1983

Town of Lincolnville Ordinances

Lincolnville (Me.). Town Departmental Leadership

Follow this and additional works at: https://digitalcommons.library.umaine.edu/towndocs

Repository Citation
https://digitalcommons.library.umaine.edu/towndocs/602

This Plan is brought to you for free and open access by DigitalCommons@UMaine. It has been accepted for inclusion in Maine Town Documents by an authorized administrator of DigitalCommons@UMaine. For more information, please contact um.library.technical.services@maine.edu.
TOWN OF LINCOLNVILLE

ADDRESSING ORDINANCE

Section 1. Purpose

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

Section 2. 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 MRSA Section 3001.

Section 3. Administration

This ordinance shall be administered by the Board of Selectmen, the addressing authority, which is authorized to and shall assign road names and numbers to all properties, both existing and proposed roads, in accordance with criteria in Section 4 and 5. The Addressing Authority shall also be responsible for maintaining the following official records of this Ordinance:

a. A Town of Lincolnville map for official use showing road names and numbers.

b. An alphabetical list of all property owners as identified by current assessment records, by last name, showing the assigned numbers, provided a residential or commercial structure is located on the property.

c. An alphabetical list of all roads with property owners listed in order of their assigned numbers, provided a residential or commercial structure is located on property.

Section 4. Naming System

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

a. No two roads shall be given the same name (e.g., no Pine Road and Pine Lane).

b. No two roads should have similar-sounding names (e.g., Beech Street and Peach Street). Each road shall have the same name throughout its entire length.

Section 5. Numbering System

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

The following criteria shall govern the numbering system:

a. Structure numbering shall start on the south end of a south-north oriented road and the east end of an east-west oriented road. Cul-de-sac and dead end road numbering shall originate at the intersection of the adjacent road and terminate at the end. Circular roads shall be numbered from the lowest numbered intersection.

b. The number assigned to each structure shall be that of the numbered interval falling closest to the front door (rear door if necessary for waterfront properties). If the front (rear) door cannot be seen from the main road, the number shall be that of the interval falling closest to the driveway of said structure.

c. Every structure with more than one principle use or occupancy shall have one number followed by apartment, unit, etc., numbers or letters (e.g., 25 Elm Street, Apartment 2).

Section 6. Compliance

All owners of structures shall, by the date stipulated in Section 8, display and maintain in a conspicuous place on said structure, the assigned number in the following manner:

a. Number on the structure or residence. Where the residence or structure is within fifty (50) feet of the edge of the road right-of-way, the assigned number shall be displayed on the front (rear of waterfront residences if necessary) of the residence or structure bear the front door or entry.

b. Number at the street line. Where the residence or structure is over fifty (50) feet from the edge of the road right-of-way, the assigned number shall be displayed on a post, fence, wall, the mail box, or on some structure at the property line next to the walk or access drive to the residence or structure.
c. Size and color of number. Numbers shall be displayed in a contrasting color from the background upon which the number is installed, and, in a minimum of three (3) inch high numbers.

d. 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.

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

Section 7. New Construction and Subdivisions

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

a. New Construction. Whenever any residence or other structure is constructed or developed, it shall be the duty of the new owner to obtain an assigned number from the Board of Selectmen. This shall be done at the time of the issuance of the building permit.

b. New Subdivisions. Any prospective subdivider shall show a proposed road name and lot numbering system (if building construction is part of the subdivisers plan) of the pre-application submission to the Planning Board. Approval by the Planning Board, after consultation with the Board of Selectmen, 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 fifty (50) feet to aid in assignment of numbers to structures subsequently constructed.

Section 8. Effective Date

This Ordinance shall become effective immediately upon enactment of this Ordinance. It shall be the duty of the Board of Selectmen to notify by mail each property owner and the U.S. Post Office of a new address at least thirty (30) days before the effective date of its use. It shall be the duty of each property owner to comply with this Ordinance, including the posting of new property numbers, within thirty (30) days following notification; except for the initial numbering of the Town, whereupon the property owners shall have ninety (90) days to post the new number.

On new structures, numbering will be installed before final inspection or when the structure is first used or occupied, whichever comes first.
Section 9. Enforcement

It shall be the duty of the Code Enforcement Officer to enforce the provisions of this Ordinance. If the Code Enforcement Officer shall find any provisions of this Ordinance have been violated, he or she shall notify in writing the property owner, indicating the nature of the violation and ordering the action necessary to correct the violation. Copies of such notices shall be submitted to the, Board of Selectmen, and the local U.S. Post Office, having the responsibility for delivery U.S. Mail within the Town of Lincolnville, and be maintained for a period of two (2) calendar years.

It shall be the duty of the Assessor’s Agent to monitor the provisions of this Ordinance and assist the Code Enforcement Officer. If violations of this Ordinance are discovered, the Assessor’s Agent shall in writing notify the Code Enforcement Officer.

The penalty for violating any provision of this Ordinance shall be a fine not less than $50.00 nor more than $100.00 for each violation. This penalty may be collected by the Code Enforcement Officer in a complaint filed with the District Court, pursuant Title 30-A, MRSA, Section 4452.

Certification of True Copy

I hereby certify that this is a true copy of the Addressing Ordinance of the Town of Lincolnville, Maine,

_________________________________                ___________________________
Town Clerk               Date

K:\Ordinances\Addressing Ordinance.doc
TOWN OF LINCOLNVILLE
ORDINANCE
GOVERNING THE HARVESTING OF ALEWIVES

Section 1. Purpose:
The purposes of this Ordinance are to establish and maintain compliance with Maine State Law governing the harvesting of alewives; to protect residents and their property rights and to maintain traffic safety in neighborhoods adjacent to or bordering the harvesting area.

Section 2. Applicability:
This Ordinance applies to the harvesting of alewives, to the protection of fish other than alewives and blueback herring, and to the protection of citizens’ interests.

Section 3. Effective Date:
The Effective date of this Ordinance is March 26, 1996. A certified copy of this Ordinance shall be filed with the Waldo County Register of Deeds, according to the requirements of State Law.

Section 4. Validity and Severability:
Should any section or provision of this Ordinance be declared by the Courts to be invalid, such decision shall not invalidate any other section or provision of this Ordinance.

Section 5. Regulations:
A. A minimum unobstructed opening of two (2) feet shall be maintained at all times between the river bank and the downstream end the weir.

B. The maximum mesh size of wire, twine, or other material used in the weir shall not exceed one (1) inch by one (1) inch (1” x 1”).

C. There shall be a 72 – hour weekly closed season on alewives from sunrise each Thursday morning until sunrise the following Sunday morning. During the closed season, a minimum size unobstructed opening of three (3) feet by three (3) feet (3’ x 3’) shall be maintained in the upstream and downstream end of the trap to allow for escapement of spawning alewives and other migratory fish.

D. Migratory fish such as salmon, shad, or other species, except alewives and blueback herring, which enter the trap shall be removed and allowed to pass upstream.

E. Fishing operations shall cease and all fishing gear obstructing the passage of fish shall be removed from the fishing waters not later than June 5th. If late-run alewives are entering the river, the Town may grant its fishing agents an extension of fishing time. No alewive fishing shall be authorized beyond June 15th of any calendar Year.
F. The total landings in pounds or bushels and value of the catch shall be made available to the Town of Lincolnville, Maine Department of Marine Resources and/or National Marine Fisheries Service on request by these agencies.

Section 6. Application to Harvest:
Application to harvest alewives, within the boundaries of Lincolnville shall be made to the Code Enforcement Officer in writing, the final application to be signed by the Board of Selectmen, signed by the person in charge of the harvesting and responsible to the Town by this Ordinance.

Section 7. Availability of Ordinance:
A copy of this ordinance, governing the harvesting of alewives will be made available to the person whose signature appears on the above mentioned application.

Section 8. Equipment to be used:
The application shall state the kinds of equipment to be used in the alewive stream; whether traps, weirs or otherwise. If no traps or weirs are used in the alewives stream, the only requirement necessary may be the seventy-two (72) hour closed season, depending on the presence of other fish species in the river.

Section 9. Property Rights of Residents:
The protection of residents and their property rights shall be respected and maintained in all instances. Privately owned property may be temporarily used for passage to and from the body/bodies of water wherein alewive harvesting is engaged only after authorization is granted, in writing, by the property owner to the harvester named in the application. A copy of such authorization shall be presented to the Code Enforcement Officer to be made part of the official record.

Section 10. Traffic Control:
The parking of trucks, automobiles, or other vehicular equipment, by harvesters, in such a manner as to block private driveways or to obstruct the free passage of traffic over public (Town) roads, shall be considered a public nuisance of a hazardous nature and is hereby prohibited.

Section 11. Littering:
Upon completion of the harvesting period, the general land area used in harvesting shall be left in as litter-free a condition as was found at the beginning of the harvesting.

Section 12. Penalties/Fines:
Any violation of this Ordinance which does not constitute a Class E crime may be prosecuted as a civil violation pursuant to District Court Civil Rule 80H. A fine of up to $200 but not less than $100 shall be adjudged for each violation for the benefit of the municipality. Each day a violation continues shall constitute a separate offense.
Additional Regulations For Streams Containing Atlantic Salmon Runs:

A. The entrance to the dipping pen or trap shall be covered by bars, slats, or spacers with the maximum width of two (2) inches between said bars, slats, or spacers.

B. Dipping of alewives shall be confined to the dipping pen or trap.

Approved: March 25, 1996
ORDINANCE FOR THE LICENSING
OF BOTTLE CLUBS IN THE
TOWN OF LINCOLNVILLE

Section 1.100 License Required

No person, firm, or corporation shall keep, maintain, operate, lease, or otherwise furnish, whether to its members and quests or the general public, any premises, building, apartment, or place for the use as a bottle club, without first having obtained a license and paying the fee therefor.

Notwithstanding any other provisions of this article, a bona fide non-profit, charitable, educational, political, civic, recreational, fraternal, patriotic, or religious organization shall not be subject to the provisions of this article.

Section 1.101 Licensing Authority

Licenses shall be issued by the Municipal Officers, after notice and hearing on the licensee’s application. Notices shall be given by the Municipal Officers, pursuant to the provisions of Section 1-110 of this article. The municipal officers shall grant a license when they find that the applicant is in strict compliance with the requirements of this article and any other applicable codes and ordinances of the Town of Lincolnville.

Section 1.103 Definitions

Unless otherwise defined herein or in text, all words used will have their common meaning. Words and phrases having a special meaning will be defined when they first appear in the Article, except for the following definitions:

1. Bottle Club – A “bottle club” means any person operating on a regular basis a premise for social activities in which members or guests provide their own alcoholic beverages, and where no alcoholic beverages are sold on the premises. A bottle club maintains suitable quarters for the use of members on a regular basis or charges an admission fee to members or to the general public. A bottle club is not a public place, as defined in Title 17, MRSA 2003.

2. Person – “Person” shall mean any individual person, firm, corporation, association, partnership, or organization.

3. Officer - “Officer” shall mean any officer, director, stockholder, owner, manager, or person who either has a financial interest of any nature in a bottle club or directs any policy of the bottle club.

Section 1.104 Fees

Fees for a license for a bottle club shall be paid annually:

Bottle Club ---------- $1,500
Section 1.105 Application and Information

Every applicant for a bottle club license shall:

1. Complete and file an application on a form prescribed by the Town Administrator.

2. Deposit the prescribed license fee in advance with the Town Administrator.

3. Submit the completed application to the Town Administrator, together with attested copies of the articles of association and bylaws, if the applicant is a corporation, or articles of association and bylaws if the applicant is an association, as well as a list of all officers of the bottle club.

4. File an affidavit which will identify all officers and their places of residency at the present time and for the immediately preceding three (3) years. Submission of false information in an application for a license shall be a violation of this article and such act shall be grounds for the denial of the application.

Sec 1.106 Qualifications of Officers

All officers of the bottle club shall meet the following qualifications: Never have been convicted of a class A, B, or C crime or of violating any of the gambling or prohibitive liquor laws either of the United States or of the State of Maine or any other state, within (5) five years immediately preceding the date of application. Each such officer shall file the release authorization by 16 MRSA 606(4) (Criminal History Record Information Act) with the application. Failure to provide such a release shall be ground for denial of the application.

Section 1.107 Description of the Premises

Every applicant for a bottle club license shall include in the application a description of the premises for which a license is desired and shall set forth such other material information, description, or plan of that part of the premises where it is proposed to consume or keep liquor.

Section 1.108 Articles and Bylaws

Applicants for bottle club licenses shall possess written articles of incorporation or association and bylaws. The articles or bylaws shall provide for regular election of officers or directors. Membership shall be regulated by articles or bylaws.

Section 1.109 Investigation of Applicant

Upon receipt of each application for a bottle club license or notice of a change of officers.
1. **Compliance with Ordinances** – The Code Enforcement Officer(s) shall verify that the premises of the proposed bottle club comply with applicable ordinance of the Town of Lincolnville and the State of Maine, including but not by way of limitation, building permits, shoreline zoning ordinance, flood plane zone ordinance, plumbing code, national electrical code, and the general zoning ordinance and shall report their findings in writing to the Municipal Officers.

2. **Town Administrator** – The Town Administrator shall review the application and other documents and determine whether such documents indicate that the requirements of the article have been met and shall report the finding in writing to the Municipal Officers.

3. **Inspection of Premises by Code Enforcement** – The Code Enforcement Officer(s) shall cause inspection to be made of the proposed location of the bottle club for the purpose of determining whether the applicable ordinances relating to health and safety have been complied with. A report of his findings shall be made in writing to the Municipal Officers.

### Section 1.110 Notice of Hearing

After receipt of the written reports required by Section 1-109, the Town Administrator shall give notice of the public hearings on applications for bottle clubs in the form and manner and to the person herein specified. The notice shall include the time and place of such hearing, the nature of the matter to be heard, the address or location of the property involved. Where notice by mail is required, it shall be mailed at least (7) seven days in advance of the hearing date by regular United States mail.

Notices shall be given to each of the following as specified:

1. **Residents** – To all residents of the Town by publication in a newspaper of general circulation at least once, not more than thirty (30) nor less than five (5) days before the date of the hearing.

2. **Abutters** – To the owners of all property within five hundred (500) feet of such parcel or tract by certified mail.

3. **Property owners defined** – For the purpose of this section, the owners of property, shall be considered to be the parties listed by the assessor’s of the Town of Lincolnville as those against whom taxes are assessed. Failure of any property owner to receive a notice of public hearing shall not necessitate another hearing and shall not invalidate any action of the Municipal Officers.

### Section 1.111 License Not To Be Transferable

A separate license must be obtained for each branch or separate establishment of a bottle club. Each license shall authorize the operation of such an establishment only at the location described in such license and in conformity with all applicable ordinances and laws. No license shall be transferable to another person or to any other location,
except that a licensed bottle club may change its name upon approval of the Municipal Officers, if its location remains the same.

**Section 1.112 Display of License**

Every bottle club shall display its license at all times in a conspicuous place on its premises.

**Section 1.113 Expiration**

All licenses issued pursuant to this article shall expire one year from the date of issue.

**Section 1.114 Proximity to Schools and Churches**

No new bottle club licenses shall be granted under this article to premises situated within three hundred (300) feet of a public or private school, church, chapel, or parish house in existence such as the time such new license is applied for, except such premises as were in use as bottle clubs on the effective date of this article. The three hundred (300) foot distance shall be measured from the main entrance of the school, school dormitory, church, chapel, or parish house by ordinary course of travel.

**Section 1.115 Minors Not Permitted on Bottle Club Premises**

No person under the legal drinking age in the State of Maine shall be permitted in or on that part of the premises subject to the control of any bottle club where persons are permitted to drink alcoholic beverages.

**Section 1.116 Entertainment License**

No license shall permit on his licensed premises any music, except radio or other mechanical device or any dancing or entertainment of any sort, unless the licensee have first obtained a special amusement permit, pursuant to the requirements of the Town of Lincolnville Special Amusement Permit. For the intent of the Special Amusement Permit bottle clubs shall be considered licensees.

**Section 1.117 Hours of Operation of Bottle Clubs**

The premises used as a bottle club shall be closed and vacated by members and guests each day from 1:15 AM to 6:00 PM except January 1 and 2:00 AM on January 1. During the hours that a bottle club must remain closed, no members, guests, or other persons, other than regular employees, may be on or remain therein, and the use by anyone of the premises or facilities of the bottle club for the drinking of alcoholic beverages during such hours when a bottle club must remain closed is prohibited.
Section 1.118 Entrance to be Marked

The entrance to every club shall be plainly marked “BOTTLE CLUB” MEMBERS AND GUEST ONLY.

Section 1.119 Illegal Activities

No licensee shall knowingly permit any illegal activities to take place on the licensed premises. Such licensed premises shall be subject to inspection by State, County, or Municipal Law Enforcement Officers at any time.

Section 1.120 Suspension or Revocation

A license to operate a bottle club, as provided for by this article, may be denied, suspended, or revoked by the Municipal Officers for either violation of or failure to comply with any of the provisions of the article. Determination of the severity of the violation and whether or not a denial, suspension, or revocation is warranted, shall be made by the Municipal Officers, after notice and hearing.

Section 1.121 Appeals

An appeal from any final decision of the Municipal Officers shall be taken by any party to the Superior Court in accordance with the provisions of Rule 80B of the Maine Rules of Civil Procedure.

Section 1.122 Penalty

In addition to any action which the Municipal Officers may take, violation of any provision of this article shall be a civil violation and a fine not exceeding five hundred (500) dollars may be imposed. Each day that a violation continues will be treated as a separate offense.

Section 1.123 Severability

If any section, subsection, sentence, clause, or phrase of this article is for any reason held to be unconstitutional or invalid, such decision shall not affect the validity of the remaining portions of this article.

State Law Reference: 30 MRSA 1917; 2151; 28 MRSA 2, 4.

Approved: June 10, 1985
TOWN OF LINCOLNVILLE
CATV ORDINANCE

Pursuant to Title 30 MRSA Section 2158 (2) the inhabitants of the Town of Lincolnville, enacts the following ordinance governing the franchising and regulation of cable television systems using public ways within the Town of Lincolnville: said ordinance shall be known as the Cable Television Ordinance of the Town of Lincolnville.

Section 1 Preamble

In order to provide for town regulation and use of the communitiee and antenna television system including its construction, operation, and maintenance in, upon, across, over, and under the streets, alleys, public ways and public places now laid out or dedicated in the Town of Lincolnville, with all extensions thereof and additions thereto, including poles, wires, cables, underground conduits, conductors and fixtures necessary for the maintenance and operation in said Town of the communitiee antenna television system; and to provide for the Town regulation of a CATV operation and the granting of a franchise therefore, the Board of Selectmen of the Town of Lincolnville hereby enacts the ordinance set forth herein.

Section 2 Definitions

A. “C.A.T.V.” shall mean any community antenna television system or facility that, in whole or in part, receives directly or indirectly, over the air, and amplifies or otherwise modified signals transmitting programs broadcast by one or more television or radio stations, or originated its own signal or signals produced through any of its community access channels and distribution such signals by wire or cable to subscribing members of the public who pay for such services, but such term shall not include any such facility that serves only the residents of one or more apartment dwellings under common ownership, control, or management.

B. “Cable Television Company” shall mean any person, firm, or corporation owning, controlling, operation, managing, or leasing a CATV system within the Town of Lincolnville sometimeshereinafter referred to as “the company”.

C. “Town” shall mean the Town of Lincolnville, organized and existing under the laws of the State of Maine and the area within its territorial limits.

Section 3 Franchise Required

No person, firm, or corporation shall install, maintain, or operate within the Town or any of its public ways or other public areas any equipment or facilities for the operation of a CATV system until a franchise authorizing the use of such public ways or areas has first been obtained pursuant to the provisions of this ordinance and pursuant to Title 30 MRSA Section 2158, and unless such franchise is in full force and effect.
Section 4 Franchise Agreement

A. The Selectmen of the Town of Lincolnville may contract on such terms, conditions, and with such fees as the Selectmen deem in the best interest of the Town and residents of the Town with one or more cable television companies for the operation of a CATV system within the Town of Lincolnville, including the granting of a franchise or franchises for the operation of such system for a period not to exceed ten (10) years with provisions for renewal of that franchise agreement on such terms and conditions as the Selectmen deem proper for an additional period not to exceed ten (10) years.

B. Applicant for a franchise shall pay a non-refundable filing fee to the Town of $350 to defray the cost of public notice and advertising expenses relating to the application. The application shall be filed with the Town Clerk on such forms as provided by the Town Clerk and those forms shall contain at least the following information, and may contain more information:

1. A general description of the applicants proposed operation;

2. A schedule of proposed charges;

3. A financial statement showing the financial situation of the company for at least two (2) fiscal years;

4. A financial projection of the cost of the proposed system for the term of the franchise;

5. The proposed annual franchise fee payable to the Town;

6. A statement showing prior operational experience of the applicant in the provision of cable television which shall include the officers, management and staff to be associated with the proposed cable television system to be located in the Town of Lincolnville.

In addition, the Selectmen may require the submission of a complete construction schedule together with timetables for construction for the completion of the entire project; and that construction schedule shall require that the entire project be completed within twelve (12) months from the date of approval of the franchise agreement by the Selectmen of the Town. The applicant shall also submit a list of each cable franchise held by applicant and the name of the municipal official responsible for overseeing the cable t.v. activities in each of those communities served, together with the telephone number and address of that individual. The Selectmen may also require additional submission of letters demonstrating financial stability of the company which such letters may come from bank officials and others familiar with the financial operations of the company.
Section 5 Revocation of Franchise Agreement

Any franchise agreement made may be revoked by the municipal officers for good and sufficient cause, after due notice to the company and a public hearing, with the right of the company to appeal any such revocation to the Superior Court under Rule 8 B of the Maine Rules of Civil Procedure.

Section 6 Public Records

Any franchise application and other documents submitted with the franchise application shall be considered as public records, with reasonable notice to the public that the records are open to inspection during reasonable hours at the Town Office.

Section 7 Public Comment and Public Hearing

A. Prior to the issuance of any request for proposals for franchise agreements, the town shall hold a public hearing with at least seven (7) days advance notice for the purpose of determining any special local needs or interests concerning cable television for the Town of Lincolnville.

B. Any proposal submitted by a CATV franchise applicant shall be filed in triplicate with the Town Clerk’s office. Such proposals shall also be considered a public record, and shall be available for public inspection for a period not less than thirty (30) days prior to any action by the Selectmen on the application; and the Selectmen shall provide public notice of the filing of any such application which such public notice shall include publishing a notice of the filing of that application in a newspaper of general circulation in the Town of Lincolnville.

C. Prior to the issuance of any such franchise agreement, the Selectmen of the Town of Lincolnville shall review the applicants character, financial, and technical qualifications, and the adequacy and feasibility of its qualifications to operate a CATV system within the Town of Lincolnville, and shall further consider the relationship of the applicant’s proposal to the best interests of the Town of Lincolnville. The Town shall further conduct a public hearing on the issuance of a franchise agreement prior to the date of issuance and such public hearing shall have at least seven (7) days advertised notice prior to said public hearing; which notice shall include publication in a newspaper of general circulation in the Town of Lincolnville.

Section 8 Franchise Agreement Contents

Any franchise agreement authorized by the Selectmen of the Town of Lincolnville shall include at least provisions which identify the area or areas to be served, a line extension policy, and provisions for the investigation and resolution of complaints brought against the cable television company.
Section 9 **Performance Bond and Insurance Coverage**

Upon the execution of any such franchise contract, the cable television company shall file a surety company performance bond in an amount not less than Twenty Five Thousand Dollars ($25,000) or the projected financial cost for construction of the cable television system in the Town of Lincolnville, which such bond shall be conditioned upon the faithful performance of said franchise agreement and full compliance with any laws, ordinances, and regulations governing said franchise, including costs of dismantling the system. The company shall also provide evidence of public liability insurance, copyright infringement insurance and other insurance coverage in a form satisfactory and in an amount satisfactory to the Selectmen of the Town of Lincolnville. Upon completion of the construction of the proposed cable television system and in the event that such construction is in compliance with the franchise agreement, then the municipal officers shall permit the company to cancel said performance bond.

Section 10 **Compliance with the Laws of the State of Maine**

Any franchise agreement issued pursuant to this ordinance shall comply with the provisions of Title 30 MRSA Section 2158 in the same manner as though those provisions were fully setforth in this ordinance.

Section 11 **Enactment Date. December 28, 1987**

**Amendment 1**  Effective 3-10-92, voted unanimously at the March 9, 1992, Selectmen’s meeting. Paragraph 9, last sentence – place a period (.) after the word ‘bond’; then delete the remaining words in the sentence.

K:\Ordinances\CATV Ordinance.doc
AN ORDINANCE TO PROHIBIT PLACEMENT OF DISCARDED MATERIALS OR OTHER PERSONAL PROPERTY WITHIN THE RIGHT OF WAY OF ROADS

Preamble:

The purpose of this ordinance is to prohibit the placement or accumulation of discarded objects or other personal property within the right of way of roads, public ways and other public easements within the Town of Lincolnville in order to promote public safety and welfare.

Article I – Authority

This ordinance is enacted pursuant to the Home Rule authority granted to the Town in accordance with the provisions of Title 30-A, MRSA, Section 3001, and consistent with the provisions of Title 30-A, MRSA, Section 3755(5) and Title 17, MRSA, Section 2271.

Article II – Prohibition

No person shall place, store, deposit, discard, or otherwise leave any discarded, abandoned, unused, or unattended material, equipment, vehicles, or personal property within fifteen (15) feet of the edge of the improved portion of any Town road, State road, public way, or public easement in the Town of Lincolnville.

For purposes of this ordinance, discarded, abandoned, unused, or unattended material, equipment, vehicles, and personal property shall include, without limitation:

- Discarded, worn out, or junked plumbing supplies, heating supplies, household appliances, furniture;
- discarded, scrap, or junked lumber;
- disassembled parts of houses and other structures;
- any other material described as items stored in a junkyard within the meaning of Title 30-A, MRSA, Section 3752; and
- any item or material defined as “litter” within the meaning of Title 17, MRSA, Section 2263(2), specifically including old automobiles or parts thereof.

Nothing contained herein shall prohibit a person from legally parking a vehicle within the area fifteen (15) feet from the edge of the improved portion of any Town road, State road, public way or public easement in the Town of Lincolnville, provided, however, that the illegal parking of any such vehicle shall be considered to be a violation of this ordinance.
Article III – Violation by Land Owner

No person owning, or occupying, land abutting a Town road, State road, public way, or other public easement shall permit any of the prohibited items set forth in Article II above to be placed, stored, deposited, or otherwise left within fifteen (15) feet of the edge of the improved portion of any such public way.

Article IV – Liability for Violations

Any person- including but not limited to a land owner, a land owner’s agent, or a contractor – who violates the provisions of this ordinance shall be liable for the penalties set forth in Article VI of this ordinance.

Article V - Enforcement

The Board of Selectmen of the Town of Lincolnville shall be responsible for the enforcement of the provisions of this ordinance. If the Board of Selectmen shall determine that any provision of this ordinance is being violated, the Board shall notify – in writing- the person responsible for such violation, or any person deemed to be in violation of this ordinance, indicating the nature of the violation and ordering the action necessary to correct the violation, including the removal of any prohibited items (said items set forth in Article II above) and the abatement of the violation of the ordinance. Such written notice shall require that the violator of the ordinance take the required corrective action within forty-eight (48) hours of the date of receipt of said written notice.

In the event that the person violating the ordinance, or the person deemed to be responsible for such violation, does not take the required steps within that 48-hour period, then the Board of Selectmen shall commence appropriate legal proceedings in a court of competent jurisdiction, seeking an abatement of the violation, or injunctive relief, and for the imposition of a penalty in accordance with Article VI of this ordinance. The Board of Selectmen is further authorized to enter into a consent agreement with the person violating the ordinance, or deemed to have cause the violation, for the purpose of causing the abatement of said violation and for the recovery of the penalties set forth in Article VI of this ordinance.

Article VI – Penalties

Any person violating the provisions of this ordinance by failing to abate the violation following receipt of the 48-hour notice set forth above shall be liable for a per-day civil penalty in the amount of $50 for each day of violation until the violation is abated.

Article VII – Effective Date

This ordinance shall be effective immediately following its enactment at the Town Meeting of the Town of Lincolnville.

Enactment Date: April 13, 1992
TOWN OF LINCOLNVILLE
DOG CONTROL ORDINANCE

PREFACE
This Ordinance shall be known and may be cited as the Dog Control Ordinance.

PURPOSE
The purpose of the Ordinance is to protect the public at all times, from the
nuisance created by barking dogs; to restrict dogs from roaming at large, and to make
mandatory the owners’ compliance with the state law requiring vaccinations.

Section I
A person commits a civil violation if any animal owned by him or subject to his
control, whether domestic or otherwise, goes at large on any highway, street, land, alley,
common, square, or any other public place within Town, or upon the property of another
person without the consent of that person, after such owner had been previously warned
by any law enforcement officer, animal control officer, notary public, or any other public
official authorized for these purposes, that any animal owned by him or subject to his
control had been at large, except that dogs when used for hunting may be permitted to go
at large. The words “at large” shall mean off the premises of its owner, or keeper, and not
under the control of any other person by means of a chain, rope, cord of sufficient
strength to control the animal, or such personal presence and attention as will reasonably
control the conduct of such animal. Upon complaint of any person, any animal found at
large, as defined by this ordinance, may be seized and impounded by any law
enforcement officer, animal control officer, or other public official authorized for these
purposes, and that animal’s owner or keeper shall be liable for all related costs. Any
animal, so found, not bearing the identification of its owner shall be classified as a stray,
and may be humanely disposed of, or sold, after being held for eight days. Such officer
may keep such animal in any appropriate facility within or without the Town, except that
facilities for dogs must be approved by the Division of Animal Welfare.

Section II
A person commits a civil violation if he owns, or keeps, any dog six month or older if
such dog has not been vaccinated with the anti-rabies vaccine within twenty-four months
preceding the date on which said dog is owned or kept. Proof of vaccination shall be filed
with the Town Clerk within ten days after the vaccination or within ten days after the said
dog is brought into the Town. A filing fee of $1.00 shall be paid to the Town Clerk if the
dog is not licensed in the Town. Proof of vaccination shall be affixed to said dog in an
acceptable manner. Failure to file proof of vaccination or failure to produce proof of
vaccination upon demand of any law enforcement officer, animal control officer, or other
public official authorized for these purposes, shall be prima facie evidence that said dog
has not been vaccinated.
Section III

A person commits a civil violation if he owns, or keeps, any dog which creates a nuisance by habitually barking, biting, howling, or in any other manner disturbing the peace and quiet of any other person, after that owner, or keeper had been previously warned by any law enforcement officer, animal control officer, notary public, or any other public official authorized for these purposes, that his dog, or dogs, have been disturbing the peace and quiet of another person or persons.

Penalty:

A forfeiture of not less than $25, nor more than $100, shall be adjudged for a violation of any section of this ordinance.

Given under our hands this 10th day of November, 1983 at Lincolnville, Maine. –

Adopted: November 10, 1983

K:\Ordinances\Dog Control Ordinance.doc
TOWN OF LINCOLNVILLE
ORDINANCE FOR THE CONTROL OF DOMESTIC ANIMALS

Section 1. Title:

Prohibition of Domestic Animals from all Lincolnville Public Beaches.

Section 2. Purpose:

There have been several complaints concerning the health aspects of allowing domestic animals on the Public Beaches of the Town of Lincolnville. With the increase in use of the Lincolnville Public Beaches in the past few years, and the expected further increase, to allow domestic animals onto the Public Beaches is not in the best interest of sound public health practices. It is the purpose of this Ordinance to promote the health, safety and general welfare of the Town of Lincolnville by setting standards for the control of domestic animals on the Lincolnville Public Beaches.

Section 3. Applicability:

This Ordinance applies to the prohibition of domestic animals from all Town of Lincolnville Public Beaches.

Section 4. Effective Date: June 24, 1986

The effective date of the Ordinance is the day after Town approval.

Section 5. Validity and Severability:

Should any section or provision of this Ordinance be declared invalid, such decision shall not invalidate other sections or provisions of this Ordinance.

Section 6. Amendments:

This Ordinance may be amended by majority vote of the Town voters.

Section 7. Definition:

Domestic Animals – any of various animals domesticated by man so as to live and breed in a tame condition.

Section 8. Prohibitions:

No person shall cause to be or allow his or her domestic animal(s) upon any Lincolnville Public Beach.
The Board of Selectmen of the Town of Lincolnville with respect to Public Beaches under its jurisdiction may place signs prohibiting all domestic animals from all Town of Lincolnville Public Beaches. Such signs shall be official signs and no person shall cause to be or allow his or her domestic animals(s) in violation of the restriction stated on such signs.

**Section 9. Compliance:**

This Ordinance shall not repeal, annual, or in any way impair other regulations, permits, ordinances, or statutes. Where this Ordinance imposes greater restrictions that set forth in the foregoing, the provisions of this Ordinance shall control.

**Section 10. Enforcement:**

A person found in violation of this Ordinance shall be issued a warning for the first offense; for subsequent offenses a fine of twenty five (25) dollars shall be imposed. All; fines imposed under this Ordinance shall be recovered to the benefit of the Town of Lincolnville.

**Section 11. Legal Action:**

The Municipal Officers, on their own, are hereby authorized and directed to institute any and all actions and court proceedings that may be appropriate or necessary to enforce the provisions of this Ordinance in the name of the Town of Lincolnville.

**Section 12. Fines and Attorney’s Fees:**

If, in any action brought against in the name of the Town of Lincolnville under this Ordinance, the Town prevails against the person violating the Ordinance, then such person shall be liable and responsible for the Town’s legal fees and court costs involved in bringing such suit or action. All fines imposed under this Ordinance shall be recovered to the benefit of the Town of Lincolnville.

Enacted: 06-25-1986

K:\Ordinances\Domestic Animal Ordinance.doc
1. **Short Title:** This ordinance shall be known and may be cited and referred to as the “Emergency Management Ordinance of the Town of Lincolnville”. Authorized under Title 37-B M.R.S.A., Section 782.

2. **Definitions:** Emergency Management Director (EMD) shall mean the appointed town official responsible for performing the four phases of Emergency Management (preparedness, response, recovery, and mitigation) and for liaison with the Waldo County Emergency Management Agency.

3. **Establishment:** The Lincolnville Office of Emergency Management (OEM) and the position of Emergency Management Director for the Town of Lincolnville is hereby created. The Selectmen may appoint additional OEM staff members, as needed.

4. **Appointment, Term and Removal:** The Selectmen shall appoint the EMD. This appointment shall be annual and made by June 1st of each year. The Selectmen may remove the EMD for cause.

5. **Oath of the Emergency Management Director:** Once the EMD has been appointed, the EMD shall take an oath of office before assuming any duties, pursuant to Title 30-A M.R.S.A., Section 2526.

6. **Duties of the Emergency Management Director:** The EMC shall:
   A. Prepare and update a Hazard Risk and Vulnerability Assessment.
   B. Prepare and maintain the Lincolnville Emergency Operation Plan.
   C. Organize, activate and operate the Lincolnville Emergency Operations Center (EOC).
   D. Prepare and maintain a list of disaster resources.
   E. Develop procedures for the operation of the Lincolnville EOC.
   F. Coordinate and maintain written disaster Mutual Aid Agreements with the approval of the Selectmen.
   G. Provide Emergency Management training to town officials, planners, and responders.
   H. Develop and implement a Disaster Exercise program.
   I. Attend County and Local Emergency Managers meetings.
   J. Provide Disaster Preparedness information to town residents.
   K. Complete and report Damage Assessments to WOEMA.
   L. Complete and submit applications for FEMA disaster funds and grants.

7. **Membership of the Emergency Operations Center:** When directed by any one of the Selectmen or by the EMD, the EOC will be established and manned. At the
discretion of the Selectmen or EMD, the following town officials maybe included on the EOC staff:

A. Selectmen
B. Emergency Management Director
C. Town Clerk and Treasurer
D. Code Enforcement Officer
E. Town Police
F. Fire Chief
G. Volunteer Firefighters
H. Road Commissioner
I. Animal Control Officer
J. Harbor Master
K. Electrical Inspector
L. Welfare Director
M. School Superintendent

8. **Establishment of the National Incident Management System:** The Town of Lincolnville hereby establishes the National Incident Management System (NIMS) as the municipal standard for incident management. This system provides a consistent approach for Federal, State, and Municipal Governments to work together more effectively to prevent, prepare for, respond to and recover from domestic incidents, regardless of cause, size or complexity. NIMS will utilize standardized terminology, standardized organizational structures, interoperable communications, consolidated action plans, unified command structures, uniform personnel qualification standards, uniform standards for planning, training, and exercising, comprehensive resource management, and designated incident facilities during emergencies or disasters. The NIMS Incident Command System (ICS) will be utilized by all Lincolnville emergency and disaster responders for incident management.

9. **Compensation:** The EMD shall be compensated for duties rendered by an annual stipend as appropriated at town meeting.

10. **Training:** The EMD may take necessary training as provided by the Waldo County Emergency Management Agency (WOEMA), Maine Emergency Management Agency (MEMA), and FEMA.

Enacted June 13, 2006
TOWN OF LINCOLNVILLE
AN ORDINANCE CONCERNING THE
LINCOLNVILLE FIRE DEPARTMENT

Article 1 – Name:
The name of this department shall be the Lincolnville Fire Department (hereinafter “LFD”).

Article 2 – Purpose:
The purpose of this department is:

A. To strive to respond to all fire calls in a timely manner according to the nature of the call and the availability of service and equipment;

B. To promote professional performance by all firefighters and Fire Chief; and

C. To provide services in accordance with all applicable federal and state statutes and regulations.

Article 3 – Organization:
Section 1. The Lincolnville Fire Department is an on-call fire department and shall be under the supervision of the Fire Chief.

Section 2. The Lincolnville Volunteer Fire Department shall mean a voluntary association, and/or corporation, for the purpose of providing support, personnel, and advice to the LFD.

Section 3. The Fire Chief (hereinafter the “Chief”) of the LFD shall be appointed by the Board of Selectmen of the Town of Lincolnville in consultation with the Lincolnville Volunteer Fire Department.

Section 4. The Board of Selectmen, in consideration with the Chief, shall – from time to time – determine the roster of the LFD.

Article 4 – Employment:
Section 1. All firefighters must be willing and able to assume the full duties and responsibilities of firefighters as stated in this ordinance, in state and federal regulations, and in the rules of the Department and the Town of Lincolnville (hereinafter “Town”).

Section 2. All employees of the LFD shall be firefighters, including the Chief. All employees of the LFD shall be on-call employees of the Town.

Section 3. To apply for employment as a firefighter with the LFD, each applicant must:

A. Submit a completed application to the LFD;

B. Meet educational and such other requirements as may be promulgated by rule by the Chief and approved by the Board of Selectmen.

C. Hold a valid, probation-free, Maine drivers license;

D. Be 18 years of age or older;
Applications will be screened by a committee appointed by the Chief, which shall consist of not more than five (5) firefighters and which shall make recommendations to the Chief regarding the applicants’ qualifications to serve as firefighters with the LFD. The Chief shall have the sole and final discretion to make the decision to employ firefighters in the LFD.

Section 4. New firefighters will serve an apprenticeship for a period of six (6) months and shall be probationary firefighters for that period. The apprenticeship period may be extended at the discretion of the Chief. At the end of the six-month period, firefighters who have worked with the apprentice may be requested by the Chief to complete a written evaluation of the apprentice’s performance, which will be submitted to the Chief and kept on file.

Section 5. Firefighters are expected to provide in-service training to apprentices at the request of the Chief.

Section 6. If a firefighter is determined by the Chief, in accordance with regulations promulgated by the Chief with approval by the Board of Selectmen, to be or to have been unavailable for service for an extended period of time, the Chief, at his discretion, may place the firefighter on probationary or on inactive status. If the absence is for medical reasons, a written release from the firefighter’s doctor may be requested by the Chief before the firefighter may be returned to active duty status. Any firefighter on probationary status for more than six (6) months shall be considered to be inactive and automatically separated from the LFD and shall no longer be an employee of the LFD as of that date. Upon determination by the Chief of the firefighter’s inactive status, that firefighter must return all department equipment of any kind, specifically including, but not limited to keys, equipment, and uniforms.

Article 5 – Fire Chief:

Section 1. The Board of Selectmen shall appoint the Chief annually, at their first regular meeting after July 1 of each year.

Section 2. The Chief shall be appointed for a term of one (1) year; and that appointment shall be a probationary appointment for a period of six (6) months from the date of appointment.

Section 3. The Board of Selectmen shall determine the compensation of the Chief.

Section 4. The Chief shall have the authority to employ all firefighters and appoint a Deputy Chief, Assistant Chiefs, and all other officers, as provided by regulations promulgated by the Chief, in consultation with the Lincolnville Volunteer Fire Department and upon the approval of the Board of Selectmen.

Section 5. The Chief shall has the authority to remove firefighters, officers, and any other employees of the LFD, after any probationary period established by this ordinance, only for cause, after notice and hearing.

Section 6. The Chief shall have the authority to adopt administrative regulations relating to municipal fire protection, with the approval of the Board of Selectmen and consistent with this ordinance.

Section 7. After the expiration of the six (6) months’ probationary appointment, during which the chief may be removed by the Board of Selectmen without cause, the Board of Selectmen shall have the authority to remove the Chief from the office during the term of office, only for cause, after notice and hearing. The Chief shall be provided with written notice of such action and, upon receipt of a written request, delivered to the Town Administrator within ten (10) days of the date of written notice of such action, the Board of Selectmen shall hold a hearing at a convenient time and place, for the purpose of deciding whether or not the Chief shall be removed from office.
**Article 6 – Officers**

Section 1. Officers of the Lincolnville Fire Department shall include one (1) Deputy Chief, and two (2) Assistant Chiefs and such other officers as may be established by regulations promulgated by the Chief, with the approval of the Board of Selectmen.

Section 2. With the exception of the Chief, the officers of the LFD shall be elected by the Lincolnville Volunteer Fire Department with the approval of the Chief, in accordance with the by-laws of that organization and any such officer shall be a member of the Lincolnville Volunteer Fire Department.

Section 3. Officers of the LFD shall be responsible to the Chief.

Section 4. Officers of the LFD shall assist the Chief in reviewing LFD regulations and shall recommend changes to the Chief.

Section 5. A vacancy occurring during term of an LFD officer shall be filled by appointment by the Chief.

Section 6. Officers of the LFD shall be appointed for a term of one (1) year, beginning July 1 of each year and continuing until their successors are appointed.

