and the Board shall institute proceedings to have the Plan stricken from the records of the Registry of Deeds.
- 8.3.5 The approval by the Board of a subdivision plan shall not be deemed to constitute or be evidence of any acceptance by the municipality of any road, easement, or other open space shown on such plan. When a park, playground, or other recreation area shall have been shown on the plan to be dedicated to the municipality, approval of the Plan shall not constitute an acceptance by the municipality of such areas. The Board shall require the Plan to contain appropriate notes to this effect. The Board may also require the filing of a written agreement between the applicant and the Municipal Officers covering future deed and title, dedication, and provision for the cost of grading, development, equipment, and maintenance of any such dedicated area.
- 8.3.6 Construction or alteration activities for which approval has been granted under this Ordinance shall commence within six (6) months of the date of issuance and shall be substantially completed within twenty-four (24) months of the date of issuance.

Activities which are not commenced or substantially completed within the time limits provided above shall be subject to new application and the approval issued under this Ordinance shall be considered void. The Board shall have a notice placed in the Registry of Deeds to that effect.

Activities may be extended for up to one (1) year by the Board if application is submitted not later than thirty (30) days prior to expiration.

ARTICLE IX - REVISIONS TO APPROVED PLANS

9.1. Procedure

An applicant for a revision to a previously approved plan shall, at least seven days prior to a scheduled meeting of the Board, request to be placed on the Board's agenda. If the revision involves the creation of additional lots or dwelling units, the procedures for preliminary plan approval shall be followed. If the revision involves only modifications of the approved plan, without the creation of additional lots or dwelling units, the procedures for final plan approval shall be followed.

9.2. Submissions

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

9.3 Scope of Review

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

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ARTICLE X - ENFORCEMENT

10.1. Inspection of Required Improvements.

- 10.1.1 At least five days prior to commencing each major phase of construction of required improvements, the subdivider or builder shall:
 - 10.1.1.1 Notify the Code Enforcement Officer in writing of the time when he proposes to commence construction of such improvements, so that the Municipal Officers can cause inspection to be made to assure that all municipal specifications and requirements shall be met during the construction of required improvements, and to assure the satisfactory completion of improvements and utilities required by the Board.
 - 10.1.1.2 To pay for the costs of inspection, pay to the Town of Somerville Planning Board Account a fee in the amount of 2% of the estimated costs of the required improvements. Said fee minimum to be \$400.
- 10.1.2 If the inspecting official finds upon inspection of the improvements that any of the required improvements have not been constructed in accordance with the plans and specifications filed by the subdivider, he shall so report in writing to the Municipal Officers, Planning Board, and the subdivider or builder. The Municipal Officers shall take any steps necessary to preserve the municipality's rights.
- 10.1.3 If at any time before or during the construction of the required improvements, it appears to be necessary or desirable to modify the required improvements, the inspecting official is authorized to approve minor modifications due to unforeseen circumstances such as encountering hidden outcrops of bedrock, natural springs, etc. The inspecting official shall issue any approval under this section in writing and shall transmit a copy of the approval to the Board. Revised plans shall be filed with the Town. For major modifications, such as relocation of rights-of-way, property boundaries, changes of grade by more than 1%, etc., the subdivider shall obtain permission to modify the plans from the Board.
- 10.1.4 At the close of each summer construction season the Town shall, at the expense of the subdivider, have the site inspected by a qualified individual. By December 1 of each year during which construction was done on the site, the inspector shall submit a report to the Board based on that inspection, addressing whether storm water and erosion control measures (both temporary and permanent) are in place, are properly installed, and appear adequate to do the job they were designed for. The report shall also include a discussion and recommendations on any problems which were encountered.
- 10.1.5 Prior to the sale of any lot, the subdivider shall provide the Board with a letter from a Registered Land Surveyor, stating that all monumentation shown on the plan has been installed.
- 10.1.6 Upon completion of road construction a written certification signed by a professional engineer registered in the State of Maine shall be submitted to the Municipal Officers at the expense of the applicant, certifying that the road meets or exceeds the design and construction requirements of these regulations. If there are any underground utilities, the servicing utility shall certify in writing that they have been installed in a manner acceptable to the utility.
- 10.1.7 The subdivider, builder or lot owners shall be required to maintain all improvements and provide for snow removal on roads and sidewalks.

10.2. Violations and Enforcement.

- 10.2.1 No plan of a division of land within the municipality which would constitute a subdivision shall be recorded in the Registry of Deeds until a Final Plan has been approved by the Board in accordance with these regulations.
- 10.2.2 No person, firm, corporation or other legal entity may convey, offer or agree to convey any land in a subdivision which has not been approved by the Board and recorded in the Registry of Deeds.

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- 10.2.3 No person, firm, corporation or other legal entity may convey, offer or agree to convey any land in an approved subdivision which is not shown on the Final Plan as a separate lot.
- 10.2.4 Any person, firm, corporation or other legal entity who conveys, offers or agrees to convey any land in a subdivision which has not been approved as required by this ordinance shall be punished by a fine of not less than \$100, and not more than \$2500 for each such conveyance, offering or agreement. The Town of Somerville may institute proceedings to enjoin the violation of this section, and may collect attorneys' fees and court costs if it is the prevailing party.
- 10.2.5 No utility company of any kind shall serve any lot in a subdivision for which a Final Plan has not been approved by the Board.
- 10.2.6 Development of a subdivision without Board approval shall be a violation of law. Development includes grading or construction of roads, grading of land or lots, or construction of buildings which require a Final Plan approved as provided in these regulations and recorded in the Registry of Deeds.
- 10.2.7 No lot in a subdivision may be sold, leased, or otherwise conveyed before the road upon which the lot fronts is completed in accordance with these regulations up to and including the entire frontage of the lot. No unit in a multi-family development shall be occupied before the road upon which the unit is accessed is completed in accordance with these regulations.

ARTICLE XI - GENERAL STANDARDS

In reviewing applications for a subdivision, the Board shall consider the following general standards and make findings that each has been met prior to the approval of a Final Plan. In all instances the burden of proof shall be upon the applicant.