Section 7. Any officer of the LFD may be removed from office by the Chief, for cause, after notice and hearing, during that officer’s term. The officer shall be provided with written notice of such removal action and, upon written request received by the Town Administrator within ten (10) days of that written notice, a hearing will be held before the Chief; the other officers may be included when appropriate, as determined by the Chief. Upon receipt of a written request of the LFD officer so removed, within (10) days of the date of such removal by the Chief, the Board of Selectmen shall hold a hearing at a convenient time and place to review the removal decision. The Board of Selectmen shall have the authority to reinstate the removed officer for the remainder for the officer’s term, upon determination, set forth in writing, that the officer’s removal was not justified by reasonable and sufficient cause identified by the Chief.

**Article 7 – Meetings**

Section 1. Special meetings, drills, practice, mock exercises, and special seminars deemed may be called by the Chief, or by the Deputy Chief with the consent of the Chief, at any time deemed necessary.

Section 2. The Chief shall require that all firefighters attend a minimum of fifty percent (50%) of all meetings as a condition of continued employment. The Chief shall require that all firefighters attend a fixed percentage – not less than fifty percent (50%) – of scheduled training sessions as a condition of continued employment. Firefighters shall attend all necessary courses for the purpose of training in firefighting techniques and continuing maintenance of their firefighting skills. Firefighters not meeting minimum attendance and training requirements may, at the discretion of the Chief, be placed on probationary status.

**Article 8 – General Procedures**

General procedures and regulations shall be those promulgated by rule by the Chief, with the approval of the Board of Selectmen.

**Article 9 – Finances**

Section 1. The Chief shall prepare an annual budget for the Lincolnville Fire Department which shall contain budgeted amounts for all expenses related to the operation of the LFD, including
compensation for the Chief, the officers, and the firefighters. The Chief shall submit the annual budget to the Board of Selectmen at its regular meeting in January of each year.

Section 2. The Chief shall submit all bills and receipts relating to the LFD to the Town Treasurer, who shall be authorized to pay such bills upon approval by the Board of Selectmen of a warrant for such expenditures, and who shall keep and maintain the financial records of the LFD.

Section 3. Firefighters shall not be compensated for the time they are on-call status unless they are actually responding to a call or performing other duties designated in this ordinance or by regulation issued pursuant to this ordinance.

**Article 10 – Disciplinary Action**

Any member who does not act within the guidelines of the rules promulgated by the Chief under this ordinance, applicable state laws and regulations, and this ordinance, may be disciplined by the Chief as follows:

A. Oral warning with documentation placed in the firefighter’s file and a copy provided to the Town Administrator.

B. Letter of reprimand placing the member on Probationary or on Inactive Status, with a copy placed in the firefighter’s file and one provided to the Town Administrator.

C. At the discretion of the Chief and within a period of six (6) months from being placed on Probationary Status, firefighters on may be placed on active status by a letter of reinstatement, with a copy placed in the firefighter’s file and one provided to the Town Administrator.

**Article 11- Primary Responsibilities of Chief and Officers**

The following are the primary responsibilities of the Chief and of the officers for the operation of the LFD. This list is not inclusive, and other duties may be assigned by the Chief.

**Fire Chief**

A. Is responsible and reports to the Board of Selectmen;
B. Is responsible for the operation of the LFD, and shall direct and control all firefighting operations performed by the LFD;
C. Shall organize and provide appropriate education and training for firefighters employed by the LFD;
D. Shall designate firefighters to give in-service training during training meetings;
E. Shall provide for the maintenance of all fire equipment owned and used by the LFD, or owned by the Town and used by the LFD;
F. Shall respond to all complaints;
G. Shall develop rules as authorized by this ordinance; and
H. Shall suppress disorder at the scene of a fire, and direct all firefighting operations to minimize destruction and damage.

**Deputy Chief and Assistant Chiefs**

A. Are responsible to the Chief;
B. Shall respond to all complaints in the absence of the Chief; and shall notify the Chief of such complaints and the action taken;
C. Shall assist the Chief with all duties;
D. Shall be responsible to take action if any vehicular, mechanical, or other equipment breakdown occurs, and shall notify the Chief of any action taken;
E. Shall be responsible to insure that the firefighting vehicles and equipment are maintained,
washed, and cleaned; and
F. Shall advise the Chief immediately of any vehicle or equipment damage.

**Article 12 – Gifts**

The Lincolnville Fire Department, through the Chief and at the Chief’s discretion, is authorized to accept gifts of firefighting equipment and related items, and other donations, from whatever source, for the purpose of advancing the objectives of the Department.

**Article 13 – Mutual Aid**

The Board of Selectmen may authorize from time to time agreements which will authorize the LFD to aid in extinguishing fires, providing search and rescue services, related fire safety services, and training exercises, in other municipalities. All existing agreements are hereby approved and ratified.

**Article 14 - Facilities**

All buildings and equipment of the Lincolnville Fire Department shall be owned by the Town of Lincolnville. The Town of Lincolnville shall manage and maintain those buildings and fire department equipment in consultation with the Lincolnville Volunteer Fire Department.

Enacted: June 16, 1997 Annual Town Meeting

K:\Ordinances\Fire Department Ordinance.doc
Town of Lincolnville

Floodplain Management

Ordinance

March 2008
# FLOODPLAIN MANAGEMENT ORDINANCE

## CONTENTS

<table>
<thead>
<tr>
<th>ARTICLE</th>
<th>PAGE</th>
</tr>
</thead>
<tbody>
<tr>
<td>I. PURPOSE AND ESTABLISHMENT</td>
<td>2</td>
</tr>
<tr>
<td>II. PERMIT REQUIRED</td>
<td>2</td>
</tr>
<tr>
<td>III. APPLICATION FOR PERMIT</td>
<td>2</td>
</tr>
<tr>
<td>IV. APPLICATION FEE AND EXPERT'S FEE</td>
<td>4</td>
</tr>
<tr>
<td>V. REVIEW STANDARDS FOR FLOOD HAZARD DEVELOPMENT PERMIT APPLICATIONS</td>
<td>4</td>
</tr>
<tr>
<td>VI. DEVELOPMENT STANDARDS</td>
<td>6</td>
</tr>
<tr>
<td>VII. CONDITIONAL USE REVIEW</td>
<td>12</td>
</tr>
<tr>
<td>VIII. CERTIFICATE OF COMPLIANCE</td>
<td>13</td>
</tr>
<tr>
<td>IX. REVIEW OF SUBDIVISIONS AND DEVELOPMENT PROPOSALS</td>
<td>13</td>
</tr>
<tr>
<td>X. APPEALS AND VARIANCES</td>
<td>14</td>
</tr>
<tr>
<td>XI. ENFORCEMENT AND PENALTIES</td>
<td>16</td>
</tr>
<tr>
<td>XII. VALIDITY AND SEVERABILITY</td>
<td>16</td>
</tr>
<tr>
<td>XIII. CONFLICT WITH OTHER ORDINANCES</td>
<td>16</td>
</tr>
<tr>
<td>XIV. DEFINITIONS</td>
<td>17</td>
</tr>
<tr>
<td>XV. ABROGATION</td>
<td>21</td>
</tr>
</tbody>
</table>

60.3 (e) Rev. 4/05
ARTICLE I - PURPOSE AND ESTABLISHMENT

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

The areas of special flood hazard, Zones A, AE, and VE, are identified by the Federal Emergency Management Agency in a report entitled "Flood Insurance Study - Town of Lincolnville, Maine, Waldo County," dated May 3, 1990 with accompanying "Flood Insurance Rate Map" dated May 3, 1990, which are hereby adopted by reference and declared to be a part of this Ordinance.

ARTICLE II - PERMIT REQUIRED

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

ARTICLE III - APPLICATION FOR PERMIT

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

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

B. An address and a map indicating the location of the construction site;

C. A site plan showing location of existing and/or proposed development, including but not limited to structures, sewage disposal facilities, water supply facilities, areas to be cut and filled, and lot dimensions;

D. A statement of the intended use of the structure and/or development;
E. A statement of the cost of the development including all materials and labor;

F. A statement as to the type of sewage system proposed;

G. Specification of dimensions of the proposed structure and/or development;

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

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

1. base flood at the proposed site of all new or substantially improved structures, which is determined:
   a. in Zones AE, and VE from data contained in the "Flood Insurance Study - Town of Lincolnville, Maine," as described in Article I; or,
   b. in Zone A:
      (1) from any base flood elevation data from federal, state, or other technical sources (such as FEMA’s Quick-2 model, FEMA 265/July 1995), including information obtained pursuant to Article VI.K. and IX.D.;
      (2) from the contour elevation extrapolated from a best fit analysis of the floodplain boundary when overlaid onto a USGS Quadrangle Map or other topographic map prepared by a Professional Land Surveyor or registered professional engineer, if the floodplain boundary has a significant correlation to the elevation contour line(s); or, in the absence of all other data,
      (3) to be the elevation of the ground at the intersection of the floodplain boundary and a line perpendicular to the shoreline which passes along the ground through the site of the proposed building.

2. highest and lowest grades at the site adjacent to the walls of the proposed building;

3. lowest floor, including basement; and whether or not such structures contain a basement; and,

4. level, in the case of non-residential structures only, to which the structure will be floodproofed;

I. A description of an elevation reference point established on the site of all developments for which elevation standards apply as required in Article VI;

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

K. The following certifications as required in Article VI by a registered professional engineer or architect:
   1. a Floodproofing Certificate (FEMA Form 81-65, 01/03, as amended), to verify that the floodproofing methods for any non-residential structures will meet the floodproofing criteria of Article III.H.4.; Article VI.G.; and other applicable standards in Article VI;
2. a V-Zone Certificate to verify that the construction in coastal high hazard areas, Zone VE, will meet the criteria of Article VI.P.; and other applicable standards in Article VI;

3. a Hydraulic Openings Certificate to verify that engineered hydraulic openings in foundation walls will meet the standards of Article VI.L.2.a.;

4. a certified statement that bridges will meet the standards of Article VI.M.;

5. a certified statement that containment walls will meet the standards of Article VI.N.;

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

M. A statement of construction plans describing in detail how each applicable development standard in Article VI will be met.

ARTICLE IV - APPLICATION FEE AND EXPERT'S FEE

A non-refundable application fee of $25.00 for all minor development and $50.00 for all new construction or substantial improvements shall be paid to the Town Clerk and a copy of a receipt for the same shall accompany the application.

An additional fee may be charged if the 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 - Town of Lincolnville, Maine," as described in Article I.;

2. in special flood hazard areas where base flood elevation and floodway data are not provided, the Code Enforcement Officer shall obtain, review and reasonably utilize any base flood elevation and floodway data from federal, state, or other technical sources, including information obtained pursuant to Article III.H.1.b.; Article VI.K.; and Article IX.D., in order to administer Article VI of this Ordinance; and,
3. When the community establishes a base flood elevation in a Zone A by methods outlined in Article III.H.1.b., the community shall submit that data to the Maine Floodplain Management Program in the State Planning Office.

C. Make interpretations of the location of boundaries of special flood hazard areas shown on the maps described in Article I of this Ordinance;

D. In the review of Flood Hazard Development Permit applications, determine that all necessary permits have been obtained from those federal, state, and local government agencies from which prior approval is required by federal or state law, including but not limited to Section 404 of the Federal Water Pollution Control Act Amendments of 1972, 33 U.S.C. 1344;

E. Notify adjacent municipalities, the Department of Environmental Protection, and the Maine Floodplain Management Program in the State Planning Office prior to any alteration or relocation of a water course and submit copies of such notifications to the Federal Emergency Management Agency;

F. If the application satisfies the requirements of this Ordinance, approve the issuance of one of the following Flood Hazard Development Permits, based on the type of development:

1. A two-part Flood Hazard Development Permit for elevated structures. Part I shall authorize the applicant to build a structure to and including the first horizontal floor only above the base flood level. At that time the applicant shall provide the Code Enforcement Officer with an Elevation Certificate completed by a Professional Land Surveyor, registered professional engineer or architect based on the Part I permit construction, “as built”, for verifying compliance with the elevation requirements of Article VI, paragraphs F, G, H, or P. Following review of the Elevation Certificate data, which shall take place within 72 hours of receipt of the application, the Code Enforcement Officer shall issue Part II of the Flood Hazard Development Permit. Part II shall authorize the applicant to complete the construction project;

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;

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

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

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

ARTICLE VI - DEVELOPMENT STANDARDS

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

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

1. be designed or modified and adequately anchored to prevent flotation (excluding piers and docks), collapse or lateral movement of the development resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy;

2. use construction materials that are resistant to flood damage;

3. use construction methods and practices that will minimize flood damage; and,

4. use electrical, heating, ventilation, plumbing, and air conditioning equipment, and other service facilities that are designed and/or located 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 IX.D.

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

G. **Non Residential** - New construction or substantial improvement of any non-residential structure located within:
1. Zone AE shall have the lowest floor (including basement) elevated to at least one foot above the base flood elevation, or together with attendant utility and sanitary facilities shall:
   
a. be floodproofed to at least one foot above the base flood elevation so that below that elevation the structure is watertight with walls substantially impermeable to the passage of water;

b. have structural components capable of resisting hydrostatic and hydrodynamic loads and the effects of buoyancy; and,

c. be certified by a registered professional engineer or architect that the floodproofing design and methods of construction are in accordance with accepted standards of practice for meeting the provisions of this section. Such certification shall be provided with the application for a Flood Hazard Development Permit, as required by Article III.K. and shall include a record of the elevation above mean sea level to which the structure is floodproofed.

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

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

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

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

1. Zone AE shall:

   a. be elevated such that the lowest floor (including basement) of the manufactured home is at least one foot above the base flood elevation;

   b. be on a permanent foundation, which may be poured masonry slab or foundation walls, with hydraulic openings, or may be reinforced piers or block supports, any of which support the manufactured home so that no weight is supported by its wheels and axles; and,

   c. be securely anchored to an adequately anchored foundation system to resist flotation, collapse, or lateral movement. Methods of anchoring may include, but are not limited to:

      (1) over-the-top ties anchored to the ground at the four corners of the manufactured home, plus two additional ties per side at intermediate points (manufactured homes less than 50 feet long require one additional tie per side); or by,

      (2) frame ties at each corner of the home, plus five additional ties along each side at intermediate points (manufactured homes less than 50 feet long require four additional ties per side).

      (3) all components of the anchoring system described in Article VI.H.1.c.(1)&(2) shall be capable of carrying a force of 4800 pounds.
2. Zone A shall:
   a. be elevated on a permanent foundation, as described in Article VI.H.1.b., such that the lowest floor (including basement) of the manufactured home is at least one foot above the base flood elevation utilizing information obtained pursuant to Article III.H.1.b.; Article V.B; or Article IX.D.; and
   b. meet the anchoring requirements of Article VI.H.1.c.

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

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

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

   2. Zone VE shall meet the requirements of either Article VI.I.1.a. or b., or Article VI.P.

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

   1. be 500 square feet or less and have a value less than $3000;
   2. have unfinished interiors and not be used for human habitation;
   3. have hydraulic openings, as specified in Article 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 Chapter 5 entitled "Hydraulic Analyses," Flood Insurance Study - Guidelines and Specifications for Study Contractors, (FEMA 37/ January 1995, as amended).

3. In Zones AE, and A riverine areas for which no regulatory floodway is designated, the regulatory floodway is determined to be the channel of the river or other water course and the adjacent land areas to a distance of one-half the width of the floodplain as measured from the normal high water mark to the upland limit of the floodplain.

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

1. Enclosed areas are not "basements" as defined in Article XIV;

2. Enclosed areas shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of flood water. Designs for meeting this requirement must either:

   a. be engineered and certified by a registered professional engineer or architect; or,

   b. meet or exceed the following minimum criteria:

      (1) a minimum of two openings having a total net area of not less than one square inch for every square foot of the enclosed area;

      (2) the bottom of all openings shall be below the base flood elevation and no higher than one foot above the lowest grade; and,
(3) openings may be equipped with screens, louvers, valves, or other coverings or devices provided that they permit the entry and exit of flood waters automatically without any external influence or control such as human intervention, including the use of electrical and other non-automatic mechanical means.

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

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

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

1. when possible, the lowest horizontal member (excluding the pilings, or columns) is elevated to at least one foot above the base flood elevation; and

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

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

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

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

1. wharves, piers, and docks shall comply with all applicable local, state, and federal regulations; and

2. for commercial wharves, piers, and docks, a registered professional engineer shall develop or review the structural design, specifications, and plans for the construction.
P. **Coastal Floodplains** -

1. All new construction located within Zones AE, A, and VE shall be located landward of the reach of mean high tide except as provided in Article VI.P.6.

2. New construction or substantial improvement of any structure located within Zone VE shall:
   a. be elevated on posts or columns such that:
      (1) the bottom of the lowest horizontal structural member of the lowest floor (excluding the pilings or columns) is elevated to one foot above the base flood elevation;
      (2) the pile or column foundation and the elevated portion of the structure attached thereto is anchored to resist flotation, collapse, and lateral movement due to the effects of wind and water loads acting simultaneously on all building components; and,
      (3) water loading values used shall be those associated with the base flood. Wind loading values used shall be those required by applicable state and local building standards.
   b. have the space below the lowest floor:
      (1) free of obstructions; or,
      (2) constructed with open wood lattice-work, or insect screening intended to collapse under wind and water without causing collapse, displacement, or other structural damage to the elevated portion of the building or supporting piles or columns; or,
      (3) constructed with non-supporting breakaway walls which have a design safe loading resistance of not less than 10 or more than 20 pounds per square foot.
   c. require a registered professional engineer or architect to:
      (1) develop or review the structural design, specifications, and plans for the construction, which must meet or exceed the technical criteria contained in the *Coastal Construction Manual*, (FEMA-55/June, 2000); and,
      (2) certify that the design and methods of construction to be used are in accordance with accepted standards of practice for meeting the criteria of Article VI.P.2.

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

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

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

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

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

b. The structure shall be securely anchored to the wharf or pier to resist flotation, collapse, and
lateral movement due to the effect of wind and water loads acting simultaneously on all
building components.

c. The structure will not adversely increase wave or debris impact forces affecting nearby
buildings.

d. The structure shall have unfinished interiors and shall not be used for human habitation.

e. Any mechanical, utility equipment and fuel storage tanks must be anchored and either
elevated or floodproofed to one foot above the base flood elevation.

f. All electrical outlets shall be ground fault interrupt type. The electrical service disconnect
shall be located on shore above the base flood elevation and when possible outside the
Special Flood Hazard Area.

ARTICLE VII - CONDITIONAL USE REVIEW

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

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

1. The Flood Hazard Development Permit Application with additional information attached
addressing how each of the conditional use criteria specified in the Ordinance will be satisfied,
may serve as the permit application for the Conditional Use Permit.

2. Before deciding any application, the Planning Board shall hold a public hearing on the
application within thirty days of their receipt of the application.

3. If the Planning Board finds that the application satisfies all relevant requirements of the
ordinance, the Planning Board must approve the application or approve with conditions within 45
days of the date of the public hearing.

4. A Conditional Use Permit issued under the provisions of this Ordinance shall expire if the work
or change involved is not commenced within 180 days of the issuance of the permit by the
Planning Board.
5. The applicant shall be notified by the Planning Board in writing over the signature of the Chairman of the Planning Board that flood insurance is not available for structures located entirely over water or seaward of mean high tide.

B. Expansion of Conditional Uses

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

ARTICLE VIII - CERTIFICATE OF COMPLIANCE

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

A. For New Construction or Substantial Improvement of any elevated structure the applicant shall submit to the Code Enforcement Officer:

1. an Elevation Certificate completed by a Professional Land Surveyor, registered professional engineer, or architect, for compliance with Article VI, paragraphs F, G, H, or P and,

2. for structures in Zone VE, certification by a registered professional engineer or architect that the design and methods of construction used are in compliance with Article VI.P.2.

B. The applicant shall submit written notification to the Code Enforcement Officer that the development is complete and complies with the provisions of this ordinance.

C. Within 10 working days, the Code Enforcement Officer shall:

1. review the required certificate(s) and the applicant’s written notification; and,

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

ARTICLE IX - REVIEW OF SUBDIVISION AND DEVELOPMENT PROPOSALS

The Planning Board shall, when reviewing subdivisions and other proposed developments that require review under other federal law, state law 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 X - APPEALS AND VARIANCES

The Board of Appeals of the Town of Lincolnville 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 X and Article VI.K. are met; and,

2. the structure or other development is protected by methods that minimize flood damages during the base flood and create no additional threats to public safety.

E. Variances may be issued for the repair, reconstruction, rehabilitation, or restoration of Historic Structures upon the determination that:

1. the development meets the criteria of Article X, paragraphs A. through D. above; and,

2. the proposed repair, reconstruction, rehabilitation, or restoration will not preclude the structure’s continued designation as a Historic Structure and the variance is the minimum necessary to preserve the historic character and design of the structure.

F. Any applicant who meets the criteria of Article X, paragraphs A. through E. shall be notified by the Board of Appeals in writing over the signature of the Chairman of the Board of Appeals that:

1. the issuance of a variance to construct a structure below the base flood level will result in greatly increased premium rates for flood insurance up to amounts as high as $25 per $100 of insurance coverage;

2. such construction below the base flood level increases risks to life and property; and,

3. the applicant agrees in writing that the applicant is fully aware of all the risks inherent in the use of land subject to flooding, assumes those risks and agrees to indemnify and defend the municipality against any claims filed against it that are related to the applicant's decision to use land located in a floodplain and that the applicant individually releases the municipality from any claims the applicant may have against the municipality that are related to the use of land located in a floodplain.

G. Appeal Procedure for Administrative and Variance Appeals

1. An administrative or variance appeal may be taken to the Board of Appeals by an aggrieved party within thirty days after receipt of a written decision of the Code Enforcement Officer or Planning Board.

2. Upon being notified of an appeal, the Code Enforcement Officer or Planning Board, as appropriate, shall transmit to the Board of Appeals all of the papers constituting the record of the decision appealed from.

3. The Board of Appeals shall hold a public hearing on the appeal within thirty-five days of its receipt of an appeal request.
4. The person filing the appeal shall have the burden of proof.

5. The Board of Appeals shall decide all appeals within thirty-five days after the close of the hearing, and shall issue a written decision on all appeals.

6. The Board of Appeals shall submit to the Code Enforcement Officer a report of all variance actions, including justification for the granting of the variance and an authorization for the Code Enforcement Officer to issue a Flood Hazard Development Permit, which includes any conditions to be attached to said permit.

7. Any aggrieved party who participated as a party during the proceedings before the Board of Appeals may take an appeal to Superior Court in accordance with State laws within forty-five days from the date of any decision of the Board of Appeals.

ARTICLE XI - ENFORCEMENT AND PENALTIES

A. It shall be the duty of the Code Enforcement Officer to enforce the provisions of this Ordinance pursuant to Title 30-A MRSA § 4452.

B. The penalties contained in Title 30-A MRSA § 4452 shall apply to any violation of this Ordinance.

C. In addition to any other actions, the Code Enforcement Officer, upon determination that a violation exists, shall submit a declaration to the Administrator of the Federal Insurance Administration requesting a denial of flood insurance. The valid declaration shall consist of:

1. the name of the property owner and address or legal description of the property sufficient to confirm its identity or location;

2. a clear and unequivocal declaration that the property is in violation of a cited State or local law, regulation, or ordinance;

3. a clear statement that the public body making the declaration has authority to do so and a citation to that authority;

4. evidence that the property owner has been provided notice of the violation and the prospective denial of insurance; and,

5. a clear statement that the declaration is being submitted pursuant to Section 1316 of the National Flood Insurance Act of 1968, as amended.

ARTICLE XII - VALIDITY AND SEVERABILITY

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

ARTICLE XIII - CONFLICT WITH OTHER ORDINANCES

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

**ARTICLE XIV - DEFINITIONS**

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

**Accessory Structure** - 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.

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

**Building** - see Structure.

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

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

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

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

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

a. built, in the case of a building in Zones AE, A, to have the top of the elevated floor, or in the case of a building in Zone VE, to have the bottom of the lowest horizontal structural member of the elevated floor, elevated above the ground level by means of pilings, columns, post, piers, or "stilts;" and
b. adequately anchored 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, 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. In the case of Zone VE, **Elevated Building** also includes a building otherwise meeting the definition of elevated building, even though the lower area is enclosed by means of breakaway walls, if the breakaway walls meet the standards of Article VI.P.2.b.(3).

**Elevation Certificate** - An official form (FEMA Form 81-31, 02/06, 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) 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, 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.

**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 Board of Appeals.

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

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

**ARTICLE XV - ABROGATION**

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

Harbor Ordinance

November 7, 2006

AMENDED: 06-16-2007
AMENDED: 11-04-2008
# TABLE OF CONTENTS

**ARTICLE I  GENERAL PROVISIONS ............................................................... 1**

Section 1.  Purpose and Jurisdiction ................................................................. 1

Section 2.  Harbor Boundaries ................................................................. 1

**ARTICLE II  HARBOR ADMINISTRATION .............................................. 3**

Section 1.  Harbor Committee ......................................................................... 3

Section 2.  Harbor Master .............................................................................. 3

Section 3.  Harbor User Fees ......................................................................... 4

**ARTICLE III  REGULATIONS CONCERNING DOCKS, FLOATS, LAUNCHING RAMP AND MOORINGS ................................................................. 5**

Section 1.  Municipal Pier and Floats ................................................................. 5

A. Pier, Inclines and Floats ........................................................................ 5

B. Boom Hoists (Winch) ................................................................................. 5

C. Floats ......................................................................................................... 6

Section 2.  Moorings ......................................................................................... 6

A. Mooring Area Categories .................................................................. 7

B. Application for Mooring Site Permit .................................................. 7

C. Mooring Permit ..................................................................................... 8

D. Mooring Waiting Lists ....................................................................... 8

E. Mooring Standards and Inspection ..................................................... 9

F. Multi-Use Moorings ........................................................................... 9

G. Guest and Service Moorings ............................................................. 10

H. Rental Moorings ................................................................................. 10

I. Mooring Site Usage ........................................................................... 11

J. Littoral Owner Moorings ................................................................. 11

K. Allocation of Mooring Sites to Non-Residents .................................. 12

Section 3.  Bait Box Container Space ............................................................... 12

Section 4.  Tenders ........................................................................................ 12

A. Issuance of Tie-Up Privileges ............................................................ 12

B. Tender Requirements ........................................................................... 12

Section 5.  Launching Ramp .......................................................................... 13

Section 6:  Parking Privileges ...................................................................... 13
ARTICLE IV  REGULATIONS CONCERNING INCLINES, FLOATS AND OTHER SIMILAR STRUCTURES ATTACHED TO NON-PUBLIC PIERS AND WHARVES OR MOORED WITHIN LINCOLNVILLE HARBOR LIMITS (INCLUDING INNER, OUTER, AND COASTAL HARBORS) ........................................................................................................ 14

Section 1.  Standards for Inclines, Floats and Other Similar Structures .......... 14
Section 2.  Non-Public Piers and Wharves .............................................................. 15

ARTICLE V  GENERAL REGULATIONS .................................................. 19

Section 1.  Abandoned Watercraft ................................................................. 19
Section 2.  Anchorage Area ........................................................................... 19
Section 3.  Aquaculture .................................................................................. 19
Section 4.  Cleaning of Marine Life ................................................................. 19
Section 5.  Discharge of Refuse ..................................................................... 19
Section 6.  Expense of Removing a Watercraft .................................................. 19
Section 7.  Lost or Abandoned Property ........................................................... 20
Section 8.  Obstruction of Navigation .............................................................. 20
Section 9.  Revocation of Mooring and Pier Privileges ....................................... 20
Section 10. Special Events ............................................................................... 20
Section 11. Speeding ......................................................................................... 21
Section 12. Watercraft as Residence ............................................................... 21
Section 13. Water Sports ................................................................................ 21

ARTICLE VI  APPEAL OF HARBOR MASTER DECISION .......... 22

ARTICLE VII  PENALTIES AND ENFORCEMENT .................................. 23

ARTICLE VIII  VALIDITY AND SEPARABILITY .................................... 23

ARTICLE IX  EFFECTIVE DATE ................................................................. 23
<table>
<thead>
<tr>
<th>Section</th>
<th>Title</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>ARTICLE X</td>
<td>DEFINITIONS</td>
<td>24</td>
</tr>
<tr>
<td>ARTICLE XI</td>
<td>TRANSITIONAL PROVISIONS</td>
<td>247</td>
</tr>
<tr>
<td>APPENDIX A</td>
<td>HARBOR BOUNDARIES MAP</td>
<td>289</td>
</tr>
<tr>
<td>APPENDIX B</td>
<td>LINCOLNVILLE FISH PIER &amp; FLOAT USAGE PLAN</td>
<td>30</td>
</tr>
<tr>
<td>APPENDIX C</td>
<td>TIMELINE OF EVENTS FOR INFORMATIONAL PURPOSES</td>
<td>312</td>
</tr>
</tbody>
</table>
ARTICLE I  GENERAL PROVISIONS

Section 1. Purpose and Jurisdiction
The purpose of this ordinance is to maintain order, organization, and proper utilization of the Lincolnville Harbor area, watercraft launch area, the municipal Lincolnville Fish Pier (hereinafter the “Pier”), float system and other related harbor facilities, in a manner conducive to the best interests of the Town of Lincolnville and the boating public, to ensure commercial fishermen access and to establish the rules by which the Town of Lincolnville will assign mooring privileges.

This ordinance is adopted pursuant to the specific authority granted to municipalities with regard to harbor matters as set forth in Title 38, Chapter 1 of the Maine Revised Statutes Annotated [hereinafter referred to as Title 38 M.R.S.A.]; with regard to police powers as set forth in Title 30-A M.R.S.A. §2671 et seq; with regard to the power of municipal home rule as set forth in Title 30-A M.R.S.A. §3001 et seq; and, Article VIII-A of the Constitution of the State of Maine. Where reference is made in this ordinance to the Maine Revised Statutes Annotated (M.R.S.A.) the most recent amendment shall apply.

In the event of a conflict between the provisions in this ordinance and the provisions of another municipal ordinance, which applies to the same land area, such as (without limitation) the Town’s land use ordinance, the more restrictive provision shall control. This ordinance shall be subordinate to existing Federal and State laws governing the same matters and is not intended to preempt other valid laws.

Section 2. Harbor Boundaries
This ordinance shall apply to all land areas covered by the waters of Lincolnville Harbor, including such land areas that are covered by those waters during part of a day and those land areas which are always covered by those waters. This ordinance shall also apply to inclines, floats and other similar structures attached to non-public piers and wharves or moored within Lincolnville Harbor limits. The Lincolnville Harbor boundary extends from the Lincolnville-Northport town line southerly to the Lincolnville-Camden town line. See Harbor Boundaries Map, Appendix A. For the purposes of these Harbor Rules and Regulations, the Harbor is divided into three areas: the inner, outer, and coastal harbor.

Inner Harbor: The inner harbor shall include that area of Penobscot Bay enclosed with the boundary lines set forth as follows: Beginning at the north turning dolphin of the Maine State Ferry Service dock (approximate position: 4410.845N/06900.312W), thence north magnetic to a point that intersects the shore at the high tide mark thence southerly along the shoreline to the north side of the ferry approach roadway (McKay Road), including all tidal waters, thence easterly to the transfer bridge to the point of beginning.

Outer Harbor: The outer harbor shall include that area of Penobscot Bay enclosed with the boundary lines set forth as follows: Beginning at Frohock Point located at the southern end of the harbor, thence easterly to the navigational buoy Bell #7 (approximate position: 4416.43N/06859.45W), thence in a northerly
direction to the shore at the Northport/Lincolnville town line. The inner and coastal harbor areas are excluded from the outer harbor.

**Coastal Harbor:** The coastal harbor limits shall include that area of Penobscot Bay enclosed with the boundary lines set forth as follows: The point of beginning, located on the shore at the Northport/Lincolnville town line in Ducktrap Harbor, thence on a course approximately southeast to navigational buoy Nun #2 (approximate position: 4417.09N/06859.26W), thence on a course approximately southwest intersecting with navigational buoy Bell #7, continuing in a straight line to the Waldo/Knox County line intersecting with the Town of Lincolnville coastal harbor limits hence along the county line to the shore. The inner and outer harbor areas are excluded from the coastal harbor.

**Inner Harbor Channel:** A convenient channel for the passage of watercraft shall be established adjacent to the Town facilities out to the coastal harbor. The channel shall be the area between the ferry dock and access road and a line from the north side of the launching ramp to the speed buoy (approximate position: 4416.51N/06900.19W).

There shall be no anchoring or mooring in any channel as designated herein. In accordance with Title 38 M.R.S.A. §2, nothing shall be allowed to block the channel or to obstruct the passage of watercraft to or from Lincolnville Harbor through a channel.
ARTICLE II    HARBOR ADMINISTRATION

Section 1. Harbor Committee
A Harbor Committee shall be appointed by the Board of Selectmen as set forth below and as included within the Town Charter and shall act as an advisory committee to the Board of Selectmen on matters related to the harbor. It shall be convened quarterly, and in addition, at the request of the Harbor Master, Chairman of the Harbor Committee, Town Administrator or the Board of Selectmen, as the need may arise. The composition of the Harbor Committee shall be representative of the varied interests using the Harbor for recreational purposes as well as those using the Harbor in the course of their business. The Harbor Master shall attend all meetings of the Harbor Committee in an advisory capacity. The duties and responsibilities of the Harbor Committee shall include, but not be limited to:

A. The provision of advice to the Board of Selectmen concerning matters related to the harbor;
B. The development and writing of requests for state and federal grants for marine related projects;
C. Annually review the Harbor Ordinance and make recommendations to the Board of Selectmen on desired revisions;
D. Annually review the “Lincolnville Pier & Float Usage Plan” and make recommendations to the Board of Selectmen on desired revisions to the Plan and to the authorized uses, time limits and hours of usage of the floats;
E. Annually in the month of November, the Harbor Committee shall meet to form its recommendations to the Board of Selectmen of the harbor fees, including late fees for the upcoming year. When deliberating fee recommendations, the Harbor Committee shall consider the needs of the harbor facilities, the financial needs of the town, the harbor users, the current user fees charged, and user fees charged in other towns.
F. At least annually, but in no case later than November, the Harbor Master shall advise the Harbor Committee and Board of Selectmen on issues requiring maintenance for consideration within the next budget or immediate repair.

Section 2. Harbor Master
The Harbor Master shall be appointed by the Board of Selectmen of the Town of Lincolnville. In all places where the “Harbor Master” is empowered to act in this ordinance, so too is any Deputy Harbor Master recommended by the Harbor Master and appointed by the Board of Selectmen to the full extent permitted by law and this ordinance. Deputy Harbor Masters shall serve at the direction of the Harbor Master. The Harbor Master shall report to and receive direction from the Lincolnville Town Administrator. [Title 38 M.R.S.A. §1 and §2].

The Harbor Master shall have, in addition to the duties and responsibilities of his office as prescribed by law and this ordinance, the authority to enforce the rules and regulations of the Town of Lincolnville as described herein. The public landing, boat launching ramp, mooring locations, the Pier, float system, and other related harbor facilities shall be under the direction and control of the Harbor Master or Deputy Harbor Master. The
duties of the Harbor Master prescribed by law include, but are not limited to, the authority to enforce the Statutes of the State of Maine relating to the operation of watercraft in the harbor and relating to the conducting of navigation on the harbor. [Title 38 M.R.S.A. §1]

Upon approval of the Lincolnville Chief of Police and the municipal officers, and upon completion of training and certification by the Maine Criminal Justice Academy as set forth in Title 25 M.R.S.A. §2804-I, the Harbor Master shall have the authority granted by law to carry a weapon and to make arrests. [Title 38 M.R.S.A. §1]

Section 3. Harbor User Fees
The Board of Selectmen shall establish a schedule of Harbor User Fees which schedule shall be reviewed and set annually in December. The schedule of fees, for residents and non-residents, shall include but not be limited to, the following:

A. Mooring Fees including waiting list
B. Multi-Use Moorings
C. Rental Moorings
D. Seasonal and Single Launching
E. Waterproof Insulated Bait Box Storage
F. Boom Hoist (Winch) Use by Authorized Permit Holders
G. Commercial Pier Use
H. Commercial Tour, Passenger Watercraft and Watercraft Rental
I. Seafood Dealers (Class I, II, III)
J. Bait Dealers (Class I, II, III)
K. Floats, Inclines and Mooring Systems
L. Other Harbor Usage
M. Late Fees

The Town Office will bill for mooring fees no later than the second Friday of January. Mooring fees paid after the second Friday of March are subject to late fees. Late fees for mooring permits will be double the billing amount. Non-payment of mooring fees by the second Friday in April shall result in lost mooring privileges in accordance with Title 38 M.R.S.A. §3. Other Harbor User Fees must be paid prior to harbor use for which a fee is required. Other late fees may be established annually by the Board of Selectmen. With the exception of mooring fees, all fees will be discounted 50% beginning September 1st of each year. It shall be the responsibility of the Town Office to ensure that all fees are paid in full and the responsibility of the Harbor Master to ensure that harbor users have permits. The Town Office will issue Harbor Master approved permits and instructions for their proper display to all Harbor Users.
ARTICLE III REGULATIONS CONCERNING DOCKS, FLOATS, LAUNCHING RAMP AND MOORINGS

Section 1. Municipal Pier and Floats
The Town of Lincolnville owns and operates a public pier, the Lincolnville Fish Pier (hereinafter the “Pier”). The purpose of the Pier is to provide access to the water, primarily for commercial fishermen while allowing reasonable public access to the facility.

The Harbor Master shall maintain a “Lincolnville Fish Pier & Float Usage Plan” (hereinafter the “Plan”) of the Pier and floats upon which shall be designated the two (2) hour tie-up, loading and unloading areas (including passenger staging areas), bait box area (including the names of those to whom bait box spaces have been assigned) and the skiff storage area. The Plan shall be reviewed, updated and submitted to the Town Office by the Harbor Master on annual basis no later than the third Friday in June. The date of review and update shall be noted by the Harbor Master on the Plan. The Plan shall be available for public inspection at the Town Office during normal business hours. See Lincolnville Pier & Float Usage Plan, Appendix B.

A. Pier, Inclines and Floats
1. Use of the Pier is restricted to loading and unloading and the storage of bait and fishing gear in designated areas.
2. There shall be no unattended vehicles, including cars and trucks parked on the Pier. An attended vehicle may be parked while loading or unloading only. An attended vehicle is a vehicle in which the operator of the vehicle is present on the Pier, floats, or watercraft moored or docked in the harbor. Unattended vehicles will be towed.
3. The Pier access roadway shall be left open at all times. All obstructions will be removed at the direction of the Harbor Master.
4. Short term (less than 24 hour) gear storage is allowed on the Pier. No gear or other material may be placed in front of the access to the ladders, inclines, or the winch take-out areas.
5. Gear shall not be stored on the floats except for the short period of time necessary for loading and unloading. All obstructions will be removed at the direction of the Harbor Master.
6. No trash debris, garbage, waste, fuel or oil may be left on the Pier, inclines or floats.
7. Swimming from the town facilities and mooring area adjacent to the Pier is prohibited.
8. Fishing is not allowed from the pier. Fishing is allowed from floats provided it does not interfere with watercraft activities.
9. Any watercraft exceeding forty-five (45) feet in length is required to tie directly to the Pier.

B. Boom Hoists (Winch)
1. Boom hoists shall be operated by authorized permit holders only.
2. The water area directly beneath the boom hoist and adjacent to the Pier shall be reserved for loading and unloading only. All obstructions will be removed at the direction of the Harbor Master.

3. The Harbor Master shall post a sign indicating the boom hoist safe lifting capacity. If a sign is missing the maximum lifting capacity shall be one thousand (1000) pounds.

4. The wash-down pump shall be operated by authorized permit holders only.

C. Floats

1. Authorized uses, hours of usage and time limits of usage of floats shall be clearly posted at the facility and shall include:
   a) Areas used exclusively for the loading and unloading of passengers and/or gear. The period of time for loading and unloading in these areas cannot exceed twenty minutes if another watercraft is waiting to load or unload. All watercraft are to be attended in a loading or unloading area. An attended watercraft is a watercraft in which the operator of the watercraft is present on the town facility or the watercraft. Unattended watercraft will be removed at the direction of the Harbor Master.
   b) Areas available for watercraft tie-up for periods not to exceed two (2) hours. Watercraft tied in these locations can be left unattended.
   c) Areas available for longer term tie-up between the hours of 6:00 PM and 4:00 AM.

2. Use of the float system is limited to watercraft of up to forty-five (45) feet in length.

3. Overnight docking is prohibited.

4. Watercraft tied-up to the town facility in excess of the posted time limit will be ticketed unless prior permission of the Harbor Master is granted.

Section 2. Moorings

The Harbor Master shall designate mooring locations and maintain a plot plan of watercraft and the area(s) to be used as waterways (channels). See also Article I Section 2 of this ordinance. The plan shall also include the mooring locations designating the harbor user number, name of owner, name of watercraft and the latitude and longitude of the mooring (utilizing a GPS system). The plan shall be reviewed, updated and submitted to the Town Office by the Harbor Master on annual basis no later than the third Friday in June. The date of review and update shall be noted by the Harbor Master on the plan. The plan shall be available for public inspection at the Town Office during normal business hours.

All mooring sites shall be under the direct control of the Harbor Master and assigned by the Harbor Master on a first-come, first-served basis to qualified applicants for mooring sites. The assignment of mooring sites shall be made by the Harbor Master in accordance with the following priorities and consistent with the provisions of state law:

   a) Property owners with real estate abutting the waters immediately adjacent to the proposed mooring location pursuant to Title 38 M.R.S.A. Chapter 1 §3;
b) Residents engaged in commercial fishing activity as defined in Title 12 M.R.S.A. §1862;
c) Resident engaged in non-fishing commercial activity;
d) Resident non-commercial;
e) Non-residents engaged in commercial fishing activity as defined in Title 12 M.R.S.A. §1862;
f) Non-resident engaged in non-fishing commercial activity;
g) Non-resident non-commercial.

In the event that the Harbor Master receives more applications for mooring sites than there are mooring spaces, then the Harbor Master shall assign the next available mooring site from the applicants on the applicable waiting list as herein described. Mooring allocations to non-residents will be made pursuant to 38 M.R.S.A. §7-A.2. Annually by the third Friday of February, the Harbor Master will calculate the percentage of non-residents in accordance with the allocation set forth in Title 38 M.R.S.A §7-A.

An existing mooring site holder who obtains a larger or smaller vessel will be assigned to an appropriate site with privileges intact.

The regulations contained in this section shall be interpreted in a manner consistent with the requirements of the U. S. Army Corps of Engineers for federal anchorages and with the requirements of state law. [Title 38 M.R.S.A. §3, §7-A, §8, and §11]

A. Mooring Area Categories
There shall be three categories of mooring areas, the inner harbor, outer harbor, and the coastal harbor. Holders of mooring site permits in one category are not precluded from holding mooring sites in another category in accordance with the provisions of this ordinance.