- 11.1. Conformance with Comprehensive Plan.** All proposed subdivisions shall be in conformity with the Comprehensive Plan or policy statement of the municipality and with the provisions of all pertinent state and local codes and ordinances.
- 11.2. Retention of Open Spaces and Natural or Historic Features.**
 - 11.2.1 The plan shall, by notes on the final plan and deed restrictions, limit the clearing of trees to those areas designated on the plan.
 - 11.2.2 The Board shall require the reservation of between five and ten percent of the area of the subdivision as open space in order to provide for the recreational needs of the occupants of the subdivision or to maintain the scenic or natural beauty of the area. In determining the need for open space the Board shall consider the proximity of the subdivision to neighboring dedicated open space or recreation facilities; the needs identified in the municipal comprehensive plan or recreation plan for open space or recreation facilities in the neighborhood surrounding the subdivision; the type of development and the demographic characteristics of potential residents in the subdivision; and the density or lot sizes of the development. The developer may instead make a payment in-lieu-of dedication into a municipal open space or recreation land acquisition fund.
 - 11.2.3 Land reserved for open space purposes shall be of a character, configuration and location suitable for the particular use intended. A site intended to be used for active recreation purposes, such as a playground or a play field, should be relatively level and dry, have a total frontage on one or more roads of at least 200 feet, and have no major dimensions of less than 200 feet. Sites selected primarily for scenic or passive recreation purposes shall have such access as the Board may deem suitable and no less than twenty-five feet of road frontage. The configuration of such sites shall be deemed adequate by the Board with regard to scenic attributes to be preserved, together with sufficient areas for trails, lookouts, etc. where necessary and appropriate.
 - 11.2.4 Reserved land acceptable to the Board and subdivider may be dedicated to the municipality as a condition of approval.
 - 11.2.5 Where land is not suitable or is insufficient in amount, or where the applicant prefers, a payment-in-lieu of dedication shall be calculated at the market value of the developed land at the time of the subdivision, as

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determined by the municipal tax assessor, and paid into a municipal land acquisition or improvement fund.

- 11.2.6 The Board may require that the development plans include a landscape plan that will show the preservation of any existing trees larger than 36" inches diameter breast height, the replacement of trees and vegetation, graded contours, streams and the preservation of scenic historic or environmentally significant areas. Cutting of trees on the northerly borders of lots should be avoided as far as possible, to retain a natural wind buffer.
- 11.2.7 If the proposed subdivision contains any historical or archaeological sites, or any areas identified in the Comprehensive Plan or by the Maine Critical Areas Program as rare and irreplaceable natural areas, these areas shall be included in the open space, and suitably protected by appropriate covenants and management plans.
- 11.2.8 Any public rights of access to the shoreline of a water body shall be maintained by means of easements or rights-of-way, or should be included in the open space, with provisions made for continued public access.

11.3. Blocks. Where road lengths exceed 1,000 feet between intersections with other roads, the Board may require an utility/pedestrian easement, at least 20 feet in width, to provide for underground utility crossings and/or a pedestrian pathway of at least five feet in width constructed in accordance with design standards in Section 12.2.L. Maintenance obligations of the easement shall be included in the written description of the easement.

11.4. Lots.

- 11.4.1 All lots shall meet the minimum requirements of the Land Use Ordinance for the district in which they are located. The lot configuration should be designed to maximize the use of solar energy on building sites with suitable orientation.
- 11.4.2 Lot configuration and area shall be designed to provide for adequate off-road parking and service facilities based upon the type of development contemplated. Wherever possible, parking areas shall be laid out to coincide with building locations to maximize solar energy gain.
- 11.4.3 Lots with multiple frontages shall be avoided wherever possible. When lots do have frontage on two or more roads, the plan, and deed restrictions shall indicate vehicular access shall be located only on the less traveled way.
- 11.4.4 Wherever possible, side lot lines shall be perpendicular to the road.
- 11.4.5 The subdivision of tracts into parcels with more than twice the required minimum lot size shall be laid out in such a manner as either to provide for or preclude future resubdivision. Where public utilities could be extended to the subdivision in the foreseeable future, the subdivision shall be designed to accommodate the extensions of utilities.
- 11.4.6 If a lot on one side of a stream, tidal water, road or other similar barrier fails to meet the minimum requirements for lot size, it may not be combined with a lot on the other side of the stream, tidal water, or road to meet the minimum lot size.
- 11.4.7 Flag lots and other odd shaped lots in which narrow strips are joined to other parcels in order to meet minimum lot size requirements are prohibited.
- 11.4.8 Lots shall be numbered in such a manner as to facilitate mail delivery. Even numbers shall be assigned to lots on one side of the road, and odd numbers on the opposite side. Where the proposed subdivision contains the extension of an existing road or road approved by the Board, but not yet constructed, the lot numbers shall correspond with the existing lot numbers. The lot numbering shall be reviewed by the Postmaster and his comments considered by the Board.
- 11.4.9 Where a major subdivision abuts or contains an existing or proposed arterial road, no residential lot may have vehicular access directly onto the arterial road. This requirement shall be noted on the Plan and in the deed of any lot with frontage on the arterial road.

11.5. Utilities.

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- 11.5.1 Utilities shall be installed underground except as otherwise approved by the Board.
- 11.5.2 Underground utilities shall be installed prior to the installation of the final gravel base of the road.
- 11.5.3 The size, type and location of road lights, electric and gas lines, telephone, and other utilities shall be shown on the plan and approved by the Board.

11.6. Required Improvements. The following improvements are required for all subdivisions unless waived by the Board in accordance with provisions of these regulations.

11.6.1 Monuments.

- 11.6.1.1 Stone monuments shall be set at all road intersections and points of curvature, but no further than 750 feet apart along road lines without curves or intersections.
- 11.6.1.2 Stone monuments shall be set at all corners and angle points of the subdivision boundaries where the interior angle of the subdivision boundaries is 135° or less.
- 11.6.1.3 Stone monuments shall be a minimum of four inches square at the top and four feet in length, and set in the ground at final grade level. After they are set, drill holes, 1/2 inch deep shall locate the point or points described above.
- 11.6.1.4 All other subdivision boundary corners and angle points, as well as all lot boundary corners and angle points shall be marked by suitable monumentation.

11.6.2 Water Supply.

The Board may allow the use of individual wells or a private community water system.

- 11.6.2.1 Dug wells shall be permitted only if it is demonstrated to be not economically feasible to develop other ground water sources, and shall be constructed so as to prevent infiltration of surface water into the well. Unless otherwise permitted by the Board, the subdivider shall prohibit dug wells by deed restrictions and a note on the plan.
- 11.6.2.2 If a central water supply system is provided by the subdivider, the location and protection of the source, and the design, construction and operation of the system and shall conform to the standards of the Maine Rules Relating to Drinking Water (10-144 A C.M.R. 231).
- 11.6.2.3 The subdivider shall construct ponds and dry hydrants to provide for adequate water storage for fire-fighting purposes. An easement shall be granted to the municipality granting access to the dry hydrants where necessary. The Board may waive the requirement for fire ponds only upon submittal of evidence that the soil types in the subdivision will not permit their construction.

**11.6.3 Sewage Disposal.
Private Systems.**

- 11.6.3.1 The developer shall submit evidence of soil suitability for subsurface sewage disposal prepared by a Maine Licensed Site Evaluator in full compliance with the requirements of the State of Maine Subsurface Wastewater Disposal Rules. In addition, on lots in which the limiting factor has been identified as being within 24 inches of the surface, a second site with suitable soils shall be shown as a reserve area for future replacement of the disposal area. The reserve area shall be shown on the plan and restricted so as not to be built upon.
- 11.6.3.2. In no instance shall a disposal area be permitted on soils or on a lot which requires a New System Variance from the Subsurface Wastewater Disposal Rules.