Mooring uses shall be permitted in each of the three mooring areas in accordance with the provisions of this ordinance as follows:

1. **Inner Harbor**: Individual, non-commercial and commercial moorings, multi-use moorings, rental moorings as set forth in Article XI, guest moorings and service moorings.
2. **Outer Harbor**: Individual, non-commercial and commercial moorings, rental moorings, guest moorings and service moorings.
3. **Coastal Harbor**: Individual, non-commercial and commercial moorings, rental, guest and service moorings.

B. Application for Mooring Site Permit

New Applications: Persons applying for a new mooring site permit in the inner, outer, or coastal harbors must complete an application form available at the Lincolnville Town Office and submit that form, together with the required fees, to the Town Office. If an appropriate mooring site is not available, the applicant may be placed on the appropriate waiting list until a suitable mooring site
becomes available in accordance with the mooring waiting list provisions set forth in this ordinance.

Renewal Applications: All mooring permits expire on December 31st and must be renewed annually with the required fees paid using the form provided by the Town Office.

Upon assignment of a mooring site location by the Harbor Master, the Town Office shall assign a registration number. All fees must be paid in advance in accordance with Article II Section 3, above.

C. Mooring Permit
Moorings shall be assigned to the watercraft of a specific individual, corporation or other entity. No mooring site permit holder shall assign, rent, sub-lease or transfer their mooring site to any person, or for the use of any other watercraft not assigned to that mooring unless otherwise permitted in this ordinance.

At the termination of a mooring site permit, the permit holder shall be responsible for removal of the mooring hardware unless the subsequent mooring site permit holder purchases said hardware.

In accordance with Title 38 M.R.S.A. §3-A, a mooring assignment may be transferred, only at the request or death of the assignee, only to a member of the assignee’s family and only if the mooring assignment will continue to be used for commercial fishing purposes. “Member of the assignee’s family” means an assignee’s parent, child or sibling, by birth or by adoption, including a relation of the half blood, or an assignee’s spouse. Mooring assignments not used for commercial purposes may transfer to surviving member of immediate family upon assignee’s death only if said member of immediate family holds joint ownership interest in the watercraft assigned to the mooring and is named on the mooring site permit.

No person shall move or interfere with any mooring except upon direction of the Harbor Master. The Harbor Master shall be promptly notified of a proposed change of a watercraft on a mooring site, and such change shall be permitted only upon the written approval of the Harbor Master.

D. Mooring Waiting Lists
If the number of applications for mooring sites in the inner, outer or coastal harbor exceeds the number of available mooring sites, the applicant may place his/her name on a waiting list, after paying an annual fee as set by the Board of Selectmen. The Harbor Master shall establish three mooring waiting lists in accordance with this section, one for the inner harbor mooring area, one for the outer harbor mooring area, and one for the coastal harbor mooring area. A holder of a mooring site permit in the outer or coastal harbor may remain on the waiting list for a site in the inner harbor mooring area. The waiting lists shall be maintained at the Lincolnville Town Office and shall be available for public
inspection during normal business hours. Applicants shall be identified on a waiting list by date of receipt of the application. Persons notified by the Harbor Master of an available mooring site must respond in a timely manner and file an application in accordance with this ordinance.

When assigning a mooring site, if the Harbor Master skips over anyone on the waiting list, the Harbor Master will notify the person or persons skipped over in writing. The Harbor Master's decision is subject to appeal by the person skipped over as outlined in this ordinance. If the Harbor Master's decision is appealed, the mooring site will not be assigned until the appeal process has been exhausted as set forth in Article VI of the Ordinance or the appeal is withdrawn.

E. Mooring Standards and Inspection

All moorings shall be of sufficient size to hold the watercraft for which it is used and shall conform to any additional standards reasonably specified by the Harbor Master. All moorings shall have registration numbers clearly visible at all times.

Mooring owners shall be responsible for the maintenance of their moorings and all moorings shall be inspected annually by one with the required expertise, approved by the Harbor Master. A form for the purpose of recording said inspection shall be sent to mooring owners annually along with the mooring permit fee bill. The Harbor Master may at any time examine any mooring or mooring line to determine compliance with this section. Except in the case of emergency, he/she shall notify the owner of his/her intention to examine the mooring and request the presence of the owner during such examination. Use of moorings found to be inadequate shall be terminated until the mooring is repaired. Watercraft owners and/or mooring owners shall be liable for any damage caused by faulty, inadequate, or improperly placed moorings.

F. Multi-Use Moorings

All multi-use moorings shall be subject to the same provisions as other mooring permits in Article III Section 2 C., above, except that multi-use mooring permit holders may rent their mooring so long as the mooring is occupied by the watercraft assigned to that mooring for at least thirty (30) consecutive days per year. Said permit holder must document the thirty-day period, in writing, to the Harbor Master. In addition, the mooring rental must be made to watercraft suitable for that mooring location as determined by the Harbor Master. Any mooring intended for use as a rental mooring must have an Army Corps of Engineers permit attached to the application.

Multi-use moorings, if rented for a duration of greater than two (2) weeks, must first be offered for rent to individuals on the mooring waiting list in the same order of priority as set forth in that mooring waiting list. In addition, rentals must be offered to individuals on the mooring waiting list in accordance with the duration of time such individuals have remained on the waiting list. The Town Office will maintain a list of those wait-listed individuals wishing to rent a multi-
use mooring. All rentals of multi-use moorings will be under the direction of the Harbor Master.

Individuals, corporations and other entities shall be limited to one multi-use mooring in the inner harbor. Multi-use moorings shall not be permitted in the outer and coastal harbors.

G. Guest and Service Moorings
No individual, municipality, corporation or other entity holding a mooring permit or permits may offer them as a guest or service mooring without prior written approval from the Harbor Master and the U.S. Army Corps of Engineers. Any mooring intended for use as a guest or service mooring must have an Army Corps of Engineers permit attached to the application.

Town Guest Moorings: The Board of Selectmen may establish the number of and fee for guest moorings for use by visiting watercraft. These shall be overseen, inspected and maintained under the supervision of the Harbor Master. The Harbor Master shall also assign these moorings on a first-come, first-served basis and insure that the visiting watercraft is of appropriate size for the mooring. Use of guest moorings is limited to four (4) hours within a twenty-four (24) hour period unless given exception by the Harbor Master.

The Harbor Master shall annually, in November, advise the Board of Selectmen of the usage of the guest moorings, the need for additional guest moorings and the condition of the guest moorings. Any additional guest mooring sites shall be assigned in accordance with the provisions of this ordinance.

Individual, Non-Commercial Guest and Service Moorings: All individual, non-commercial guest and service moorings shall be subject to the same provisions as other individual, non-commercial moorings, except they will not have a boat assignment.

Commercial Guest and Service Moorings: All commercial guest/service moorings shall be subject to the same provisions as other commercial moorings, except they will not have a boat assignment.

Guest and/or Service moorings shall be permitted in the coastal harbor at the discretion of the Harbor Master in accordance with the provisions of this ordinance provided that the mooring permit holder has his/her own access point from shore, exclusive of the Lincolnville harbor facility.

H. Rental Moorings
Mooring site assignments may not be rented unless the provision for rental was part of the agreement when the mooring was assigned. [Title 38 M.R.S.A. §3]. No person holding a mooring permit or permits may rent them without prior written approval from the Harbor Master and the U.S. Army Corps of Engineers.
Any mooring intended for use as a rental mooring must have an Army Corps of Engineers permit attached to the application.

**Inner harbor:** There shall be no rental moorings in the inner harbor except those permitted as set forth in Article XI.

**Outer harbor:** Individuals, corporations and other entities shall be limited to one rental mooring in the outer harbor.

**Coastal harbor:** Rental moorings shall be permitted in the coastal harbor at the discretion of the Harbor Master in accordance with the provisions of this ordinance provided that the mooring permit holder has his/her own access point from shore, exclusive of the Lincolnville harbor facility.

### I. Mooring Site Usage

From April 1st through November 1st, mooring holders may not transfer or reassign their moorings but may allow them to be used by another individual for a period not to exceed fourteen (14) days with written notice to, and written approval from the Harbor Master. From November 2nd through March 31st, mooring holders may permit the Harbor Master to assign watercraft to their moorings for reasons of safety, security, or other compelling reason.

Unless otherwise permitted in this ordinance, use of moorings is defined as sixty (60) nights of occupancy during the calendar year by the watercraft that belongs to the permit holder. Exceptions to the 60-night occupancy may be allowed with prior notice to and permission from the Harbor Master. The Harbor Master may also grant a waiver to this requirement for family emergencies and/or other unique circumstances.

If a watercraft is sold or otherwise disposed of after the mooring site is assigned, or if the mooring site is not used by the holder during the 60 night occupancy requirement, the mooring site permit holder shall have until the next renewal period to acquire a suitable watercraft for that mooring location. If the permit holder fails to acquire a suitable watercraft for that mooring location, the mooring site assignment shall expire and the Harbor Master shall assign the mooring site location following the waiting list procedure of this ordinance.

### J. Littoral Owner Moorings

The Harbor Master shall assign one mooring site to each littoral owner who owns shore rights to a parcel of land of at least one-hundred (100) feet of shore frontage, so long as the assignment of such a mooring is practicable and so long as that littoral owner is the master or owner of a watercraft. Such mooring site shall be either temporary or permanent, as requested by the littoral owner, and such mooring site shall front the land of the littoral owner, if so requested, but only in the event that such a mooring site does not encroach upon the natural channel or channels established by this ordinance. The assignment of this mooring site shall not prevent the littoral owner from receiving additional mooring assignments under the allocation system for other mooring sites set forth in this section of the ordinance.
ordinance and in Title 38 M.R.S.A. §3. The provisions set forth in this paragraph shall conform to the requirements of Title 38 M.R.S.A. §3.

K. Allocation of Mooring Sites to Non-Residents
The application for a mooring site shall specify each applicant who is a non-resident. The Harbor Master shall designate on each mooring waiting list each person, corporation, or entity which is a non-resident. Assignments of mooring sites from a waiting list shall conform with the requirements for allocations to non-residents as set forth in Title 38 M.R.S.A. §7-A (2).

Section 3. Bait Box Container Space
There shall be bait box container spaces available on the Pier to Lincolnville Residents. Bait will be stored in the designated spaces in waterproof, covered, and insulated 4’ x 4’ (four feet by four feet) containers. Bait Box spaces will be numbered as shown on the Lincolnville Pier & Float Usage Plan and will be assigned to individual bait box users. In order to be eligible to be assigned a bait box space on the Pier, an individual must be: (1) a holder of a State of Maine issued Lobster & Crab Harvesting License Class I, II or III; and, (2) be a mooring holder in Lincolnville’s inner, outer, or coastal harbor. Individuals meeting this criteria and desiring a bait box container space assignment shall complete a bait box space application designating the number of space assignments desired and pay the appropriate fee at the Town Office by no later than the third Friday in April. If the spaces requested exceed the number of available bait boxes, there shall be a waiting list.

If the bait box container space is not used for the storage of bait by the holder during the year in which it is assigned, the bait box space assignment shall expire and the Harbor Master shall assign the bait box space following the waiting list procedure of this ordinance to the extent practical, as set forth in Article III, Section 2(D), for the mooring waiting list.

Section 4. Tenders
A. Issuance of Tie-Up Privileges
Inner harbor mooring permit holders shall be issued tender tie-up privileges. For the reason of public safety, the Harbor Master shall be entitled to one preferred tender space.

Tender tie-up privileges of outer harbor mooring permit holders in existence prior to the enactment of this ordinance will remain intact. Lessors of rental moorings and owners of watercraft tied up to a guest mooring shall have tender tie-up privileges. Additional tender tie-up privileges will be allocated as space becomes available as determined by the Harbor Master in the order in which the mooring site assignments were made.

B. Tender Requirements
1. Tenders granted tie-up privileges at the public landing shall not exceed fourteen (14) feet in length.
2. Tenders shall not be stored on the float system except just prior to and during a storm; tenders will be removed from the floats after the storm within a reasonable period of time.
3. Tenders must be maintained in a “bailed out” condition and proper fendering is required to minimize damage to adjacent skiffs.

4. All tenders using the public facilities shall have the mooring registration number clearly lettered thereon in letters at least two inches (2”) high in a color that contrasts with the color of the tender.

5. Tenders may only be used by the owner of the tender or by persons authorized by the owner.

Section 5. Launching Ramp
The Harbor Master shall have jurisdiction over municipal marine launching ramps. The ramps shall be left accessible at all times for the hauling and launching of watercraft except with permission of the Harbor Master. Watercraft shall not be left unattended. Vehicles, trailers and watercraft shall be parked in designated areas only. All obstructions will be immediately removed from the ramp.

Section 6: Parking Privileges
Parking for mooring permit holders is adjacent to the launching ramp and in the State Ferry Lot on a first-come-first-served basis for Harbor Use Permit Holders only. The permit parking spaces in the State Ferry Lot are intended for commercial fishermen. Overnight parking is prohibited in the State Ferry Lot. Overnight parking adjacent to the launching ramp is prohibited unless with the permission of the Harbor Master. Parking enforcement is the responsibility of the Lincolnville Police Department in accordance with the Town Parking Ordinance. In addition, the Board of Selectmen may appoint the Harbor Master and Deputy Harbor Master annually as parking enforcement officers.
ARTICLE IV REGULATIONS CONCERNING INCLINES, FLOATS AND OTHER SIMILAR STRUCTURES ATTACHED TO NON-PUBLIC PIERS AND WHARVES OR MOORED WITHIN LINCOLNVILLE HARBOR LIMITS (INCLUDING INNER, OUTER, AND COASTAL HARBORS)

Section 1. Standards for Inclines, Floats and Other Similar Structures

A. Each non-public pier or wharf shall be limited to one float.
B. Non-public floats shall not exceed sixteen (16) feet in width and twenty-eight (28) feet in length and shall extend no more than three (3) feet above the surface of the water.
C. Non-public inclines shall not exceed forty-two (42) feet in length; except with a written waiver from the Planning Board. The Planning Board has authority to waive the length requirement for a non-public Incline only in the event that the applicant submits a written request for a waiver to the Planning Board and the Planning Board determines that the waiver meets the standards set forth below:
   (1) At the location where the non-public incline would be installed, the non-public incline cannot function effectively unless the length exceeds forty-two (42) feet; provided, however, that the extension of the non-public incline beyond the forty-two (42) length limitation shall not be greater than the least extension which accomplishes the functional requirements of the non-public incline.
   (2) The installation of the extension of the incline beyond the length limitation shall not create an unsafe condition for users of the harbor.

In connection with the standards set forth in Section 1 C (1) and (2) above, the Planning Board shall receive and consider the written recommendations of the Harbor Master.
D. Non-public floats and inclines shall be secured by pilings or moorings and associated gear of sufficient size to hold the structure for which it is used and shall conform to any additional standards reasonably specified by the Harbor Master.
E. Non-public floats, inclines and mooring systems shall be registered with the Town and a fee paid annually.
F. Non-public floats, inclines and mooring systems shall obtain all required state and federal permits.
G. For purposes of this Ordinance, the term “non-public inclines” shall mean “a structure that is not proposed to be owned by a federal, state or local government agency that connects the pier or wharf to a float for access. One end of the incline is affixed to the pier or wharf and the other end allowed to ride along the float to allow for the changing water elevation due to tidal or wave action. An incline is also often referred to as a gangway or ramp.”
Section 2.  Non-Public Piers and Wharves

A. No non-public pier shall exceed sixteen (16) feet in width.
   No-non-public pier or wharf shall extend fifty (50) feet beyond mean low water; except with a written waiver from the Planning Board. The Planning Board has authority to waive this limitation for a non-public pier or wharf only in the event that the applicant submits a written request for a waiver to the Planning Board and the Planning Board determines that the waiver meets the standards set forth below:
   (1) At the location where the non-public pier or wharf would be installed, the non-public pier or wharf cannot function effectively unless extending further than fifty (50) feet beyond the mean low water mark; provided, however, that the extension of the non-public pier or wharf beyond the mean low water mark shall not exceed the shorter distance of the following:
      (a) 100 feet (as measured from mean low water), or
      (b) To a point where the depth of water at the end of the pier (or float if one is proposed) at mean low water does not exceed six (6) feet at the shallow end of the float or six (6) feet at the end of the pier.
   (2) The extension of the length of the non-public pier or wharf more than fifty (50) feet beyond the mean low water mark shall comply with all of the requirements set forth in Article IV, Section 2(B)(4) (a) – (c), for the area of the harbor in which the non-public pier or wharf shall be located.
   (3) The installation of the extension of the pier or wharf more than fifty (50) feet beyond the mean low water mark shall not create an unsafe condition for users of the harbor.

In connection with the standards set forth in Section 2 A (1), (2), and (3) above, the Planning Board shall receive and consider the written recommendations of the Harbor Committee. In the event that the decision of the Planning Board concerning a waiver does not conform with the recommendations of the Harbor Committee, then the Planning Board shall submit, to the Harbor Committee, written finding of fact, stating, in detail, the reason for its decision and the evidence upon which that decision was based.

B. The Planning Board shall review an application for a non-public pier or wharf for conformity with the standards set forth in Article IV, Section 2 (B) (4) below and for compliance with the provisions of Section 16 (C) of the Town’s Land Use Ordinance and for compliance with any other applicable provisions of the Town’s Land Use Ordinance.
   (1) For purposes of this review, an applicant shall submit an application containing the information required as set forth below.
      (a) A location map showing the project;
      (b) A sketch showing a front and side view, and any float system; and
      (c) Design engineering drawings of the pier or wharf from an
experienced marine contractor or an engineer with an engineer’s seal or stamp.

(2) Upon submission of the application, in the event that the Planning Board determines that the application is complete, then the application together with related documents shall be dated and forwarded within seven (7) days to the Harbor Committee.

(a) The Harbor Committee shall meet and review the application and all submissions with the application within thirty (30) days of receipt of the application by the Harbor Committee. The review and comments of the Harbor Committee shall be in writing, shall specifically address the standards set forth in Article IV, Section 2 (B) (4) below, shall state the reasons for the comments and recommendations of the Harbor Committee, and of the Harbor Master, if different from the Harbor Committee, and shall be reported to the Planning Board for review and action by that Board.

(3) Upon receipt and review of the comments and recommendations of the Harbor Committee, the Planning Board shall consider the application following a public hearing; that public hearing shall occur within thirty (30) days of the date of submission of the Harbor Committee’s comments and recommendations to the Planning Board and, following the public hearing, the Planning Board shall either approve, approve with conditions, or deny the proposed project, in accordance with the standards of Article IV, Section 2 (B) (4) below.

(4) The Planning Board shall review the project for compliance with the applicable provisions of the Land Use Ordinance set forth above, including the provisions of Section 16 (C) and any other pertinent provisions of the Town’s Land Use Ordinance and, in addition thereto, the standards set forth below; provided, however, that in connection with the review by the Planning Board of the standards set forth below, the Planning Board shall fully consider the written comments and recommendations of the Harbor Committee. In the event that the decision of the Planning Board does not conform with the recommendations of the Harbor Committee, then the Planning Board shall submit, to the Harbor Committee, written finding of fact, stating, in detail, the reason for its decision and the evidence upon which that decision was based.

1. **The Inner Harbor.**

That the proposed project will not:

a. Encroach into, interfere with, or pose a hazard to navigational channels;

b. Interfere with access to and from existing mooring and berthing areas for both commercial and residential uses;

c. Reduce or eliminate the existing mooring and berthing areas, both public and private, commercial and recreational;
d. Interfere with public access to and use of harbor waters and facilities.

2. The Outer Harbor.
That the proposed project will not:
a. Encroach into, interfere with, or pose a hazard to, the navigational channels between the inner harbor and the bay and from the pier to the main channel;
b. Eliminate or interfere with existing and designated mooring and anchorage areas and access thereto;
c. Cause a significant adverse impact on traditional uses, including commercial, fishing, shellfishing and clamming areas, and access thereto;
d. Interfere with public boat launching and pier facilities;
e. Block or interfere with public rights of passage and uses of the shores and flats;
f. Adversely affect recreational boating activities.

3. The Coastal Harbor.
That the proposed project will not:
a. Interfere with, or pose a hazard to, the navigational channels between the inner harbor, outer harbor and the bay, and from the pier to the main channel;
b. Eliminate or interfere with existing and designated mooring and anchorage areas and access thereto;
c. Cause a significant adverse impact on traditional uses, including commercial fishing, shellfishing and clamming areas, and access thereto;
d. Interfere with public boat launching and pier facilities;
e. Block or interfere with public rights of passage and uses of the shores and flats;
f. Adversely affect recreational boating activities.

C. Following the decision of the Planning Board concerning the application, the Planning Board shall issue written findings of fact and conclusions of law approving the project, approving the project with conditions, or denying the proposed project; such written findings of fact and conclusions of law shall be issued within thirty (30) days of the date of the Planning Board’s decision and sent to the applicant and the Harbor Committee.

D. Construction of an approved project for a non-public pier or wharf shall commence within one year of the date of approval by the Planning Board and shall be completed within two (2) years of the date of issuance of any necessary permits for the project in accordance with the Town’s Land Use Ordinance and this Harbor Ordinance.

E. In the event that the applicant has good cause for a failure to commence the construction as required above, then the person with a permit may apply to the Planning Board for a one-time extension in which to commence construction. Only one one-time extension shall be allowed, the extension must be based upon a showing of good cause by the applicant, and this extension shall not exceed six (6) months in duration. In the event that actual physical construction is not completed as required above, the person
with a permit may apply to the Planning Board for an extension of time in which to complete the proposed construction project. The time extension shall not exceed one (1) year in duration.

F. An appeal from a decision of the Planning Board concerning a waiver or approving or denying the project may be taken to the Board of Appeals by an aggrieved party within thirty (30) days of the date of the written decision being appealed, and not otherwise. Any aggrieved party who participated as a party during the proceedings before the Board of Appeals may take an appeal to the Superior Court from a decision of the Board of Appeals within thirty (30) days of the date of that decision in accordance with Rule 80-B of the Maine Rules of Civil Procedure.
ARTICLE V     GENERAL REGULATIONS

Section 1. Abandoned Watercraft
No watercraft shall be left abandoned in any part of the Harbor or along the shore. Any such craft becoming waterlogged shall be removed within a reasonable period of time as directed by the Harbor Master. Should the whereabouts of the owner be unknown, said craft shall be removed under the supervision of the Harbor Master. Abandonment shall be subject to the penalties set forth in Title 38 M.R.S.A. §9.

Section 2. Anchorage Area
The temporary anchorage area is north of the State of Maine Ferry Pier, and east of the outermost permanent mooring and at a safe distance. All temporarily anchored boats are under the direct control of the Harbor Master.

Section 3. Aquaculture
All permit applications for aquaculture facilities within Lincolnville’s inner, outer or coastal harbors shall be submitted to the Board of Selectmen simultaneously to the submittal of application to the state and/or federal authority with jurisdiction over these matters. This is to allow timely consideration of the impact of the proposed facility on coastal Lincolnville by town authorities.

Section 4. Cleaning of Marine Life
Except for the disposal of organic marine life incidental to the cleaning of sport fish, inadvertent spillage of bait, cleaning of bait containers or other similar activities resulting in minimal organic marine life refuse, no persons shall dispose of fish, lobsters, crabs, scallops, shrimp, clams, bait, other marine life or parts thereof from the Pier, floats, or watercraft moored or anchored within the inner or outer harbors.

Section 5. Discharge of Refuse
No person or watercraft shall dump or dispose of any refuse or garbage upon the shore of any Lincolnville Harbor, at high or low water mark or upon the waters of the inner, outer or coastal harbor. No person or watercraft shall deposit, throw, sweep or cause to be deposited or swept into the waters of the inner, outer or coastal harbor or into the waters adjacent thereto any quantities of gasoline, oil, fuel or bilge water containing the same, or ashes, dirt, stones, gravel, mud, logs or planks, or any other substance tending to obstruct the navigation of said Harbor or waters adjacent thereto, or to shoal the depth of said Harbor or pollute the water thereof.

Section 6. Expense of Removing a Watercraft
In the event that the Harbor Master removes a watercraft as set forth in this ordinance, and pursuant to Title 38, M.R.S.A. §5, such removal shall be at the cost and risk of the owner of the watercraft. The Harbor Master shall charge a fee in accordance with Title 38 M.R.S.A. §5, to be paid by the master or owner of the watercraft, which charge, together with the cost of the crew and/or equipment for removing that watercraft. In addition, the Harbor Master may collect by a civil action in the District Court in accordance with state law.
Section 7. Lost or Abandoned Property
Property found within the harbor facility or harbor boundaries that, in the judgment of the Harbor Master, appears to be lost or abandoned, shall be removed by the Harbor Master and held at the Town Office or placed in storage. The Town of Lincolnville or its officials shall not be held liable for any damage or loss to such property before or after assuming custody. Property so taken into custody shall be released to the owner by the Town Administrator upon satisfactory proof of ownership and full reimbursement to the Town for any costs incident to recovery, movement and storage.

Section 8. Obstruction of Navigation
No person shall place buoys, including fishing buoys or other floating structures of any type, within the designated channel as shown on the Harbor Boundaries Map. Any persons so ordered by the Harbor Master to remove or relocate a mooring because of its danger to other moorings, shall remove the same within a reasonable period of time as directed by the Harbor Master. In the event of an emergency requiring immediate action to prevent injury to life or damage to property, the Harbor Master may cause said mooring and any watercraft attached thereto to be removed and relocated. Any expense involved shall be borne by the owner of the mooring or watercraft being removed. In addition, the Harbor Master shall have the authority to remove watercraft as set forth in Title 38, M.R.S.A. §5.

Section 9. Revocation of Mooring and Pier Privileges
In addition to the penalties provided for elsewhere in this ordinance, the Harbor Master may revoke the privilege of the master and/or owner of any watercraft to moor, tie-up or utilize the Pier, floats and launch ramps and other harbor facilities for any of the following reasons:

A. Failure to comply with the instructions of the Harbor Master without delay in the movement of a watercraft or gear from public facilities.
B. Actions that demonstrate a disregard for the public safety.
C. Conduct by crew or a guest that creates a public nuisance.
D. Actions that violate and federal, state or local laws, ordinances or lawful regulations.

All persons who had been assigned a mooring and whose mooring assignment is to be terminated by the Harbor Master for reasons of non-compliance with this ordinance or any other reason shall receive written notification from the Harbor Master. This notice shall state the fact of termination and the reason for termination, and inform the party whose mooring assignment is being terminated of his or her right to appeal the decision.

Section 10. Special Events
The Board of Selectmen in consultation with the Harbor Committee may permit special events upon application to and approval provided that the normal operation of the Pier, including commercial use, is not disrupted. Special event applicants shall provide a certificate of insurance covering the event, agreed upon police assistance for traffic or crowd control and an agreement to set up and clean up the harbor facility for the event.
Applications must be filed with the Town Office at least thirty (30) days prior to the proposed event. Fees for harbor facility use for all events shall be set by the Board of Selectmen with recommendation of the Harbor Committee.

Section 11. Speeding
Speed shall be restricted in the inner, outer and coastal harbor mooring areas to the slowest speed required to maintain headway.

Section 12. Watercraft as Residence
No person shall moor any watercraft owned or occupied by him/her and which is being used primarily for residential purposes within the harbor boundaries without the permission of the Harbor Master.

Section 13. Water Sports
No person shall operate a watercraft towing a surfboard, water-skis, inflated tube or other similar device within the established mooring areas.
ARTICLE VI     APPEAL OF HARBOR MASTER DECISION

Any person aggrieved from a decision of the Harbor Master in accordance with this Ordinance may appeal that decision to the Board of Selectmen by following the appeal procedure set forth in this Article.

An appeal to the Board of Selectmen shall be in writing and shall state, in detail, the reason for the appeal, and the decision of the Harbor Master from which that party is making an appeal; such written appeal shall state specifically the reason or reasons that the appellant concludes that the Harbor Master’s decision is not consistent with this Ordinance or with state or federal law.

An appeal to the Board of Selectmen from a decision of the Harbor Master shall be filed in the Town Office, on a form provided by the Town Administrator for that purpose, within thirty (30) days of the date of the Harbor Master’s decision. No appeal shall be considered by the Board of Selectmen unless the appeal has been filed within the thirty (30) day time period required in this Ordinance.

If the aggrieved party files a timely appeal, in writing, to the Board of Selectmen, the Board shall convene a hearing before that Board in which the appellant has the opportunity to appear, in person or with an attorney, in order to present witnesses and to provide testimony and other evidence concerning the appeal.

Following the hearing, the Board of Selectmen shall make a decision concerning the appeal and shall provide the appellant with a written decision, including findings of fact, within fourteen (14) days of the date of the hearing.

Any appeal of a decision by the Board of Selectmen, by an aggrieved party, may be taken, within thirty (30) days of the date of the written decision of the Board of Selectmen in accordance with Rule 80-B of the Maine Rules of Civil Procedure.

At any time after the filing of the written appeal and, by submission of a written request to the Town Administrator no less than seven (7) days prior to the scheduled hearing before the Board of Selectmen, the appellant may request that the Town Administrator schedule a meeting with the appellant, the Harbor Master and the Harbor Committee for the purpose of resolving the grievance informally.
ARTICLE VII   PENALTIES AND ENFORCEMENT

The Harbor Master and all law enforcement officers shall have the authority and power to enforce the provisions of this ordinance and all other laws and ordinances that are applicable to the harbor, waterfront and watercraft.

The master, owner or owners of any watercraft or any other person who shall violate any of the provisions of this ordinance, for which a specific penalty is not set forth herein, or for which a specific penalty is not otherwise provided by the laws of the State of Maine, shall be subject to the monetary penalties in accordance with state law. Such penalties shall be recoverable in the District Courts or Superior Court of the State of Maine. [Title 30-A M.R.S.A. §4452].

Violations of this ordinance, which also constitute violations of the laws of the State of Maine, with regard to speed restrictions, operation of a watercraft so as to endanger persons or property, reckless operation of a watercraft, and operation of a watercraft under the influence of drugs or liquor, shall be subject to the penalties set forth in state law. [Title 38 M.R.S.A. §285]

In addition to the monetary penalties set forth herein, a violator of this ordinance shall also be subject to an order of abatement of the violation as set forth in Title 30- A M.R.S.A. §4452; and that violator shall further be subject to an action by the Town of Lincolnville, in a court of competent jurisdiction, for injunctive relief in order to prevent or abate violations of this ordinance; or for any other relief set forth in Title 30-A M.R.S.A. §4452.

ARTICLE VIII   VALIDITY AND SEPARABILITY

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

ARTICLE IX   EFFECTIVE DATE

The effective date of this ordinance is seven days after the passage of the ordinance, which is: November 14, 2006. Enactment of this ordinance shall repeal any previously existing Lincolnville Harbor Ordinance or Rules and Regulations. This ordinance, upon the effective date, shall supercede any such Ordinance or Rules and Regulations.
ARTICLE X    DEFINITIONS

**Anchorage Area:** An area of the harbor set aside for the temporary anchoring of watercraft.

**Aquaculture:** The culture or husbandry of marine organisms.

**Bait Box:** A waterproof, covered, insulated container approximately 4 feet wide by 4 feet long used for the storage of bait.

**Bait Dealer:** An individual who sells bait for commercial fishermen.

**Boom Hoist (Winch) Permit Holder:** A person who has been trained by the Harbor Master in the proper and safe operation of the boom hoist(s) and has paid the appropriate fee.

**Commercial Fishing Activity:** Any activity involving the landing or processing of shellfish, finfish or other natural products of the sea or other activities directly related to landing or processing shellfish, finfish or natural sea products, including fueling, loading or selling these products. [Title 12 M.R.S.A. §1862]

**Commercial Non-Fishing Activity:** Any commercial activity, not classified as a commercial fishing activity, involving the use of the harbor facility in an attempt to realize a profit, including commercial tour, passenger watercraft and watercraft rental enterprises.

**Commercial Pier Use:** Use of the Pier in an attempt to realize a profit.

**Commercial Tour, Passenger Watercraft and Watercraft Rental:** A person or company that drops off or picks up people that utilize the Pier in an attempt to realize a profit.

**Float:** Any floating structure normally used commercially or privately as a point of transfer for passengers and goods.

**Guest/Service Mooring:** An individual, town-owned, non-commercial or commercial mooring without a boat assignment that is not for rent.

**Harbor Master:** That person appointed by the Board of Selectmen of the Town of Lincolnville pursuant to Title 38 M.R.S.A. §1 and the Harbor Ordinance for the Town of Lincolnville. In all places where the “Harbor Master” is empowered to act in this ordinance, so too is any Deputy Harbormaster, to the full extent permitted by law and this ordinance.

**Harbor Use Permit:** Permit issued by the Town to mooring permit holders for display on vehicle and valid only when the mooring permit holder is actively using the harbor and related harbor facilities.
**Immediate Family:** A parent, child, grandchild or sibling, by birth or by adoption, including a relation of the half blood, or one’s spouse.

**Individual, Non-Commercial Moorings:** Moorings placed by an owner of a watercraft for his/her private use.

**Launching Ramp:** Surface used to access watercraft to water.

**Mean High Water:** As defined by the U.S. Army Corps of Engineers, currently the average height of the high waters over a nineteen (19) year period.

**Mean Low Water:** As defined by the U.S. Army Corps of Engineers, currently the average height of the low waters over a nineteen (19) year period.

**Mooring:** An approved (cement, stone, or mushroom type) apparatus placed on bottom for anchoring purposes and which apparatus is not carried aboard a watercraft when underway as regular equipment.

**Mooring Area:** An area of the harbor set aside for permanent moorings.

**Mooring Site:** A specific point on the ocean bottom in a mooring area assigned by the Harbor Master for the location of a mooring.

**Multi-Use Mooring:** A mooring for which a watercraft is assigned, and that the permit holder may rent to others so long as the mooring is occupied by its assigned watercraft for at least thirty (30) consecutive days per year. In addition, the mooring rental must be made to watercraft suitable for the mooring site and in accordance with other requirements as set forth in this ordinance.

**Non-Public:** A facility that is not proposed to be owned by the federal, state or local government entity.

**Pier:** A permanent platform-like structure contiguous to the shoreline and usually built perpendicular therefrom over the water, supported by pilings or cribbing.

**Rental Mooring:** A mooring for which a person, corporation, or entity with a mooring site permit or mooring assignment receives any form of compensation, including bartering or exchange of services, for the use of the mooring site by others. Rental moorings may also be used by rental mooring permit holder for personal use.

**Resident:** Any person who occupies a dwelling within the Town of Lincolnville for more than 180 days in a calendar year pursuant to Title 38 M.R.S.A. §11. Proof of residency may be established through voter registration, payment of residential real estate taxes or rental receipts for residential property within the Town of Lincolnville.

**Seafood Dealer:** An individual or company that is dealing in seafood.
**Seasonal Launch permit:** The permit authorizing the ability to utilize the watercraft-launching ramp for the boating season. A seasonal launch permit comes with a parking permit.

**Tender:** A tender shall be a skiff, punt, dinghy, tender of like watercraft of fourteen (14) feet of length overall or less, used solely as transportation to or from a watercraft on a mooring and clearly marked with harbor user number.

**Tender Tie-up:** Storage of a tender either in the water, on a float during a storm, or on a storage rack.

**Wash-Down Pump Permit Holder:** A person who has been trained by the Harbor Master in the proper and safe operation of the wash-down pump and has paid the appropriate fee.

**Watercraft:** Any type of vessel, boat, barge, float or craft used or capable of being used as a means of transportation on water other than a seaplane. [Title 38 M.R.S.A. §11]

**Wharf:** A platform-like structure contiguous to the shoreline and built parallel therefrom over the water, supported by piling or cribbing, used for the berthing, loading and unloading of watercraft.
ARTICLE XI  TRANSITIONAL PROVISIONS

No grandfathering of rights for a particular mooring site is conveyed by this ordinance. Those individuals, corporations or entities with single or multiple mooring sites at the time of enactment of this ordinance shall retain the right to renew all mooring sites so long as permits remain valid and all fees are paid. The four mooring areas in the inner harbor which have been used as rental mooring sites on or before January 1, 2004 shall be allowed to remain as rental mooring areas so long as all annual fees set forth in Article II (3) are paid. If at any time and for any reason annual fees are not paid for those four mooring areas, then the Harbor Master shall assign the mooring areas following the waiting list procedure of this ordinance.

Amended 06-16-2007
Amended 11-04-2008
APPENDIX A   Harbor Boundaries Map
APPENDIX B    Lincolnville Fish Pier & Float Usage Plan
CERTIFICATION OF ADOPTION

I hereby attest that this is a true copy of the Harbor Ordinance, as amended, of the Town of Lincolnville, Maine duly adopted at a Special Town Meeting held on November 4, 2008.

BOARD OF SELECTMEN

____________________________
____________________________
____________________________
____________________________
____________________________

ATTESTATION BY TOWN CLERK:

_________________________________
David B Kinney, Town Clerk
Town of Lincolnville
### APPENDIX C  Timeline of Events for Informational Purposes

Note: This timeline is for informational purposes only. While an attempt has been made to be inclusive of all deadlines within the Harbor Ordinance, not every deadline is necessarily listed here. The absence of being listed here in no fashion alters or amends the Lincolnville Harbor Ordinance.

<table>
<thead>
<tr>
<th>Date</th>
<th>Event</th>
</tr>
</thead>
<tbody>
<tr>
<td>2nd Friday of January</td>
<td>Town Office will bill for Mooring Fees</td>
</tr>
<tr>
<td>3rd Friday in February</td>
<td>Harbor Master will calculate the percentage of Non-Residents in accordance with the allocation set forth in Title 38 M.R.S.A. 7-A.</td>
</tr>
<tr>
<td>2nd Friday in March</td>
<td>Fees paid after are subject to Late Fees</td>
</tr>
<tr>
<td>April 1st - November 1st</td>
<td>Mooring holders may not transfer or re-assign their with moorings but may allow them to be used by another individual for a period not to exceed fourteen (14) days written notice and written approval from the Harbor Master</td>
</tr>
<tr>
<td>2nd Friday in April</td>
<td>Fees not paid, Harbor User shall lose privileges</td>
</tr>
<tr>
<td>3rd Friday in April</td>
<td>Bait Box Container Space, Applications</td>
</tr>
<tr>
<td>June 1st</td>
<td>Non-payment of other fees shall result in lost privileges of the User from the harbor for which payment was required in accordance with Title 38 M.R.S.A. 3.</td>
</tr>
<tr>
<td>3rd Friday in June</td>
<td>Plan shall be reviewed, updated &amp; submitted to the Town Office by the Harbor Master on annual basis no later than; Date of review &amp; update shall be noted by the Harbor Master on the Plan</td>
</tr>
<tr>
<td>3rd Friday in June</td>
<td>Harbor Master shall designate mooring locations and maintain a Plot Plan of watercraft and the area(s) to be used as waterways (channels). Plan shall also include the mooring locations designating the Harbor User number, Name of Owner, Name of Watercraft and the Latitude &amp; Longitude of the mooring (Utilizing a GPS System).</td>
</tr>
<tr>
<td>September 1st</td>
<td>With the exception of mooring fees, all fees will be discounted 50%</td>
</tr>
</tbody>
</table>
November  
Harbor Master shall annually advise the Board of Selectmen of the usage of the Guest Moorings, the need for additional guest moorings and condition of the guest moorings.

November 2nd - March 31  
Mooring holders may permit Harbor Master to assign watercraft to their moorings for reasons of safety, security, or other compelling reason

December 31  
All Mooring Permits Expire
TOWN OF LINCOLNVILLE
ORDINANCE
REGULATING THE BUSINESS OF HAWKING AND PEDDLING

SECTION 1. Pursuant to Title 30, Maine Revised Statutes Annotated, 2151 (5) (C) and (F) an Ordinance for the regulation of the business of hawking and peddling of merchandise at retail and regulating the business of itinerant vending of merchandise at retail is enacted. Enactment date is September 29, 1987.

SECTION 2. License Required
It shall be unlawful for any person, firm, or corporation to engage in the business of hawking or peddling of any merchandise, article, or thing without first having secured a license therefor from the Board of Selectmen of the Town of Lincolnville, except for any such person, firm or corporation listed in the following paragraph who is not involved in the business of itinerant vending of merchandise at retail.

This Ordinance and the licensing requirement contained herein does not apply to persons selling merchandise by sample, list, or catalog for future deliveries; farm, dairy, orchard, fish, and forest products of their own production; newspapers and religious literature; unless such person, firm, or corporation is engaged in the business of itinerant vending of merchandise at retail.

SECTION 3. Applications
Applications for such licenses shall be made to the Board of Selectmen by delivery of such application to the Town Clerk; and such applications shall be on a form prescribed by the Board of Selectmen and shall state thereon the description and number of vehicles, if any, intended to be operated in connection with the business for which the license is required, the kind of merchandise to be hawked or peddled; and the permanent address of the hawker and/or peddler.

SECTION 4. Fee
The fee for such a license shall be $25 for an annual license and shall be payable with the submission for the license. The duration of a license shall be one (1) year from the date of issuance.

SECTION 5. Peddlers and Hawkers
No peddler or hawker shall ply his or her trade on any street, sidewalk, park, parkway, beach, parking lot, or any other public place unless the license hereunder specifies that peddling and/or hawking in such places is permitted thereunder.

SECTION 6. Fraud
Any licensed peddler and/or hawker who shall be guilty of any fraud, cheating or misrepresentation, and convicted therefore by a Court of competent jurisdiction, while acting as a peddler/hawker in the Town, or who shall barter, sell, or peddle any goods or merchandise or wares other than those specified in his/her application for a license shall be deemed guilty of a violation of this Ordinance.
SECTION 7. Penalty
Any person, firm, or corporation violating any provision of this Ordinance shall be fined not less than $100.00 nor more than $250.00 for each offense; and a separate offense shall be deemed committed on each day during or on which the violation occurs or continues. All fines and penalties shall be recovered on complaint by the Town of Lincolnville before a Court of competent jurisdiction to the use of the municipality.

Enacted: September 29, 1987

K:\Ordinances\Hawking and Peddling Ordinance.doc
ORDINANCE CONCERNING
THE DISPOSAL AND STORAGE OF HAZARDOUS WASTE
IN THE TOWN OF LINCOLNVILLE

PREFACE

This ordinance shall be known and may be cited as the “Hazardous Waste Ordinance of the Town of Lincolnville, Maine.” This Ordinance is promulgated pursuant to Title 30, MRSA, subsection 2151 (1) (A) and Title 30, MRSA 2151 (6).

The purpose of this Ordinance is to provide for the general welfare and the public safety of the Town of Lincolnville.

SECTION I

The disposal and the storage of hazardous waste, as defined herein, and/or the disposal and storage of radioactive materials, as defined herein, within the boundaries of the Town of Lincolnville, Maine, is strictly prohibited unless the person causing or permitting disposal or storage of hazardous waste and radioactive waste materials obtains a permit in writing from the Board of Selectmen of the Town of Lincolnville permitting such disposal or storage.

(a) Permit Application. A person seeking a permit for the disposal or storage of hazardous waste and/or radioactive waste materials, hereinafter referred to as a “disposal and storage permit” shall complete and file with the Board of Selectmen of the Town of Lincolnville an application on a form prescribed by the Board of Selectmen and accompanied by the applicable application fee. In support of that application, the person seeking such permit shall submit any information concerning the operation of said disposal and/or storage facility as required by the Selectmen. The application for a permit shall include shall include the following information as set forth in Schedule A, attached hereto and incorporated by reference herein. In addition, the Selectmen shall have the authority to prescribe additional information to be submitted by each applicant. The Selectmen shall set a fee for the application which said fee shall be no less than $500. The Selectmen may increase the application fee in the event that the cost of administering and enforcing the Ordinance warrants such an increase in the fee.

(b) Duration of Permits. Permits shall be issued for a period of two (2) years. The terms and conditions of the permit may be subject to modification and change by the Town prior to the expiration of the permit, as limitations or requirements identified in Section II are modified and changed.

(c) Transfer of a Permit. A hazardous waste storage and disposal permit shall not be reassigned or transferred or sold to any other person and shall not be transferred to any other party or to a new or revised operation which does not conform with the applicant’s permit.
(d) **Revocation of a Permit.** Any person who obtains such a permit, hereinafter referred to as permittee, who violates any condition of that permit or of this Ordinance may result in revocation of that permit. Specific violations which may result revocation of a permit include, but are not limited to, the following:

(i) Failure of a permittee to report accurately the hazardous waste constituents and characteristics of that hazardous waste;

(ii) Failure of the permittee to report significant changes in operations, or hazardous waste constituents and characteristics;

(iii) Refusal of the permittee to permit reasonable access to the permittee’s premises for the purpose of inspection or monitoring.

(iv) Ineffective and improper operation and maintenance of the permittee’s facility; or,

(v) Violations of any conditions of the permittee’s permit or of any provision of this Ordinance.

**Section II. Standards of Granting of Permit**

A permit for disposal and storage of hazardous waste shall be approved by the Board of Selectmen, following consultations with the Planning Board, only after a determination by the Board of Selectmen to the satisfaction of that Board that the storage and disposal of hazardous waste as appears in the application of the applicant will conform with the following standards:

(a) That the proposed disposal or storage of hazardous waste is desirable for the development of the Town of Lincolnville;

(b) That the proposed location for the disposal and storage of hazardous waste is not undesirable for that proposed use and that such use will not have an unreasonable adverse effect on the use and quiet possession of the surrounding property owners.

(c) That the proposed use of the site for disposal and storage of hazardous waste will not significantly depreciate the value of adjacent real estate.

(d) That the use of the proposed site for disposal and storage of hazardous waste has no adverse effect on the quality or quantity of ground water in the vicinity of the proposed site.

(e) That the proposed use of the site for disposal and storage of hazardous waste will have no adverse effect on the health or welfare of people residing in the vicinity of this site; and that use will not adversely affect the quality of air;
rivers, streams or other bodies of water in the Town of Lincolnville.

(f) That the proposed use of the site for disposal and storage of hazardous waste will not cause any unreasonable increase in the provision of municipal services or the cost of the provision of municipal services by the Town of Lincolnville.

(g) That the proposed use of the site for disposal and storage of hazardous waste will not adversely affect the character of the neighborhood in which the site is located.

(h) That the proposed use of the site for disposal and storage of hazardous waste conforms strictly with all federal laws and regulations, state laws and regulations and all municipal ordinances including the zoning ordinances of the Town of Lincolnville.

In order for a permit to be granted in accordance with the foregoing standards, the applicant has the burden of proof that the applicant complies with each of those standards. No permit shall be granted unless the Board of Selectmen is satisfied that the applicant complies with all of the foregoing requirements. No variance from the terms of the foregoing standards shall be granted under any circumstances.

Section III. Conditions

In connection with the granting of a permit for any applicant who complies with all of the foregoing conditions, the Board of Selectmen may prescribe reasonable additional requirements as conditions for the granting of a permit in order to give reasonable protection for the neighborhood and the Town of Lincolnville. These reasonable additional conditions shall not constitute a waiver of any of the standards contained in Section II above but said conditions shall assure strict compliance with the standards of Section II above.

Section IV. Inspections

Whenever inspections of any property or premises of a permittee hereunder shall be deemed necessary by the Board of Selectmen for the purposes of this Ordinance, or are reasonably necessary to secure compliance with any Ordinance, provision, state law, or other municipal rules and regulations, it shall be the duty of the permittee, or the person in charge of the premises to be inspected, to admit any officer, official, or employee of the Town authorized to make the inspection, at any reasonable time that admission is required. The purpose for which inspection may be required may include, but shall not be limited to the following:

(a) Copying any records concerning the business or activity of the permittee;
(b) Inspecting any equipment or method of the permittee;

(c) Sampling any hazardous waste disposed or stored at the site; and,

(d) Inspecting the condition and operation of any facility for the disposal and storage of hazardous waste.

Any authorized representative of the Town may enter upon the property or premises of the permittee at any hour under emergency circumstances.

In the event that any permittee, or the person in charge of the premises of a permittee, refuses to permit any such officer, official, or employee of the Town to make an inspection or to take sufficient samples for analysis, or interfere with such officer, official, or employee, that action shall be deemed a violation of this Ordinance by the permittee.

Section V. Enforcement Procedures

(a) Notification of Violation. Whenever any person has violated or is violating this Ordinance, or any prohibition, limitation or requirement contained herein, the Town shall send a written notice to that person stating the nature of the violation and providing a reasonable time, not to exceed seven (7) days, for the satisfactory correction of that violation. In the event that that violation involves a person who disposes or stores hazardous waste without a permit, then the violation of this Ordinance shall be deemed an emergency and the Town shall take all steps necessary to cause an immediate cessation of that violation of this Ordinance.

(b) If any person permits or causes hazardous waste disposal or storage contrary to the provisions of this Ordinance or any order of the municipal officers, the Town may commence an action for legal and/or equitable relief including injunctive relief in the appropriate Superior Court. Any disposal and storage of hazardous waste in violation of the provisions of this Ordinance or any order of the municipal officers shall be considered a public nuisance.

In the event that any person violates this Ordinance by disposing and storing hazardous waste without a permit, the actions of said person in violation of this Ordinance shall be deemed an emergency and the Town shall commence an action for legal and/or equitable relief including injunctive relief in the appropriate Superior Court as soon as reasonably possible to cause a cessation of that violation of this Ordinance and for such other relief as the Town requires.

Section VI. Penalties/Cost

Any person who fails to comply with any provisions of this Ordinance, and the orders, rules and regulations issued hereunder, shall be fined not less than $500 and not more than $2000 for each offense. Each day on which a violation will occur or continue
shall be deemed a separate and distinct offense. In addition to the penalties provided herein, the Town may recover reasonable attorney’s fees, court cost, court reporter’s fees, fees for expert witnesses, and other expenses of litigation in any suit commenced by the Town against a person who is adjudged to have violated this Ordinance or the orders, rules, and regulations issued hereunder.

Section VII. Appeals

(a) Upon written application of an aggrieved party from any decision or order of the Board of Selectmen under the terms of this Ordinance, and after public notice, the Board of Appeals may hear appeals from the determinations and decision of the Board of Selectmen in the administration of this Ordinance. Following such hearing, the Board of Appeals shall affirm, modify, or set aside the decision from which an appeal lies. Any modification or reversal of the decision from which the appeal is taken shall occur only upon a finding that the decision of the Board of Selectmen is clearly contrary to the specific provisions of this Ordinance.

Section VIII

An appeal may be taken from any decision of the Zoning Board of Appeals to the Superior Court in accordance with state law within thirty (30) days of the date of such a decision.

Section IX. Separability

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

Section X. Definitions

(1) Hazardous Waste shall mean any waste designated as hazardous under federal or state regulations or laws concerning hazardous waste, whichever said regulation or laws are the most inclusive and the most restrictive and any radioactive waste materials as defined by Title 38, MRSA, subsection 361-D.1.B.

(2) Person shall mean any natural person, firm, corporation, partnership, or other business entity or organization.

(3) Disposal shall mean any permanent disposition of hazardous waste and/or radioactive waste at a site within the Town of Lincolnville which involves a permanent or long-term storage of that waste material.
(4) Storage shall mean any retention of hazardous waste and/or radioactive material at the site in the Town of Lincolnville which involves temporary retention or placement of that material at that site.

(5) Site shall mean any parcel of land or location for storage of hazardous waste and radioactive waste materials in the Town of Lincolnville.

Dated 6/22/81

Article #11 Shall an ordinance be enacted entitled “Ordinance Concerning the Disposal and Storage of Hazardous Waste in the Town of Lincolnville.” Passed

K:\Ordinances\Hazardous Waste Ordinance 1981.doc
TOWN OF LINCOLNVILLE
HOLDING TANK ORDINANCE

Section 1. Purpose

The purpose of this Ordinance is to establish procedures for the use and maintenance of holding tanks designed to receive and retain waste water 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 the Town of Lincolnville.

Section 2. Definitions

Unless the context specifically and clearly indicates otherwise, the meaning of terms used in this Ordinance shall be as follows:

Authority: Shall mean the Selectmen of the Town of Lincolnville, Waldo County, Maine.

Agent: Shall mean any person or persons officially designated by the Authority to act on its behalf.

Holding Tank: A closed, water-tight structure designed and used to receive and store waste water or septic tank effluent. A holding tank does not discharge waste water or septic tank effluent to surface or ground water or unto the surface of the ground. Holding tanks are designed and constructed to facilitate ultimate disposal of waste water at another site.

Improved Property: Any property within the Town of Lincolnville upon which there is a structure intended for continuous or periodic habitation, occupancy, or use by humans or animals and from which structure waste water shall or may be discharged.

Municipality: Town of Lincolnville, Waldo County, State of Maine.

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

Person: Any individual, partnership, company, association, corporation, or other group or entity.

Waste Water: Any liquid waste containing animal or vegetable matter in suspension or solution, or the water-carried wastes from the discharge of water closets, laundry tubs, washing machines, sinks, dishwashers, or other source of water-carried wastes of human origin. This term specifically excludes industrial, hazardous or toxic waste 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 waste water 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 shall be in conformity with the provisions herein, all other ordinances of the Town of Lincolnville, 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, see Subsection 301.3, of the Maine Subsurface Waste Water Disposal Rules, or new construction within the shoreland zone of a major water course.

Section 5. Rates and Charges:

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

Section 6. Exclusiveness of Rights and Privileges:

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

Section 7. Duties of Owner of Improved Property:

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

A. Maintain the holding tank in conformance with this or any other Ordinance of the Town of Lincolnville, 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 administratively control the collection, transportation, and disposal of the contents therein.

Section 8. Violations:

Any person who violates any provisions of Section 7 shall, upon conviction thereof by summary proceedings, be sentenced to pay a fine of not less than One Hundred and not more than Three Hundred dollars, plus costs.
Section 9. Abatement of Nuisances:

In addition to any other remedies provided in this ordinance, any violation of Section 7 above shall constitute a nuisance and shall be abated by municipality or Authority by seeking appropriate equitable or legal relief from a court of competent jurisdiction.

Section 10. Repeal:

All ordinance or resolutions, or parts of ordinance or resolutions, insofar as they are inconsistent herewith, are hereby repealed.

Section 11. 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 shall not affect or impair any of the remaining provisions, sentences, clauses, sections, or parts of this ordinance.

Section 12. Effective Date:

This ordinance shall become effective five days after its adoption. Given under our hands this 23rd day of March, 1996 at Lincolnville, Maine.

Enacted; March 18, 1996

K:\Ordinances\Holding Tank Ordinance.doc
Town of Lincolnville

Land Use Ordinance

June 16, 1998

Amended:
06-15-1999—Access Mng Rt 1/Errata Sheet
06-20-2000—Access Mng Rt 52/Com Site Plan/Stream Protection/Errata Sheet
06-19-2001—Wireless Communications
06-15-2002—Home Occupation/Special Exceptions
11-05-2002—Home occupations Amendments
04-11-2005—Municipal Sewage Disposal/Public Toilets
11-08-2005—Eminent Domain/Consistency for new Subdivision Ordinance
06-10-2008—State Shoreland Zoning and Land Use Committee Clerical
11-04-2008—Non-public piers & wharves/LRD-LCD/Parking lot placement
06-12-2010—Commercial Site Plan Review/Administration
02-13-2012—Medical Marijuana Dispensaries/Methadone Clinics/Home Occupations
# LINCOLNVILLE LAND USE ORDINANCE

## TABLE OF CONTENTS

<table>
<thead>
<tr>
<th>SECTION</th>
<th>Title</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Purposes</td>
<td>1</td>
</tr>
<tr>
<td>2</td>
<td>Authority</td>
<td>1</td>
</tr>
<tr>
<td>3</td>
<td>Applicability</td>
<td>1</td>
</tr>
<tr>
<td>4</td>
<td>Effective Date &amp; Repeal of Formerly Adopted Ordinance</td>
<td>1</td>
</tr>
<tr>
<td>5</td>
<td>Availability</td>
<td>2</td>
</tr>
<tr>
<td>6</td>
<td>Validity and Severability</td>
<td>2</td>
</tr>
<tr>
<td>7</td>
<td>Conflicts with other Ordinances</td>
<td>3</td>
</tr>
<tr>
<td>8</td>
<td>Amendments</td>
<td>3</td>
</tr>
<tr>
<td>9</td>
<td>District and Zoning Map</td>
<td>3</td>
</tr>
<tr>
<td></td>
<td>A Official Land Use Map</td>
<td>3</td>
</tr>
<tr>
<td></td>
<td>B Scale of Map</td>
<td>3</td>
</tr>
<tr>
<td></td>
<td>C Certification of Official Land Use Map</td>
<td>3</td>
</tr>
<tr>
<td></td>
<td>D Changes to the Official Land use Map</td>
<td>3</td>
</tr>
<tr>
<td>10</td>
<td>Interpretation of District Boundaries</td>
<td>4</td>
</tr>
<tr>
<td>11</td>
<td>Land Use Requirements</td>
<td>4</td>
</tr>
<tr>
<td>12</td>
<td>Non-Conformance</td>
<td>4</td>
</tr>
<tr>
<td></td>
<td>A Purpose</td>
<td>4</td>
</tr>
<tr>
<td></td>
<td>B General</td>
<td>4</td>
</tr>
<tr>
<td></td>
<td>C Non-Conforming Structures</td>
<td>5</td>
</tr>
<tr>
<td></td>
<td>D Non-Conforming Uses</td>
<td>8</td>
</tr>
<tr>
<td></td>
<td>E Non-Conforming Lots</td>
<td>9</td>
</tr>
<tr>
<td>13</td>
<td>Establishment of Districts</td>
<td>10</td>
</tr>
<tr>
<td></td>
<td>Shoreland Zone</td>
<td></td>
</tr>
<tr>
<td></td>
<td>A Resource Protection District</td>
<td>10</td>
</tr>
<tr>
<td></td>
<td>B Resource Conservation District</td>
<td>11</td>
</tr>
<tr>
<td></td>
<td>C Limited Residential District</td>
<td>11</td>
</tr>
<tr>
<td></td>
<td>D Harbor District</td>
<td>12</td>
</tr>
<tr>
<td></td>
<td>E Stream Protection District</td>
<td>12</td>
</tr>
<tr>
<td></td>
<td>F Limited Commercial District</td>
<td>13</td>
</tr>
<tr>
<td></td>
<td>G Areas Outside the Shoreland Zone</td>
<td>14</td>
</tr>
<tr>
<td>14</td>
<td>Table of Land Uses</td>
<td>15</td>
</tr>
<tr>
<td>15</td>
<td>Town-Wide Land Use Standards</td>
<td>18</td>
</tr>
<tr>
<td></td>
<td>A Building and Land Use Standards Outside the Shoreland Zone</td>
<td>18</td>
</tr>
<tr>
<td></td>
<td>B Performance Standards for Medical Marijuana Dispensaries</td>
<td>19</td>
</tr>
<tr>
<td></td>
<td>C Performance Standards for Methadone Clinics</td>
<td>22</td>
</tr>
<tr>
<td>Section</td>
<td>Title</td>
<td>Pages</td>
</tr>
<tr>
<td>---------</td>
<td>-------</td>
<td>-------</td>
</tr>
<tr>
<td>18 Continued</td>
<td></td>
<td></td>
</tr>
<tr>
<td>15</td>
<td>Improvement Guarantees</td>
<td>73</td>
</tr>
<tr>
<td>16</td>
<td>Submissions of As-Built Plans</td>
<td>73</td>
</tr>
<tr>
<td>19</td>
<td>Wireless Communications</td>
<td>75</td>
</tr>
<tr>
<td>1</td>
<td>Purpose and Intent</td>
<td>75</td>
</tr>
<tr>
<td>2</td>
<td>Applicability</td>
<td>75</td>
</tr>
<tr>
<td>3</td>
<td>Review and Approval Process</td>
<td>75</td>
</tr>
<tr>
<td>4</td>
<td>Approval Process</td>
<td>76</td>
</tr>
<tr>
<td>5</td>
<td>Site Restrictions</td>
<td>79</td>
</tr>
<tr>
<td>6</td>
<td>Conditions of Approval</td>
<td>80</td>
</tr>
<tr>
<td>7</td>
<td>Standards</td>
<td>80</td>
</tr>
<tr>
<td>8</td>
<td>Abandonment</td>
<td>83</td>
</tr>
<tr>
<td>9</td>
<td>Amendment to Approved Application</td>
<td>84</td>
</tr>
<tr>
<td>10</td>
<td>Appeals</td>
<td>84</td>
</tr>
<tr>
<td>11</td>
<td>Enforcement</td>
<td>84</td>
</tr>
<tr>
<td>12</td>
<td>Conflict with Other Ordinances</td>
<td>84</td>
</tr>
<tr>
<td>20</td>
<td>Home Occupation</td>
<td>84</td>
</tr>
<tr>
<td>A</td>
<td>Intent and Purpose</td>
<td>84</td>
</tr>
<tr>
<td>B</td>
<td>Code Enforcement Officer Permit</td>
<td>85</td>
</tr>
<tr>
<td>C</td>
<td>Prior Activities</td>
<td>85</td>
</tr>
<tr>
<td>21</td>
<td>Administration</td>
<td>86</td>
</tr>
<tr>
<td>A</td>
<td>Administering Agents</td>
<td>86</td>
</tr>
<tr>
<td>B</td>
<td>Permits Required</td>
<td>86</td>
</tr>
<tr>
<td>C</td>
<td>Permit Application</td>
<td>87</td>
</tr>
<tr>
<td>D</td>
<td>Procedure for Administering Permits</td>
<td>88</td>
</tr>
<tr>
<td>E</td>
<td>Initiation/Expiration of Permit</td>
<td>88</td>
</tr>
<tr>
<td>F</td>
<td>Installation of Public Utility Service</td>
<td>89</td>
</tr>
<tr>
<td>G</td>
<td>Appeals</td>
<td>89</td>
</tr>
<tr>
<td>H</td>
<td>Enforcement</td>
<td>95</td>
</tr>
<tr>
<td>22</td>
<td>Definitions</td>
<td>96</td>
</tr>
<tr>
<td>Exhibit A</td>
<td>After 109</td>
<td></td>
</tr>
</tbody>
</table>
SECTION 1 - PURPOSES

The purposes of this Ordinance are to further the maintenance of safe and healthful conditions; to prevent and control water pollution; to protect fish spawning grounds, aquatic life, bird and other wildlife habitat; to protect buildings and lands from flooding and accelerated erosion; to protect archaeological and historic resources; to protect commercial fishing and maritime industries; to protect freshwater and coastal wetlands; to control building sites, placement of structures and land uses; to conserve shore cover, and visual as well as actual points of access to inland and coastal waters; to conserve natural beauty and open space; and to anticipate and respond to the impacts of development in the Town of Lincolnville; and to maintain the present rural/residential character of the community. 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 - AUTHORITY

This Ordinance has been prepared in accordance with the provisions of Title 38 Sections 435-449 of the Maine Revised Statutes Annotated (M.R.S.A.)

SECTION 3 - APPLICABILITY

This Ordinance applies within the Town of Lincolnville to the actions listed below:

A. Construction, enlargement, alteration, demolition or moving of any building or structure.

B. Change of use of any lot or structure.

C. Resumption of use of any structure if abandoned for twelve months or more.

D. Establishment of new use of abandoned structure.

E. Home Occupations

For the purposes of this Ordinance, the Shoreland Zone includes land areas within 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 any coastal wetland including all areas affected by tidal action or freshwater wetland; and within 75 feet, horizontal distance, of the normal high-water line of a stream; and also any structure built on, over or abutting a dock, wharf or pier, or other structure extending or located below the normal high-water line of a water body or within a wetland.

SECTION 4 - EFFECTIVE DATE AND REPEAL OF FORMERLY ADOPTED ORDINANCE

A. This Ordinance, which was adopted by the municipal legislative body of Lincolnville shall become effective immediately upon adoption, except that
the Shoreland zoning provisions of this Ordinance adopted on June 24, 1991 as amended herein, 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 Shoreland zoning provisions of this Ordinance, or Ordinance Amendment are approved by the Commissioner; otherwise by the provisions of the Shoreland Zoning Ordinance adopted on June 24, 1991, as amended March 1998. Upon approval of this Ordinance by the Commissioner of the Department of Environmental Protection, the Shoreland Zoning Ordinance previously adopted on June 24, 1991, is hereby repealed. The General Zoning Ordinance for the Town of Lincolnville, previously adopted, is hereby repealed upon the adoption of this Ordinance.

B. Sections 16(O) and 16(O-1). Section 16(O) is repealed on the statutory date established under 38 M.R.S.A. section 438-A(5), at which time Section 16(O-1) shall become effective. Until such time Section 16(O) is repealed, Section 16(O-1) is not in effect. For reference to Section 16(O-1) refer to attached Exhibit A.

NOTE: The statutory date established under 38 M.R.S.A. section 438-A(5) is the effective date of state-wide timber harvesting standards. That date is "the first day of January of the 2nd year following the year in which the Commissioner of Conservation determines that at least 252 of the 336 municipalities identified by the Commissioner of Conservation as the municipalities with the highest acreage of timber harvesting activity on an annual basis for the period 1992-2003 have either accepted the state-wide standards or have adopted an ordinance identical to the state-wide standards." 38 M.R.S.A. section 438-A(5) further provides that "the Commissioner of Conservation shall notify the Secretary of State in writing and advise the Secretary of the effective date of the state-wide standards."

SECTION 5 - AVAILABILITY

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

SECTION 6 - VALIDITY AND SEVERABILITY

Should any section or provision of this Ordinance be declared by the courts to be invalid, such decision shall not invalidate any other section or provision of the Ordinance.
SECTION 7 - CONFLICTS WITH OTHER ORDINANCES

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

SECTION 8 – AMENDMENTS

This Ordinance may be amended by majority vote of the legislative body. Copies of amendments affecting the Shoreland Zone, attested and signed by the Municipal Clerk, shall be submitted to the Commissioner of the Department of Environmental Protection following adoption by the municipal legislative body and shall not be effective unless approved by the Commissioner. If the Commissioner fails to act on any amendment within forty-five (45) days of the receipt of the amendment, the amendment is automatically approved, and the effective date of such amendment shall be the date of automatic approval.

SECTION 9 - DISTRICT AND ZONING MAP

A. Official Land Use Map

The areas to which this Ordinance is applicable are hereby divided into the following districts as shown on the Official Land Use Map. The Official Land Use Map, and all future amendments thereto, are hereby made a part of and incorporated into this Ordinance:

1. Resource Protection
2. Resource Conservation
3. Limited Residential
4. Stream Protection
5. Harbor District
6. Limited Commercial District
7. General District

B. Scale of Map

The Official Land Use Map shall be drawn at a scale of not less than: 1 inch = 1000 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 Land Use Map

The Official Land Use Map shall be certified by the attested signature of the Municipal Clerk and shall be located in the municipal office.

D. Changes to the Official Land Use Map

If amendments affecting Shoreland Zoning are made, in accordance with Section 8, in the district boundaries or other matter portrayed on the Official Land Use Map, such changes shall be made on the Official Land Use Map within thirty (30) days after the amendment has been approved by the Commissioner of the Department of Environmental Protection.
SECTION 10 – INTERPRETATION OF DISTRICT BOUNDARIES

Unless otherwise set forth on the Official Land Use 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. The depictions of the Districts on the Land Use Map for the Town of Lincolnville are merely illustrative of their general location. The boundaries of these districts shall be determined by measurement of the distance indicated on the maps from the normal high-water mark of the water body or the upland edge of wetland vegetation, regardless of the location of the boundary shown on the map. Where uncertainty exists as to the exact location of district boundary lines, the Board of Appeals shall be the final authority as to location.

SECTION 11 – LAND USE REQUIREMENTS

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

SECTION 12 – NON-CONFORMANCE

A. Purpose

It is the intent of this Ordinance to promote conformity of land uses with this Ordinance, except that non-conforming structures, uses, lots, or aspects of structures 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 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 nonconforming use or structure as federal, state, or local building and safety codes may require.

3. For purposes of the application of the provisions of this Ordinance, concerning non-conforming structures and lots, no non-conforming structure or aspect of such structure and no non-conforming lot or aspect of such lot shall be deemed to be more non-conforming as a result of any taking or acquisition of a portion of that structure or lot by eminent domain or by action of any governmental authority which occurred after the enactment of the Ordinance on June 16, 1998. Any such non-conforming structure of non-conforming lot, and any non-conforming use which was lawfully in existence on the date of such taking or acquisition by eminent domain or any other action of governmental authority shall be deemed to continue in
lawful existence, subject to the requirements set forth in this section; as though such taking or acquisition by governmental authority had not occurred.

4. No structure, lot, or use of a lot which conformed with the provisions of this Ordinance prior to the taking or acquisition by eminent domain or by other action of a governmental authority of a portion of such structure or lot shall be considered non-conforming or in violation of this Ordinance solely as a result of such taking or acquisition by eminent domain or by other governmental action. Such structure, lot or use shall be deemed to continue to be a conforming structure, lot or use after the taking or acquisition by eminent domain or other governmental action of a portion of such structure or lot; as though such taking or acquisition by governmental authority had not occurred. For purposes of this ordinance, lot area, setback, coverage and any other dimensional requirements under this ordinance shall be measured or determined as though no such taking or acquisition by eminent domain or other governmental action had occurred.

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, subject to the limitations herein.

Further Limitations:

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. The expansion of the structure will be subject to the following additional requirements:

(1) For seasonal conversion, the owner must substantiate the existence of a sub-surface water disposal system that meets the Maine State Plumbing Codes;

(2) A handicapped access landing ramp that complies with the Federal Register, July 26, 1991, Part III, Dept. of Justice 28 CFR part 36. (Nondiscrimination on the basis of disability by public accommodations and in commercial facilities), and also complies with the Americans with Disabilities, Act Title III, technical assistance manual. (as amended), shall be exempt from the 30% expansion rule;
(3) Enclosing a deck constitutes an expansion of volume for the structure;

(4) In calculating the square footage of the original floor space for the 30% expansion rule, the base for a chimney is considered part of the footprint; and

(5) The landing or porch between the house and steps is not part of the footprint and the steps are not part of the footprint. The landing or porch shall not exceed four feet by four feet.

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, basing its decision on the criteria specified in Section 12(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 that 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.

Further, the volume of basement construction or frost walls that are six feet or over, from the basement floor to the bottom of the joists of the first floor will be counted towards the 30% expansion limit.

c. No structure which is less than the required setback from the normal high-water line of a water body, tributary stream, or upland edge of a wetland shall be expanded toward the water body, tributary stream, or wetland.

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

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 of 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 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 shall consider in addition to the criteria 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 and or the current use expanded unless the Planning Board, after receiving a written application determines that the new use or expanded 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, flood plain 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 Harbor 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.
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 Upon 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 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 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 nonconforming, 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(E)(3)(a) are reconfigured or combined so that each new lot contains at least 100 feet of shore frontage and 20,000 square feet of lot area.
SECTION 13 - ESTABLISHMENT OF DISTRICTS

Shoreland Zone

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 and Resource Conservation Districts, except that areas which are currently developed and areas which meet the criteria for the Harbor District shall not be included within the Resource Protection District:

1. Areas of significant wildlife habitat of the Ducktrap River and the Ducktrap Stream for the critical spawning and nursery areas for Atlantic sea run salmon as defined by the Atlantic Sea Run Salmon Commission, and the area 250 feet, horizontal distance, of the upland edge adjacent to the freshwater wetland as identified by #117 and #122.

Areas within 250 feet, horizontal distance, of the upland edge of freshwater wetlands, salt marshes and salt meadows, and wetlands associated with great ponds and rivers, which are rated "moderate" or "high" value waterfowl and wading bird habitat, including nesting and feeding areas, by the Maine Department of Inland Fisheries and Wildlife (MDIF&W) that are depicted on a Geographic Information System (GIS) data layer maintained by either MDIF&W or the Department as of May 1, 2006. For the purposes of this paragraph “wetlands associated with great ponds and rivers” shall mean areas characterized by non-forested wetland vegetation and hydric soils that are contiguous with a great pond or river, and have a surface elevation at or below the water level of the great pond or river during the period of normal high water. ”Wetlands associated with great ponds or rivers” are considered to be part of that great pond or river

****Local Note- Specifically these wetland have been previously known as Resource Conservation wetlands #118, #119, #121, #123, #144, #146, #147, #148, #149, #153, #154, #156.

Habitat for species appearing on the official state or federal lists of endangered or threatened species; high and moderate value deer wintering areas and travel corridors as defined by the Department of Inland Fisheries and Wildlife; high and moderate value waterfowl and wading bird habitats, including nesting and feeding areas as defined by the Department of Inland Fisheries and Wildlife; critical spawning and nursery areas for Atlantic sea run salmon as defined by the Atlantic Sea Run Salmon Commission; and shorebird nesting, feeding and Staging areas and seabird nesting islands as defined by the Department of Inland Fisheries and Wildlife.

2. Flood plains along rivers and flood plains along artificially formed great ponds along rivers, defined by the 100 year flood plain 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. This district shall also include 100 year flood plains adjacent to tidal waters as shown on FEMA's Flood Insurance Rate Maps or Flood Hazard Boundary Maps.

3. Areas of two or more contiguous acres with sustained slopes of 20% or greater.

4. Areas of two (2) or more contiguous acres supporting wetland vegetation and hydric soils, which are not part of a fresh-water or coastal wetland as defined, and which are not surficially connected to a water body during the period of normal high water.

5. 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.

6. Land areas within 250 feet of the upland edge of the freshwater marshes, known as the Pitcher Pond and Knight Pond Bog (known as #130).

B. Resource Conservation District

The Resource Conservation District includes areas where the careful management of wastewater disposal systems, the placement of structures, erosion and sedimentation controls and larger lot requirements will result in the protection from loss and the wise use and prudent use of these natural resources. The Resource Conservation District includes areas with 250 feet, horizontal distance, of the upland edge of wetlands associated with great ponds and rivers which are #145, #150, #151, #152, #155, #157, #158, #162, #163, and #164. rated "moderate" value by the Maine Department of Inland Fisheries and Wildlife (MDIF&W) as of January 1, 1973.

C. Limited Residential District

The Limited Residential District includes those areas suitable for residential and recreational development. This District includes areas in the Shoreland Zone other than those in the Resource Protection, Resource Conservation, Stream Protection, Harbor, and the Limited Commercial Districts.

In addition to the land areas set forth in the first paragraph of this Section 13 (C), the following land areas shall also be part of the Limited Residential District: Beginning at the intersection of the easterly side of U.S. Route One and the center line of the McKay Road, so-called; thence running southerly along the center line of the McKay Road to a point that is located at the southwesterly corner of Lot 81; thence running in a westerly direction along the line of the Limited Residential District, as established before this amendment, to a point that is located exactly 250 feet from the normal high water line of the Penobscot Bay; said point being in the westerly line of the shoreland area for purposes of the Land Use Ordinance and that point also being in a line through the middle of Lot 99 shown on the 1989 Town of Lincolnville Tax Map Number 6 and as shown on the amendment of the Official Land Use Map of the Town of Lincolnville in connection with this amendment of the ordinance; thence running northerly along the westerly
line of the shoreland area of the Official Land Use Map through so much of Lot 99 which is measured from the foregoing point to the southwesterly corner of Lot 100 which is located within 250 feet of the normal high water mark of Penobscot Bay; thence continuing around the portion of the perimeter facing the water of Penobscot Bay of but not including Lot 100 to the southeasterly corner of Lot 101, and continuing through Lot 101 for so much of Lot 101 as shown on the Tax Map as is located within 250 feet of the normal high water line of Penobscot Bay to the intersection of the easterly side of U.S. Route One and the center line of McKay Road, which is the point of beginning.

Meaning and intending to include so much of the northerly one-half of Lot 99 which is located within 250 feet of the normal high water mark of Penobscot Bay and so much of Lot 101 on the Tax Map which is located within 250 feet of the normal high water mark of Penobscot Bay and also including the area between the center line of McKay Road and the foregoing lots from the 1989 Town Tax Map, but excluding all of Lot 100 on the Tax Map. This amendment of the Official Land Use Map only deletes from the Limited Residential District Lot 100 on the Tax Map (1989), but this amendment does not delete from the Limited Residential District in the Land Use Ordinance any other lot or lots which are located in that District on the date of enactment of this land use amendment.

D. Harbor District

The Harbor District includes areas where the existing predominant pattern of development is consistent with the allowed uses for this district as indicated in the Table of Land Uses, Section 14, and other areas which are suitable for functionally water-dependent uses.

The Harbor District shall include that area of Penobscot Bay enclosed within the boundary lines set forth as follows: The Harbor District shall include all land areas beginning at the normal high water line of Penobscot Bay which said point marks the northeasterly corner of land of the Town of Lincolnville, known as the Town Boat Launching Ramp, shown as Lot 80 on the 1989 Town of Lincolnville Tax Map Number 6 (hereinafter Tax Map); thence southeast along the shoreline boundaries of Lot 80, Lot 81, along all shoreline boundaries of Lot 82 and then northwest along the shoreline boundaries of Lot 81 of the Tax Map, and also along the shore of Penobscot Bay which coincides with the boundaries of those Tax Map Lots to a point marking the Southeasterly corner of land of the State of Maine, shown as Lot 83 on the Tax Map; thence westerly along the northerly line of aforesaid State of Maine lot of land to a point marking the northwesterly corner of land of the State of Maine as shown on the Tax Map as Lot 84, and also being the northwesterly corner of Lot 81, thence running northeasterly along the northerly line of Lot 81 to a point marking the northwesterly corner of Lot 80; thence easterly along the northerly line of Lot 80 to the point of beginning. Meaning and intending to encompass all of Lots 80, 81 and 82 of the Tax Map.

E. 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 is 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.

The Stream Protection District shall also include the lands adjacent to the following stream boundaries, as depicted on the USGS 7.5 minute quadrangles, subject to the same boundary limits described in the above paragraph:

1. Tucker Brook from the most upstream confluence of perennial and intermittent branches, downstream to Wetland #117, along the Ducktrap River.
2. The perennial portion of the Northwest Branch of the Levenseller Stream beginning 1,300 feet southeast of High Street downstream to Levenseller Stream.
3. The West Branch of Levenseller Stream south of Heal Road downstream to Wetland #153.
4. Minnow Brook from the confluence of its perennial and intermittent branches downstream to Wetland #153.
5. Youngtown Brook’s (sic) entire perennial length downstream to Megunticook Lake.
6. Black Brook from the Camden Hills State Park boundary downstream to Wetland #144.
7. Frohock Brook’s perennial length downstream to Penobscot Bay.
8. Great Brook’s perennial length downstream to Penobscot Bay.

F. Limited Commercial District

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

The three geographic areas for the Limited Commercial District, in the Traditional Beach area, as shown on the Official Land Use Map have the following boundaries:

1. Starting at the centerline of U.S. Route One at the intersection of the centerline of Route 173; thence continuing along the centerline of U.S. Route One generally northerly to a point approximately 250 feet northerly of the northeast corner of the Frohock Brook Bridge; thence southerwesterly to the northeast corner of Lot 61; thence westerly following the northerly boundary of Lot 61 to the northwest corner of Lot 61; thence southerly along the westerly boundary of Lot 61 to the northeast corner of Lot 59; thence westerly along the Northerly boundary of Lot 59 to the northwest corner of Lot 59; thence southerly, along the westerly boundary of Lot 59 to the southwest corner of Lot 59; thence generally southerly, as depicted on the amended Official Land Use Map of the Town of Lincolnville, across Frohock Brook, and crossing through Lot 42, in a straight line, to the northeast corner of Lot 50; thence generally southwesterly, partly along Lot 50 and then through Lot 50 in a straight line to the southeast corner of Lot 47; thence in a general southwesterly direction in a straight line through Lot 50 to the southeasterly corner of Lot 48; thence in a general south-easterly direction in a straight line through Lot 49 to a point in the centerline of Route 173 which is exactly 250 feet from the normal high water line of Penobscot Bay; thence easterly along the centerline of Route 173 to the point of beginning.
2. Starting at the northeast corner of the U.S. Route One bridge over Frohock Brook; thence northerly along the easterly sideline of U.S. Route One a distance of approximately 250 feet to the northwest corner of Lot 74; thence easterly along the northerly boundary of Lot 74 and Lot 76 to the normal high water mark of Penobscot Bay; thence generally southwesterly along the normal high water mark of Penobscot Bay to the place of beginning.

All references to lot numbers on the zone description shall mean lot number on Tax Map 6 of the tax maps of the Town of Lincolnville.

3. Starting at a point at the southeasterly corner of the U.S. Route One bridge over Frohock Brook; thence easterly, southerly and southeasterly along the shoreline boundaries of Lots 77, 78 and 79 on the 1989 Town of Lincolnville Tax Map Number 6 (hereinafter Tax Map) and also being along the shore of Frohock Brook and Penobscot Bay to a point marking the northeasterly corner of land of the Town of Lincolnville, shown as Lot 80 on the Tax Map, said lot also being known as the Town Boat Launching Ramp thence westerly along the northerly line of the aforementioned Lot 80, to the mid-point of the road known as the McKay Road; thence continuing across McKay Road to the waterside boundary of Lot 100 and continuing along the southerly boundary of Lot 100 to a point at which that boundary intersects with a line which is 250 feet horizontal distance from the normal high water mark of Penobscot Bay; thence running northerly along a line through Lot 100 which is 250 feet horizontal distance from the normal high water line of Penobscot Bay to the common boundary between Lot 100 and Lot 101; thence running generally easterly along the common boundary of Lot 100 and Lot 101 to the mid-point of the road known as the McKay Road; thence running northerly following the mid-point of the McKay Road to the easterly side of U.S. Route One; thence running northerly along the easterly side of U.S. Route One to the southeasterly corner of the bridge crossing Frohock Brook, being the point of beginning, including within the geographic area set forth in Section 13 (F) (3) any portion of Lot 100 located within 250 feet horizontal distance of the normal high water line of Penobscot Bay. Meaning and intending by this amendment to include within the geographic area set forth in Section 13 (F) (3) the waterside portion of Lot 100 as set forth on the 1989 Tax Map Number 6, which is within 250 feet horizontal distance of the normal high water line of Penobscot Bay. Upon enactment of this amendment, Section 13 (F) (3) shall encompass within the Limited Commercial District all of Lot 77, 78, and 79, and the portion, as set forth above, of Lot 100 of the 1989 Tax Map Number 6.