11.6.4 Surface Drainage.

The storm water management plan submitted in accordance with Section 12.4 shall be installed.

11.7. Land Features.

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- 11.7.1 Topsoil shall be considered part of the subdivision and shall not be removed from the site except for surplus topsoil from roads, parking areas, and building excavations.
- 11.7.2 Except for normal thinning, landscaping, and cutting trees to provide access to direct sunlight, existing vegetation shall be left intact to prevent soil erosion and to minimize storm water runoff.
- 11.7.3 To prevent soil erosion in shoreline areas, tree cutting in the strip extending one hundred feet inland from the normal high water mark of any waterbody shall be limited in accordance with the Maine State Minimum Shoreland Zoning Ordinance as amended.

11.8. Dedication and Maintenance of Common Open Space and Services.

- 11.8.1. All common land, facilities and property shall be owned jointly or in common by the owners of the dwelling units by means of a home-owners association, by an association which has as its principal purpose the conservation or preservation of land in essentially its natural condition, or by the Town of Somerville, if so voted.
- 11.8.2. Further subdivision of the common land or its use for other than non-commercial recreation or conservation purposes, except for easements for underground utilities, shall be prohibited. Structures and buildings accessory to non-commercial recreational or conservation uses may be erected on the common land.
- 11.8.3. The common open space shall be shown on the Final Plan with appropriate notation on the plan to indicate that:
 - 11.8.3.1 It shall not be used for future building lots; and
 - 11.8.3.2. A part or all of the common open space may be dedicated for acceptance by the Town of Somerville.
- 11.8.4. The by-laws of the proposed homeowners association shall specify maintenance responsibilities and shall be submitted to the Board prior to Final Plan approval.
- 11.8.5. Covenants for mandatory membership in the homeowners association setting forth the owners' rights, interests, and privileges in the association and the common property, shall be reviewed by the Board and included in the deed for each lot or dwelling.
- 11.8.6. The homeowners association shall have the responsibility of maintaining the common property or facilities.
- 11.8.7. The association shall levy annual charges against all owners of dwelling units to defray the expenses connected with the maintenance of common property and tax assessments.
- 11.8.8. The developer or subdivider shall maintain control of the common property, and be responsible for its maintenance until development sufficient to support the association has taken place.
- 11.8.9. Provision shall be made in these by-laws for enforcement of these by-laws by the Town of Somerville should the association fail to do so.

11.9. Construction in Flood Hazard Areas.

When any part of a subdivision is located in a special flood hazard area as identified by the Federal Emergency Management Agency, the plan shall indicate that all principal structures on lots in the subdivision shall be constructed with their lowest floor, including the basement, at least one foot above the 100-year flood elevation. Such a restriction shall be included in the deed to any lot which is included or partially included in the flood hazard area.

11.10. Impact on Ground Water

- 11.10.1. When a hydrogeologic assessment is submitted, the assessment shall contain at least the following information:

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- 11.10.1.1. A map showing the basic soils types.
- 11.10.1.2. The depth to the water table at representative points throughout the subdivision.
- 11.10.1.3. Drainage conditions throughout the subdivision.
- 11.10.1.4. Data on the existing ground water quality, either from test wells in the subdivision or from existing wells on neighboring properties.
- 11.10.1.5. An analysis and evaluation of the effect of the subdivision on ground water resources. In the case of residential developments, the evaluation shall, at a minimum, include a projection of post development nitrate-nitrogen concentrations at any wells within the subdivision, at the subdivision boundaries and at a distance of 1000 feet from potential contamination sources, whichever is a shorter distance. For subdivisions within the watershed of a lake, projections of the development's impact on groundwater phosphate concentrations shall also be provided.
- 11.10.1.6. A map showing the location of any subsurface wastewater disposal systems and drinking water wells within the subdivision and within 200 feet of the subdivision boundaries.
- 11.10.2. Projections of ground water quality shall be based on the assumption of drought conditions (assuming 60% of annual average precipitation).
- 11.10.3. No subdivision shall contaminate the ground water beyond the Maine Drinking Water Standards as measured at the property boundaries.
- 11.10.4. If ground water contains contaminants in excess of the Maine Drinking Water standards, and the subdivision is to be served by on-site ground water supplies, the applicant shall demonstrate how water quality will be improved or treated.
- 11.10.5. Subsurface waste water disposal systems and drinking water wells shall be constructed as shown on the map submitted with the assessment. If construction standards for drinking water wells are recommended in the assessment, those standards shall be included as a note on the Final Plan, and as restrictions in the deeds to the affected lots.

11.11. Access Control and Traffic Impacts

- 11.11.1. General. Provision shall be made for vehicular access to the subdivision and circulation within the subdivision in such a manner as to safeguard against hazards to traffic and pedestrians in existing roads and within the subdivision, to avoid traffic congestion on any road and to provide safe and convenient circulation on public roads and within the subdivision. More specifically, access and circulation shall also conform to the following standards and the design criteria below.
 - 11.11.1.1. The vehicular access to the subdivision shall be arranged to avoid traffic use of existing local residential roads.
 - 11.11.1.2. Where a lot has frontage on two or more roads, the access to the lot shall be provided to the lot across the frontage and to the road where there is lesser potential for traffic congestion and for hazards to traffic and pedestrians.
 - 11.11.1.3. The road giving access to the subdivision and neighboring roads which can be expected to carry traffic to and from the subdivision shall have traffic carrying capacity or be suitably improved by the subdivider to accommodate the amount and types of traffic generated by the proposed subdivision. No subdivision shall increase the volume:capacity ratio of any road above 0.8 nor reduce the road's Level of Service to "D" or below.
 - 11.11.1.4. Where necessary to safeguard against hazards to traffic and pedestrians and/or to avoid traffic congestion, provision shall be made for turning lanes, traffic directional islands, frontage roads, and traffic controls within public roads.
 - 11.11.1.5. Accessways shall be of a design and have sufficient capacity to avoid queueing of entering

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vehicles on any road.

11.11.1.6. Where topographic and other conditions allow, provision shall be made for circulation access connections to adjoining lots of similar existing or potential use:

11.11.1.6.1 When such access connection will facilitate fire protection services as approved by the Fire Chief; or

11.11.1.6.2 When such access will enable the public to travel between two existing or potential uses, generally open to the public, without need to travel upon a road.

11.11.2 Subdivision Access Design for Subdivisions entering onto Arterial roads.

When the access to a subdivision is a road, the road design and construction standards of this appendix shall be met. Where there is a conflict between the standards in this section and the road design and construction standards section, the stricter or more stringent shall apply.

11.11.2.1. General. Access design shall be based on the estimated volume using the access classification defined below.

11.11.2.1.1. Low Volume Access: Less than 25 vehicle trips per day.

11.11.2.1.2 Medium Volume Access: Any access that is not a low volume or high volume access.

11.11.2.1.3 High Volume Access: Peak hour volume of 400 vehicles or greater.

11.11.2.2. Sight Distances. Accesses shall be designed in profile and grading and located to provide the required sight distance measured in each direction. Sight distances shall be measured from the driver's seat of a vehicle standing on that portion of the exit with the front of the vehicle a minimum of 10 feet behind the curblane or edge of shoulder, with the height of the eye 3-1/2 feet, to the top of an object 4-1/2 feet above the pavement. The required sight distances are listed below for various posted speed limits.

11.11.2.2.1 Two Lane Roads. A sight distance of ten feet for each mile per hour of posted speed limit shall be maintained or provided.

11.11.2.2.2 Four Lane Roads. The sight distances provided below are based on passenger cars exiting from accesses onto four lane roads and are designed to enable exiting vehicles:

11.11.2.2.2.1. Upon turning left or right to accelerate to the operating speed of the road without causing approaching vehicles to reduce speed by more than 10 miles per hour, and

11.11.2.2.2.2. Upon turning left, to clear the near half of the road without conflicting with the vehicles approaching from the left.

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Operating Speed <u>(mph)</u>	Safe Sight Distance - <u>Left (ft)</u>	Safe Sight Distance - <u>Right (ft)</u>
20	130	130
30	220	260
40	380	440
50	620	700

11.11.2.2.3. Vertical Alignment. Accesses shall be flat enough to prevent the dragging of any vehicle undercarriage. Low volume accesses shall slope upward or downward from the gutter line on a straight slope of 2 percent or less for at least 25 feet followed by a slope of no greater than 10 percent for the next 50 feet. The maximum grade over the entire length shall not exceed 15 percent. Medium and high volume accesses should slope upward or downward from the gutter line on a straight slope of 2 percent or less for at least 25 feet. Following this landing area, the steepest grade on the access shall not exceed 8 percent.

11.11.2.2.4. Low Volume Accesses.

- 11.11.2.2.4.1 Skew Angle. Low volume accesses shall be two-way operation and shall intersect the road at an angle as nearly 90 degrees as site conditions permit, but in no case less than 60 degrees.
- 11.11.2.2.4.2 Curb Radius. The curb radius shall be between 5 feet and 15 feet, with a preferred radius of 10 feet.
- 11.11.2.2.4.3 Access Width. The width of the access shall be between 12 feet and 16 feet, with a preferred width of 16 feet.
- 11.11.2.2.4.4 Curb-Cut Width. Curb-cut width shall be between 22 feet and 46 feet, with a preferred width of 36 feet.

11.11.2.2.5. Medium Volume Accesses.

- 11.11.2.2.5.1 Skew Angle. Medium volume accesses shall be either one-way or two-way operation and shall intersect the road at an angle as nearly 90 degrees as site conditions permit, but in no case less than 60 degrees.
- 11.11.2.2.5.2 Curb Radius. Curb radii will vary depending if the access is one-way or two-way operation. On a two-way access the curb radii shall be between 25 feet and 40 feet, with a preferred radius of 30 feet. On one way accesses, the curb radii shall be 30 feet for right turns into and out of the site, with a 5 foot radius on the opposite curb.
- 11.11.2.2.5.3 Width. On a two-way access the width of the access shall be between 24 feet and 26 feet, with a preferred width of 26 feet, however where truck traffic is anticipated, the width may be no more than 30 feet. On a one-way access the width shall be between 16 feet and 20, with a preferred width of 16 feet.
- 11.11.2.2.5.4 Curb-Cut Width. On a two-way access the curb-cut width shall be between 74 feet and 110 feet, with a preferred width of 86 feet. On a one-way access the curb-cut width shall be between 46 feet and 70 feet, with a preferred width of 51 feet.

11.11.2.2.6. High Volume Accesses.

- 11.11.2.2.6.1 Skew Angle. High volume accesses shall intersect the road at an angle as nearly 90 degrees as site conditions permit, but in no case less than 60

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degrees.

- 11.11.2.2.6.2 Curb Radius. Without channelization islands for right-turn movements into and out of the site, the curb radii shall be between 30 feet and 50 feet. With channelization islands, the curb radii shall be between 75 feet and 100 feet.
- 11.11.2.2.6.3 Curb-Cut Width. Without channelization, curb-cut width shall be between 106 feet and 162 feet with a preferred width of 154 feet. With channelization, the curb-cut width shall be between 196 feet and 262 feet, with a preferred width of 254 feet.
- 11.11.2.2.6.4. Entering and exiting accesses shall be separated by a raised median which shall be between 6 feet and 10 feet in width. Medians separating traffic flows shall be no less than 25 feet in length, with a preferred length of 100 feet.
- 11.11.2.2.6.5 Width. Access widths shall be between 20 feet and 26 feet on each side of the median, with a preferred width of 24 feet. Right turn only lanes established by a channelization island shall be between 16 feet and 20, with a preferred width of 20 feet.
- 11.11.2.2.6.6 Appropriate traffic control signage shall be erected at the intersection of the access and the road and on medians and channelization islands.
- 11.11.2.2.7. Special Case Accesses. Special case accesses are one-way or two-way drives serving medium or high volume uses with partial access (right turn only) permitted. These accesses are appropriate on roadway segments where there is a raised median and no median breaks are provided opposite the proposed access. These accesses are usually located along the approaches to major signalized intersections where a raised median may be provided to protect left-turning vehicles and separate opposing traffic flows.
 - 11.11.2.2.7.1 Perpendicular driveways.
 - 11.11.2.2.7.1.1. Curb Radii. Curb radii shall be between 30 feet and 50 feet, with a preferred radius of 50 feet.
 - 11.11.2.2.7.1.2. Access width. The width of the access shall be between 26 feet and 30 feet, with a preferred width of 30 feet. On two-way accesses, a triangular channelization island shall be provided at the intersection with the road. On each side of the island the one-way drive shall be between 15 feet and 24 feet with a preferred width of 20 feet.
 - 11.11.2.2.7.1.3. Curb-Cut Width. The total curb-cut width shall be between 86 feet and 130 feet with a preferred width of 130 feet.
 - 11.11.2.2.7.1.4. Channelization island. The channelization island on two-way accesses shall be raised and curbed. Corner radii shall be 2 feet.
 - 11.11.2.2.7.2 Skewed Accesses.
 - 11.11.2.2.7.2.1. Skew Angle. The skew angle shall be between 45° and 60°, with a preferred angle of 45°.
 - 11.11.2.2.7.2.2. Curb Radii. Curb radii shall be between 30 feet and 50 feet on the outside of the intersection, with a preferred radius of 30 feet. Curb radii shall be between 5 feet and 10 feet on the acute side of the intersection with a preferred radius of 5 feet.

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11.11.2.21.7.2.3. Access width. The width of the access shall be between 15 feet and 24 feet, with a preferred width of 20 feet. Where entering and exiting accesses meet, the width shall be between 24 feet and 30 feet with a preferred width of 30 feet.

11.11.2.21.7.2.4. Curb-Cut Width. The total curb-cut width for each access shall be between 35 feet and 75 feet with a preferred width of 42 feet.