G. Areas Outside the Shoreland Zone

General District

The General District includes all areas of the Town of Lincolnville which are not included in the Shoreland Zone.
SECTION 14 – TABLE OF LAND USES

All land use activities in the Shoreland Zone, as indicated in Table 1, Land Uses, shall conform with all of the applicable land use standards in Section 16. All land use activities in the General District, as indicated in Table 1, Land Uses, 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 Land Use 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
CSPR = Allowed with commercial site plan review and approval granted by the Planning Board
CEO = Allowed with permit issued by the Code Enforcement Officer
LPI = Allowed with permit issued by the Local Plumbing Inspector
SE = Special Exception Permit granted by Appeals Board required
* = Subject to specific land use standards

Abbreviations:
RP=Resource Protection District
RC=Resource Conservation District
LR=Limited Residential District
HD=Harbor District
SP=Stream Protection District
LC= Limited Commercial District
GD= General District

* = See Section 16
Y = Yes
N = No
# TABLE OF LAND USES

<table>
<thead>
<tr>
<th>LAND USES</th>
<th>Shoreland Zone</th>
<th>Areas Outside Shoreland Zone</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>SP</td>
<td>RP</td>
</tr>
<tr>
<td>Non-intensive recreational uses not requiring structure, such as hunting,</td>
<td>Y</td>
<td>Y</td>
</tr>
<tr>
<td>fishing, &amp; hiking</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Motorized vehicular traffic on existing roads &amp; trails</td>
<td>Y</td>
<td>Y</td>
</tr>
<tr>
<td>Forest management activities except for timber harvesting</td>
<td>Y</td>
<td>Y</td>
</tr>
<tr>
<td>Timber Harvesting</td>
<td>CEO</td>
<td>CEO</td>
</tr>
<tr>
<td>Clearing or removal of vegetation for activities other than timber</td>
<td>CEO</td>
<td>CEO</td>
</tr>
<tr>
<td>harvesting</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Fire prevention activities</td>
<td>Y</td>
<td>Y</td>
</tr>
<tr>
<td>Wildlife management practices</td>
<td>Y</td>
<td>Y</td>
</tr>
<tr>
<td>Soil &amp; Water conservation practices</td>
<td>Y</td>
<td>Y</td>
</tr>
<tr>
<td>Mineral exploration</td>
<td>N</td>
<td>Y²</td>
</tr>
<tr>
<td>Mineral exploration, including sand &amp; gravel extraction</td>
<td>N</td>
<td>PB³</td>
</tr>
<tr>
<td>Surveying &amp; resource analysis</td>
<td>Y</td>
<td>Y</td>
</tr>
<tr>
<td>Emergency operations</td>
<td>Y</td>
<td>Y</td>
</tr>
<tr>
<td>Agriculture*</td>
<td>Y</td>
<td>PB</td>
</tr>
<tr>
<td>Aquaculture*</td>
<td>PB</td>
<td>PB</td>
</tr>
<tr>
<td>Principle structures &amp; uses</td>
<td>PB⁴</td>
<td>N</td>
</tr>
<tr>
<td>One &amp; two-family residential, including driveways</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Multi-unit residential-3 or more units</td>
<td>N</td>
<td>N</td>
</tr>
<tr>
<td>Commercial</td>
<td>N</td>
<td>N¹⁰</td>
</tr>
<tr>
<td>Commercial</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Industrial</td>
<td>N</td>
<td>N</td>
</tr>
<tr>
<td>Governmental &amp; institutional</td>
<td>N</td>
<td>N</td>
</tr>
<tr>
<td>Small non-residential facilities for educational scientific, or nature</td>
<td>PB⁴</td>
<td>PB</td>
</tr>
<tr>
<td>interpretation purposes</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Non-conforming non-residential Municipal Uses or Public Utility</td>
<td>SE</td>
<td>SE</td>
</tr>
<tr>
<td>Structures accessory to allowed uses*</td>
<td>PB⁴</td>
<td>PB</td>
</tr>
<tr>
<td>Piers, docks, wharves, bridges &amp; other structures &amp; uses extending over</td>
<td>CEO</td>
<td>CEO</td>
</tr>
<tr>
<td>or below the normal high water line or within a wetland:</td>
<td></td>
<td></td>
</tr>
<tr>
<td>a) Temporary</td>
<td></td>
<td></td>
</tr>
<tr>
<td>b) Permanent</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

* Subject to specific Land Use Standards, Section 16
### TABLE OF LAND USES

<table>
<thead>
<tr>
<th>LAND USES</th>
<th>SP</th>
<th>RP</th>
<th>RC</th>
<th>LR</th>
<th>HD</th>
<th>LC</th>
<th>GD</th>
</tr>
</thead>
<tbody>
<tr>
<td>Conversion of seasonal residences to year-round residences</td>
<td>LPI</td>
<td>N</td>
<td>LPI</td>
<td>LPI</td>
<td>LPI</td>
<td>LPI</td>
<td>LPI</td>
</tr>
<tr>
<td>Home Occupations</td>
<td>CEO</td>
<td>N</td>
<td>CEO</td>
<td>CEO</td>
<td>CEO</td>
<td>CEO</td>
<td>CEO</td>
</tr>
<tr>
<td>Private Sewage disposal systems for allowed uses</td>
<td>LPI</td>
<td>N</td>
<td>LPI</td>
<td>LPI</td>
<td>LPI</td>
<td>LPI</td>
<td>LPI</td>
</tr>
<tr>
<td>Essential services</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>A. Roadside distribution lines (34.5kV and lower)</td>
<td>PB⁶</td>
<td>PB⁶</td>
<td>PB³</td>
<td>PB³</td>
<td>PB³</td>
<td>PB³</td>
<td>CEO</td>
</tr>
<tr>
<td>B. Non-Roadside or cross country distribution lines involving ten poles or less in the shoreland zone</td>
<td>PB³</td>
<td>CEO</td>
<td>CEO</td>
<td>CEO</td>
<td>CEO</td>
<td>CEO</td>
<td>CEO</td>
</tr>
<tr>
<td>C. Non-roadside or cross country distribution lines involving eleven or more poles in the shoreland zone</td>
<td>PB³</td>
<td>CEO</td>
<td>PB³</td>
<td>PB³</td>
<td>PB³</td>
<td>PB³</td>
<td>CEO</td>
</tr>
<tr>
<td>D. other essential services</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Service drops, as defined, to allowed uses</td>
<td>Y</td>
<td>Y</td>
<td>Y</td>
<td>Y</td>
<td>Y</td>
<td>Y</td>
<td>Y</td>
</tr>
<tr>
<td>Public and private recreational areas involving minimal structural development</td>
<td>PB</td>
<td>PB</td>
<td>N</td>
<td>PB</td>
<td>PB</td>
<td>PB</td>
<td>CEO</td>
</tr>
<tr>
<td>Individual private campsites</td>
<td>CEO</td>
<td>CEO</td>
<td>CEO</td>
<td>CEO</td>
<td>CEO</td>
<td>CEO</td>
<td>Y</td>
</tr>
<tr>
<td>Campgrounds</td>
<td>N</td>
<td>N</td>
<td>N</td>
<td>N</td>
<td>N</td>
<td>N</td>
<td>CEO</td>
</tr>
<tr>
<td>Road Construction</td>
<td>PB</td>
<td>N⁸</td>
<td>PB</td>
<td>PB</td>
<td>PB⁵</td>
<td>PB</td>
<td>Y</td>
</tr>
<tr>
<td>Parking facilities</td>
<td>N</td>
<td>N⁴</td>
<td>N</td>
<td>PB</td>
<td>PB⁵</td>
<td>PB</td>
<td>Y</td>
</tr>
<tr>
<td>Marinas</td>
<td>PB</td>
<td>N</td>
<td>N</td>
<td>PB</td>
<td>PB</td>
<td>PB</td>
<td>PB</td>
</tr>
<tr>
<td>Filling &amp; earthmoving less than 10 cubic yards</td>
<td>CEO⁹</td>
<td>CEO⁹</td>
<td>CEO⁹</td>
<td>CEO⁹</td>
<td>CEO⁹</td>
<td>CEO⁹</td>
<td>Y</td>
</tr>
<tr>
<td>Filling &amp; earthmoving more than 10 cubic yards</td>
<td>PB⁹</td>
<td>PB³</td>
<td>CEO⁹</td>
<td>CEO⁹</td>
<td>CEO⁹</td>
<td>CEO⁹</td>
<td>Y</td>
</tr>
<tr>
<td>Signs*</td>
<td>Y</td>
<td>Y</td>
<td>N</td>
<td>Y</td>
<td>Y</td>
<td>CEO</td>
<td>CEO</td>
</tr>
<tr>
<td>Uses similar to allowed uses</td>
<td>CEO</td>
<td>CEO</td>
<td>CEO</td>
<td>CEO</td>
<td>CEO</td>
<td>CEO</td>
<td>CEO</td>
</tr>
<tr>
<td>Uses similar to uses requiring a CEO permit</td>
<td>CEO</td>
<td>CEO</td>
<td>CEO</td>
<td>CEO</td>
<td>CEO</td>
<td>CEO</td>
<td>CEO</td>
</tr>
<tr>
<td>Uses similar to uses requiring a PB permit</td>
<td>PB</td>
<td>PB</td>
<td>PB</td>
<td>PB</td>
<td>PB</td>
<td>PB</td>
<td>PB</td>
</tr>
<tr>
<td>Essential Municipal Services for Sewage Disposal Systems, &amp; Public Toilet Facilities</td>
<td>N</td>
<td>N</td>
<td>N</td>
<td>N</td>
<td>PB</td>
<td>PB</td>
<td>CEO</td>
</tr>
<tr>
<td>Medical Marijuana Dispensary</td>
<td>No</td>
<td>No</td>
<td>No</td>
<td>No</td>
<td>No</td>
<td>No</td>
<td>CSPR¹²,¹⁴</td>
</tr>
<tr>
<td>Methadone Clinic</td>
<td>No</td>
<td>No</td>
<td>No</td>
<td>No</td>
<td>No</td>
<td>No</td>
<td>CSPR¹³,¹⁴</td>
</tr>
</tbody>
</table>

* Subject to specific Land Use Standards, Section 16
A person performing any of the following activities shall require a permit from the Department of Environmental Protection, pursuant to Title 38 MRSA, Section 480-C, if the activity occurs on, in, over or adjacent to any coastal or freshwater 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.

SECTION 15 - TOWN-WIDE LAND USE STANDARDS

A. Building and Land Use Standards - All Areas Outside of the Shoreland Zone:

1. Lot Area: Minimum lot area shall be 40,000 square feet per individual dwelling unit or other principal use. A dwelling unit is defined as a room or group of rooms designed and equipped exclusively for use as living quarters for only one family, including provisions for living, sleeping, cooking, bathing and eating. The term shall include mobile homes but shall not include trailers or recreational vehicles.

2. Setbacks: 60’ setback from the centerline of any public way. Setbacks: Setbacks from property lines shall be 15’ minimum from the back and sides.

3. Frontage: minimum road frontage or lot dimension shall be 100 feet.
4. **Maximum Height:** Maximum building height shall be 34 feet from the median grade to roof top.

5. **Ground Coverage:** Structures shall not cover any more than 30% of the lot.

6. **Parking:** Adequate off-street parking shall be provided for commercial and other uses.

7. **Sanitation:** All subsurface sewage disposal systems and plumbing shall meet the requirements of the State Plumbing Code.

8. **Drainage:** Surface drainage shall be designed to maintain existing conditions on abutting land.

9. **All spreading or disposal of manure shall be accomplished in conformance with the Manure Utilization Guidelines published by the Maine Department of Agriculture, Food and Rural Resources, Nov. 1, 2001, or subsequent revisions.**

10. **Campgrounds shall conform to the minimum requirements imposed under state licensing procedures and the following:**

    1. Campgrounds shall contain a minimum lot area of 5,000 square feet of land, not including roads and driveways, for each site.

11. **The minimum lot area and the minimum road frontage requirement for lots within an approved subdivision may be reduced by the Planning Board to the minimum lot area and the minimum road frontage set forth in the Town's Subdivision Ordinance, for Conservation Subdivisions in exchange for the allocation of required percentage of buildable land area for common or reserved space.**

12. **In the event that the Town's Subdivision Ordinance requires that subdivision plans indicate reserved area for widening or realigning roads, then land reserved for such purposes shall not be included in computing lot areas or setback requirements of the Town's Land Use Ordinance.**

**B. Performance Standards for Medical Marijuana Dispensaries.**

Notwithstanding the provisions of 1 M.R.S.A. § 302 or any other law to the contrary, this Section 15(B), when enacted, shall govern any proposed medical marijuana dispensary for which an application has not been submitted and acted on by the Planning Board prior to April 11, 2011. The following standards apply to all medical marijuana dispensaries:

1. **Location Criteria.** No medical marijuana dispensary shall be sited within 250 feet of the lot lines of any of the following:

   (a) a church, synagogue or other house of religious worship;
   (b) a public or private school;
   (c) a lot used principally for one, two or multi-family residential purposes;
   (d) an athletic field, park, playground or recreational facility;
   (e) any juvenile or adult halfway house, correctional facility,
methadone clinic, or substance abuse rehabilitation or treatment center;
(f) a licensed child care facility; or
(g) a lot on which another medical marijuana dispensary is sited.

The distance cited in this subsection shall be measured between the lot line of the proposed site for the medical marijuana dispensary and the lot line of the site of the use listed in (a) through (g) above at their closest points.

2. Hours of Operation. Medical marijuana dispensaries may be open for business only between the hours of 6:00 a.m. and 6:00 p.m., locally prevailing time.

3. Parking. Medical marijuana dispensaries shall provide adequate on-site parking spaces to meet anticipated peak hour parking needs for employees and visitors.

4. Signage and Advertising. All signage and advertising for a medical marijuana dispensary shall comply with all applicable provisions of the Town of Lincolnville Sign Ordinance. In addition, no signage or advertising shall use the word “marijuana” or “cannabis,” or any other word, phrase or symbol commonly understood to refer to marijuana unless such word, phrase or symbol is immediately preceded by the word “medical” in type and font that is at least as readily discernible as all other words, phrases or symbols on the sign. Such signage and advertising must clearly indicate that the products and services are offered only for medical marijuana qualifying patients and primary caregivers.

5. Security Requirements. Security measures at a medical marijuana dispensary and any associated cultivation facility shall include, at a minimum, the following:

(a) security surveillance cameras installed and operating 24 hours a day, 7 days a week to monitor all entrances, along with the interior and exterior of the premises, to discourage and facilitate the reporting of criminal acts and nuisance activities occurring at the premises;

(b) door and window intrusion robbery and burglary alarm systems with audible and Police Department notification components that are professionally monitored and maintained in good working condition;

(c) a locking safe permanently affixed to the premises that is suitable for storage of all prepared marijuana and cash stored overnight on the licensed premises;

(d) exterior lighting that illuminates the exterior walls of the licensed premises and complies with applicable provisions of this Ordinance; and

(e) deadbolt locks on all exterior doors and locks or bars on any other access points (e.g., windows).
All security recordings shall be preserved for at least seventy-two (72) hours by the medical marijuana dispensary. The medical marijuana dispensary shall provide the Police Chief or his designee with the name and functioning telephone number of a 24-hour on-call staff person to whom the Town may provide notice of any operating problems associated with the medical marijuana dispensary.

6. Fire Safety. All buildings associated with a medical marijuana dispensary, including any associated cultivation facility, shall be protected by use of fire suppression sprinkler systems or such other effective fire suppression system as may be approved by the Fire Chief. A medical marijuana dispensary shall have a Knox Box or shall provide the Fire Department with the necessary information to allow entry by Fire Department personnel in the event of an emergency at the location.

7. Cultivation. If there is both the cultivation and dispensation of marijuana occurring on the same site, the cultivation area shall not be greater than 25% of the total floor area of the portion of the building used for dispensation of marijuana.

8. On-site Consumption of Medical Marijuana. The consumption, ingestion or inhalation of medical marijuana on or within the premises of a medical marijuana dispensary or cultivation facility is prohibited; provided, however, that a medical marijuana dispensary employee who is a qualifying patient, as that term is defined in 22 M.R.S.A. § 2422(9), as may be amended, may consume medical marijuana within the enclosed building area of the premises if such consumption occurs via oral consumption (i.e., eating only). For purposes of this subsection, the term “premises” includes the actual building, as well as any accessory structures, parking lot or parking areas, or other surroundings within 200 feet of the medical marijuana dispensary’s entrance.

9. Visibility of Activities; Control of Emissions; Disposal Plan.

   (a) All activities of medical marijuana dispensaries and cultivation facilities, including, without limitation, cultivating, growing, processing, displaying, selling and storage, shall be conducted indoors in an enclosed, locked facility.

   (b) No marijuana or paraphernalia shall be displayed or kept in a dispensary or cultivation facility so as to be visible from outside the premises.

   (c) Sufficient measures and means of preventing smoke, odors, debris, dust, fluids and other substances from exiting a dispensary or cultivation facility must be provided at all times. Sufficient measures shall be provided for the proper disposal of all such materials, items and other substances in a safe, sanitary and secure manner and in accordance with all applicable federal, state and local laws and regulations.

   (d) All medical marijuana dispensaries shall have in place an operational plan for proper disposal of marijuana and related byproducts.
10. Sale of Edible Products. No food products shall be sold, prepared, produced or assembled by a medical marijuana dispensary except in compliance with all operating and other requirements of state and local law and regulation, including, without limitation, food establishment licensing requirements. Any goods containing marijuana for human consumption shall be stored in a secure area.

11. Other Laws Remain Applicable. A medical marijuana dispensary shall meet all operating and other requirements of state and local law and regulation. To the extent the State of Maine has adopted or adopts in the future any stricter law or regulation governing medical marijuana dispensaries, the stricter law or regulation shall control.

12. Maximum Number. The maximum number of medical marijuana dispensaries in the Town shall be capped at one (1).

C. Performance Standards for Methadone Clinics.

Notwithstanding the provisions of 1 M.R.S.A. § 302 or any other law to the contrary, this Section 15(C), when enacted, shall govern any proposed methadone clinic for which an application has not been submitted and acted on by the Planning Board prior to April 11, 2011. The following standards apply to all methadone clinics:

1. Location Criteria. No methadone clinic shall be sited within 250 feet of the lot lines of any of the following:

   (a) a church, synagogue or other house of religious worship;
   (b) a public or private school;
   (c) a lot used principally for one, two or multi-family residential purposes;
   (d) an athletic field, park, playground or recreational facility;
   (e) any juvenile or adult halfway house, correctional facility, medical marijuana dispensary, or substance abuse rehabilitation or treatment center other than a methadone clinic;
   (f) a licensed child care facility; or
   (g) a lot on which another methadone clinic is sited.

   The distance cited in this subsection shall be measured between the lot line of the proposed site for the methadone clinic and the lot line of the site of the use listed in (a) through (g) above at their closest points.

2. Hours of Operation. Methadone clinics may be open for business only between the hours of 6:00 a.m. and 6:00 p.m., locally prevailing time.

3. Parking. Methadone clinics shall provide adequate on-site parking spaces to meet anticipated peak hour parking needs for employees and visitors.

4. Security Requirements. Security measures at a methadone clinic shall include, at a minimum, the following:

   (a) security surveillance cameras installed and operating 24 hours a day, 7 days a week to monitor all entrances, along with the interior and exterior of the premises, to discourage and facilitate the reporting of criminal acts and nuisance activities occurring at the premises;
(b) door and window intrusion robbery and burglary alarm systems with audible and Police Department notification components that are professionally monitored and maintained in good working condition;

(c) a locking safe permanently affixed to the premises that is suitable for storage of all drugs and cash stored overnight on the licensed premises;

(d) exterior lighting that illuminates the exterior walls of the licensed premises and complies with applicable provisions of this Ordinance; and

(e) deadbolt locks on all exterior doors and locks or bars on any other access points (e.g., windows).

All security recordings shall be preserved for at least seventy-two (72) hours by the methadone clinic. The methadone clinic shall provide the Police Chief or his designee with the name and functioning telephone number of a 24-hour on-call staff person to whom the Town may provide notice of any operating problems associated with the methadone clinic.

5. Fire Safety. All buildings associated with a methadone clinic shall be protected by use of fire suppression sprinkler systems or such other effective fire suppression system as may be approved by the Fire Chief. A methadone clinic shall have a Knox Box or shall provide the Fire Department with the necessary information to allow entry by Fire Department personnel in the event of an emergency at the location.

SECTION 16 – SHORELAND ZONE LAND USE STANDARDS

All land use activities within the Shoreland Zone shall conform with the following provisions, if applicable:

A. Minimum Lot Standards

1. Residential per dwelling unit:

   Minimum Lot Area (square feet) Minimum Shore Frontage (feet)

   a. Within the Shoreland Zone adjacent to tidal areas 40,000 160
   b. Within the Shoreland Zone adjacent to non-tidal areas 40,000 200
   c. In the Resource Conservation District 60,000 240

2. Governmental, Institutional, Commercial or Industrial per principal structure:

   a. Within the Shoreland Zone adjacent to tidal areas exclusive of those areas zoned for Harbor District 60,000 240
b. Within the Shoreland Zone adjacent to non-tidal areas 60,000 300

c. Within the existing Limited Commercial and Harbor Districts of the Shoreland Zone 40,000 160

3. Public and Private Recreational Facilities:

a. Within the Shoreland Zone adjacent to tidal and non-tidal areas 40,000 200

4. Land below the normal high-water line of a water body and right-of-way area serving more than two (2) lots shall not be included toward calculating minimum lot area.

5. In the Shoreland Zone, 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.

6. 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.

7. 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.

8. The minimum lot area requirement for lots within an approved subdivision within the shoreland zone may be reduced by the Planning Board to the minimum lot area set forth in the Town’s Subdivision Ordinance, for conservation subdivisions, in exchange for the allocation of the required percentage of buildable land area for common or reserved open space.

9. In the event that the Town’s Subdivision Ordinance requires that subdivision plans indicate reserved area for widening or realigning roads, then land reserved for such purposes shall not be included in computing land area in the shoreland zone of the Town’s Land Use Ordinance.

B. Principal and Accessory Structures

1. All new principal and accessory structures shall be set back at least one hundred (100) feet from the normal high-water line of great ponds classified GPA and rivers that flow to great ponds classified GPA, and seventy-five (75) feet horizontal distance, from the normal high-water line of other water bodies, tributary streams, or the upland edge of a wetland, except that in areas zoned for Resource Conservation, all new and substantially improved principal and accessory structures shall be setback at least one-hundred fifty
(150) feet from the upland edge of the protected resource. No minimum setback distances in the Resource Conservation District shall be reduced by a variance. In the Harbor District the minimum setback shall be twenty-five (25) feet horizontal distance. In the Resource Protection District the 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. Building setbacks from property lines shall be fifteen (15) feet and building setbacks from the center line of a Town or State way shall be sixty (60) feet except that there shall be no setback requirement from a road or a property line for essential municipal services for sewage disposal systems and public toilet facilities in the Harbor District (HD) and the Limited Commercial District (LC).

b. 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; the waterbody or wetland setback provision set forth in Section 16 (B) (1) shall not apply to essential municipal services for sewage waste disposal systems and public toilet facilities in the Harbor District (HD) and the Limited Commercial District (LC), and the waterbody or wetland setback for such essential municipal services shall be twenty five (25) feet. All principal structures along Significant River Segments as listed in 38 M.R.S.A. section 437, shall be set back a minimum of one hundred and twenty five (125) feet, horizontal distance, from the normal high-water line and shall be screened from the river by existing vegetation. This provision does not apply to structures related to hydropower facilities.

c. For principal structures, water and wetland setback measurements shall be taken from the top of a coastal bluff that has been identified on Coastal Bluff maps as being “highly unstable” or “unstable” by the Maine Geological Survey pursuant to its “Classification of Coastal Bluffs” and published on the most recent Coastal Bluff map. If the applicant and the permitting official(s) are in disagreement as to the specific location of a “highly unstable” or “unstable” bluff, or where the top of the bluff is located, the applicant may at his or her expense, employ a Maine Registered Professional Engineer, a Maine Certified Soil Scientist, a Maine State Geologist, or other qualified individual to make a determination. If agreement is still not reached, the applicant may appeal the matter to the Board of Appeals.

d. On a non-conforming lot of record on which only a residential structure exists, and it is not possible to place an accessory structure meeting the required water body, tributary stream or wetland setbacks, the Code Enforcement Officer may issue a permit to place a single accessory structure, with no utilities, for the storage of yard tools and similar equipment. Such
accessory structure shall not exceed eighty (80) square feet in area nor eight (8) feet in height, and shall be located as far from the shoreline or tributary stream as practical and shall meet all other applicable standards, including lot coverage and vegetation clearing limitations. In no case shall the structure be located closer to the shoreline or tributary stream than the principal structure.

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

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

2. Principal or accessory structures and expansions of existing structures which are permitted in the Resource Protection, Limited Residential, Harbor, Limited Commercial and Stream Protection Districts, shall not exceed thirty-two (32) feet in height. This provision shall not apply to structures such as transmission towers, windmills, antennas, and similar structures having no floor area.

3. All buildings and structures shall conform to the Town of Lincolnville Floodplain Management Ordinance as enacted June 15, 1999 and as amended. The lowest floor elevation or openings of all buildings and structures, including basements, shall be elevated at least one foot above the elevation of the 100 year flood, the flood of record, or in the absence of these, the flood as defined by soil types identified as recent flood-plain soils. In those municipalities that participate in the National Flood Insurance Program and have adopted the April 2005 version, or later version, of the Floodplain Management Ordinance, accessory structures may be placed in accordance with the standards of that ordinance and need not meet the elevation requirements of this paragraph.

4. 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, except in the Harbor District, where lot coverage shall not exceed seventy (70) percent.

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

e. Retaining walls are located outside of the 100-year floodplain on rivers, streams, coastal wetlands, and tributary streams, as designated on the Federal Emergency Management Agency’s (FEMA) Flood Insurance Rate Maps or Flood Hazard Boundary Maps, or the flood of record, or in the absence of these, by soil types identified as recent flood plain soils.

f. The area behind the wall is revegetated with grass, shrubs, trees, or a combination thereof, and no further structural development will occur within the setback area, including patios and decks; and

g. A vegetated buffer area is established within 25 feet, horizontal distance, of the normal high-water line of a water body, tributary stream, or upland edge of a wetland when a natural buffer area does not exist. The buffer area must meet the following characteristics:

(i) The buffer must include shrubs and other woody and herbaceous vegetation. Where natural ground cover is lacking the area must be supplemented with leaf or bark mulch;

(ii) Vegetation plantings must be in quantities sufficient to retard erosion and provide for effective infiltration of stormwater runoff;

(iii) Only native species may be used to establish the buffer area;

(iv) A minimum buffer width of 15 feet, horizontal distance, is required, measured perpendicularly to the normal high-water line or upland edge of a wetland;

(v) A footpath not to exceed the standards in Section 16(P)(2)(a), may traverse the buffer;

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

6. Notwithstanding the requirements stated above, stairways or similar structures may be allowed with a permit from the Code Enforcement Officer, to provide shoreline access in areas of steep slopes or unstable soils provided; that the structure is limited to a maximum of four (4) feet in width; that the structure does not extend below or over the normal high-water line of a water body or upland edge of a wetland, (unless permitted by the Department of Environmental Protection pursuant to the Natural Resources Protection Act, 38 M.R.S.A., section 480-C); and that the applicant demonstrates that no reasonable access alternative exists on the property.
C. Piers, Docks, Wharfs, Bridges and Other Structures and Uses Extending Over or Below the Normal High-Water Line of a Water Body or Within a Wetland.

In addition to Federal or State permits that may be required for such structures and uses, they shall conform to the following:

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 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. In the Harbor and Limited Commercial Districts, structures built on, over or abutting a pier, wharf, dock or other structure extending beyond the normal high-water line of a water body or within a wetland which will obstruct the public view from any point of visual access shall not exceed twelve (12) feet in height above the pier, wharf, dock or other structure.

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

D. Campgrounds

Campgrounds shall conform to the minimum requirements imposed under State licensing procedures and the following:
1. Campgrounds shall contain a minimum of five thousand (5,000) square feet of land, not including roads and driveways, for each site. Land supporting wetland vegetation, and land below the normal high-water line of a water body shall not be included in calculating land area per site.

2. The areas intended for placement of a recreational vehicle, tent or shelter, and utility and service buildings shall be set back a minimum of one hundred (100) feet, horizontal distance from the normal high-water line of a great pond classified GPA or a river flowing to a great pond classified GPA, and seventy-five 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 vehicles 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:
a. Auto washing facilities;
b. Auto or other vehicle service and/or repair operations, including body shops;
c. Chemical and bacteriological laboratories;
d. Storage of chemicals, including herbicides, pesticides or fertilizers other than amounts normally associated with individual households or farms;
e. Commercial painting, wood preserving, and furniture stripping;
f. Dry cleaning establishments;
g. Electrical circuit assembly;
h. Laundromats, unless connected to a sanitary sewer;
i. Metal plating, finishing, or polishing;
j. Petroleum or petroleum product storage and/or sales associated with marinas;
k. Photographic processing; and,
l. Printing.

G. Parking Areas

1. Except for existing parking areas, parking areas shall meet the shoreline and tributary stream setback requirements for structures for the district in which such areas are located, except that in the Harbor District parking areas shall be set back at least twenty-five (25) feet horizontal distance from the shoreline. The setback requirement for parking areas serving public boat launching facilities, in Districts other than the Harbor District shall be no less than fifty (50) feet horizontal distance, from the shoreline or tributary stream if the Planning Board finds that no other reasonable alternative exists further from the shoreline or tributary stream.

2. Parking areas shall be adequately sized for the proposed use and shall be designed to prevent stormwater runoff from flowing directly into a water body, tributary stream or wetland and where feasible, to retain all runoff on-site.

3. In determining the appropriate size of proposed parking facilities, the following shall apply:
   
a. Typical parking space: Approximately ten (10) feet wide and twenty (20) feet long, except that parking spaces for a vehicle and boat trailer shall be forty (40) feet long.

   b. Internal travel aisles: Approximately twenty (20) feet wide.

H. Roads and Driveways

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

1. Roads shall be located, constructed and maintained in such a manner that minimal erosion hazard results. Adequate provisions shall be made to prevent soil erosion and sedimentation of surface waters.

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

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

Section 16(H)(1) does not apply to approaches to water crossings nor 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 16(H)(1) except for that portion of the road or driveway necessary for direct access to the structure.

3. Existing public roads may be expanded within the legal road right-of-way regardless of its setback from a water body, tributary stream or wetland.

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 the 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 16(Q).

6. Road and driveway grades shall be no greater than ten (10) percent.

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 of at least fifty (50) feet plus two times the average slope, in width between the outflow point of the ditch or culvert and the normal high-water line of a water body, tributary stream, or upland edge of a wetland. Surface drainage which is directed to an unscarified buffer strip shall be diffused or
spread out to promote infiltration of the runoff and to minimize channelized flow of the drainage through the buffer strip.

8. Ditch relief (cross drainage) culverts, drainage dips and water turnouts shall be installed in a manner effective in directing drainage onto unscarified buffer strips before the flow gains sufficient volume or head to erode the road, driveway or ditch. To accomplish this, the following shall apply:

a. Ditch relief culverts, drainage dips and associated water turnouts shall be spaced along the road, or driveway at intervals no greater than indicated in the following table:

<table>
<thead>
<tr>
<th>Road Grade (Percent)</th>
<th>Spacing (Feet)</th>
</tr>
</thead>
<tbody>
<tr>
<td>0-2</td>
<td>250</td>
</tr>
<tr>
<td>3-5</td>
<td>200-135</td>
</tr>
<tr>
<td>6-10</td>
<td>100-80</td>
</tr>
<tr>
<td>11-15</td>
<td>80-60</td>
</tr>
</tbody>
</table>

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

c. 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, and Limited Residential, and Limited Commercial Districts:

1. Signs relating to goods and services sold on the premises shall be allowed, provided that such signs shall not exceed six (6) square feet in area and shall not exceed two (2) signs per premises. In the Limited Commercial District, however, such signs shall not exceed sixteen (16) square feet in area. Signs relating to goods or services not sold or rendered on the premises shall be prohibited.

2. Name signs are allowed, provided such signs shall not exceed two (2) signs per premises, and shall not exceed twelve (12) square feet in the aggregate.

3. Residential users may display a single sign not over three (3) square feet in area relating to the sale, rental, or lease of the premises.

4. Signs relating to trespassing and hunting shall be allowed without restriction as to number provided that no such sign shall exceed two (2) square feet in area.
5. Signs relating to public safety shall be allowed without restriction.

6. No sign shall be allowed within thirty-three (33) feet of the centerline of any public way if the highway is less than sixty-six (66) feet in width.

7. No sign shall extend higher than twenty (20) feet above the ground.

8. No sign shall be allowed within the full width of the right-of-way of any public way.

9. Signs may be illuminated only by shielded, non-flashing lights.

J. Storm Water Runoff

1. All new construction and development shall be designed to minimize storm water runoff from the site in excess of the natural predevelopment conditions. Where possible, existing natural runoff control features, such as berms, swales, terraces and wooded areas shall be retained in order to reduce runoff and encourage infiltration of stormwaters.

2. Storm water runoff control systems shall be maintained as necessary to ensure proper functioning.

K. Septic Waste Disposal

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

   a. clearing or removal of woody vegetation necessary to site a new system and any associated fill extensions, shall not extend closer than seventy-five (75) feet, horizontal distance, from the normal high-water line of a water body or the upland edge of a wetland and;

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

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

L. Essential Services

1. Where feasible, the installation of essential services shall be limited to existing public ways and existing service corridors.

2. The installation of essential services, other than road-side distribution lines is not allowed in Resource Protection, Resource Conservation, 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, so as 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 16(M)(3) below.

2. No part of any extraction operation, including drainage and runoff control features shall be allowed within one hundred (100) feet, horizontal distance of the normal high-water line of a great pond classified GPA or a river flowing to a great pond classified GPA, and within seventy-five (75) feet, horizontal distance of the normal high-water line of any other water body, tributary stream, or the upland edge of a wetland. Extraction operations shall not be permitted within fifty (50) feet horizontal distance of any property line, without written permission of the owner of such adjacent property.

3. 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.
4. In keeping with the purposes of this Ordinance, the Planning Board may impose such conditions as are necessary to minimize the adverse impacts associated with mineral extraction operations on surrounding uses and resources.

N. Agriculture

1. All spreading of manure shall be accomplished in conformance with the "Manure Utilization Guidelines" published by the Maine Department of Agriculture on November 1, 2001, and the Nutrient Management Law (7M.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 250-foot shoreland zone must be constructed or modified such that the facility produces no discharge of effluent or contaminated stormwater.

3. Agricultural activities involving tillage of soil greater than forty-thousand (40,000) square feet in surface area, or spreading, disposal or storage of manure within the shoreland zone shall require a Soil and Water 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 for agricultural activities greater than forty-thousand (40,000) square feet within one-hundred (100) feet, horizontal distance, of the normal high-water line of a great pond classified GPA; within seventy-five (75) feet, horizontal distance, from other water bodies and coastal wetlands; nor within twenty-five (25) feet, horizontal distance, of tributary streams, and freshwater wetlands. Operations in existence on the effective date of this Ordinance and not in conformance with this provision may be maintained.

5. Newly established livestock grazing areas shall not be permitted within one hundred (100) feet, horizontal distance, of the normal high-water line of a great pond classified GPA; within seventy-five (75) feet, horizontal distance of other water bodies and coastal wetlands, nor; within twenty-five (25) feet, horizontal distance, of tributary streams, and 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 Soil and Water 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 seventy-five (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 1/2 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 16(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 1/2 inches in diameter at 4 1/2 feet above ground level be reduced to less than 30 square feet per acre.

2. Except in areas as described in Section 16(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:

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 (5,000) 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, log yards, 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 the upland edge of a wetland.

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. Within areas zoned for Resource Conservation, there shall be no cutting of vegetation within a strip of land extending one-hundred (100) horizontal feet inland from the upland edge of the protected resource.

Elsewhere, in any Resource Protection District the cutting and 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 16(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 area as determined by the following rating system:

<table>
<thead>
<tr>
<th>Diameter of Tree at 4 1/2 feet Above Ground Level (inches)</th>
<th>Points</th>
</tr>
</thead>
<tbody>
<tr>
<td>2 -&lt;4 in</td>
<td>1</td>
</tr>
<tr>
<td>4&lt; - 8 in</td>
<td>2</td>
</tr>
<tr>
<td>8&lt; - 12 in</td>
<td>4</td>
</tr>
<tr>
<td>12 in or greater</td>
<td>8</td>
</tr>
</tbody>
</table>

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: (4x1)+(2x2)+(3x 4)+(2x8)=36points. Thus, the 25-foot by 50-foot plot contains trees worth 21 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 this Ordinance;

(v) Where conditions permit, no more than 50% of the points on any 25-foot by 50-foot rectangular area may consist of trees greater than 12 inches in diameter.

For the purposes of Section 16(P)(2)(b) “other natural vegetation” is defined as retaining existing vegetation under three (3) feet in height and other ground cover and retaining at least five (5) saplings less than two (2) inches in diameter at four and one half (4 ½) feet above ground level for each 25-foot by 50-foot rectangle area. If five saplings do not exist, no woody stems less than two (2) inches in diameter can be removed until 5 saplings have been recruited into the plot.

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

c. In order to protect water quality and wildlife habitat, existing vegetation under three (3) feet in height and other ground cover, including leaf litter and forest duff layer shall not be cut, covered, or removed, except to provide for a footpath or other permitted uses as described in Section 16(P) paragraphs 2 and 2a. above.

d. Pruning of tree branches, on the bottom 1/3 (one-third) 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 16(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.

2. 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.
3. 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 Harbor District.

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 16 (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.

   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 ripsaw, 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. Drainage ways 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 rip rap.

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.

T. Archaeological Sites

Any proposed land use activity involving structural development or soil disturbance on or adjacent to sites listed on, or eligible to be listed on the National Register of Historic Places, as determined by the permitting authority shall be submitted by the applicant to the Maine Historic Preservation Commission for review and comment, at least twenty (20) days prior to action being taken by the permitting authority. The permitting authority shall consider comments received from the Commission prior to rendering a decision on the application.

SECTION 17 - ACCESS MANAGEMENT STANDARDS

A. Access Permit Required (Route 1 and Route 52 only)

The Access Management provisions set forth in this ordinance are intended to guide new development along U.S. Route 1 and Route 52 in a manner that will ensure that those roads retain their capacity to handle traffic, are maintained as safe, efficient and adequate regional arterial routes.
In order to provide municipal oversight over driveways and other access ways which connect or intersect with Route 1 or Route 52 and avoid costs resulting from improper installation, an Access Permit is required from the Lincolnville Planning Board prior to the construction, installation, relocation or establishment of a driveway, road or other access way into a site. Permits must be approved when the proposed use complies with the standards set forth below.

In addition, a driveway permit is required from the Maine Department of Transportation, and even a person with a single-family residence must obtain such a permit.

Annually, no later than July 1 of each year, the Board of Selectmen shall adopt a fee schedule for the access permit following a review of the fee schedule recommended by the Lincolnville Planning Board.

B. Traffic Access - Single Family Dwellings and Duplexes (Route 1 and Route 52 only).

The following standards apply to driveways for single-family and two-family dwellings which are established with a connection or intersection with Route 1 and which are established after the June 15, 1999 Town Meeting; or with a connection or intersection with Route 52 which are established after the June 13, 2000, Town Meeting.

1. One Entrance Per Lot. In order to minimize traffic congestion and conflict no more than one entrance per lot providing direct access onto Route 1 or Route 52 is permitted. The Planning Board shall have the authority to allow a separate entrance and exit for one driveway per lot in the event that the Planning Board determines that a separate entrance and exit are required to meet reasonable safety concerns which arise from a single entrance per lot providing direct access onto Route 1 or Route 52.

2. Shared Driveways. Owners of adjacent properties are encouraged to construct shared driveways. Road frontage requirements, as referenced in Lincolnville's Land Use Ordinance, may be reduced by 10% when abutting property owners share one driveway.

3. Turn-Around Area. Driveways shall be designed with sufficient on-site turn-around area on the lot to enable a driver to exit the premises without backing onto a public right-of-way.

4. Width of Driveways. The traveled portion of such driveways must be no greater than eighteen (18) feet in width.

5. Turning Safety. Points of access and egress must be located to avoid hazardous conflicts with existing turning movements and traffic flows.

6. Angles. In order to minimize turning time and driver confusion, driveways which permit traffic flow for ingress and egress must intersect the road at an angle of or as near to ninety (90) degrees as site conditions will permit and in no case less than sixty (60) degrees. Driveways which permit one-way access for ingress only or egress only shall form an angle of at least sixty (60) degrees with Route 1 or Route 52.
7. Corner Lots. Where a lot has frontage on two (2) or more roads, the primary access to and egress from the lot must be provided to the road where the Planning Board determines there is less potential for traffic congestion and for traffic and pedestrian hazards. Access from other streets may be provided if it is safe and does not promote short-cutting through the site.

8. Driveway Spacing. In order to minimize traffic accidents resulting from turning vehicles, the minimum distance between driveways must be seventy-five (75) feet measured from the centerlines of the driveways at the right-of-way line. This standard applies to driveways on the same lot or on adjoining lots. The Planning Board may reduce this requirement when the requirement cannot be met because of driveway location on adjacent lot(s) or because of topographic or other on-site conditions. Shared driveways are exempt from the driveway spacing requirement.

9. Minimum Setback from Intersections. Driveway and road entrances/exits must be located at least seventy-five (75) feet from the closest unsignalized intersection of Route 1 or Route 52 and another public road, and at least one hundred fifty (150) feet from the closest signalized intersection of Route 1 or Route 52 and another public road. The Planning Board may reduce this requirement if the shape of the site does not allow conformity with this standard.

Example:

C. Traffic Access- Commercial, Multi-Family, Subdivisions, and All Other Uses (Route 1 Route 52 only)

The following standards apply to the connection or intersection of driveways and other access ways with Route 1 which are established after June 15, 1999, or with Route 52, which are established after June 13, 2000 Town Meeting for commercial uses, multi-family residential dwellings, subdivisions, and all other non-residential uses which require access to Route 1 or Route 52.

1. Access into the Site

   a. Safe Intersection Sight Distance. Unless otherwise specified by the Maine Department of Transportation, any driveway or road must be located and designed so as to provide, to the maximum extent possible, a safe sight distance, as follows in the table below:
<table>
<thead>
<tr>
<th>Posted Speed Limit in Mile per Hour</th>
<th>Minimum Sight Distance In Feet</th>
</tr>
</thead>
<tbody>
<tr>
<td>20</td>
<td>155</td>
</tr>
<tr>
<td>25</td>
<td>200</td>
</tr>
<tr>
<td>30</td>
<td>250</td>
</tr>
<tr>
<td>35</td>
<td>305</td>
</tr>
<tr>
<td>40</td>
<td>360</td>
</tr>
<tr>
<td>45</td>
<td>425</td>
</tr>
<tr>
<td>50</td>
<td>495</td>
</tr>
<tr>
<td>55</td>
<td>570</td>
</tr>
</tbody>
</table>

Sight distance is measured from the driver's seat of a vehicle that is ten (10) feet behind the curb line (or edge of shoulder) with the height of driver's eye three and one-half (3.5) feet above the pavement and height of an object four and one-quarter (4.25) feet above the pavement, as seen by the driver. For example, an object may be an oncoming car, a bicycle, or a jogger.

b. The intersection of any driveway or proposed street must function:

1. Adequately so that appropriate turning radii are provided to prevent tractor-trailer service vehicles or other large vehicles (buses, recreational vehicles, etc.) from encroaching into the opposing lane of travel where traffic is expected.

2. Adequately without creating excessive delay to thru traffic on Route 1 or Route 52. Auxiliary turning lanes shall be installed where it is essential for public safety as determined by the Planning Board.

c. Angles. In order to minimize turning time and driver confusion, driveways which permit traffic flow for ingress and egress must intersect the road at an angle of or as near to ninety (90) degrees as site conditions will permit and in no case less than sixty (60) degrees. Driveways which permit one-way access for ingress only or egress only shall form an angle of at least sixty (60) degrees with Route 1 or Route 52.

d. Grades. Steep grades can cause accidents and create icy conditions on public roads. For driveways and proposed streets, the maximum grade is three percent (3%) for the first forty-five (45) feet from the edge of the existing road.

e. Turn-Around Area. Driveways must be designed with sufficient on site turn-around area on the lot to enable a driver to exit the premises without backing onto a public right-of-way.

f. Corner Lots. Where a lot has frontage on two (2) or more roads, the primary access to and egress from the lot must be provided to the road where the Planning Board determines there is less potential for traffic congestion and for traffic and pedestrian hazards. Access from other streets may be provided if it is safe and does not promote shortcutting through the site.

g. Number and Width of Driveways. Unchecked driveway construction along Route 1 and Route 52 creates traffic hazards and increases congestion. The following criteria shall be used to limit the number of driveways intersecting or connecting with Route 1 or Route 52
which serve a lot:

1. Uses on lots which generate less than one hundred (100) vehicle trips per day are limited to one (1) driveway intersecting or connecting with Route 1 or Route 52 for a driveway which permits access for ingress and egress from that lot. The traveled portion of such driveways must be no greater than twenty-four (24) feet in width.