11.11.2.21.7.3 Access Location and Spacing.

11.11.2.2.7.3.1. Minimum Corner Clearance. Corner clearance shall be measured from the point of tangency (PT) for the corner to the point of tangency for the access. In general the maximum corner clearance should be provided as practical based on site constraints. Minimum corner clearances are listed below based upon access or minor road volume and intersection type.

MINIMUM STANDARDS FOR CORNER CLEARANCE

<u>Access Type</u>	<u>Minimum Corner Clearance (feet)</u>	
	<u>Intersection Signalized</u>	<u>Intersection Unsignalized</u>
Low Volume	150	50
Medium Volume	150	50
High Volume	500	250
Special Case		
Right turn in only	50	50
Right turn out only	100	50
Right turn in or out only	100	50

Where the minimum standard for a full access drive cannot be met, only a special case access shall be permitted. If based on the above criteria, full access to the site cannot be provided on either the major or minor roads, the site shall be restricted to partial access. Alternately, construction of a shared access drive with an adjacent parcel is recommended.

11.11.2.2.7.3.2. Access Spacing. Accesses and road intersections shall be separated from adjacent accesses, roads and property lines as indicated in the table below, in order to allow major through routes to effectively serve their primary function of conducting through traffic. This distance shall be measured from the access point of tangency to the access point of tangency for spacing between accesses and from the access point of tangency to a projection of the property line at the edge of the roadway for access spacing to the property line.

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MINIMUM ACCESS SPACING

Access type	Minimum Spacing to Property <u>Line</u> (Dpl) ¹	Minimum Spacing to Adjacent Access by Access Type ² (Dsp) ³				
	(feet)	Low (feet)	Medium (feet)	High w/o RT*	High w/RT**	Special Case (feet)
Low Volume	5	***				
Medium Volume	10	-	75			
High Volume (w/o RT)*	75	-	75	150		
High Volume (w/RT)**	75	-	75	250	500	
Special Case	10	-	75	75	75	40****

¹ Dpl measured from point of tangency of access to projection of property line on roadway edge.

² For two more accesses serving a single parcel, or from a proposed access from an existing access.

³ Dsp measured from point of tangency of access to point of tangency of adjacent access.

* High volume access without right turn channelization.

** High volume access with right turn channelization.

*** Low volume accesses are not permitted in combination with other access types on a single lot.

**** Right-turn-in-only upstream of right-turn-out-only. Right-turn-out followed by right-turn-in not allowed.

11.11.3 Number of Accesses. The maximum number of accesses onto a single road is controlled by the available site frontage and the table above. In addition, the following criteria shall limit the number of accesses independent of frontage length.

11.11.3.1. No low volume traffic generator shall have more than one two-way access onto a single roadway.

11.11.3.2. No medium or high volume traffic generator shall have more than two two-way accesses or three accesses in total onto a single roadway.

11.11.4 Construction Materials/Paving.

11.11.4.1. All accesses entering a curbed road shall be curbed with materials matching the road curbing. Sloped curbing is required around all raised channelization islands or medians.

11.11.4.2. All accesses shall be paved with bituminous concrete pavement within the road right-of-way. All commercial accesses regardless of access volume shall be paved with bituminous concrete pavement within 30 feet of the road right-of-way.

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ARTICLE XII - STREET AND STORM DRAINAGE DESIGN AND CONSTRUCTION STANDARDS

12.1. General Requirements.

- 12.1.1 The Board shall not approve any subdivision plan unless proposed roads and storm water management systems are designed in accordance with any local ordinance or the specifications contained in these regulations. Approval of the Final Plan by the Board, shall not be deemed to constitute or be evidence of acceptance by the municipality of any road or easement.
- 12.1.2 Subdividers shall submit to the Board, as part of the Final Plan, detailed construction drawings showing a plan view, profile, and typical cross-section of the proposed roads and existing roads within 300 feet of any proposed intersections. The plans shall include the following information:
 - 12.1.2.1. Date, scale, and magnetic or true north point.
 - 12.1.2.2. Intersections of the proposed road with existing roads.
 - 12.1.2.3. Roadway and right-of-way limits including edge of pavement, edge of shoulder, sidewalks, and curbs.
 - 12.1.2.4. Kind, size, location, material, profile and cross-section of all existing and proposed drainage structures and their location with respect to the existing natural waterways and proposed drainage ways.
 - 12.1.2.5. Complete curve data shall be indicated for all horizontal and vertical curves.
 - 12.1.2.6. Turning radii at all intersections.
 - 12.1.2.7. Centerline gradients.
 - 12.1.2.8. Locations of all existing and proposed overhead and underground utilities, to include but not be limited to water, sewer, electricity, telephone, lighting, and cable television.
- 12.1.3 Upon receipt of plans for a proposed road the Board shall forward one copy to the Municipal Officers, the Road Commissioner, and may forward one copy to a Consulting Engineer for review and comment.
- 12.1.4 Where the subdivider proposes improvements within existing public roads, the proposed design and construction details shall be approved in writing by the Road Commissioner or the Maine Department of Transportation, as appropriate.
- 12.1.5 Where the subdivision roads are to remain private roads, the following words shall appear on the recorded plan.

“All roads in this subdivision shall remain private roads to be maintained by the developer or the lot owners and shall not be accepted or maintained by the Town.”

12.2. Road Design Standards

- 12.2.1. These design standards shall be met by all roads within subdivisions, and shall control the roadway, shoulders, curbs, sidewalks, drainage systems, culverts, and other appurtenances.
- 12.2.2 Roads shall be designed to discourage through traffic within a residential subdivision.
- 12.2.3 Reserve strips controlling access to roads shall be prohibited except where their control is definitely placed in the municipality.
- 12.2.4 Adjacent to areas zoned and designed for commercial use, or where a change of zoning to a zone which permits commercial uses is contemplated by the municipality, the road right-of-way and/or pavement width shall be increased on each side by half of the amount necessary to bring the road into conformance with the

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standards for commercial roads in these regulations.

- 12.2.5 Where a subdivision borders an existing narrow road (not meeting the width requirements of the standards for roads in these regulations), or when the Comprehensive Plan indicates plans for realignment or widening of a road that would require use of some of the land in the subdivision, the plan shall indicate reserved areas for widening or realigning the road marked “Reserved for Road Realignment (Widening) Purposes.” Land reserved for such purposes may not be included in computing lot area or setback requirements of the Zoning Ordinance. When such widening or realignment is indicated on the Official Map, the reserve area shall not be included in any lot, but shall be reserved to be deeded to the municipality or State.
- 12.2.6 Any subdivision expected to generate average daily traffic of 200 trips per day or more, shall have at least two road connections with existing public roads, roads shown on an Official Map, or roads on an approved subdivision plan for which performance guarantees have been filed and accepted. Any road with an average daily traffic of 200 trips per day or more, shall have at least two road connections leading to existing public roads, roads shown on an Official Map, or roads on an approved subdivision plan for which performance guarantees have been filed and accepted.
- 12.2.7 The following tabular design standards apply according to road classification. Roads shall be hard surfaced and dust free and designed in accordance with those standards described in appendix B to this ordinance. Hard surface may be concrete, bituminous surface or stone/gravel.