2. Uses on lots which generate one hundred (100) or more vehicle trips per day on a lot which has a minimum frontage of no less than three hundred (300) feet may have a maximum of two (2) driveways for ingress and egress onto Route 1 or Route 52. The combined width of the traveled portion of all access ways must not exceed forty-eight (48) feet in width.

h. Parking Lot Access. So as to minimize traffic conflicts, no parking lot or portion of a parking lot may be directly accessible from any public way. Ingress to and egress from parking areas must be limited to driveway entrances.

2. Driveway Location and Spacing

a. 1. Driveway Spacing. In order to minimize traffic accidents resulting from turning vehicles, the minimum distance between driveways must be seventy-five (75) feet measured from the centerlines of the driveways at the right-of-way line. This standard applies to driveways on the same lot or on adjoining lots. The Planning Board may reduce this requirement when the requirement cannot be met because of driveway location on adjacent lot(s) or because of topographic or other on-site conditions. Shared driveways are exempt from the driveway spacing requirement.

b. Minimum Setback from Intersections. Driveway and road entrances/exits must be located at least seventy-five (75) feet from the closest unsignalized intersection of Route 1 or Route 52 and another public road, and at least one hundred fifty (150) feet from the closest signalized intersection of Route 1 or Route 52 and another public road.

The Planning Board shall reduce this requirement if the shape of the site does not allow conformity with this standard.

Example:
c. Subdivision Access. In order to minimize future road congestion and avoid traffic conflicts, in the event that a proposed subdivision subject to the provisions of the Subdivision Ordinance of the Town of Lincolnville or subject to the provisions of Title 30-A M.R.S.A. Sections 4401-4407, has access to Route 1 or Route 52 the following provisions and restrictions shall apply.

1. Permitted Access. Access to the development shall be limited to one of the following:

   a. One driveway leading to a common frontage road running parallel to Route 1 or Route 52. The sideline of such common frontage road closest to the sideline of Route 1 or Route 52 shall be at least fifty (50) feet from the nearest sideline of Route 1 or Route 52.
   b. A common driveway, which shall intersect Route 1 or Route 52 and which serves the individual lots or businesses or a common parking lot adjacent to the individual lots or businesses; or
   c. One or more minor roads, to be constructed by the developer, to serve the development.

2. Direct access from Route 1 or Route 52 to any individual lot is not permitted unless the Planning Board grants a waiver after finding that one or more of the following conditions is met:

   a. Existing road frontage does not conform to the Land Use Ordinance standards;
   b. The shape or physical condition of the parcel does not permit access to or creation of a street other than Route 1 or Route 52.

3. On-Site Vehicle Circulation

   a. Truck Loading/Unloading. In order to minimize traffic back-ups caused by parked delivery vehicles, non-residential uses that will be served by delivery vehicles must provide a clear route for such vehicles with appropriate design to allow for on-site turning and backing.

   b. Emergency Vehicle Access. For public health and safety purposes, clear routes of access must be provided and maintained for emergency vehicles to and around buildings and must be posted with appropriate signage (e.g., fire lane - no parking).

   c. Loading Docks. Loading docks must not be located on any street frontage. Provision for handling all freight must be on those sides of any buildings which do not face on any street or proposed streets.

   d. Inter-Connections. For all uses, provisions for vehicular connections to existing or future uses on adjacent properties are encouraged wherever feasible and to the maximum extent possible so as to minimize the traffic exit/enter movements.
D. Definitions

For the purposes of these standards the following definitions shall apply:

1. Driveway - A one-way or two-way entrance or exit used by vehicular traffic to access property abutting a highway. As used in this ordinance, the term includes private residential driveways as well as commercial and other non-residential driveways.

2. Entrance (curb cut) - The point at which a driveway or road intersects with a public road.

3. Parking lot - An area with more than two parking spaces and enough space for the vehicles that ordinarily use that area to turn around.

4. Use; The purpose for which land or a building is arranged, designed, or intended, or for which either land or a building is or may be occupied or maintained.

SECTION 18 - COMMERCIAL SITE PLAN REVIEW ORDINANCE

Section 1. Purpose, Intent, Conflict, and Severability

1.1 Purpose:

- To provide municipal review of commercial projects and their impact on the community.
- To provide a thorough review of major impact projects and expedite review for minor projects.

1.2 Statement of Intent:

The site plan review provisions set forth in this (ordinance) (section) are intended to protect the public health and safety, promote the general welfare of the community, and conserve and protect the environment by assuring that nonresidential and multifamily construction is designed and developed in a manner which assures that adequate provisions are made for traffic safety; emergency access; water supply; sewage disposal; management of storm water, erosion, and sedimentation; protection of the groundwater; wildlife habitat, fisheries, and unique natural areas; protecting historic and archaeological resources; conserving the Town's natural beauty and visual character, minimizing the adverse impacts on adjacent properties; and fitting the project harmoniously into the fabric of the community.

1.3 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, the more restrictive provision shall control.

1.4 Severability:

The invalidity of any section of this ordinance shall not be held to invalidate any other section or provision of this ordinance.
Section 2: Activities Requiring Site Plan Review

2.1 Except as set forth in Section 2.2 below, a person who has right, title, or interest in a parcel of land or their representative must obtain site plan approval before obtaining a building or plumbing permit, undertaking any alteration or improvement of the site including grubbing or grading, or prior to commencing any of the following:

a. The construction or placement of any new building or structure for a nonresidential use including accessory buildings and structures.

b. The expansion of an existing nonresidential building or structure including accessory buildings that increases the total floor area.

c. The conversion of an existing building, in whole or in part, from a residential use to a nonresidential use.

d. The establishment of a new nonresidential use even if no buildings or structures are proposed, including uses such as gravel pits, cemeteries, golf courses, campgrounds, junkyards, and other nonstructural nonresidential uses.

e. The conversion of an existing nonresidential use, in whole or in part, to another nonresidential use on a site that has not been reviewed under Sections 11, 12 and 13 of the Commercial Site Plan Review Ordinance.

The Landowner will be asked to appear before the Planning Board to request a determination of whether or not the proposed use requires full Site Plan Review. In reaching this determination the Board shall consider:

i. the size of the proposed use compared with surrounding uses;

ii. the intensity of the proposed use, including amount and type of traffic to be generated, hours of operation, expanse of pavement, and similar measures of intensity of use, compared with surrounding uses;

iii. the potential for generation of noise, dust, odor, vibration, glare, smoke, litter, and other nuisances;

iv. unusual physical characteristics of the site, including size of the lot, shape of the lot, topography, and soils, which may tend to aggravate adverse impacts upon surrounding properties;

v. potential for increased impact on the environment;

vi. the ability of traffic to safely move into and out of the site at the proposed location;

vii. the presence of facilities to assure the safety of pedestrians;
viii. the capacity of neighborhood streets and roads to accommodate the proposed level of use;

ix. adequacy of the storm drainage system to accommodate the proposed use.

f. The conversion of an existing nonresidential use, in whole or in part, to another nonresidential use on a site that is part of an Approved Site Plan. (See Section 16.2, Amendments to Approved Plans, which applies here.)

g. The modification or expansion of an existing residential structure that increases the number of dwelling units in the structure by two (2) or more in any five (5) year period.

h. The conversion of an existing nonresidential building or structure, in whole or in part, into three (3) or more dwelling units within a five (5) year period.

i. The construction or expansion of any surfaced area, including walkways, access drives, and parking lots involving an area of more than 5,000 square feet within any three (3) year period.

j. The removal from or movement within a lot of more than 50 cubic yards of material.

k. The addition of more than 150 cubic yards of material.

2.2 Activities Not Requiring Site Plan Review:

The following activities shall not require site plan approval. Certain activities will, however, require the owner to obtain a building permit, plumbing permit, or other state or local approvals, including permits, which are required by other Town ordinances.

a. The construction, alteration, or enlargement of a single family or two-family dwelling, including accessory buildings and structures.

b. The placement, alteration, or enlargement of a single manufactured house or mobile home dwelling, including accessory buildings and structures, on individually owned lots which are not part of a mobile home park.

c. Agricultural activities, including agricultural buildings and structures.

d. Timber harvesting and forest management activities.

e. Storage of a commercial fishing boat and related gear.

f. The establishment and modification of home occupations.
Section 3: Administration and Enforcement:

The Planning Board shall be responsible for administering the provisions for site plan review including interpreting the provision hereof. The Code Enforcement Officer (CEO) shall interpret the ordinance for purposes of enforcement of the ordinance and to make preliminary classifications as set forth in Section 6 below.

It shall be the duty of the CEO or their agent to enforce the provisions of this ordinance. If the CEO or their agent shall find that any provision of this ordinance is being violated, the CEO shall notify in writing the person responsible for such violation, indicating the nature of the violation and ordering the action necessary to correct it. The CEO shall order discontinuance of illegal use of buildings, structures, additions, or work being done, or shall take any other action authorized by this ordinance to ensure compliance with or to prevent violation of its provisions.

The CEO is hereby authorized upon approval by the Board of Selectmen to institute or cause to be instituted, in the name of the municipality, any and all actions, legal or equitable, that may be appropriate or necessary for the enforcement of this ordinance.

Any person, firm, or corporation being the owner of or having control or use of any building or premises who violates any of the provisions of this ordinance, shall be fined in accordance with Title 30-A, MRSA, Section 4452. Each day such a violation is permitted to exist after notification shall constitute a separate offense. The municipal officers, or their authorized agent, are hereby authorized to enter into administrative consent agreements for the purpose of eliminating violations of this Ordinance and recovering fines without court action. Such agreements shall not allow an illegal structure or use to continue unless there is clear and convincing evidence that the illegal structure or use was constructed or conducted as a direct result of erroneous advice given by an authorized municipal official and there is no evidence that the owner acted in bad faith or, unless the removal of the structure or use will result in a threat or hazard to public health and safety or will result in substantial environmental damage.

Section 4: Interpretation of the Commercial Site Plan Review Ordinance

The Code Enforcement Officer (CEO) and/or Planning Board shall be responsible for administering the provisions of this ordinance including interpreting the provisions hereof.

Any person, who believes that the Planning Board has made an error in the interpretation or application of the provisions for site plan review, may appeal such determination to the Board of Appeals as an administrative appeal. If the Board of Appeals finds that the Planning Board erred in the interpretation of the this ordinance, it shall modify or reverse the action accordingly.

Section 5: Review and Approval Authority

The Planning Board is authorized to review and act on all site plans. In considering site plans under this section, the Planning Board may act to approve, disapprove, or approve with conditions.
Section 6: Classification of Projects

The CEO shall assign each project a preliminary classification of major or minor development and the Planning Board shall make a final ruling. Minor developments are smaller scale, less complex projects for which a less complex review process is adequate to protect the Town's interest. Major developments are larger, more complex projects for which a more detailed review process and additional information are necessary.

6.1 Minor Developments shall include those projects involving the construction or addition of less than four thousand (4,000) square feet of gross nonresidential floor area or projects involving only the installation of impervious surfaces, or projects involving the creation of fewer than three (3) dwelling units in a five (5) year period, or projects involving the conversion, from one use to another without enlargement of the gross floor area.

6.2 Major Developments shall include projects involving the construction or addition of four thousand (4,000) or more square feet of gross nonresidential floor area, or projects involving the creation of three (3) or more dwelling units in a five (5) year period, or other projects requiring review which are not classified as minor development, including projects that have the potential to generate more than fifty (50) vehicle trips per peak hour or four hundred (400) trips per day, sites with poor soil conditions or extensive wetlands, or sites with a slope of twenty (20) degrees or greater, and projects requiring a parking lot for twenty (20) or more vehicles.

6.3 An applicant may request that the CEO classify an application on a preliminary basis prior to its submission. In this case, the applicant must make a written request for a classification. This request must include the following information:

a. The name and address of the record owner and the applicant and the applicant's legal interest in the property.

b. The location of the project, including the tax map and lot number.

c. A brief description of the proposed activities in such detail as to allow a classification to be made.

6.4 Within ten (10) working days of the receipt of a site plan application or a request for a classification, the CEO shall notify the applicant, and the Chair of the Planning Board of the classification of the project in writing.

6.5 If the applicant believes that the CEO erred in the classification of the project, they may appeal the classification to the Planning Board. The appeal must occur within ten (10) working days of the date of the CEO's determination and must be in writing. The appeal must set out the reasons that the petitioner believes that the application is misclassified. Within thirty (30) days of receiving an appeal, if the Planning Board finds that the CEO erred in classifying the project, the Planning Board shall
direct the CEO to reclassify, and shall so notify the petitioner(s) in writing.

When the CEO or Planning Board has classified a project based upon a request for classification rather than an application, the subsequent application must be consistent with the activities described in the request for classification. The CEO shall review such application to determine if the classification is still correct and may reclassify the application if the scope of activities has been changed.

Section 7: Procedures

7.1 Review Procedures

The Planning Board shall use the following procedures in reviewing applications for site plan review:

7.2 Preapplication

Prior to submitting a formal application, for a minor project, the applicant or their representative may request a preapplication conference with the Planning Board. A preapplication conference is required for all major projects. The preapplication conference shall be informal and informational in nature. There shall be no fee for a preapplication review, and such review shall not cause the plan to be a pending application or proceeding under Title 1 M.R.S.A. Sec 302. No decision on the substance of the plan shall be made at the preapplication conference.

a. Purpose

The purposes of the preapplication conference are to:

1. Allow the Planning Board to understand the nature of the proposed use and the issues involved in the proposal.

2. Allow the applicant to understand the development review process and required submissions.

3. Identify issues and potential conflicts (e.g., technical, procedural, environmental, etc.) that need to be addressed in future submissions.

4. Make the applicant aware of any opportunities for coordinating the development with community policies, programs, or facilities.

5. Identify potential conflicts with abutters and neighbors.

b. Information required for a preapplication

For a major project the following information is required for a preapplication conference. For a minor project there are no formal submission requirements. However, the applicant should be prepared to discuss the following with the Board.
1. The proposed site, including its location, size, and general characteristics.

2. The nature of the proposed use and potential development.

3. Any issues or questions about existing municipal regulations and their applicability to the project.

4. Any requests for waivers from the submission requirements.

5. Site inventory as described under submission requirements.

6. In addition, the Board may schedule a site inspection in accordance with subsection 7.3g if deemed necessary and resolve any requests for waivers and variations from the submission requirements.

7.3 Application Submission and Review Procedures

The applicant shall prepare and submit a completed site plan review application, including the development plan and supporting documentation that meets the submission requirements set forth below. This application material shall be delivered to the Code Enforcement Officer along with established fees. The application will then be submitted to the Planning Board.

a. The Planning Board shall give to the applicant written notice of the date, time, and place of the meeting at which the application will be considered. This notice shall be posted and advertised, no later than two (2) weeks prior to said consideration.

b. Applicant shall give written notice of date, time and place of meeting to abutting property owners and anyone within five hundred (500) feet of the property as shown on the most recent tax records, and parties who have filed a notice of interest. Notice shall be by certified mail, return receipt requested. Applicant shall provide as evidence of said mailing the receipts to the CEO. This notice shall indicate the time, date, and place of the Planning Board consideration of the application. The review will not take place until this requirement is met.

c. The Town Clerk shall provide notice of the pending application to the Selectmen, Town Administrator, Fire Chief, Police Chief, Road Commissioner, and interested parties who file their interest in writing to the Planning Board.

d. At the first meeting at which the application is considered, the Planning Board shall give a dated receipt to the applicant.

e. Within thirty (30) days of the receipt of a formal site plan review application for minor projects, or within 60 days for major projects, the Planning Board shall review the material and determine whether or not the submission is complete.
f. If the application is determined to be incomplete, the Board shall notify the applicant in writing of this finding, shall specify the additional materials required to make the application complete and shall advise the applicant that the application will not be considered by the Board until the additional information is submitted. These steps, except the notification requirements, shall be repeated until the application is found to be complete.

g. The Planning Board may hold an on-site inspection of the site to review the existing conditions; field verify the information submitted and investigate the development proposal. The Board may schedule this visit either before or after the first meeting at which the application is considered. The Board may decide not to hold an on-site inspection when the site is snow covered. If an application is pending during a period when there is snow cover, the deadline by which the Planning Board shall take final action on the application as specified in 7.3 (k) may be extended, which extension shall not exceed thirty (30) days after the Board is able to conduct an on-site inspection. Written notice of the on-site inspection shall be provided to all parties entitled to notice under subsection (c).

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

i. The Planning Board may require that an expert consultant or consultants review one or more submissions of an application and report as to compliance or noncompliance with this ordinance and, advice if necessary, of procedures, which will result in compliance. The consultant shall estimate the cost of such review and the applicant shall deposit with the Town the full estimated cost, which the Town shall place in a technical review escrow account. The Town shall pay the consultant from the escrow account and reimburse the applicant if funds remain after payments are completed. The consultants shall be fully qualified to provide the required information and shall be mutually acceptable to the Town and the applicant. The escrow account level shall not fall below 50% of the original deposit until site plan approval has occurred. After site plan approval, any unexpended funds in the escrow account shall be returned to the applicant.

j. As soon as the Board determines that the application is complete, the Board shall notify the applicant in writing of this finding, meet the notification requirements of subsection (k) below, and shall place the item on the agenda for substantive review within thirty (30) days of this finding.

k. The Planning Board shall take final action on said application within thirty (30) days for minor projects, and sixty (60) days for major projects after determining that the application is complete. For major projects, when the Planning Board finds that the Board may need further technical assistance, the deadline by which the Planning Board shall take final action on the application may be extended, which extension shall not
exceed thirty (30) days after the Planning Board has reviewed the additional technical information. The Board shall act to deny, to approve, or to approve the application with conditions. The Board may impose such conditions as are deemed advisable to assure compliance with the standards of approval.

l. In issuing its decision, the Planning Board shall make written findings of fact establishing that the proposed development does or does not meet the standards of approval and other requirements of the Town. The Planning Board shall notify the applicant and all officials who received notice under (c) and all parties who requested to be notified of the action of the Board, including the findings of fact, and any conditions of approval. This requirement can be met through the distribution of minutes of the meeting containing the findings of fact and decision of the Board.

m. Town officials shall have access to the site at all times to review the progress of the work and shall have the authority to

All time limits provided for in this section may be extended by mutual agreement of the applicant and Planning Board.

Section 8:

8.1 Final Approval and Filing

a. Upon completion of the formal application requirements of this Section and an approval vote by the majority of the Planning Board, the application shall be deemed to have final approval and the site plan shall be signed by a majority of the members of the Board and filed with the Code Enforcement Officer.

b. For multi-family housing, one copy of the approved site plan must be recorded in the Waldo County Registry of Deeds within thirty (30) days of approval and the book and page number provided to the CEO. Failure to record the plan within thirty (30) days shall void the approval. The Planning Board may extend this period for cause.

8.2 Incorporation of Approved Plan

One copy of the approved site plan must be included with the application for the building permit for the project and all construction activities must conform to the approved plan, including any conditions of approval and minor changes approved by the Code Enforcement Officer to address field conditions.

Section 9: Fees

9.1 Application Fees

All fees are approved annually by the Board of Selectmen, based upon a recommendation by the Planning Board.

The established fee shall accompany an application for site plan review
approval. This fee is intended to cover the cost of the municipality's administrative processing of the application, including notification, advertising, mailings, and similar costs. The fee shall not be refundable. This application fee shall be paid to the municipality, and evidence of payment of the fee shall be included with the application.

9.2 Technical Review Fee

In addition to the application fee, the applicant for site plan review must pay for all the municipality’s legal and technical costs of the application review.

Section 10: Submission Requirements

Applications for site plan review must be submitted on application forms provided by the municipality. The completed application form, evidence of payment of the required fees, and the required plans and related information must be submitted to the Code Enforcement Officer. The submission must contain at least the following exhibits and information unless specifically waived in writing by the Planning Board.

All applications for site plan review must contain the following information:

a. A fully executed and signed copy of the application for site plan review.

b. Evidence of payment of the application fees.

c. Nine (9) copies of written materials plus nine (9) sets of maps or drawings containing the information listed below. The written materials must be contained in a bound report. The maps or drawings must be at a scale sufficient to allow review of the items listed under the approval standards and criteria, but in no case shall be more than twenty (20) feet to the inch for that portion of the tract of land being proposed for development.

10.1 Waiver of Submission Requirements

a. The Planning Board may modify any of the submission requirements when it determines that because of the size of the project, or circumstances of the site, such requirements would not be applicable, and that such modification or waiver would not adversely affect the abutting landowners or the general health, safety, and welfare of the town.

b. The Planning Board may waive any of the submission requirements based upon a written request of the applicant. Such request must be made at the time of the preapplication conference or at the initial review of the application if no preapplication conference is held.

c. A waiver of any submission requirement may be granted only if the Board makes a written finding that the information is not required to determine compliance with the standards.
10.2 General Information

a. Property owner’s name, address, and phone number and applicant’s name address and phone number, if different.

b. The location of all required building setbacks, and buffers.

c. Names and addresses of all property owners within five hundred (500) feet of any and all property boundaries.

d. The names and addresses of all consultants working on the project.

e. Sketch map showing general location of the site within the municipality based upon a reduction of the tax maps.

f. Boundaries of all contiguous property under the total or partial control of the owner or applicant regardless of whether all or part is being developed at this time.

g. The tax map and lot number of the parcel or parcels on which the project is located.

h. A copy of the deed to the property, an option to purchase the property or other documentation to demonstrate right, title or interest in the property on the part of the applicant.

i. The name, registration number, and seal of the person who prepared the plan, if applicable.

j. Evidence of the applicant’s technical and financial capability to carry out the project as proposed.

10.3 Existing Conditions

a. District classifications(s), including overlay and/or sub- districts, of the property and the location of district boundaries if the property is located in two (2) or more districts or sub- districts or abuts a different district.

b. The bearings and length of all property lines of the property to be developed and the source of this information.

c. Location and size of any existing sewer and water mains, culverts and drains, on-site sewage disposal systems, wells, underground tanks or installations, and power and telephone lines and poles on the property to be developed, on abutting streets, or land that may serve the development, and an assessment of their adequacy and condition to meet the needs of the proposed use. Appropriate elevations must be provided as necessary to determine the direction of flow.

d. Location, names, and present widths of existing public and/or private streets and rights-of-way within or adjacent to the proposed development.

e. The location, dimensions and ground floor elevation of all existing buildings on the site.
f. The location and dimensions of existing driveways, parking and loading areas, walkways, and sidewalks on or immediately adjacent to the site.

g. Location of intersecting roads or driveways within two hundred (200) feet of the site.

h. The location of open drainage courses, wetlands, stonewalls, graveyards, fences, stands of trees, and other important or unique natural areas and site features, including but not limited to, floodplains, deer wintering areas, significant wildlife habitats, scenic areas, habitat for rare and endangered plants and animals, unique natural communities, sand and gravel aquifers, and historic and/or archaeological resources, together with a description of such features.

i. The direction of existing surface water drainage across the site.

j. The location of the nearest fire hydrant, dry hydrant or other water supply for fire protection.

k. The location, front view, dimensions, and lighting of existing and proposed signs.

l. Location and dimensions of any existing easements and copies of existing covenants or deed restrictions.

10.4 Proposed Development Activity

a. Estimated demand for water supply and sewage disposal together with the location and dimensions of all provisions for water supply and wastewater disposal, and evidence of their adequacy for the proposed use, including soils test pit data if on-site sewage disposal is proposed.

b. The direction of proposed surface water drainage across the site and from the site, with an assessment of impacts on downstream properties.

c. Provisions for handling all solid wastes, including hazardous and special wastes and the location and proposed screening of any on-site collection or storage facilities.

d. The location, dimensions, and materials to be used in the construction of proposed driveways, parking and loading areas, and walkways and any changes in traffic flow onto or off-site.

e. Proposed landscaping and buffering.

f. The location, dimensions, and ground floor elevation of all proposed buildings or building expansion proposed for the site.

g. Location, front view, materials, and dimensions of proposed signs together with the method for securing the sign as controlled by the Town of Lincolnville Sign Ordinance.

h. Location and type of exterior lighting.
i. The location of all utilities, including fire protection systems.

j. A general description of the proposed use or activity.

k. An estimate of the peak hour and daily traffic to be generated by the project.

l. Storm water calculations, erosion and sedimentation control measures, and water quality and/or phosphorous export management provisions, if the project requires a storm water permit from the Maine Department of Environmental Protection or if the Planning Board determines that such information is necessary based upon the scale of the project or the existing conditions in the vicinity of the project.

m. Copies of applicable State approvals and permits provided, however, the Board may approve development plans subject to the issuance of specified State approvals and permits where it determines that it is not feasible for the applicant to obtain them at the time of development review.

10.5 Additional Information for Major Projects

Applications for major developments shall include the following additional information.

a. Existing and proposed topography of the site at two (2) foot contour intervals, or such other interval as the Planning Board may determine.

b. Engineering study used to determine drainage requirements based upon the 50-year 24-hour storm frequency.

c. A groundwater analysis prepared by groundwater hydrologist for projects involving common on-site water supply or sewage disposal facilities with a capacity to two thousand (2000) gallons per day.

d. Construction drawings for streets, sanitary sewers, water and storm drainage systems, designed and prepared by a professional engineer registered in the state of Maine.

e. A traffic impact analysis demonstrating the impact of the proposed project on the capacity, level of service and safety of adjacent streets.

f. The location of any pedestrian ways, lots, easements, open spaces and other areas to be reserved for or dedicated to public use and/or ownership. For any proposed easement, the developer shall submit the proposed easement; language with signed statement certifying that the easement will be executed upon approval of the development. In the case of any streets or other ways dedicated to public ownership, the developer shall submit a signed statement that he will maintain such streets or ways year-round until the town accepts them.

g. A copy of any covenants or deed restrictions, if any, as are intended to cover all or part of the tract. Such covenants or deed restrictions shall be referenced on the plan.
h. Written offers of dedication or conveyance to the municipality, in the form satisfactory to the Town Attorney, of all land included in the streets, highways, easements, parks or other open spaces dedicated for public use, and copies of agreements or other documents showing the manner in which spaces, title to which is reserved by the developer, are to be maintained.

i. If the development is a condominium or a clustered development, evidence that all the requirements relative to establishment of a homeowners' association or condominium owners' association have been met. If the development is a clustered development, evidence shall be presented that all other requirements of this ordinance pertaining to clustered development have been met. The submission shall include copies of the by-laws of any homeowners' or condominium association charged with maintaining common spaces and lands.

j. Homeowners' associations or condominium documents shall clearly state that the association or condominium shall properly maintain private roadways serving the development after the developer has legally relinquished that responsibility and until such time as the town may accept them as public ways.

10.6 Approval Block

Space must be provided on the plan drawing for the signatures of the Planning Board and date together with the following words, "Approved: Town of Lincolnville Planning Board."

Section 11: Standards and Criteria

Approval Standards and Criteria

The following criteria for site plan review shall be used by the Planning Board in reviewing applications for site plan review and shall serve as minimum requirements in addition to the requirements of Section 12 and Section 13 for approval of the application. The application shall be approved unless the Planning Board determines that the applicant has failed to meet one or more of these standards or one or more of the standards set forth in Section 12 and Section 13. In all instances, the burden of proof shall be on the applicant who must produce evidence sufficient to warrant a finding that all applicable criteria have been met.

11.1 Utilization of the Site

a. The plan for the development must reflect the natural capabilities of the site to support development. Buildings, lots, and support facilities must be clustered in those portions of the site that have the most suitable conditions for development.

b. Environmentally sensitive areas, including but not limited to, wetlands, steep slopes, floodplain-plains, significant wildlife habitats, fisheries, scenic areas, habitat for rare and endangered plants and animals, unique natural communities and natural areas, and sand and gravel aquifers must be maintained and preserved to the maximum extent. Natural drainage areas must also be
preserved to the maximum extent. The development must include appropriate measures for protecting these resources, including but not limited to, modification of the proposed design of the site, timing of construction, and limiting the extent of excavation.

11.2 Traffic Access and Parking

The following criteria shall be used by the Planning Board in reviewing applications for site plan review. If a development is on any roadway covered by Section 17 of the Land Use Ordinance (Access Management) the provisions of that ordinance apply and, in addition the provisions below apply if more restrictive than the standards of Section 17 of the Land Use Ordinance.

a. Vehicular access to the site must be on roads, which have adequate capacity to accommodate the additional traffic, generated by the development.

b. Vehicular access to and from the development must be safe and convenient.

1. Any driveway or proposed street must be designed so as to provide and maintain the minimum sight distance according to the Maine Department of Transportation standards, to the maximum extent possible.

2. Points of access and egress must be located to avoid hazardous conflict with existing turning movements and traffic flows.

3. The grade of any proposed drive or street must be not more than +/-3% for minimum of two (2) car lengths, or forty (40) feet, from the intersection.

4. The intersection of any access/egress drive or proposed street must function: (a) at a Level of Service of D following development if the project will generate one thousand (1,000) or more vehicle trips per twenty-four (24) hour period; or (b) at a level which will allow safe access into and out of the project if less than one thousand (1,000) trips are generated.

5. Where a lot has frontage on two (2) or more streets, the primary access to and egress from the lot must be provided from the street where there is less potential for traffic congestion and for traffic and pedestrians
Access from other streets may be allowed if it is safe and does not promote shortcutting through the site.

6. Where it is necessary to safeguard against hazards to traffic and pedestrians and/or to avoid traffic congestion, the applicant shall be responsible for providing turning lanes, traffic directional islands, and traffic controls within public streets.

7. Accessways must be designed and have sufficient capacity to avoid queuing of entering vehicles on any public street.

8. The following criteria must be used to limit the number of driveways serving a proposed project:

   - No use, which generates less than one hundred (100) vehicle trips per day, shall have more than one (1) two-way driveway onto a single roadway. Such driveway must be no greater than twenty-four (24) feet wide.

   - No use which generates one hundred (100) or more vehicle trips per day shall have more than two (2) points of entry from and two (2) points of egress to a single roadway. The combined width of all accessways must not exceed forty-eight (48) feet.

9. Where an existing or planned public sidewalk is interrupted by a proposed project driveway, the sidewalk material must continue to be maintained across the driveway, or the driveway must be painted to distinguish it as a sidewalk.

c. Accessway Location and Spacing

Accessways must meet the following standards:

1. Private entrances/exits must be located a minimum of seventy-five (75) feet from the closest intersection without traffic signals and one hundred fifty (150) feet from the closest intersection with traffic signals, as measured from the point of tangency for the corner to the point of tangency for the accessway. The Planning Board may reduce this requirement if the shape of the site does not allow conformity with this standard.

2. Private accessways in or out of a development must be separated by a minimum of seventy-five (75) feet where possible.

3. There shall be no more than two accessways per lot. Shared accessways are encouraged.
d. Internal Vehicular Circulation Frontage (feet)

The layout of the site must provide for the safe movement of passenger, service, and emergency vehicles through the site.

1. Nonresidential projects that will be served by delivery vehicles must provide a clear route for such vehicles with appropriate geometric design to allow turning and backing of vehicles classified as of [WB-40]

2. Clear routes of access must be provided and maintained for emergency vehicles to and around buildings must be posted with appropriate signage (fire lane - no parking)

3. The layout and design of parking areas must provide for safe and convenient circulation of vehicles throughout the lot.

4. All roadways must be designed to harmonize with the topographic and natural features of the site insofar as practical by minimizing filling, grading, excavation, or other similar activities which result in unstable soil conditions and soil erosion, by fitting the development to the natural contour of the land and avoiding substantial areas of excessive grade and tree removal, and by retaining existing vegetation during construction. The road network must provide for vehicular, pedestrian, and cyclist safety, all season emergency access, snow storage, and delivery and collection services.

e. Parking Layout and Design

Off-street parking must conform to the following standards:

1. Parking areas must be arranged so that it is not necessary for vehicles to back into the street.

2. All parking spaces, access drives, and impervious surfaces must be located at least five (5) feet from any side or rear lot line, except where standards for buffer yards require a greater distance. No parking spaces or asphalt type surface shall be located within five (5) feet of the front property line. Parking lots on adjoining lots may be connected by accessways not exceeding twenty-four (24) feet in width.

3. In lots utilizing diagonal parking, the direction of proper traffic flow must be indicated by signs, pavement markings or other permanent indications and maintained as necessary.

a. Provisions must be made to restrict the "overhang" of parked vehicles when it might restrict traffic flow on adjacent through roads, restrict pedestrian or bicycle movement on adjacent walkways, or damage landscape materials.
b. Oversized vehicle parking (for trucks, busses or recreation vehicles) shall be provided where appropriate.

f. Pedestrian Access

The site plan must provide for a system of pedestrian ways within the development appropriate to the type and scale of development. This system must connect the major building entrances/exits with parking areas and with existing sidewalks, if they exist or are planned in the vicinity of the project. The pedestrian network may be located either in the street right-of-way or outside of the right-of-way in open space or recreation areas. The system must be designed to link the project with residential, recreational, and commercial facilities, schools, bus stops, and existing sidewalks in the neighborhood or, when appropriate, to connect with amenities such as parks or open space on or adjacent to the site.

11.3 Storm Water Management

Adequate provisions must be made for the collection and disposal of all storm water that runs off proposed streets, parking areas, roofs, and other surfaces, through a storm water drainage system and maintenance plan, which must not have adverse impacts on abutting or downstream properties. Where appropriate storm water may be collected to provide for on site fire protection.

1. To the extent possible, the plan must retain storm water on the site using the natural features of the site.

2. Storm water runoff systems must detain or retain water such that the rate of flow from the site after development does not exceed the predevelopment rate.

3. The applicant must demonstrate that on and off site downstream channel or system capacity is sufficient to carry the flow without adverse effects, including but not limited to, flooding and erosion of shoreland areas, or that they will be responsible for whatever improvements are needed to provide the required increase in capacity and/or mitigation.

4. All natural drainage ways must be preserved at their natural gradients and must not be filled or converted to a closed system unless approved as part of the site plan review.

5. The design of the storm water drainage system must provide for the disposal of storm water without damage to streets, adjacent properties, downstream properties, soils, and vegetation.

6. The design of the storm drainage systems must be fully cognizant of upstream runoff, which must pass over or through the site to be developed and provide for this movement.

7. The biological and chemical properties of the receiving waters must not be degraded by the storm water runoff from the development site. The use of oil and grease traps in manholes, the use of on-site vegetated waterways, and vegetated buffer
strips along waterways and drainage swells, and the reduction in use of deicing salts and fertilizers may be required, especially where the development storm water discharges into a gravel aquifer area or other water supply source, or a great pond.

11.4 Erosion Control

All building, site, and roadway designs and layouts must harmonize with existing topography and conserve desirable natural surroundings to the fullest extent possible, such that filling, excavation and earth moving activity must be kept to a minimum. Parking lots on sloped sites must be terraced to avoid undue cut and fill, and/or the need for retaining walls. Natural vegetation must be preserved and protected wherever possible.

Soil erosion and sedimentation of watercourses and water bodies must be minimized by an active program meeting the requirements of the current Maine Erosion and Sediment Control Handbook for Construction: Best Management Practices.

11.5 Water Supply Provisions

The proposed development shall be served by an adequate supply of water for domestic and fire protection purposes. The means of providing this service may be public, private, or a combination of the two.

Determination of adequate supply for "automatic fire protection sprinkler systems" shall be governed by the rules and regulations of the Office of State Fire Marshall and applicable National Fire Protection Association (NFPA) standards, particularly NFPA 1231 Standard on Water Supplies for Suburban and Rural Fire Fighting.

11.6 Sewage/Wastewater Disposal

The development shall provide a method of disposing of sewage/wastewater that is in compliance with the State Plumbing Code. If provisions are proposed for on-site waste disposal, all such systems must conform to the Subsurface Sewage/ Wastewater Disposal rules as stated in the current Land Use Ordinance.

When two (2) or more lots or buildings in different ownership share the use of a common subsurface disposal system, the system must be owned and maintained in common by an owner’s association. Covenants in the deeds for each lot must require mandatory membership in the association and provide for adequate funding of the association to assure proper maintenance of the system.

Upon the recommendation of the local Plumbing Inspector, the Planning Board may require reserve areas for replacement systems.

11.7 Utilities

The development shall be provided with electrical, telephone, and telecommunication service adequate to meet the anticipated use of the project. All service to the site and distribution between buildings shall be underground or have as little visual impact as possible. Utility structures shall be screened from view.
11.8 Natural Features

The landscape must be preserved in its natural state insofar as practical by minimizing tree removal, disturbance and compaction of soil, and by retaining existing vegetation insofar as practical during construction. Extensive grading and filling must be avoided as far as possible.

11.9 Groundwater Protection

The proposed site development and use must not adversely impact either the quality or quantity of groundwater available to abutting properties or to public water supply systems. Applicants whose projects involve on-site water supply or sewage disposal systems must demonstrate that the groundwater at the property line will comply, following development, with the standards for safe drinking water as established by the State of Maine.

a. Water Quality Protection

All aspects of the project must be designed so that:

1. No person shall locate, store, discharge, or permit the discharge of any treated, untreated, or inadequately treated liquid, gaseous, or solid materials of such nature, quantity, obnoxiousness, toxicity, or temperature that may run off, seep, percolate, or wash into surface or groundwater so as to contaminate, pollute, or harm such waters or cause nuisances, such as objectionable shore deposits, floating or submerged debris, oil or scum, color, odor, taste, or unsightliness or be harmful to human, animal, plant, or aquatic life.

2. All storage facilities for fuel, chemicals, chemical or industrial wastes, and biodegradable raw materials, must meet the standards of the Maine Department of Environmental Protection and the office of the State Fire Marshall.

3. If the project is located within the direct watershed of a ‘body of water most at risk from development’ or ‘a sensitive or threatened region or watershed’ as identified by the Maine Department of Environmental Protection (DEP), and is of such magnitude as to require a storm water permit from the DEP, the project must comply with the standards of the DEP with respect to the export of total suspended solids and/or phosphorous. If the project does not require a storm water permit from the DEP, it must be designed to minimize the export of phosphorous from the site to the extent reasonable with the proposed use and the characteristics of the site.

11.10 Hazardous, Special, and Radioactive Materials

The on-site transportation, handling, storage, and use of materials regulated or identified as hazardous by OSHA, EPA, Maine DEP, or Office of the State Fire Marshal shall be done in accordance with all
rules and regulations of those agencies.

In conducting a site plan review the Planning Board, Code Enforcement Officer, and Fire Chief (or designee) shall follow the rules and regulations of the above specified agencies and shall also be governed by the requirements of NFPA 1 - Fire Prevention Code.

11.11 Shoreland Relationship

The development must not adversely affect the water quality or shoreline of any adjacent water body. The development plan must fully adhere to those parts of the Land Use Ordinance applicable to shoreland zoning.

11.12 Solid Waste Management

The proposed development must provide for adequate disposal of solid wastes. All solid waste must be disposed of at a licensed disposal facility having adequate capacity to accept the project’s wastes.

11.13 Historic and Archaeological Resources

If any portion of the site is or has been identified as containing historic or archaeological resources, the development must include appropriate measures for protecting these resources, including but not limited to, modification of the proposed design of the site, timing of construction, and limiting the extent of excavation.

11.14 Floodplain Management

If any portion of the site is located within a special flood hazard area as identified by the Federal Emergency Management Agency, all use and development of that portion of the site must be consistent with the Town of Lincolnville’s Floodplain Plan Management Ordinance.


The following provisions shall apply to all commercial and multi-family residential buildings reviewed under this ordinance:

a. The proposed project must meet the requirements of the current State Life Safety Code. In addition, all other applicable rules and regulations of the Office of the State Fire Marshal, State Oil & Solid Fuel Board, and State Propane & Natural Gas Board shall apply.

b. For projects reviewed under this ordinance, the town reserves the right to require a fire protection plan showing critical code-required fire protection and life safety features for each level of the structure. The fire protection plan or "code footprint" plan should be produced on an 8-1/2" x 11" sheet.

c. Landscaping or other obstructions placed around structures shall be maintained in a manner that does not impair or impede accessibility for fire department operations. Where necessary to support fire department operations fire lanes shall be designated by the town. The property owner shall be responsible for maintenance and enforcement of fire lanes. Signs designating "No Parking Fire Lane" shall be posted as necessary.
d. Fire department personnel shall have ready access to locking mechanisms on any security gates, which restrict access to a property or fire lane.

e. During construction: (1) vehicular access to all structures, by fire department vehicles, shall be provided and maintained; (2) trash and debris shall be removed from the construction site as often as necessary to maintain a safe level of fire safety; (3) flammable and combustible liquids and liquefied petroleum gases shall be stored and handled in accordance with state fire codes.

f. Definitions for fire code terms are on file with the Code Enforcement Officer.

Section 12: Good Neighbor Standards

The following Good Neighbor Standards shall be used by the Planning Board in reviewing applications for site plan review and shall serve as minimum requirements in addition to the requirements of Section 11 and Section 13 for approval of the application. The application shall be approved unless the Planning Board determines the applicants fail to meet one or more of these standards or one or more of the standards set forth in Section 11 and Section 13. In all instances, the burden of proof shall be on the applicant who must produce evidence sufficient to warrant a finding that all applicable criteria have been met.

12.1 Exterior Lighting

a. The proposed development must have adequate exterior lighting to provide for its safe use during nighttime hours, if such use is contemplated.

b. Lighting shall be designed so that it does not directly or indirectly produce deleterious effects on abutting properties or impair the vision of a vehicle operator on adjacent roadways. Lighting fixtures must be shielded or hooded so that the lighting elements are not exposed to normal view by motorists, pedestrians, or from adjacent dwellings and so that they do not unnecessarily light the night sky.

c. All exterior lighting, except where security lighting is necessary, must be turned off between 11 PM and 6 AM unless located on the site of a commercial or industrial use, which is conducting business during that period.

d. Building entrances may be illuminated using recessed lighting in overhangs and soffits, or by use of spotlighting focused on the building entrances with the light source concealed (e.g., in landscaped areas). Direct lighting of limited exterior building areas is permitted only when necessary for security purposes.

12.2 Buffering

a. The development shall provide for the buffering of adjacent uses where there is a transition from one type of use to another use and for screening of mechanical equipment, loading and service areas, and storage facilities.
b. Buffering shall be designed and maintained to provide a year-round visual screen in order to minimize adverse impacts. It may consist of fencing, evergreens, berms, rocks, boulders, mounds, or a combination thereof. The use of native species is encouraged.

c. A development shall provide sufficient buffering when topographical or other barriers do not provide reasonable screening and where there is a need:

   (1) Shield neighboring properties from any adverse external effects of the development, or
   (2) Shield the development from the negative impacts of adjacent uses.

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

12.3 Noise

a. The development must control noise levels such that it will not create a nuisance for neighboring properties.

b. No person shall engage in construction activities, on a commercial site abutting any residential use between the hours of 9 PM and 7 AM, and Sundays.