<u>Description</u>	<u>Type of Road</u>				
	<u>Arterial</u>	<u>Collector</u>	<u>Minor</u>	<u>Private Right of Way</u>	<u>Industrial/ Commercial</u>
Minimum Right-of Way Width	80'	50'	50'	50'	60'
Minimum Travel Surface Width	44'	24'	20'	18'	30'
Sidewalk Width	8'	5'	5'	N/A	8'
Minimum Grade	0.5%	0.5%	0.5%	N/A	0.5%
Maximum Grade*	5%	6%	8%	10%	5%
Minimum Centerline Radius	500'	230'	150'	N/A	400'
Minimum Tangent between curves of reverse alignment	200'	100'	50'	N/A	200'
Roadway Crown	1/4"/ft	1/4"/ft	1/4"/ft	N/A	1/4"/ft
Minimum angle of road intersections**	90°	90°	75°	75°	
Maxi grade within 75' of intersection	2%	2%	2%	N/A	2%
Minimum curb radii at intersections	30'	20'	15'	N/A	30'***
Minimum r/o/w radii at intersections	20'	10'	10'	10'	20'
Min width of shoulders (each side)	5'	3'	3'	3'	9'

* Maximum grade may be exceeded for a length of 100 feet or less.

** Road intersection angles shall be as close to 90° as feasible but no less than the listed angle.

*** Should be based on turning radii of expected commercial vehicles, but no less than 30 feet.

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

- 12.2.9 Dead End Roads. In addition to the design standards above, dead-end roads shall be constructed to provide a cul-de-sac turn-around with the following requirements for radii: Property line 65 ft.; outer edge of pavement 50'; inner edge of pavement: 30 ft. Where the cul-de-sac is in a wooded area prior to development, a stand of trees shall be maintained within the center of the cul-de-sac. The Board may require the reservation of a twenty foot easement in line with the road to provide continuation of pedestrian traffic or utilities to the next road. The Board may also require the reservation of a fifty foot easement in line with the road to provide continuation of the road where future subdivision is possible.

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12.2.10 Grades, Intersections, and Sight Distances.

12.2.10.1. Grades of all roads shall conform in general to the terrain, so that cut and fill are minimized while maintaining the grade standards above.

12.2.10.2. All changes in grade shall be connected by vertical curves to provide the following minimum stopping sight distances based on the road design speed.

Design Speed (mph)	<u>20</u>	<u>25</u>	<u>30</u>	<u>35</u>
Stopping Sight Distance (ft)	125	150	200	250

Stopping sight distance shall be calculated with a height of eye at 3-1/2 feet and the height of object at 1/2 feet.

12.2.10.3. Where new road intersections or driveway curb-cuts are proposed, sight distances, as measured along the road onto which traffic will be turning, shall be based upon the posted speed limit and conform to the table below. Sight distances shall be measured from the driver's seat of a vehicle standing on that portion of the exit with the front of the vehicle a minimum of 10 feet behind the curblane or edge of shoulder, with the height of the eye 3-1/2 feet, to the top of an object 4-1/2 feet above the pavement.

Posted Speed Limit (mph)	<u>25</u>	<u>30</u>	<u>35</u>	<u>40</u>	<u>45</u>	<u>50</u>	<u>55</u>
Sight Distance (ft)	250	300	350	400	450	500	550

Where necessary, corner lots shall be cleared of all growth and sight obstructions, including ground excavation, to achieve the required visibility.

12.2.10.4. Cross (four-cornered) road intersections shall be avoided insofar as possible, except as shown on the Comprehensive Plan or at other important traffic intersections. A minimum distance of two hundred feet shall be maintained between centerlines of side roads.

12.2.11 Sidewalks. Sidewalks may be installed within subdivisions.

12.2.11.1. Bituminous Sidewalks.

12.2.11.1.1 The crushed aggregate base course shall be no less than eight inches thick.

12.2.11.1.2 The hot bituminous pavement surface course shall be no less than than two inches after compaction.

12.2.11.2. Portland Cement Concrete Sidewalks.

12.2.11.2.1 The sand base shall be no less than six inches thick.

12.2.11.2.2 The Portland Cement concrete shall be reinforced with six inch square, number 10 wire mesh and shall be no less than four inches thick.

12.2.12 Granite curbing shall be installed on a thoroughly compacted gravel base of six inches minimum thickness. Bituminous curbing shall be installed on the base course of the pavement. The specified pavement width above shall be measured between the curbs.

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12.3. Road Construction Standards

12.3.1 Minimum thickness of material after compaction:

<u>Road Materials</u>	<u>Minimum Requirements</u>				
	<u>Arterial</u>	<u>Collector</u>	<u>Minor</u>	<u>Private Right of Way</u>	<u>Industrial/Commercial</u>
Aggregate Sub-base Course (Max. sized stone 4")	18"	18"	18"	12"	18"
Crushed Aggregate Base Course	4"	3"	3"	3"	4"
Hot Bituminous Pavement					
Total Thickness	3 1/4"	2 1/2"	2 1/2"		3"
Surface Course	1 1/2"	3/4"	3/4"		1 1/4"
Base Course	1 3/4"	1 3/4"	1 3/4"		1 3/4"

12.3.2 Preparation.

- 12.3.2.1. Before any clearing has started on the right of way, the center line and side lines of the new road shall be staked or flagged at fifty foot intervals.
- 12.3.2.2. Before grading is started, the entire right-of-way shall be cleared of all stumps, roots, brush, and other objectionable material. All ledge, large boulders, and tree stumps shall be removed from the right-of-way.
- 12.3.2.3. All organic materials shall be removed to a depth of two feet below the subgrade of the roadway. Rocks and boulders shall also be removed to a depth of two feet below the subgrade of the roadway. On soils which have been identified by the Town Engineer or the Board of Selectmen as not suitable for roadways, the subsoil shall be removed from the street site to a depth of two feet below the subgrade and replaced with material meeting the specifications for gravel aggregate sub-base below.
- 12.3.2.4. Side slopes shall be no steeper than a slope of three feet horizontal to one foot vertical, and shall be graded, limed, fertilized, and seeded according to the specifications of the erosion and sedimentation control plan.
- 12.3.2.5. All underground utilities shall be installed prior to paving to avoid cuts in the pavement. Building sewers and water service connections shall be installed to the edge of the right-of-way prior to paving.