12.4 Storage of Materials

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

Section 13: Design Standards

The following Design Standards shall be used by the Planning Board in reviewing applications for site plan review and shall serve as minimum requirements in addition to the standards and criteria of Section 11 and Section 12 for approval of the application. The application shall be approved unless the Planning Board determines that the applicants failed to meet one or more of these standards or one or more of the standards set forth in Section 11 and Section 12. In all instances, the burden of proof shall be on the applicant who must produce evidence sufficient to warrant a finding that all applicable criteria have been met.
13.1 Landscaping

a. A landscaping plan must be provided as part of site design. The landscape plan for the entire site must use landscape materials to integrate the various elements on site, preserve and enhance the particular identity of the site, and create a pleasing site character. The landscaping should define street edges, break up parking areas, soften the appearance of the development, and protect abutting properties. The use of native species is encouraged.

b. Landscape of Parking Lots: Landscaping around and within parking lots shades hot surfaces and visually "softens" the hard surface look of parking areas. Parking areas must be designed to create a pedestrian-friendly environment. There must be at least one (1) island for every twenty (20) spaces. Landscaping must screen the parking area from adjacent residential uses and from the street.


13.3 Roadside and Parking Lot Buffers

a. A vegetated buffer strip must be established and maintained along the edge of the road right-of-way, and wherever possible, existing vegetative areas will be left in tact. This buffer strip must soften the appearance of the site from the road and must create defined points of access to and egress from the site. For new or additional plantings, use of native species is encouraged.

b. A generous landscaped buffer between the road and parking lot is to be provided. Unused areas should be kept natural, as field, forest, wetland, etc.

13.4 Site Considerations

a. Setback and Alignment of Buildings: In areas identified in the Comprehensive Plan as growth areas and shown on the Special Districts Map on file in the Lincolnville Town Office, buildings should be placed in conformance with existing, adjacent front and side setbacks. For buildings on corner lots, the setback relationship of both streets should be maintained. In no case shall setbacks be less than the minimum dimensional requirements set forth in Section 15 of the Town's Land Use Ordinance.

b. Building Orientation: New buildings within "growth areas" shall be compatible with the neighborhood such that they reflect the overall building bulk, square footage, dimensions, placement of the building on the lot, and rhythm of buildings and spaces along the street edge and minimize the visual impact on the neighborhood. The visual impact of a building shall be measured by its relationship to other buildings and natural features on the lot,
design of the front of the building, and the visual line of buildings and open spaces along the street.

c. Building Scale: When large new buildings or structures are proposed where their scale (size) and other features may be significantly different from that which already exists in the immediate neighborhood, care must be taken to design the new building or structure so that it is compatible with its neighbors. This may include making the building appear small, using traditional materials styles and/or proportions.

d. Parking Lot Placement: The site design, in addition to meeting all of the standards of Section 11.2 of this Ordinance, shall also comply with the applicable provisions in federal law in the Americans with Disabilities Act of 1990, as amended, and any other applicable provisions of federal and state law. The design shall avoid creating a building surrounded by a parking lot. Site characteristics and topography permitting, parking shall be located to the side or rear of the building to the greatest practical extent. Before approving a parking lot design that establishes parking between the building and the access road or street, the Planning Board shall consider set back, site internal vehicular and pedestrian movement, site characteristics and topography and site buffering as outlined in Section 13.3 of this Ordinance. Special consideration shall be given to municipal or privately owned public safety facilities as to their needs regarding fast, efficient and safe response. Incorporation of shared parking, shared driveways and cross connection of parking lots into the design is encouraged.

13.5 Canopies and Drive-Through Facilities

a. The roof of any canopy, whether freestanding or attached, shall have a 1-3 pitch; and the eaves shall be no more than twelve (12) feet above the level ground. The horizontal area (footprint) of the canopy shall not exceed six hundred (600) square feet in the area. There shall be only one canopy per premises.

b. Drive-Through facilities create traffic safety hazards and contribute to traffic congestion and air pollution, therefore, are not permitted structures. Gas stations are not considered drive through facilities for the purposes of this ordinance.
13.6 View Protection

a. When a proposed development is located within the viewshed, from a public street, road, water body or facility, of a view that is identified in the Scenic View Map on file in the Lincolnville Town Office, the development must be designed to minimize the encroachment of all buildings, structures, landscaping, and other site features on the identified view.

b. Design modifications to minimize encroachment may include, but are not limited to, orientation of the building on the site, building height limits, clustering of buildings, and maintaining open space areas free of tall shrubs and fences.

13.7 Ridgeline Protection

a. When a proposed development is located on a hillside that is visible from a public street, road, water body, or facility, the development must be designed so that buildings, structures, and other improvements do not extend above the existing Ridgeline or alter the ridge profile significantly when viewed from the public streets, roads, water bodies, or facilities. This provision may be waived for spotting towers and similar facilities that must be located above the ridgeline for operational reasons.

13.8 Hillside Development

a. A development located on a hillside visible from a public road, water body, or facility must be designed to fit harmoniously into its visual setting to the maximum extent possible. In built-up areas the appearance of a new development visible from public areas must be compatible with existing visual character in scale, massing and height. In undeveloped areas, site clearing must be minimized and vegetation retained (or provided) to lessen the visual impact of the development.

13.9 Shoreland Development

a. When a proposed development is immediately visible from a great pond, river, stream, or the Penobscot Bay, the development must be designed so that it fits harmoniously into the visual environment when viewed from the water body. In predominantly natural environments, site clearing must be minimized, natural vegetation must be maintained adjacent to the shoreline to soften the appearance of the development, and vegetation must be retained or provided to minimize the visual intrusion of the development. In developed shoreland environments, the appearance of the new development when viewed from the water must be compatible with the existing visual character in terms of scale, massing, and height to the maximum extent possible. Storage and service areas must be screened or landscaped to minimize their visual impact.

Section 14: Post Approval Activities

14.1 Limitation of Approval

Substantial construction of the improvements covered by any site plan approval must be commenced within twelve (12) months of the date
upon which the approval was granted. If construction has not been commenced and substantially completed within the period specified in the current Land Use Ordinance, the approval shall be null and void. The applicant may request an extension of the approval deadline prior to the expiration of the period. Such request must be in writing and must be made to the Planning Board. The Planning Board may grant up to two (2) six (6)-month extensions to the periods if the approved plan conforms to the ordinances in effect at the time the extension is granted and any and all federal and state approvals and permits are current.

14.2 Site Conditions

a. During construction, the site shall be maintained and left each day in safe and sanitary manner. Site area shall be sprayed if necessary to prevent dust from becoming a nuisance to adjacent properties.

b. Developed areas shall be cleared of all stumps, litter, rubbish, brush, weeds, dead and dying trees, roots and debris, and excess or scrap building materials shall be removed or destroyed immediately upon the request and to the satisfaction of the Code Enforcement Officer.

c. No change shall be made in the elevation or contour of any lot or site by the removal of earth to another lot or site other than as shown on an approved site plan. Minimal changes in elevations or contours necessitated by field conditions may be made only after approval by the Code Enforcement Officer.

Section 15: Improvement Guarantees

15.1 The Planning Board shall require the posting of an improvement guarantee in such amount as is reasonably necessary to ensure the proper installation of all off-site improvements that are essential.

15.2 Upon substantial completion of all required on-site improvements, the developer must notify the Code Enforcement Officer of the completion or substantial completion of improvements. The Code Enforcement Office shall inspect all improvements and shall file a report indicating approval, partial approval, or rejection of such improvements with a statement of reasons for any rejection. A report shall be filed to the Planning Board.

15.3 The Planning Board shall approve, partially approve, or reject the improvements on the basis of the report of the Code Enforcement Officer.

15.4 If the improvements are approved, the guarantee shall be released. Where partial approval is granted, the developer may be released from liability only for that portion of the improvements approved.

Section 16: Submissions of As-Built Plans

Any project involving the construction of more than two thousand (2000) square feet of gross floor area, must provide the Code Enforcement Officer with a set of construction plans showing the buildings and site improvements as actually constructed on the site. These "as-built" plans must be submitted within thirty
(30) days of the request for issuance of a certificate of occupancy for the project or occupancy of the building.

16.1 Minor Changes to Approved Plans

Minor changes in approved plans necessary to address field conditions may be approved by the Code Enforcement Officer provided that any such change does not affect compliance with the standards or alter the essential nature of the proposal. If the developer wishes to make minor changes in field plans, he/she must have these changes endorsed in writing on the approved plan by the Code Enforcement Officer before changed work can proceed.

16.2 Amendments to Approved Plans and Change of Use

Approvals of site plans are dependent upon and limited to the proposals and plans contained in the application and supporting documents submitted and affirmed to by the applicant. Any variation from the plans, proposals, and supporting documents or a Change of Use as defined in Section 2.1.e, except minor changes that do not affect approval standards, is subject to review and approval.

16.2.1 Procedure

An applicant for a revision to a previously approved plan shall, at least fourteen days prior to a scheduled meeting of the Board, request to be placed on the Board’s agenda. The Board shall determine if the proposed revision or amendment to the previously approved plan would have no materially significant effect on the standards outlined in Sections 11, 12 and 13 of the Commercial Site Plan Review Ordinance. In making this determination the Board shall first determine which Standards apply to the proposed revision. Applicable standards shall be discussed and findings made regarding the degree of impact proposed changes might have on the originally approved Plan.

16.2.2 Submissions

The applicant shall submit a copy of the approved plan as well as seven copies of the proposed revisions and any relevant supporting documentation. The revised plan shall indicate that it is the revision of a previously approved plan and shall include an approval block as described in Section 10.6 of the Commercial Site Plan Review Ordinance.

16.2.3 Scope of Review

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

16.3 Appeal of Planning Board Actions

Appeal of any actions taken by the Planning Board with respect to this section shall be to the Board of Appeals. Any such appeal shall be filed with the Board of Appeals within thirty (30) days of the date upon which the Planning Board by vote makes a final decision concerning the application. Any aggrieved party with standing may appeal the decision of the Planning Board to the Board of Appeals.
**SECTION 19 - WIRELESS COMMUNICATION**

Section 1 Purpose and Intent

The purpose of this ordinance is to provide a process and a set of standards for the construction of wireless telecommunications facilities and to establish clear guidelines, standards and time frames for the exercise of municipal authority to regulate wireless telecommunications facilities. Additional objectives of this ordinance are as follows:

- Encourage the co-location of wireless telecommunications facilities, thus helping to minimize adverse visual impacts on the community.
- Further the goals and policies of the Comprehensive Plan, while promoting orderly development of the town with minimal impacts on existing uses.
- Protect the scenic and visual character of the community.

Section 2 Applicability

This section applies to all construction, expansion and co-location of wireless telecommunications facilities, including communication facilities and towers.

2.1 Exemptions

The following activities and structures are exempt from the provisions of this Ordinance:

1. Wireless telecommunication facilities for communication by public officials, including specifically emergency communications.
3. Parabolic Antennas less than seven (7) feet in diameter, that are an accessory use as permitted under the Town’s Land Use Ordinance.
4. Maintenance or repair of a wireless telecommunications facility and related equipment provided that there is no change in the height or any other dimension of the facility.
5. An antenna that is an accessory use to a residential dwelling unit.
6. Temporary wireless telecommunications facility, in operation for a maximum period of one hundred eighty (180) consecutive days.
7. Short Term facilities for media or events for a maximum period of fourteen (14) consecutive days.

Section 3 Review and Approval Process

No person shall construct or expand a wireless telecommunication facility without approval of the Planning Board or, the Code Enforcement Officer (CEO), as set forth below.

3.1 New Construction and Expansion of an Existing Facility

Approval by the Planning Board and issuance of a building permit is required for construction of a new telecommunications facility and for expansion of an existing facility.
3.2 Co-Location within an Existing Wireless Telecommunication Facility

Approval by the CEO and issuance of a building permit is required for co-location within an existing wireless telecommunications facility.

3.3 Written Findings

The Planning Board or the CEO, as applicable, shall review applications for wireless telecommunications facilities, as set forth above, and make written findings in connection with the issuance or denial of permits for such facilities. Those written findings shall state whether the proposed facility complies with this ordinance.

Section 4 Approval Process

4.1 Pre-Application Meeting

Applicant shall meet with the Planning Board no less than 30 days prior to filing an application. The purpose of this meeting shall be for the Planning Board to explain the ordinance requirements as well as application forms and submissions required. It shall not be used to pre-approve or discuss the merits of the project.

4.2 Application

All persons seeking approval of the Planning Board or the CEO (for co-location of facilities) under this ordinance shall submit an application as provided below. The CEO shall be responsible for ensuring that the notice of the application has been published in a newspaper of general circulation in the Town of Lincolnville.

In addition to the submission requirements set forth below, all new wireless telecommunication facilities and expansion of such facilities, and co-location communication facilities, must comply with all ordinances of the Town of Lincolnville and shall comply with the Application Submission and Review Procedures of Section 18 of the Town’s Land Use Ordinance (Commercial Site Plan Review).

4.3 Submission Requirements

Applications submitted for wireless telecommunications facilities shall also include the following additional information:

1. Documentation of the applicant’s right, title, and interest in the lot where the facility will be sited, including the name and address of the landowner and the applicant.

2. A copy of the FCC license for the facility, or a signed affidavit from the owner or operator of the facility attesting that the facility will comply with FCC regulations.

3. A USGS 7.5 minute topographic map showing the current location of all structures and wireless telecommunications facilities above 150 feet in height from ground level, except antennas located on roof tops, within a five (5) mile radius of the proposed facility. This requirement shall be deemed to have been met if the applicant submits current information (i.e., within thirty days of the date the application is filed) from the FCC Tower Registration Database. Include documentation of longitude and latitude.

4. A site plan prepared and certified by a professional engineer registered in Maine indicating the location, type and height of the proposed...
facility, antenna capacity, on-site and abutting off-site land uses, means of access, setbacks from property lines. The site plan must include certification by a professional engineer registered in Maine that the proposed facility complies with all American National Standards Institute (ANSI) and other applicable technical codes.

5. Elevation drawings of the proposed facility, and any other proposed structures, showing height above ground level.

6. A landscaping plan indicating the proposed placement of the facility on the site; location of existing structures, trees, and other significant site features; the type and location of plants proposed to screen the facility; the method of fencing, the color of the structure, and the proposed lighting method.

7. A visual impact assessment by a qualified professional which shall include photo simulations of the proposed facility taken from perspectives determined by the Planning Board during the pre-application meeting pursuant to Section 4.1 of the ordinance. Each photo must be labeled with the line of sight, elevation, and with the date taken imprinted on the photograph. The photo must show the color of the facility and method of screening.

8. A written description of how the proposed facility fits into the applicant's telecommunications network. This submission requirement does not require disclosure of confidential business information.

9. Evidence demonstrating that no existing building, site, or structure can accommodate the applicant's proposed facility for any of the following reasons:

   1. Evidence that no existing facilities are located within the targeted market coverage area as required to meet applicant's engineering requirements.

   2. Evidence that existing facilities do not have sufficient height or cannot be increased in height at a reasonable cost to meet the applicant's engineering requirements.

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

      1. Necessary equipment would exceed the structural capacity of the existing facility, considering the existing and planned use of those facilities, and these existing facilities cannot be reinforced to accommodate the new equipment.

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

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

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

10. A signed statement stating that the owner of the wireless telecommunications facility and his or her successors and assigns agree to:

1. Respond in a timely, comprehensive manner to a request for information from a potential co-location applicant, in exchange for a reasonable fee not in excess of the actual cost of preparing a response;

2. Negotiate in good faith for shared use of the wireless telecommunications facility by third parties;

3. Allow shared use of the wireless telecommunications facility if an applicant agrees in writing to pay reasonable charges for co-location and such co-location will not work jeopardizing the existing facility. Reasonable charges for co-location and such co-location will not jeopardize the existing facility.

4. Require no more than a reasonable charge for shared use, based on community rates and generally accepted accounting principles. This charge may include but is not limited to a pro rata share of the cost of site selection, planning project administration, land costs, site design, construction, financing, return on equity, depreciation, and all of the costs of adapting the tower or equipment to accommodate a shared user without causing electromagnetic interference. The amortization of the above costs by the facility owner shall be accomplished at a reasonable rate, over the useful life span of the facility.

11. A form of surety or other performance guaranty approved by the Planning Board in an amount to pay for the costs of removing the facility if it is abandoned, which may include the following performance guaranties:

1. A certified check payable to the Town of Lincolnville;

2. A savings account passbook issued in the name of the Town of Lincolnville;

3. An irrevocable letter of credit from a financial institution acceptable to the Planning Board; or

4. A performance bond running to the Town of Lincolnville and issued by a surety company or insurance company licensed to do business in the State of Maine.

12. Evidence that notice of the application has been published in a newspaper of general circulation in the Town of Lincolnville.
4.4 Waivers

A waiver of any submission requirement may be granted only if the Board makes a written finding that the information or the document is not required to determine compliance with the standards of Section 7.

1. The Planning Board may waive any of the submission requirements when it determines that because of the size of the project, or circumstances of the site, such requirements would not be applicable, and that such waiver would not adversely affect the abutting landowners or the general health, safety, and welfare of the town.

2. Subject to the provisions of Section 4.4.1 above, the Planning Board may waive any of the submission requirements based upon a written request of the applicant. Such request must be made at the time of the pre-application conference.

3. A waiver of any submission requirement may be granted only if the Board makes a written finding that the information or the document is not required to determine compliance with Section 7.

4.5 Fees

1. An application for CEO approval for a co-location facility shall include payment of an application fee which is approved annually by the Board of Selectmen. This fee is intended to cover the cost of the municipality's administrative processing of the application, including notification and similar costs. This fee shall not be refundable.

2. An application for Planning Board approval, as required by this ordinance, shall include payment of an application fee which is approved annually by the Board of Selectmen. The application shall not be considered complete until the fee is paid. The fee is intended to cover the cost of the municipality's administrative processing of the application, including notification, and similar costs. This fee shall not be refundable.

3. Upon order of the Planning Board, an applicant for approval by the Planning Board shall pay all reasonable fees incurred by the Town that are necessary to review the application including without limitation, independent engineering or similar professional consulting services. Such review fees shall be determined at the pre-application meeting and shall be payable without regard to the outcome of the application. The review fees shall be paid in full prior to the meeting of the Planning Board at which the Planning Board considers whether to approve the application.

4.6 Public Hearing

For applications requiring Planning Board approval under Section 3.1, a public hearing shall be held within forty-five (45) days of the notice of a complete application.

Section 5 Site Restrictions

The following shall be restricted from having telecommunication facilities constructed within them.
• Shoreland zones
• Lincolnville municipal parks
• From 1,000 ft inland of Route 1 to the shoreline of Penobscot Bay.

Section 6 Conditions of Approval

6.1 Planning Board Approval for New or Expanded Construction

Any approval issued by the Planning Board shall include a signed statement that the owner of the wireless telecommunications facility and his or her successors and assigns agree to the conditions outlined in section 4.3.10.1-4. A reference to the agreement shall be clearly noted on the final approved site plan.

6.2 CEO Approval for Co-Location Application

The following standards shall be met for approval before issuance of a permit by the CEO when a request is received for co-location facilities.

1. Copy of agreement between the facility owner and company requesting co-location permit, showing that the applicant has sufficient right, title, or interest to locate the proposed facility on the existing structure; economic terms need not be disclosed.
2. Copy of FCC license.
3. The proposed facility is an accessory use, or co-location to a structure existing at the time the application is submitted.
4. Co-location shall not be considered an expansion.

Section 7 Standards

7.1 Standards for Facilities

If an applicant proposes to locate a new wireless telecommunications facility on municipal property, or expand an existing facility on municipal property, the applicant must show the following:

1. The proposed location complies with applicable municipal policies and ordinances.
2. The proposed facility will not interfere with the intended purpose of the property.
3. The applicant has adequate liability insurance and a lease agreement with the municipality that includes reasonable compensation for the use of the property and other provisions to safeguard the public rights and interests in the property.
4. New wireless telecommunication facilities on municipal property shall also meet the standards set forth in Section 7.2 below.
7.2 Standards of Approval

1. No telecommunication tower shall exceed a height of 195 feet including height of the antenna. New wireless telecommunications facilities and related equipment must be designed and constructed reasonably to accommodate expansion for future co-location of at least three additional wireless telecommunications facilities or providers.

2. A new or expanded wireless telecommunications facility must comply with the setback requirements set forth in the Town of Lincolnville Land Use Ordinance, or be set back one hundred five percent (105%) of its height from all property lines, whichever is greater. The setback may be satisfied by including the areas outside the property boundaries if secured by written easement. An antenna is exempt from the setback requirement if it extends no more than five (5) feet horizontally from the edge of the structure to which it is attached, and it does not encroach upon an abutting property.

3. The base of a new or expanded wireless telecommunications facility must be screened with plants from view by abutting properties, as stated in the Good Neighbor Standards on Buffering (12.2) of the Commercial Site Plan Review of the Land Use Ordinance.

4. A new or expanded wireless telecommunications facility must be fenced with a secured perimeter fence of a height of eight (8) feet to discourage trespass on the facility and to discourage climbing on any structure by trespassers.

5. A new or expanded wireless telecommunications facility must be illuminated as necessary to comply with FAA or other applicable state, federal and local requirements or Site Plan Review conditions. Security lighting may be used as long as it is shielded to be down-directional to retain light within the boundaries of the site.

6. All access roadways must be designed to harmonize with the topographic and natural features of the site insofar as practical by minimizing filling, grading, excavation, or other similar activities which result in unstable soil conditions and soil erosion, by fitting the development to the natural contour of the land and avoiding substantial areas of excessive grade and tree removal, and by retaining existing vegetation. The design shall take all practical steps possible to prevent a visible scar up or across a ridgeline visible from public streets, roads, or water bodies.

7. A new or expanded wireless telecommunications facility must be constructed with materials and colors that match or blend with the surrounding natural or built environment, to the maximum extent practicable, and except as FAA requirements, as may be amended, provides. Unless otherwise required, muted colors, earth tones, and subdued hues shall be used.
8. The development shall be provided with electrical, telephone and telecommunication service adequate to meet the anticipated use of the project. All service to the site and distribution between buildings shall be underground. Utility structures shall be screened from view.

9. A new or expanded wireless telecommunications facility must comply with the current Electronic Industries Association/Telecommunications Industries Association (EIA/TIA) 222 Revision Standard entitled "Structural Standards for Steel Antenna Towers and Antenna Supporting Structures," as amended from time to time.

10. The telecommunications facility shall not cause any nuisance or generate any offensive noise, vibration, smoke, or dust which has an undue adverse impact on the environment or the neighborhood. All waste material from the facility shall be removed promptly from the premises, and disposed of according to law.

11. Operation of a back-up generator during construction, repair, and replacement or at any time during a power failure, and testing of a back-up generator between 8 a.m. and 9 p.m. are exempt from municipal noise standards.

12. The proposed wireless telecommunications facilities shall not unduly obstruct, or have an unreasonably adverse impact upon a scenic view as identified in the Comprehensive Plan Scenic View Map on file in the Lincolnville Town Office; and certified by the Chairperson of the Board of Selectmen.

1. In determining the potential unreasonably adverse impact of the proposed facility upon the designated scenic resources, the Planning Board shall consider the following factors:

   1. The extent to which the proposed wireless telecommunications facility is visible above tree line, from the viewpoint(s) of the impacted designated scenic resource as viewed from the public road, public land or public waterway;

   2. The type, number height, and proximity of existing structures and features, and background features within the same line of sight as the proposed facility;

   3. The extent to which the proposed wireless telecommunications facility would be visible from the viewpoint(s) set forth in (a) above

   4. The amount of vegetative screening;

   5. The distance of the proposed facility from the viewpoint and the facility’s location within the designated scenic resource;

   6. The evidence set forth in the visual impact assessment submitted with the application pursuant to Section 4.3
7. The presence of reasonable alternatives that allow the facility to function consistent with its purpose.

13. The proposed facility, to the greatest degree practicable, shall have no unreasonable adverse impact upon districts, sites, buildings, structures or objects, significant in American history, architecture, archaeology, engineering or culture, that are listed, or eligible for listing, in the National Register of Historic Places.

7.3 Conditions of Approval

1. When necessary to ensure that an approved project meets the criteria of this ordinance, the Planning Board can impose additional conditions of approval. Reference to the conditions of approval shall be clearly noted on the final approved site plan.

2. The Planning Board may also impose conditions on the approval of the application to ensure that the siting of a wireless telecommunication facility on any parcel of land does not have an unreasonably adverse impact on the designated scenic resource(s).

3. Upon request of the Planning Board, the applicant shall certify compliance with all applicable FCC radio frequency emissions regulations.

Section 8 Abandonment

A wireless telecommunications facility that is not operated for a continuous period of twelve (12) months shall be considered abandoned. The CEO shall notify the owner of an abandoned facility in writing, certified mail return receipt requested, ordering the removal of the facility within ninety (90) days of receipt of a written notice. The owner of the facility shall have thirty (30) days from the receipt of the notice to demonstrate to the CEO that the facility has not been abandoned.

If the Owner fails to show that the facility has not been abandoned, the owner shall have sixty (60) days to remove the facility. If the facility is not removed within this time period, the municipality shall remove the facility at the owner's expense. The owner of the facility shall pay all site reclamation costs deemed necessary and reasonable to return the site to its pre-construction condition, including the removal of roads, and reestablishment of vegetation.

If a surety has been given to the municipality to ensure removal of the facility, the owner of the facility may apply to the Planning Board for release of the surety when the facility and related equipment are removed to the satisfaction of the Planning Board, and all costs have been paid.

If the surety bond must be used to pay for the removal of the facility and returning the land to pre-construction condition, any balance of funds remaining after the land has been returned to the pre-construction condition shall be returned to the owner by the Planning Board.
Section 9  Amendment to Approved Application

Any changes to an approved application must be approved by the Planning Board.

Section 10  Appeals

Any person aggrieved by a decision of the CEO or Planning Board under this ordinance may appeal the decision of that official to the Board of Appeals as an administrative appeal under the Land Use Ordinance. Written notice of an appeal must be filed with the Board of Appeals within thirty days of the decision. A notice of appeal should clearly state the reasons for the appeal.

Section 11  Enforcement

This ordinance shall be enforced pursuant to the provisions of the Land Use Ordinance.

Any person who owns or controls any building or property in violation of this ordinance shall be subject to a penalty in accordance with Title 30-A M.S.R.S. §4452. Each day such a violation continues after written notification by the CEO shall constitute a separate offence.

Section 12 Conflict with Other Ordinances

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

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

SECTION 20 – HOME OCCUPATION

The Town of Lincolnville recognizes that Home Occupations, when managed conscientiously and with respect for the neighborhood in which they are situated, offer benefits to both the proprietors and the community.

A. It is the intent and purpose of this section to provide liberal, flexible standards for the establishment and maintenance of Home Occupations as defined in the Lincolnville Land Use Ordinance while simultaneously providing the community with a practical mechanism by which to regulate their use. The following provisions shall apply to the maintenance of a Home Occupation.

1. Not more than 2 persons outside the family shall work simultaneously on the premises in connection with the home occupation.

2. One unlighted sign restricted to a maximum finished size of 3 square feet to be affixed to the residential dwelling, accessory structure or located at a driveway entrance to the residence is permitted. This sign shall in all other respects conform with the standards of the Town of Lincolnville Sign Ordinance.
3. Exterior storage of materials is permitted, provided that such storage is not incompatible with the residential/rural character of surrounding properties in the neighborhood, and is not in the setback area.

4. A Home Occupation must not generate noise, vibration, smoke, fumes, dust, odors, heat, light, glare, electrical interference, or other effects such that levels common to the surrounding area are exceeded beyond the property lines or beyond the walls of the dwelling unit, if the unit is part of a multifamily dwelling.

5. Such Home Occupation shall not cause undue traffic in the neighborhood where the proposed use is located, and such home occupation shall not cause a significant adverse effect on parking on roads located outside the boundaries of the subject property.

6. Retail sales are allowed but limited to the sale of products or goods produced, fabricated, or substantially altered on the premises as a direct result of the resident’s labor in the Home Occupation.

7. It may include products that are not manufactured on the premises of the Home Occupation, but which are customarily incidental to the product created by the Home Occupation.

8. Home Occupations shall be allowed in a Multi-unit residential structure, mobile home park, cluster housing unit or apartment – in compliance with the following restrictions:
   a. Only residents of the residential dwelling may be employed in the Home Occupations.
   b. No posting of signs.
   c. No retail sales of products in the residential dwelling or accessory structures.

B. The Code Enforcement Officer shall issue permits for home occupations upon a showing by the Applicant that the proposed use has met the requirements set forth in Section 20(A). Any decision by the Code Enforcement Officer concerning a permit for a home occupation may be appealed to the Board of Appeals within thirty (30) days of the date of the written decision appealed from, in accordance with the appeal procedure set forth in Section 21(G)(3) of this ordinance.

C. Activities which were in existence prior to the enactment of this ordinance and fall under the definition in this ordinance of home occupation are exempt from any provisions of this ordinance which were not already in force on the date on which it was approved, providing the proprietor of the home occupation registers the home occupation with the Code Enforcement Officer within ninety (90) days of the enactment of this ordinance. Failure to register within this grace period will lead to a permit being required in accordance with Section 20(A). Any change to a Home Occupation which makes the business less conforming, will cause that activity to be regulated by this ordinance.
SECTION 21 – ADMINISTRATION

The following provisions shall apply for all districts in the Town of Lincolnville.

A. Administering Agents

1. Code Enforcement Officer.

The Code Enforcement Officer shall be responsible for the administration of this Ordinance. A Code Enforcement Officer shall be appointed or reappointed annually by the Selectmen no later than July 1. In addition, the Board of Selectmen is authorized to appoint or re-appoint an Alternate Code Enforcement Officer annually by July 1 of each year.

In the absence of the Code Enforcement Officer, the Alternate Code Enforcement Officer shall have all of the duties and responsibilities as the Code Enforcement Officer. The Code Enforcement Officer and Alternate Code Enforcement Officer, if applicable, shall be responsible for the administration and enforcement of this Ordinance.

For the purposes of this Ordinance, upon the appointment of an Alternate Code Enforcement Officer by the Board of Selectmen, each reference to the Code Enforcement Officer shall also mean a reference to the Alternate Code Enforcement Officer in this Ordinance.

2. Board of Appeals

A Board of Appeals has been created in accordance with the provisions of 30-A M.R.S.A. Section 2691.

3. Planning Board

The Planning Board has been created in accordance with the provisions of State law. The Planning Board shall review applications for building permits when the Planning Board is the permit-issuing authority for such permits, and shall have such other duties as set forth in this Ordinance.

B. Permits Required

After the effective date of this Ordinance no person shall 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 without first obtaining a permit. Building permits shall be required for the following activities:

1. Work that involves new construction.
2. Work that involves any change to the footprint of the building or structure.
3. Renovation, enlargement, alteration, demolition, or moving of existing building or structure when the fair and reasonable value of such work and materials exceeds $500.00
4. All other activities requiring a permit as defined in Section 14 of the Town’s Table of Land Uses.
Notwithstanding the above, a building permit is not required for general maintenance and repair of a structure. The following activities are excluded from permitting: re-roofing a legally existing structure, repair of masonry, including chimneys, installation or replacement of exterior siding on legally existing structures; painting; and landscaping activities not part of projects or developments requiring site plan review.

IN THE SHORELAND ZONE ONLY:

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. 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 (Table of Land Uses).

2. All applications shall be signed by an owner or by an agent, representative, tenant, or contractor of the owner with authorization from the owner to apply for a permit hereunder, who can show evidence of right, title or interest in the property and 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 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 and/or the Code Enforcement Officer may require the submission of whatever additional information may be necessary to determine conformance with the provisions of this Ordinance. 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 one is held. Permits shall be approved 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, or Code Enforcement Officer, the administering authority 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 Shoreland cover vegetation and visual (as viewed from public facilities), 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 Harbor District;
8. Will avoid problems associated with flood plain development and use; and,
9. Is in conformance with the provisions of Section 15, Townwide Land Use Standards in the General District or Section 16 in the Shoreland Zone and conforms with Section 14.

If a permit is denied, or approved with conditions, the reasons for the denial as well as the 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 any State law which the municipality is responsible for enforcing.

E. Initiation/Expiration of Permit

Any building permit issued shall be valid for:
1. A period of one year, from the date of issuance of the permit, for the beginning of the actual and substantial physical construction of the proposed project; and,

2. A period of two years, from the date of issuance of the permit, for completion of actual physical construction of the proposed project.

In the event that the applicant has good cause for a failure to commence the construction as required above, then the person with a permit may apply to the Planning Board/Code Enforcement Officer (CEO) for a one time extension in which to commence construction. Only one one-time extension shall be allowed and this extension shall not exceed six months in duration. In the event that actual physical construction is not completed as required above, the person with a permit may apply to Planning Board/CEO for an extension of time in which to complete the proposed construction project. The time extension shall not exceed one (1) year in duration.

Applications shall be acted upon by the Planning Board/CEO within thirty (30) days following submission and acceptance of an application by the Planning Board/CEO. Approval or disapproval shall be indicated on the application form and the reason(s) for disapproval shall be set forth in writing. The applicant must pick up his or her completed building permit from the Town Office prior to the start of construction. An applicant must post the building permit in a location on the construction site, which is visible from the roadway, within 48 hours of the date of notification by the Town that the permit has been granted. Applicants whose applications are denied by the Planning Board/CEO shall be notified by the Town by regular mail of the disapproval and the reason(s) for the disapproval.

F. Installation of Public Utility Service

No public utility, water district, sanitary district or any utility company of any kind may 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. Following installation of service, the company or district shall forward the written authorization to the municipal officials, indicating that installation has been completed.

G. 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 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 enforcement or administration of this Ordinance.

b. Variances: To authorize variances upon appeal, within the limitations set forth in this Ordinance.
c. Special Exceptions: A permit granted by the Board of Appeals to allow the acquisition and use of a nonconforming, non-residential lot for municipal and/or public utilities. To review and permit certain proposed land uses which are specifically listed as special exceptions in the regulations governing the district in which the use is proposed. By majority vote to grant such exceptions with such conditions and safeguards as are appropriate under this ordinance or deny such exception when the use does not meet the standards set forth in Section 21.G.4.a below.

d. In the event that the Harbor Ordinance of the Town of Lincolnville makes Planning Board decisions concerning non-public piers or wharves in connection with Article IV of that Ordinance appealable to the Board of Appeals, then the Board of Appeals shall have the power, solely in an appellate capacity, to hear and decide appeals where it is alleged that there is an error in any order, requirement, decision or determination made by the Planning Board in connection with such decisions.

2. Variance:

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 the establishment of any uses 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 in the General District or Section 16 in the Shoreland Zone except for the specific provision which has created the non-conformity and from which relief is sought; and

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

   (i) That the land in question cannot yield a reasonable return unless a variance is granted;
   (ii) That the need for a variance is due to the unique circumstances of the property and not to the general conditions in the neighborhood;
   (iii) That the granting of a variance will not alter the essential character of the locality; and
   (iv) That the hardship is not the result of action taken by the applicant or a prior owner.

3. Not withstanding Section 21(G)(c)(2), 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.

d. 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.

e. A copy of each variance request in the Shoreland Zone, 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 action by the Board of Appeals shall be made part of the record and shall be taken into consideration by the Board of Appeals.

f. In accordance with Title 30-A Section 4353(5), the property owner granted a variance shall be responsible for recording a Certificate of the Variance in the Waldo County Registry of Deeds within ninety (90) days of the date of final written approval of the variance by the Board of Appeals. In the absence of such a recording of the Certificate of Variance, the Variance shall be void as provided in that statute.

3. Administrative Appeals

When the Board of Appeals reviews a decision of the Code Enforcement Officer the Board of Appeals shall hold a “de novo” hearing. At this time the Board may receive and consider new evidence and testimony, be it oral or written. When acting in a “de novo” capacity the Board of Appeals shall hear and decide the matter afresh, undertaking its own independent analysis of evidence and the law, and reaching its own decision.

When the Board of Appeals hears a decision of the Planning Board, it shall hold an appellate hearing, and may reverse the decision of the Planning Board only upon finding that the decision was contrary to specific provisions of the Ordinance or contrary to the facts presented to the Planning Board. The Board of Appeals may only review the record of the proceedings before the Planning Board. The Board Appeals shall not receive or consider any evidence which was not presented to the Planning Board, but the Board of Appeals may receive and consider written or oral arguments. If the Board of Appeals determines that the record of the Planning Board
proceedings are inadequate, the Board of Appeals may remand the matter to the Planning Board for additional fact finding.

4. Special Exceptions:

a. An exception may be granted only if the petitioner has established to the satisfaction of the Appeals Board that the following standards for acceptance are met:

(i) The proposed use and site for that use does not have an undue adverse impact upon the value or quiet possession of the surrounding properties. In determining whether the proposed use will have an undue adverse impact, the following criteria shall be considered: generation of noise, dust, odor, vibrations and other nuisances; and the physical characteristics of the site, including the size of the lot, size and design of the structure, shape of the lot and topography.

(ii) The proposed use would not create unreasonable demand for municipal services.

(iii) The proposed use would not result in an inordinate increase in the amount of pedestrian and/or vehicle traffic.

(iv) The proposed use meets all applicable land use standards including commercial site plan review.

b. If the Appeals Board determines and approves a form of surety or other performance guaranty is required, the amount shall be sufficient to pay the costs of removing the facility if it is abandoned. Surety may include any of the following:

1. A certified check payable to the Town of Lincolnville;

2. A savings account passbook issued in the name of the Town of Lincolnville;

3. An irrevocable letter of credit from a financial institution acceptable to the Planning Board; or

4. A performance bond running to the Town of Lincolnville and issued by a surety company or insurance company licensed to do business in the State of Maine.

c. To aid the Appeals Board in the decision making process before granting any Special Exceptions the Appeals Board shall refer the application to the Planning Board for an informational report to determine any effect the request may have on the surrounding area or incompliance with the comprehensive plan of the Town of Lincolnville.

d. Application for a Special Exception Permit shall be made to the Code Enforcement Officer on forms provided for the purpose, accompanied by such fee as the Board of Selectmen shall set on an annual basis for such applications.
The applicant shall:

1. Provide proof of right, title or interest in the parcel of land, to support the standing of the applicant.

2. Clearly specify the location of the proposed use, including: street addresses, assessor’s tax map and lot number and a location map.

3. Describe the exact nature of the proposed use.

4. Submit such other materials as will enable the Appeals Board to determine that the standards for approval have been met. The burden of providing the information upon which the Board bases its findings and providing conformity with the standards shall be the applicants.

e. If the proposed facility is not operated for a continuous period of twelve (12) months it shall be considered abandoned. The CEO shall notify the owner of an abandoned facility in writing, certified mail, return receipt requested, ordering the removal of the facility within ninety (90) days of receipt of the written notice. The owner of the facility shall have thirty (30) days from receipt of the notice to demonstrate to the CEO that the facility has not been abandoned.

If the Owner fails to show that the facility has not been abandoned, the owner shall have sixty (60) days to remove the facility. If the facility is not removed within this time period, the municipality may remove the facility at the owner’s expense. The owner of the facility shall pay all site reclamation costs deemed necessary and reasonable to return the site to its pre-construction condition, including the removal of roads, and reestablishment of vegetation.

5. Appeal Procedure

a. Making an Appeal or Variance

1. An administrative appeal or variance may be taken to the Board of Appeals by an aggrieved party from any decision of Code Enforcement Officer or the Planning Board. Such an appeal shall be taken within thirty (30) days of the date of the written decision appealed from, and not otherwise.

2. Applications for appeals shall be made by filing with the Board of Appeals a written notice of appeal which includes:

   (i) A concise written statement indicating what relief is requested and why the appeal or variance should be granted.

   (ii) A sketch drawn to scale showing lot lines, location of existing buildings and structures and other physical features of the lot pertinent to the relief sought.
(iii) In the case of variances, Section B of the Application for Variance #1 through #4 must be completed in concise written form since all four must be satisfied for a variance to be granted.

3. 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.

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 requests 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 and if the decision involves the Shoreland area 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.

6. Appeal to Superior Court

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

7. 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.

H. 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. Said complaints shall be made on forms provided by the Town.

   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 an bi-annual basis, a summary of this record for the Shoreland Zone 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 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 the Planning Board when acting as a Board or the Code Enforcement Officer, and there is no evidence that the owner acted in bad faith, or unless the removal of the structure or use will result in a threat or hazard to public health and safety or will result in substantial environmental damage.

4. Fines

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

SECTION 22 DEFINITIONS

Accessory structure or use: A use or structure which is incidental and subordinate to the principal use or structure (e.g., garages, woodsheds, fish houses, or other non-residential uses or structures). 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. Accessory structures, except those that require direct access to the water, must also meet all setback requirements.

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 plant 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.

Antenna: Any system of poles, panels, rods, reflecting discs or similar devices used for the transmission or reception of radio or electromagnetic frequency signals.

Antenna height: The vertical distance measured from the base of the antenna support structure at grade to the highest point of the structure, even if said highest point is an antenna. Measurement of tower height shall include antenna, base pad, and other appurtenances and shall be measured from the finished grade of the facility site. If the support structure is on a sloped grade, then the average between the highest and lowest grades shall be used in calculating the antenna height.

Aquaculture: The growing or propagation of harvestable freshwater, estuaries, 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.

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

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

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

---

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

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

**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 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.

**Designated scenic resource:** That specific location, view or corridor, as identified as a scenic resource in the municipally-adopted comprehensive plan or by a State or Federal agency that consists of:
1. a three dimensional area extending out from a particular viewpoint on a public way or within a public recreational area, focusing on a single object, such as a mountain, a lake, or a bay, or a group of objects, such as a downtown skyline or mountain range, or island, resulting in a panoramic view corridor; or

2. lateral terrain features such as valley sides or woodland as observed to either side of the observer, constraining the view into a narrow or particular field, as seen from a viewpoint on a public way or within a public recreational area.

**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 lots or less.

**Eminent Domain:** Any taking or acquisition of any structure, or portion thereof, or of any land, or portion thereof, by a municipal, state, or federal governmental authority, upon payment of just compensation to the owner or owners of such structure or land, including, without limitation, any taking pursuant to condemnation procedures as set forth in Title 23 M.R.S.A. 154; the voluntary acquiescence of any landowner or owner of a structure in such taking or acquisition by a governmental authority shall also be considered taking or acquisition within the scope of eminent domain.

**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 municipal services for public sewage disposal and public toilet facilities:** The construction, alteration or maintenance of municipal sewage lines, collection or supply systems, and public toilet facilities; such facilities may include wires, mains, drains, conduits, cables, hydrants, buildings housing such essential services, and similar accessories. Allowed structures for such municipal essential services shall be subject to a twenty
five (25) foot waterbody or wetland setback requirements in the shoreland
district in which such uses are permitted.

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

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

**Expansion of use:** The addition of 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.

**Expansion of a wireless telecommunication facility:** The addition of
towers, height and/or increased footprint, of the existing facility.