12.3.3 Bases and Pavement.

12.3.3.1. Bases.

- 12.3.3.1.1 The Aggregate Sub-base Course shall be sand or gravel of hard durable particles free from vegetative matter, lumps or balls of clay and other deleterious substances. The gradation of the part that passes a 3 inch square mesh sieve shall meet the following grading requirements:

<u>Sieve Designation</u>	<u>Percentage by Weight Passing Square Mesh Sieves</u>
1/4 inch	25-70%
No. 40	0-30%
No. 200	0-7%

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

- 12.3.3.1.2 The Aggregate Base Course shall be sand or gravel of hard durable particles free from vegetative matter, lumps or balls of clay and other deleterious substances. The

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gradation of the part that passes a 3 inch square mesh sieve shall meet the following grading requirements:

<u>Sieve Designation</u>	<u>Percentage by Weight Passing Square Mesh Sieves</u>
1/2 inch	45-70%
1/4 inch	30-55%
No. 40	0-20%
No. 200	0-5%

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

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

12.3.3.3. Curbs and Gutters.

12.3.3.3.1. Street curbs and gutters shall be installed as required by the Board.

12.3.3.3.2. Curbs shall be vertical except when sloped curbs are specifically allowed by the Board.

12.3.3.4. Pavements.

12.3.3.4.1 Minimum standards for the base layer of pavement shall be the M.D.O.T. specifications for plant mix grade B with an aggregate size no more than 1 inch maximum.

12.3.3.4.2 Minimum standards for the surface layer of pavement shall meet the M.D.O.T. specifications for plant mix grade C with an aggregate size no more than 3/4 inch maximum.

12.4. Storm Water Management Design Standards

12.4.1 Adequate provision shall be made for disposal of all storm water generated within the subdivision, and any drained ground water through a management system of swales, culverts, underdrain, and storm drains. The storm water management system shall be designed to conduct storm water flows to existing watercourses or storm drains.

12.4.1.1. Where a subdivision is traversed by a stream, river, or surface water drainageway, or where the Board feels that surface water runoff to be created by the subdivision should be controlled, there shall be provided easements or drainage rights-of-way with swales, culverts, catch basins or other means of channelling surface water within the subdivision and over other properties. This stormwater management system shall be designed by a Registered Professional Engineer.

12.4.1.2. Drainage easements for existing water-courses or proposed drainage ways shall be provided and indicated on the plan at least thirty feet wide, conforming substantially with the lines of existing natural drainage.

12.4.1.3. All components of the storm water management system shall be designed to limit peak discharge to predevelopment levels for every storm between the 2-year and the 25-year, 24-hour duration,frequencies, based on rainfall data for Portland, Maine. When the subdivision discharges directly to a major water body, peak discharge may be increased from predevelopment levels provided downstream drainage structures are suitably sized.

12.4.1.4. The minimum pipe size for any storm drainage pipe shall be twelve inches. Maximum trench width at the pipe crown shall be the outside diameter of the pipe plus two feet. Pipe shall be

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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.

- 12.4.2 The storm water management system shall be designed to accommodate upstream drainage, taking into account existing conditions and approved or planned developments not yet built and shall include a surplus design capacity factor of 25% for potential increases in upstream runoff.
- 12.4.3 Downstream drainage requirements shall be studied to determine the effect of the proposed subdivision. The storm drainage shall not overload existing or future planned storm drainage systems downstream from the subdivision. The subdivider shall be responsible for financing any improvements to existing drainage systems required to handle the increased storm flows.
- 12.4.4 Catch basins shall be installed where necessary and located at the curb line.
- 12.4.5 Outlets shall be stabilized against soil erosion by stone riprap or other suitable materials to reduce storm water velocity. Wherever the storm drainage system is not within the right-of-way of a public road, perpetual easements shall be provided to the Town allowing maintenance and improvement of the system.
- 12.4.6 Where soils require a subsurface drainage system, the drains shall be installed and maintained separately from the storm water drainage system.

12.5. Storm Drainage Construction Standards.

12.5.1 Materials.

- 12.5.1.1. Reinforced Concrete Pipe. Reinforced Concrete Pipe shall meet the requirements of ASTM Designation C-76 (AASHTO M 170). Pipe classes shall be required to meet the soil and traffic loads with a safety factor of 1.2 on the .01 inch crack strength with a Class B bedding. Joints shall be of the rubber gasket type meeting ASTM Designation C 443-70, or of an approved preformed plastic jointing material such as "Ramnek". Perforated Concrete Pipe shall conform to the requirements of AASHTO M 175 for the appropriate diameters.
- 12.5.1.2. Asbestos Cement Pipe. Asbestos Cement Pipe shall meet the requirements of ASTM Designation C-428 (AASHTO M 189). Pipe classes shall be required to meet the soil and traffic loads with a safety factor of 1.5 on the crushing strength. Joints shall be of the rubber gasket type meeting ASTM Designation D-1869-63, or of an approved preformed plastic sleeve type.
- 12.5.1.3. Corrugated Metal Pipe. Corrugated Metal Pipe shall be bituminous coated meeting the requirements of AASHTO Designation M 190 Type C for iron or steel pipe or AASHTO Designation M 196 for aluminum alloy pipe for sectional dimensions and type of bituminous coating. Pipe gauge shall be as required to meet the soil and traffic loads with a deflection of not more than 5%.
- 12.5.1.4. ABS Pipe. ABS (Acrylonitrile-butadiene-styrene) composite pipe and fittings shall conform to the requirements of AASHTO M 264 and AASHTO M 265. Perforated pipe shall conform to the requirements of AASHTO M 36, Type III.
- 12.5.1.5. Corrugated Plastic Pipe. Corrugated Plastic Pipe shall conform to the requirements of AASHTO M-252.
- 12.5.1.6. Manholes. Manholes shall be of precast concrete truncated cone section construction meeting the requirements of ASTM Designation C 478 or precast concrete manhole block construction meeting the requirements of ASTM Designation C 139, radial type. Bases may be cast in place 3,000 psi 28 day strength concrete or may be of precast concrete, placed on a compacted foundation of uniform density. Metal frames and traps shall be set in a full mortar bed and with tops shall conform to the requirements of AASHTO M 103 for carbon steel castings, AASHTO M 105, Class 30 for gray iron castings or AASHTO M 183 (ASTM A 283, Grade B or better) for structural steel.

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

12.5.2. Drain inlet alignment shall be straight in both horizontal and vertical alignment unless specific approval of a curvilinear drain is obtained in writing from the Board, after consultation with the Municipal Engineer.

12.5.3 Manholes shall be provided at all changes in vertical or horizontal alignment and at all junctions. On straight runs, manholes shall be placed at a maximum of 400 foot intervals.

12.5.4 Upon completion each catch basin or manhole shall be cleaned of all accumulation of silt, debris or foreign matter and shall be kept clean until final acceptance.

12.6. Additional Improvements and Requirements.

12.6.1. Erosion Control. The procedures outlined in the erosion and sedimentation control plan shall be implemented during the site preparation, construction, and clean-up stages.

12.6.2 Cleanup. Following road construction, the developer or contractor shall conduct a thorough clean-up of stumps and other debris from the entire road right-of-way. If onsite disposal of the stumps and debris is proposed, the site shall be indicated on the Plan, and be suitably covered with fill and topsoil, limed, fertilized, and seeded.

12.6.3 Road Names, Signs and Lighting. Roads which join and are in alignment with roads of abutting or neighboring properties shall bear the same name. Names of new roads shall not duplicate, nor bear phonetic resemblance to the names of existing roads within the Municipality, and shall be subject to the approval of the Board. No road name shall be the common given name of a person. The developer shall reimburse the Municipality for the costs of installing road name, traffic safety and control signs. Road lighting shall be installed as approved by the Board.

12.7. Certification of Construction. Upon completion of road construction a written certification signed by a professional engineer registered in the State of Maine shall be submitted to the Municipal Officers at the expense of the applicant, certifying that the proposed way meets or exceeds the design and construction requirements of the final plan as submitted and approved by the Town of Somerville Planning Board.

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ARTICLE XIII - PERFORMANCE GUARANTEES

- 13.1. Types of Guarantees.** With submittal of the application for Final Plan approval, the subdivider shall provide one of the following performance guarantees for an amount adequate to cover the total construction costs of all required improvements, taking into account the time-span of the construction schedule and the inflation rate for construction costs:
- 13.1.1. 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;
 - 13.1.2. A performance bond payable to the Town issued by a surety company, approved by the Municipal Officers;
 - 13.1.3. An irrevocable letter of credit from a financial institution establishing funding for the construction of the subdivision, from which the Town may draw if construction is inadequate, approved by the Municipal Officers; or
 - 13.1.4. An offer of conditional approval limiting the number of units built or lots sold until all required improvements have been constructed.
- The conditions and amount of the performance guarantee shall be determined by the Board with the advice of a Consulting Engineer, Road Commissioner, Municipal Officers, and/or Town Attorney.
- 13.2. Contents of Guarantee.** The performance guarantee shall contain a construction schedule, cost estimates for each major phase of construction taking into account inflation, provisions for inspections of each phase of construction, provisions for the release of part or all of the performance guarantee to the developer, and a date after which the developer will be in default and the Town shall have access to the funds to finish construction.
- 13.3. Escrow Account.** A cash contribution to the establishment of an escrow account shall be made by either a certified check made out to the municipality, the direct deposit into a savings account, or the purchase of a certificate of deposit. For any account opened by the subdivider, the municipality shall be named as owner or co-owner, and the consent of the municipality shall be required for a withdrawal. Any interest earned on the escrow account shall be returned to the subdivider unless the municipality has found it necessary to draw on the account, in which case the interest earned shall be proportionately divided between the amount returned to the subdivider and the amount withdrawn to complete the required improvements.
- 13.4. Performance Bond.** A performance bond shall detail the conditions of the bond, the method for release of the bond or portions of the bond to the subdivider, and the procedures for collection by the municipality. The bond documents shall specifically reference the subdivision for which approval is sought.
- 13.5. Letter of Credit.** An irrevocable letter of credit from a bank or other lending institution shall indicate that funds have been set aside for the construction of the subdivision and may not be used for any other project or loan.
- 13.6. Conditional Agreement.** The Board, at its discretion may provide for the subdivider to enter into a binding agreement with the municipality in lieu of the other financial performance guarantees. Such an agreement shall provide for approval of the Final Plan on the condition that up to four lots may be sold or built upon until either:
- 13.6.1 It is certified by the Board, or its agent, that all of the required improvements have been installed in accordance with these regulations and the regulations of the appropriate utilities; or
 - 13.6.1 A performance guarantee, acceptable to the municipality, is submitted in an amount necessary to cover the completion of the required improvements at an amount adjusted for inflation and prorated for the portions of the required improvements already installed.
- Notice of the the agreement and any conditions shall be on the Final Plan which is recorded at the Registry of Deeds. Release from the agreement shall follow the procedures for release of the performance guarantees contained in Section 13.8.

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- 13.7. Phasing of Development.** The Board may approve plans to develop a major subdivision in separate and distinct phases. This may be accomplished by limiting final approval to those lots abutting that section of the proposed subdivision road which is covered by a performance guarantee. When development is phased, road construction shall commence from an existing public way. Final approval of lots in subsequent phases shall be given only upon satisfactory completion of all requirements pertaining to previous phases.
- 13.8. Release of guarantee.** Prior to the release of any part of the performance guarantee, the Board shall determine to its satisfaction, in part upon the report of the Consulting Engineer and whatever other agencies and departments may be involved, that the proposed improvements meet or exceed the design and construction requirements for that portion of the improvements for which the release is requested.
- 13.9. Default.** If, upon inspection, the Consulting Engineer finds that any of the required improvements have not been constructed in accordance with the plans and specifications filed as part of the application, he shall so report in writing to the Code Enforcement Officer, the Municipal Officers, the Board, and the subdivider or builder. The Municipal Officers shall take any steps necessary to preserve the Town's rights.
- 13.10. Improvements Guaranteed.** Performance guarantees shall be tendered for all improvements required by Section 11.6 of these regulations and for the construction of the roads.

ARTICLE XIV - WAIVERS

- 14.1. Where the Board makes written findings of fact** that there are special circumstances of a particular lot proposed to be subdivided, it may waive portions of the submission requirements or the standards, unless otherwise indicated in the regulations, to permit a more practical and economical development, provided the public health, safety, and welfare are protected, and provided the waivers do not have the effect of nullifying the intent and purpose of the Official Map, the Comprehensive Plan, or these regulations, and provided the criteria of the State Subdivision Law are met.
- 14.2. Where the Board makes written findings of fact** that due to special circumstances of a particular lot proposed to be subdivided, the provision of certain required improvements is not requisite to provide for the public health, safety or welfare, or are inappropriate because of inadequate or lacking connecting facilities adjacent to or in proximity of the proposed subdivision, it may waive the requirement for such improvements, subject to appropriate conditions.
- 14.3. In granting waivers to any of these regulations** in accordance with Sections 14.1 and 14.2, the Board shall require such conditions as will assure the objectives of these regulations are met.
- 14.4. Waivers to be shown on Final Plan.** When the Board grants a waiver to any of the standards of these regulations, the Final Plan shall indicate the waivers granted and the date on which they were granted.

ARTICLE XV - APPEALS

- 15.1** An aggrieved party may appeal any decision of the Board under these regulations to the Town of Somerville Board of Appeals within thirty (30) days of the date of the public vote by the Planning Board on the decision.
- 15.2** An appeal may be taken from any decision of the Board of Appeals to the Superior Court within forty-five (45) days after the decision, as provided by 30-A M.R.S.A. Section 2691(G), as the same may be amended from time to time.

ARTICLE XVI – EFFECTIVE DATE

The effective date of this ordinance or any amendments thereto shall be the day immediately following its/their adoption at a regular or special town meeting. The effective date of this Ordinance is February 8, 2015.

A copy of this Ordinance and any amendments hereto shall be filed with the Town Clerk, according to the requirements of State law, and shall be accessible to any member of the public. The adoption of this Ordinance hereby repeals and supersedes all conflicting provisions of all ordinances adopted prior to the effective date of this Ordinance.