**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.

**Footprint:** All exterior dimensions of a structure.

**Forest management activities:** Timber cruising and other forest resource
evaluation activities, pesticide or fertilizer application, timber 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 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 which are:

1. of ten or more contiguous acres; or of less than 10 contiguous acres and adjacent to a surface water body, excluding any river, stream or brook such that in a natural state, the combined surface area is in excess of 10 acres; and

2. Inundated or saturated by surface or ground water at a frequency and for a duration sufficient to support, and which under normal circumstances do support, a prevalence of wetland vegetation typically adapted for life in saturated soils.

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

**Functionally water-dependent uses:** Those uses that require, for their primary purpose, location on submerged lands or that require direct access to, or location in, coastal and inland waters and which cannot be located away from these waters. The uses include, but are not limited to commercial and recreational fishing and boating facilities, finfish and shellfish processing, fish storage and retail and wholesale fish marketing facilities, waterfront dock and port facilities, shipyards and boat building facilities, marinas, navigation aides, basins and channels, industrial uses dependent upon water-borne transportation or requiring large volumes of cooling or processing water and which cannot reasonably be located or operated at an inland site, and uses which primarily provide general public access to coastal and 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 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 affected by a harvest.

**Height of a structure:** The vertical distance between the mean original 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.

**Height of structures for a wireless telecommunication facility:** The vertical measurement from a point on the ground at the mean finish grade adjoining the foundation as calculated by averaging the highest and lowest finished grade around the building or structure, to the highest point of the building or structure. The highest point shall exclude farm building components, flagpoles, chimneys, ventilators, skylights, domes, water towers, bell towers, church spires, processing towers, tanks, bulkheads or other
building accessory features usually erected at a height greater than the main roofs of buildings.

**Home Occupations:** The creation of a product or service from any business activity conducted within a principal residential dwelling and/or its surrounding property and accessory structures on the same lot that are clearly incidental and subordinate to the use of the dwelling as a residence and which are compatible with surrounding residential uses in the neighborhood and complies with the provisions of Section 20 (Home Occupations) of the Land Use Ordinance.

**Increase in nonconformity of a structure:** Any change in a structure or property which causes further deviation from the dimensional standard(s) creating the nonconformity such as, but not limited to, reduction in water body, tributary stream or wetland setback distance, increase in lot coverage, or increase in height of a structure. Property changes or structure expansions which either meet the dimensional standard or which cause no further increase in the linear extent of nonconformance of the existing structure shall not be considered to increase nonconformity. For example, there is no increase in nonconformity with the setback requirement for water bodies, wetlands, or tributary streams if the expansion extends no further into the required setback area than does any portion of the existing nonconforming structure. Hence, a structure may be expanded laterally provided that the expansion extends no closer to the water body, tributary stream, or wetland than the closest portion of the existing structure from that water body, tributary stream, or wetland. Included in this allowance are expansions which in-fill irregularly shaped structures.

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

**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 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.

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

**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.

**Medical marijuana dispensary:** A “registered dispensary” as that term is defined in 22 M.R.S.A. § 2422(6), as may be amended. A medical marijuana dispensary includes a location at which marijuana is cultivated by a registered dispensary pursuant to 22 M.R.S.A. § 2428, as may be amended. A medical marijuana dispensary is only authorized as a principal use, and not as an accessory use.

**Methadone clinic:** A substance abuse treatment program that provides treatment for persons with heroin or other opiate addictions where the treatment provided includes administration or prescription of methadone or other opioid replacements (e.g., methadone, methadone hydrochloride or LAAM (levo-alpha-acetyl-methadol)) for either detoxification or maintenance purposes.

**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.

**Municipal Uses:** A use of land, structure or building owned or controlled by the Town of Lincolnville or any district, agency, or subdivision thereof, which serves a public purpose.

**Native:** Indigenous to the local forests.

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

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

**Non-conforming structure:** A structure which does not meet any one or more of the following dimensional requirements; setback, height, 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, non-residential lot for Municipal Use and/or Public Utility: A lot for a municipal use or a public utility that is smaller than the allowable minimum lot size standard set forth in section 15 of the Lincolnville Land Use Ordinance.

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. With the following exceptions:

For the water bodies listed below the following shall be used to determine the normal high-water line:

1. Megunticook Lake/Norton’s Pond -- the normal high-water is equal to the elevation of the top of the East Dam concrete spillway;

2. Pitcher Pond -- the normal high-water line is equal to the elevation of the Kendall Brook Dam spillway; and,

3. Coleman Pond -- the normal high-water is equal to the elevation of the Coleman Pond Dam spillway.

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

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

Piers, docks, wharfs, breakwaters, 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 which is associated with the primary use of the lot on which it is located.

Principal use: The primary or predominant use of any lot.

Public facility: Any facility, including, but not limited to, buildings, property, recreation areas, and roads, which are owned, leased, or otherwise operated, or funded by a governmental body or public entity.
Public Utility: Those essential services, as defined in Section 21 of this ordinance, which are offered to the public, such as, but not limited to, water, electricity, telephone, gas, and transportation, whether publicly or privately owned, which are regulated by the Maine Public Utilities Commission, the Maine Department of Transportation, the Federal Communications Commission, or a similar state agency, which are intended to serve both activities outside the Town of Lincolnville and activities within the Town of Lincolnville. This term also includes buildings and structures which are necessary for the furnishing of such essential public services, whether local or greater in scope.

Recent flood plain soils: The following soil series as described and identified by the National Cooperative Soil Survey:

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

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.

Residual stand: A stand of trees remaining in the forest following timber harvesting and related activities.

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.

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

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

**Salt marsh:** Areas of coastal wetlands (most often along coastal bays) that support salt tolerant species, and where at average high tide during the growing season, the soil is regularly 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
   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 any 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, property boundary line, centerline of a road, or other features from which the setback is measured to the nearest part of a structure.

**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 38 M.R.S.A. section 437.

**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 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.

**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.

**Targeted Market Coverage area:** The area which is targeted to be served by a proposed telecommunications facility.

**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 16 (P).
**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 on exposed soil, parent material or bedrock; and which 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.

**Unreasonably adverse impact:** That the proposed project would produce an end result which is:

1. excessively out-of-character with the designated scenic resources affected, including existing buildings, structures, and features within the designated scenic resource, and

2. would significantly diminish the scenic value of the designated scenic resource.

**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.

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

**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 stream or tidal area.

**Water crossing:** Any project extending from one bank to the opposite bank of a river or 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.

**Wireless telecommunications facility:** Any structure, antenna, tower, or other device which provides radio/television transmission, commercial mobile wireless services, unlicensed wireless services, cellular phone services, specialized mobile radio communications (MR), common carrier wireless exchange phone services, and personal communications service (PAS) or pager services.

**Woody Vegetation:** Live trees or woody, non-herbaceous shrubs.
CERTIFICATION OF ADOPTION

I hereby attest that this is a true copy of the Land Use Ordinance, as amended, of the Town of Lincolnville, Maine duly adopted at the Special Town Meeting held on February 13, 2012.

BOARD OF SELECTMEN

____________________________________
____________________________________
____________________________________
____________________________________
____________________________________

ATTESTATION BY TOWN CLERK:

____________________________________
DAVID B KINNEY, TOWN CLERK
TOWN OF LINCOLNVILLE

AMENDED: 06-15-1999
AMENDED: 06-20-2000
AMENDED: 06-19-2001
AMENDED: 06-15-2002
AMENDED: 04-11-2005
AMENDED: 11-08-2005
AMENDED: 12-20-2007
AMENDED: 06-10-2008
AMENDED: 11-04-2008
AMENDED: 06-12-2010
AMENDED: 02-13-2012
Exhibit A

Section 16 0-1. Timber Harvesting - Statewide Standards [Effective on effective date established in Section 4(B)]

1. Shoreland 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 16(0-1)(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 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 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 10-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 of 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 chose to use. If landowners chose 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 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 activity will not result in any ground disturbance.

   b. Skid trails and yard 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.

   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 impractical, 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 crossing of water bodies, tributary stream channels, fresh water 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 16(0-1)(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 16(0-1)(5)(a)(i) above may be reduced to no less than 50 feet, horizontal distance, and the 50 foot setback specified in Section 16(0-1)(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.

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 16(0-1)(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 16(0-1)(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 16(0-1). Any nonconforming existing road may continue to exist and 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 16(0-1)(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. Crossing of waterbodies. Crossing 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 flow.


b. Upgrading existing water crossings. Extension or enlargement of presently existing water crossings must conform to the provisions of Section 16(0-1). 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 16(0-1).

c. Other Agency Permits. Any timber harvesting and related activities involving the design, construction, and maintenance of crossings on water bodies 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 I 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 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 16(0-1)(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 reasonably impeded.

Subject to Section 16(0-1)(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 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 size may be smaller than provided in Section 16(0-1)(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 16(0-1), 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 subsection provided persons conducting such activities take reasonable measures to avoid disruption of shoreline integrity, the occurrence of sedimentation of water, and the disturbance of stream banks, stream channels, shorelines, and soil lying within ponds and wetlands. If, despite such precautions, the disruption of
shoreline integrity, sedimentation of water, or the disturbance of stream banks, stream channels, shorelines, and soil lying within ponds and wetlands occurs, such conditions must be corrected.

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 16(0-1)(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 crossing 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 feature 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 1/2 times the cross-sectional area of the area of the river, stream or tributary streams 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

Filter strips, skid trail setbacks, and land management road setbacks must be maintained as specified in Section 16(0-1), but in no case shall be less than shown in the following table.

<table>
<thead>
<tr>
<th>Average slope of land between exposed mineral soil and the shoreline (percent)</th>
<th>Width of strip between exposed mineral soil and shoreline (feet along surface of the ground)</th>
</tr>
</thead>
<tbody>
<tr>
<td>0</td>
<td>25</td>
</tr>
<tr>
<td>10</td>
<td>45</td>
</tr>
<tr>
<td>20</td>
<td>65</td>
</tr>
<tr>
<td>30</td>
<td>85</td>
</tr>
<tr>
<td>40</td>
<td>105</td>
</tr>
<tr>
<td>50</td>
<td>125</td>
</tr>
<tr>
<td>60</td>
<td>145</td>
</tr>
<tr>
<td>70</td>
<td>165</td>
</tr>
</tbody>
</table>
Purpose:
The purpose of this document is to provide guidelines for the use of the Lincolnville Bandstand located at Breezemere Park. This bandstand is for the presentation of entertainment programs for the benefit of the public. The Town hereby designs these guidelines to ensure that the use of this facility provides that benefit while also protecting the asset and quality of life for the surrounding neighborhood.

Organization:
The Lincolnville Bandstand will have an oversight group named Bandstand Trustees that will have a minimum of three regular members, each with one vote, to serve three year staggered terms: as well as, three alternate members to be appointed for one year terms, all appointed by the Lincolnville Board of Selectmen. The Trustees may have advisory members as directed by the Board. Three regular members and three alternate members shall be selected with one regular member and one alternate member from the Lincolnville Band, one regular member and one alternate member from the Lincolnville Recreation Commission and one regular member and one alternate member from the neighborhood residents. Advisory members may be selected from the Town Office staff, Board of Selectmen, and a resident building construction specialist at the direction of the Board.

Guidelines:
1. The Lincolnville Bandstand Trustees shall supervise use of the bandstand for the purpose of entertainment, recreation, athletic use, or ceremonial purposes, subject to the condition that any such use shall not interfere with the use of the bandstand for events scheduled by the Town of Lincolnville, or the Music Department of the Lincolnville School. In scheduling use of the bandstand, the Lincolnville Bandstand Trustees shall have the discretion to permit a preference for use of the bandstand by the Lincolnville Band, so long as such use does not interfere with the use of the bandstand by the Town of Lincolnville and the Lincolnville School.

2. No alcoholic beverages or illegal drugs will be permitted on the premises.

3. Amplified musical instruments will not be permitted except through special permit by the Bandstand Trustees.

4. The Bandstand Trustees shall take reasonable precautions to prevent pets from entering the area of the bandstand during performances.

5. Parking for the purposes of attendance at public events involving the bandstand shall occur in such areas as designated by the Lincolnville Board of Selectmen.

6. With the exceptions of the Town of Lincolnville, Lincolnville School, Lincolnville Band (the Band playing by itself) and the Lincolnville churches, any party or organization using the bandstand shall be responsible for damage caused by negligence of that party or organization or attendees of the performance or during any other use of the bandstand by such party or organization. A deposit of $100 shall be paid to the Town of Lincolnville, at the Town Office, to apply to payment for such
damage. The Bandstand Trustees shall be responsible for the inspection of the bandstand following any performance or other use. In the event that the Bandstand Trustees determine, based upon inspection of the bandstand, that no damage has occurred, then the Bandstand Trustees shall inform the Town Administrator in writing of this fact. Within two weeks following the report by the Bandstand Trustees, the Town shall return the deposit, unless the inspection reveals damage to the bandstand.

7. No paper, paint, tape, redecoration, or alteration of any kind shall be made in the bandstand without the prior written permission of the Bandstand Trustees.

8. Parties and/or organizations shall keep the premises in a reasonable sanitary and clean condition and shall leave the bandstand and surrounding park in the same or better condition as received. All trash must be removed. Trash removal may be provided for a fee.

9. Scheduling of events shall be done through the Lincolnville Town Office and in coordination with the Bandstand Trustees. Events scheduling by the Lincolnville Band shall have a high priority. A master calendar will be maintained at the Lincolnville Town Office.

10. No events will be scheduled on the bandstand on Sunday mornings through 12 O-clock noon.

11. All events on the bandstand shall conclude at the following times:
   Sunday through Thursdays         9:00 PM
   Fridays & Saturdays              9:30 PM

12. With the exceptions of the Town of Lincolnville, Lincolnville School, Lincolnville Band (the Band playing by itself) and Lincolnville churches, any party or organization using the bandstand as scheduled by the Bandstand Trustees, shall pay a fee in the amount of $100.00 to the Town of Lincolnville to assist with maintenance of the structure and grounds.
   a. License. A party or organization using the bandstand for the purpose of performance or other permitted purpose shall be a licensee of the Town concerning that use, and the Board of Selectmen reserves the right to revoke that license at any time.
   b. Indemnification. Any party or organization using the bandstand shall indemnify and hold harmless the Town of Lincolnville from any liability for damage or injury, including property damage, from whatever source, arising out of or in connection with the use of the bandstand by that party or organization.

13. Any scheduled group shall split and any proceeds raised 50/50 with the Town of Lincolnville. The Town share of the proceeds shall be used to benefit the maintenance and improvements of the structure and grounds.
14. Concessions on the premises may be granted at the discretion of the Board of Selectmen. The Board of Selectmen may require a payment of fees in connection with any such arrangement, upon such terms and conditions as determined by the Board. Vendors are restricted from using generators to provide electrical power.

15. The Bandstand Trustees shall permit only one performance by any party or organization each day and no performance shall exceed two hours in duration, except for Town of Lincolnville or Lincolnville School events, and except as approved by the Board of Selectmen, and in circumstances in which notice has been published in a newspaper of general circulation at least two weeks prior to the scheduled event.

Date Approved: August 12, 2002
TOWN OF LINCOLNVILLE
ORDINANCE FOR THE
MAINTENANCE, ADMINISTRATION, AND DISPOSITION
OF MUNICIPAL LIEN ACQUIRED PROPERTY

ARTICLE 1. PURPOSE
The purpose of this Ordinance is to establish procedures for the maintenance, administration, and disposition of private property acquired through a foreclosed municipal lien in accordance with Title 36 MRSA Sections 942 and 943, as amended, and Title 38 MRSA, Section 1208, as amended.

ARTICLE 2. DEFINITIONS
For the purposes of this Ordinance, all terms not specifically defined herein shall have their customary or ordinary meanings.

A. Foreclosed Municipal Lien shall mean a property tax lien mortgage that has automatically foreclosed pursuant to Title 36 MRSA Section 942 and 943, as amended, and Title 38 MRSA Section 1208, as amended.

B. Unassessed Taxes shall mean the amount of taxes that would have been assessed to the property in question had it not been owned by the municipality on April 1st on all years in which the municipality may hold title.

C. Mail shall be regular, first class mail posted at any U.S. Post Office, postage prepaid.

D. Municipality shall mean the Town of Lincolnville, Maine.

E. Municipal Lien shall mean a statutory lien mortgage created pursuant to the provisions of Title 36 MRSA, Section 552, as amended, and Title 38 MRSA, Section 1208, as amended.

F. Municipal Officers shall mean the Lincolnville Board of Selectmen.

G. Quit Claim deed shall mean a signed, legal instrument releasing the municipality’s right, title, or interest in real estate property, acquired by virtue of foreclosed tax liens, to a person or persons, entity or entities without providing a guarantee or warranty of title or covenant or warranty of any kind, including title.

ARTICLE 3. MAINTENANCE AND ADMINISTRATION
Following statutory foreclosure of a municipal lien mortgage, title to the real estate property automatically passes to the municipality. The management of the property rests exclusively with the municipal officers, subject to the provisions of state statutes and local ordinances and regulations.
A. The municipal officers shall obtain fire loss insurance, for the benefit of the municipality, only for municipal lien acquired property on which buildings, structures, or other like improvement exist in a dollar value not less than all outstanding taxes, municipal liens, costs and other attendant expenses.

B. The Municipal Officers shall determine when and if any occupants of the municipal lien acquired property shall vacate this property. If the decision to vacate is made, a reasonable time frame will be coordinated with the occupants; also, the occupants will be directed to remove all personal property from the municipal lien acquired property when they vacate the property.

C. The Municipal Officers shall determine whether a municipal lien acquired property is to be retained for municipal use or disposed of in accordance with provision of this Ordinance. For purposes of such determination, the Municipal Officers may consult with the municipality’s Planning Board, School Committee, Municipal officials or local civic organizations.

D. Should the Municipal Officers determine that municipal lien acquired property shall be retained for use by the municipality, the Municipal Officers may pursue action for equitable relief in accordance with the provisions of Title 36 MRSA Section 946, as amended, as a means of securing clear title to the property.

E. The Municipal Officers may charge a monthly rental fee to any and all occupants of municipal lien acquired property. Whether a rental fee be charged, or the property remain occupied without rental charge, the Municipal Officers shall obtain a general liability insurance coverage, for the benefit of the municipality, for the rented or leased municipal lien acquired property.

F. In the event that the property be vacated for 60 consecutive days, the Municipal Officers shall obtain a general liability insurance coverage, for the benefit of the municipality, for the municipal lien acquired property.

ARTICLE 4. DISPOSITION OF MUNICIPAL ACQUIRED PROPERTY

Should the Municipal Officers determine that title to municipal acquired property be relinquished rather than be retained by the municipality, the following shall be observed:

A. The Municipal Officers shall solicit public bids for the sale of municipal lien acquired property and shall receive, open, and read aloud submitted bids no less than sixty (60) days after the date of publication of notice for solicitation of bids.

B. The Municipal Officers shall send notice of the intent to solicit bids for sale of the municipal acquired property, via mail only, to the person or persons,
entity or entities to whom the property was most recently assessed for municipal taxes. The aforementioned person or persons, entity or entities, may repurchase the property within 30 days following the date when the notification was mailed, with full payment of all outstanding taxes, unassessed taxes, municipal liens, interest and all costs including, but not limited to, notice, legal fees, and insurance costs. The notice provided by this paragraph is a matter of courtesy only and failure of the municipality to send this notice shall not create any legal rights in any person or entity to whom the notice was sent, shall not invalidate the sale or use of the municipal lien acquired property pursuant to this Ordinance, nor shall such failure provide a legal basis for any legal action against the municipality or Municipal Officers.

C. The Municipal Officers shall cause a public notice of the solicitation of bids for the municipal lien acquired property to be posted within the Town Office and to be advertised for two (2) successive weeks in the Belfast Republican Journal and the Camden Herald, and three (3) successive days in the Bangor Dailey News, the last notice to be published at least seven (7) days prior to the advertised sale date.

D. The Municipal Officers shall require the following for proper submission.

(1) A bid sheet containing a full description of the property being bid upon, and the bid price in U.S. currency.

(2) A deposit by certified check or postal money order in an amount not less than twenty percent (20%) of the bid price. Failure to submit the proper deposit shall cause the bid to be automatically rejected.

(3) The Municipal Officers shall require that those bid items, cited in paragraphs (1) and (2) above, be sealed in a plain envelope marked only “Municipal Lien Acquired Property” on the exterior and either hand delivered to the Lincolnville Town Office, or, if mailed, to be enclosed within a second envelope addressed to the Board of Selectmen, Town of Lincolnville, 493 Hope Road, Lincolnville, Me 04849-9722. All bids must be received and date-stamped at the Lincolnville Town Office no later than 5:00PM, local time, on the date that bids shall be opened and read.

ARTICLE 5. The Municipal Officers shall not accept any bid for a dollar amount less than the total outstanding taxes, unassessed taxes, municipal liens, interests and all costs, including but not limited to, public notice fees, legal fees, and insurance costs. Acceptance of a lesser amount must be proposed to and accepted by the voters at a town meeting. Should the Municipal Officers determine that such property ought to be disposed of by some means other than competitive bidding or that the minimum purchase price should be waived, the Municipal Officers shall make such presentation to a town meeting for voter approval.
ARTICLE 6. Any and all funds derived from the sale of municipal lien acquired property shall be deemed general revenues to the Town of Lincolnville and may be appropriated for any lawful use by the municipality.

ARTICLE 7. The Municipal Officers shall retain the right to accept or reject any and all bids submitted, and shall cause the same disclaimer to be noted in any public notice soliciting bids on accordance with this Ordinance. Should the Municipal Officers reject all bids, or in the absence of any bids, the property may be offered again for public sale without notice to that person or persons, entity or entities cited in Article 4B.

ARTICLE 8. The Municipal Officers shall notify via mail any successful bidder.

ARTICLE 9. The Municipal Officers shall, as a credit to payment, retain the submitted deposit of any successful bidder, and shall return all other submitted deposits.

ARTICLE 10. The Municipal Officers shall require payment in full, from any successful bidder within thirty (30) calendar days following the date when the bids are opened and read (see Article 11 for exception). Should the bidder fail to pay the full balance, the municipality shall retain the bid price deposit and title to the proffered property.

ARTICLE 11. The Municipal Officers may, subject to a show of good faith on the part of the bidder, extend the time limit a one-time only additional twenty (20) calendar days in which full payment must be received.

ARTICLE 12. The Municipal Officers shall issue a quit claim deed to convey title to the municipal lien acquired property without covenant to the successful bidder.

ARTICLE 13. CONSTRUCTION

A. Severability
Severability is intended throughout and within the provisions of this Ordinance. Should any provisions, including among other things any exceptions, part, phrase, or term, or the application thereof to any person or circumstances be held invalid, the application of other provisions of this Ordinance shall not be affected thereby and the validity of this Ordinance in any and all other respects shall not be adversely affected.

B. Ordinances and Policies Superseded
This Ordinance supersedes and replaces any and all like or comparable ordinances, policies, or decisions previously enacted and in force within the Town of Lincolnville, and shall remain in effect until, or unless revoked or superseded by action of the voters of Lincolnville.
C. Amendments  
From time to time, circumstances may require that portions or sections of this Ordinance be amended, revised, or deleted. Such actions shall be proposed at Town Meeting to the voters of Lincolnville by the Municipal Officers. Approval of any amendments, revisions, or deletions rest exclusively with the voters of Lincolnville.

D. Clearing Title with no Interest  
No provision of this Ordinance shall be deemed to prevent the Municipal Officers from executing Deeds without sale through advertisement and sealed bid for the purposes of clearing title to property in which the Town has not legally acquired an interest.

E. Adoption  
This Ordinance was submitted to the voters of the Town of Lincolnville and adopted at the Town Meeting held the 20th day of June 1994.
TOWN OF LINCOLNVILLE
ORDINANCE TO PROHIBIT OVERNIGHT PARKING

Section 1. Title:


Section 2. Purpose:

There has been as increase in the number of vehicles found parked for extended periods of time in the Lincolnville Beach public parking lot. Large trucks have been parked in such a manner as to block the view of the Lincolnville Harbor from the public parking lot. This parking lot is not large; therefore, if large vehicles, or several smaller vehicles, utilize this lot for extended periods, this denies the use of the lot for residents and public use and detracts from the intended use of the parking lot. The purpose of this Ordinance is to promote the health, safety and general welfare of the citizens of the Town of Lincolnville as well as the public’s use of all Lincolnville public parking lots.

Section 3. Applicability:

This Ordinance applies to the public use of all Municipal Parking Lots in the Town of Lincolnville.

Section 4. Effective Date: June 24, 1986

The effective date of this Ordinance is the day after Town approval.

Section 5. Validity and Severability:

Should any section or provision of this Ordinance be declared invalid, such decision shall not invalidate other sections or provisions of this Ordinance.

Section 6. Amendments:

This Ordinance may be amended by majority vote of the Town voters.

Section 7. Prohibitions:

No person shall overnight stop, park or leave standing any vehicle, whether attended or unattended, upon any Municipal Parking Lot in the Town of Lincolnville.

The Board of Selectmen of the Town of Lincolnville, with respect to the parking lots under their jurisdiction, shall place signs prohibiting or restricting the overnight parking, stopping or standing of vehicles on any Municipal Parking Lots in the Town of Lincolnville. These signs shall be placed in each Municipal Parking Lot in plain view of
any space in each lot. Such signs shall be official signs and no person shall overnight park, stop or stand any vehicle in violation of the restriction stated on such signs.

Section 8. Compliance:

This Ordinance shall not repeal, annul or in any way impair or remove the necessity of compliance with any other regulation, permit, ordinance or statute. Where this Ordinance imposes greater restrictions than set forth in the foregoing, the provisions of this Ordinance shall control.

Section 9. Enforcement:

The Municipal Officers may cause any vehicle parked, stopped or standing overnight in any Municipal Parking Lot in Lincolnville to be removed from the parking lot and placed in a suitable parking place, at the expense of the person in whose name such vehicle is registered. The person bearing the expense of such removal, such as a service station owner, or manager, shall, by registered mail, notify such registered owner, or holder of a security interest thereon if his identity can reasonably be ascertained, of the place where such vehicle can be reclaimed and mail a copy of the notice to the Chief of the Maine State Police. The Town of Lincolnville and its Municipal Officers shall not be liable for any damage that may be caused by such removal.

The Board of Selection of the Town of Lincolnville, with respect to the parking lots under their jurisdiction and the enforcement of the parking restrictions stated in this Ordinance, shall place signs in all Municipal Parking Lots notifying all users of the towing enforcement provisions of this Ordinance. Such signs shall be official signs.

Section 10. Attorney’s Fees:

If, in any action brought in the name of the Town of Lincolnville under this Ordinance, the Town prevails against the person violating the Ordinance, then such person shall be liable and responsible for the Town’s legal fees and court costs involved in bringing such suit or action.

Adopted: June 24, 1986

K:\Ordinances\Overnight Parking.doc
TOWN OF LINCOLNVILLE
PARKING ORDINANCE

AUTHORITY: This Parking Ordinance is adopted pursuant to Title 30-A M.R.S.A., Section 3009.

Purpose:

“Public Ways” means any town way as defined in Title 23 M.R.S.A., Section 3021, and any portion of any State or State-Aid highway located within the town. This term includes ways commonly designated as streets, roads, lanes, and avenues, and includes paved or unpaved shoulders of such ways.

“Public Parking Lot” means any town-owned property designated as an area for the standing, stopping, or parking of properly registered motor vehicles.

“Motor Vehicle” means any vehicle defined in Title 29 M.R.S.A. Section 1.

Any other term in this Ordinance shall have its common dictionary definition unless otherwise indicated.

REGULATED WAYS:

A. After signs are erected prohibiting the parking of motor vehicles, no person shall stand, stop, or park any motor vehicle at any time on the following public ways or specified portions thereof. Currently posted areas are:

   (1) CONGESTED/HAZARDOUS AREAS:

      (A) Atlantic Highway – both sides heading southward from the intersection of Beach Road/McKay Road, a distance of 750 feet.

      (B) Atlantic Highway – west (inland) side from the southern property line of the US Post Office southward to intersection of Beach Road.

      (C) McKay Road south side – from west entrance of the State Ferry Parking Lot to the intersection of Atlantic Highway.

      (D) McKay Road north side – from State Ferry Terminal to the intersection of Atlantic Highway.

      (E) Maiden Cliff Road west side – from a point 1,350 feet in from the Youngtown Road to the end including the turnaround.
(2) SCHOOL AREAS:

(A) Hope Road – east (school) side from Lynx Drive northward approximately 650 feet to the second school entrance there is no parking from 7:00AM to 3:30PM during days school is in session.

(3) NARROW WAYS:

(A) Camden Road – east (inland) side from the Camden Town Line to the north end of jersey barriers.

(B) Camden Road – west (lake) side from the Camden Town Line northward along the metal guardrail to the end of the guardrail.

(C) McKay Road – both sides from the pavement to the paved private driveway at the end of the McKay Road.

(D) Maiden Cliff Road – both sides from the Youngtown Road 1,350 feet in a general southerly direction.

B. With the exception of those ways designated for ANGLE PARKING, vehicle parking upon all public ways in the Town of Lincolnville shall be parallel to the curb, edge of sidewalk, or edge of roadway, as the case may be. All vehicle tires shall be off the traveled way of the road and any vehicle appurtenances shall not extend over the traveled way of the road.

C. Upon, or off the side of, those ways which have been marked or signed for ANGLE PARKING, vehicles shall be parked at an ANGLE to the way:

(1) Atlantic Highway – east (ocean) side from the dory flower planter southward along Atlantic Highway a distance of 250 feet.

D. Vehicles over the size of one (1) ton capacity are NOT permitted ANGLE PARKING.

E. After signs are erected indicating a limited time period for parking, such as: FOUR HOUR LIMIT, NO OVERNIGHT PARKING, NO PARKING FROM 1:00AM, TO 6:00AM, etc.; no person shall stand, stop, or park a vehicle for the time period in excess of the period posted over the following ways or public parking lots:

(1) FOUR HOUR LIMIT:

(A) Atlantic Highway ocean side – from the dory flower planter southward along Atlantic Highway a distance of 250 feet.

(B) “Beach” Parking Lot.
(C) Atlantic Highway west (inland) side from the entrance to the US Post Office southward along Atlantic Highway a distance of 250 feet.

(2) NO PARKING FROM 1:00AM TO 6:00AM:

(A) “Beach” Parking Lot.

(3) FIFTEEN MINUTE LIMIT:

(A) Atlantic Highway west (inland) side from a point 140 feet southerly of the bridge crossing Frohock Stream to Overlook Road.

(B) Atlantic Highway east (ocean) side from a point 140 feet southerly of the bridge crossing Frohock Stream to the southern entrance to the “Beach” Parking Lot.

(4) BUS PARKING ALLOWED:

(A) Atlantic Highway west (inland) side from the entrance to the US Post Office southward along Atlantic Highway a distance of 250 feet.

(B) Atlantic Highway east (ocean) side from the bridge crossing Frohock Stream southward along Atlantic Highway a distance of 140 feet.

(C) Youngtown Road south side from a point 750 feet easterly of the intersection of the Thurlow Road and Youngtown Road to a point 950 feet easterly of the intersection of the Thurlow Road and Youngtown Road provided all tires are off the paved portions of the Youngtown Road.

(5) TWO HOUR LIMIT:

(A) Atlantic Highway west (inland) side from the bridge crossing Frohock Stream to a point 140 feet southward of the bridge.

(B) Atlantic Highway east (ocean) side from the bridge crossing Frohock Stream to a point 140 feet southward of the bridge.

(6) NO PARKING FROM 11:00PM TO 9:00AM:

(A) Atlantic Highway west (inland) side from the entrance to the US Post Office southward along Atlantic Highway a distance of 250 feet.

F. After signs are erected indicating LINCOLNVILLE PERMIT PARKING ONLY, persons WITHOUT a Lincolnville permit shall not be allowed to stand, stop, or park a motor vehicle at any time within the following permit parking areas:
(1) Lincolnville Beach Boat Launch Ramp Area.

EXCEPTIONS: This Ordinance does not apply to motor vehicles parked in prohibited areas for the following reasons:

A. Mechanical problems or breakdowns,

B. Emergency situations, or

C. Maintenance, construction, repair, or installation of utilities on the public by any state or municipal agency or utility company.

PENALTIES: Any person found in violation of this Ordinance by a court of competent jurisdiction shall be subject to a fine of not more than $100.00 nor less than $25.00. Persons charged with violating this Ordinance may waive court action by payment of a fee of $10.00 within seven (7) days after receiving notice of violation. Persons committing second and subsequent parking offenses within a one-year period along Atlantic Highway, McKay Road, the “Beach” Parking Lot and in relation to the Reserved Parking Spaces within the MDOT parking lot, may waive court action by payment of a fee of $25.00 within seven (7) days after receiving notice of the violation. Any such waiver and payment of fee shall be processed through the Lincolnville Town Clerk.

Any vehicle found in violation of any provision of the Ordinance, and the registered owner has two or more unpaid parking tickets for any vehicle registered in his or her name, may be towed or impounded with the use of an immobilization device. The registered owner of any vehicle in violation shall be responsible for full payment of any outstanding parking tickets. In addition a $50.00 immobilization device disengagement fee (if utilized) must be paid as well as any towing and/or storage fees.

ENFORCEMENT: The Municipal Officers or their duly authorized designee shall enforce this Ordinance. Violations of this Ordinance shall be traffic infractions and shall be prosecuted, if necessary, in the appropriate District Court.

SEVERABILITY: In the event that any portions of this Ordinance is found by a Court to be invalid, the remaining provisions shall continue in full force and effect.

EFFECTIVE DATE: This Ordinance shall become effective when adopted by a majority of the Municipal Officers.

Adopted by unanimous vote of the Board of Selectmen, August 24, 1992.
Amended by unanimous vote of the Board of Selectmen, June 10, 1996.
Amended by unanimous vote of the Board of Selectmen, May 8, 2000.
Amended by unanimous vote of the Board of Selectmen, January 22, 2007.
Amended by unanimous vote of the Board of Selectmen, July 23, 2007
Amended by unanimous vote of the Board of Selectmen July 26, 2010
TOWN OF LINCOLNVILLE
ORDINANCE TO PROHIBIT MOTOR VEHICLES
FROM BEING ON ICE ON LAKES

ENACTED ANNUAL TOWN MEETING MARCH 22, 1986

Article 11. To see if the Town will vote to enact an Ordinance to prohibit motor vehicles, as defined in Title 29 Maine Revised Statutes, Sec. 1, subsection 7, from being on the ice of lakes within or adjacent to Lincolnville between the hours of sunset and sunrise of the following day. A fine of not less than $50.00 nor more than $150.00 may be imposed for violations of this ordinance. (This ordinance does not prohibit motor vehicle from being on lakes during regular fishing hours, nor does it prohibit snowmobiles, as defined in Title 12, Section 7821, subsection 5, or ATV’s, as defined in Title 12 Section 7851, subsection 2, from being on the lakes at any time).

Enacted March 22 1986

K:\Ordinances\Prohibit Motor Vehicles from being on Ice in Lakes.doc
TOWN OF LINCOLNVILLE
PROPERTY ASSESSED CLEAN ENERGY (PACE) ORDINANCE

PREAMBLE

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

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

WHEREAS, the Town of Lincolnville (the “Town”) wishes to establish a PACE program; and

NOW, THEREFORE, the Town hereby enacts the following Ordinance:

ARTICLE I - PURPOSE AND ENABLING LEGISLATION

Section 1 - Purpose.

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

Section 2 - Enabling Legislation.

The Town enacts this Ordinance pursuant to 35-A M.R.S.A. § 10151, et seq.

ARTICLE II - TITLE AND DEFINITIONS

Section 3 - Title.

This Ordinance shall be known and may be cited as the “Town of Lincolnville Property Assessed Clean Energy (PACE) Ordinance” (the “Ordinance”).
Section 4 - Definitions.

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

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

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

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

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

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

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

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

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

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

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

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

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

10. **Renewable energy installation.** “Renewable energy installation” means a fixture, product, system, device or interacting group of devices installed behind the meter at a qualifying property, or on contiguous property under common ownership, that produces energy or heat from renewable sources, including, but not limited to, photovoltaic systems, solar thermal systems, biomass systems, landfill gas to energy systems, geothermal systems, wind systems, wood pellet systems and any other systems eligible for funding under federal Qualified Energy Conservation Bonds or federal Clean Renewable Energy Bonds.

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

**ARTICLE III - PACE PROGRAM**

**Section 5 - Establishment; funding.**

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

**Section 6 - Amendment to PACE program.**

In addition, the Municipality may from time to time amend this Ordinance to use any other funding sources made available to it or appropriated by it for the express purpose of its PACE program, and the Municipality shall be responsible for administration of loans made from those other funding sources.
ARTICLE IV – CONFORMITY WITH THE REQUIREMENTS OF THE TRUST

Section 7 - Standards adopted; Rules promulgated; model documents.

If the Trust or other State or federal agency adopts standards, promulgates rules, or establishes model documents subsequent to the Municipality’s adoption of this Ordinance and those standards, rules or model documents substantially conflict with this Ordinance, the Municipality shall take necessary steps to conform this Ordinance and its PACE program to those standards, rules, or model documents.

ARTICLE V – PROGRAM ADMINISTRATION; MUNICIPAL LIABILITY

Section 8 - Program Administration.

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

   A. the Trust will enter into PACE agreements with owners of qualifying property in the Municipality’s PACE district;

   B. the Trust, or its agent, will create and record a Notice of the PACE agreement in the appropriate County Registry of Deeds to create a PACE mortgage;

   C. the Trust, or its agent, will disburse the PACE loan to the property owner;

   D. the Trust, or its agent, will send PACE assessment statements with payment deadlines to the property owner;

   E. the Trust, or its agent, will be responsible for collection of the PACE assessments;

   F. the Trust, or its agent, will record any lien, if needed, due to nonpayment of the PACE assessment;

   G. the Trust or its agent on behalf of the Municipality, promptly shall record the discharges of PACE mortgages upon full payment of the PACE loan.

2. **Assessments Not a Tax.** PACE assessments do not constitute a tax but may be assessed and collected by the Trust in any manner determined by the Trust and consistent with applicable law.
Section 9 - Liability of Municipal Officials; Liability of Municipality.

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

2. Other than the fulfillment of its obligations specified in a PACE administration contract with the Trust entered into under Article V, Sec. 8(1) above, a municipality has no liability to a property owner for or related to energy savings improvements financed under a PACE program.
TOWN OF LINCOLNVILLE
ORDINANCE
FOR REGULATION OF RACING EVENTS

SECTION 1. GENERAL
This Ordinance shall be known and may be cited as an Ordinance for the Regulation of Racing Events. This Ordinance is codified pursuant to the General Police Powers of the Town of Lincolnville.

SECTION 2. PURPOSE
The purpose of this Ordinance is to control the issuance of licenses and the standards of operation for the conduct, sponsoring and management of racing events within the Town of Lincolnville and to assure that acceptable safety standards are observed and enforced in connection with such races.

SECTION 3. DEFINITIONS

A. Racing Event: A “Racing Event” is defined as any recreational or promotional event in which individuals, by invitation or otherwise, are permitting to utilize the public ways and waters for running, bicycling, swimming, or boating, competitively or otherwise, under the sponsorship of any individual, organization or other entity as defined herein. Without limiting the generality of the foregoing, it is the intent of this Ordinance to include in the definition “Racing Event” any event organized for the purpose of permitting or encouraging the public or individuals by invitation to participate in such a race, for any reason. This Ordinance shall also include within its purview any Biathalon, Triathalon, or similar multi-event activity which includes a running, bicycling, swimming, and/or boating race.

B. Sponsor: For purpose of the Ordinance, “Sponsor” shall mean the individual, organization, business, or other entity organizing, promoting, advertising, or otherwise originating a racing event, for any purpose.

SECTION 4. LICENSE REQUIRED
No racing event shall be conducted within the municipal limits of the Town of Lincolnville, in whole or in part, until the sponsor of such racing event shall have obtained a license of approval from the following: Lincolnville Recreation Committee Chairman, Lincolnville Chief Constable, and President of the Camden First Aid Association. If said approval is not obtained, an appeal to the Lincolnville Board of Selectmen may be made. The application will be filed at the Lincolnville Town Office no later than four (4) weeks prior to the scheduled event.

SECTION 5. FEE
The fee for such a license shall be $10.00 for an event license and shall be for the scheduled date of the event, including postponements, providing all agencies are notified of the postponement date.
SECTION 6. MINIMUM SAFETY AND ORGANIZATIONAL STANDARDS
Any racing event, or like event within the meaning of this Ordinance, shall comply with
the following minimum safety and organizational standards, which standards shall be
promulgated by the Town of Lincolnville and made available to sponsors in connection
with the issuance of licenses:

A. Any racing event, biathlon, triathlon, or like event in which the race course
exceeds five (5) miles, may be conducted only if, by arrangement of the
sponsor and at the sole expense of the sponsor, an ambulance and customary
ambulance personnel are present at or upon the site of this event.

B. Any racing event, biathlon, triathlon, or like event which includes running
or bicycling, occurring between May 1 and October 1 shall have a starting
time at or prior to 9AM, or at or after 6PM.

C. No racing event, biathlon, triathlon, or like event, shall be conducted unless,
Penobscot Bay Medical Center, Waldo County General Hospital, or Camden
First Aid Association, shall have been notified of such event, including the
particulars of the event schedule, route, and related details, at least four (4)
weeks prior to the date of such event. Notwithstanding this requirement, a
sponsor may arrange for availability of an ambulance and ambulance
personnel with any ambulance service company.

D. Any racing event, biathlon, triathlon, or like event shall be conducted in full
compliance with guidelines established by the American College of Sports
Medicine, or alternatively, by such guidelines as may be specifically
established and promulgated by the Town of Lincolnville.

SECTION 7. LIABILITY INSURANCE
At the request of the municipal officers, the Town may require as a condition of the
issuances of any municipal license for a racing event, that the sponsor provide evidence
of liability insurance in a form satisfactory to the municipal officers to protect the
municipality from any claim resulting from the conduct of a race within the boundaries of
the public ways and/or waters in the Town of Lincolnville.

SECTION 8. EFFECTIVE DATE
The effective date of this Ordinance is September 29, 1987. This Ordinance supersedes
the Town of Lincolnville Ordinance entitled: Ordinance for the Town of Lincolnville for
Regulation of Running Road Races, enacted June 22, 1987.

Adopted: September 29 1987

K:\Ordinances\Racing Events Ordinance.doc
TOWN OF LINCOLNVILLE
WIDTH DIMENSIONS OF TOWN ROADS
ORDINANCE PASSED MARCH 19, 1984

PREFACE
This Ordinance shall be known and may be cited as the Town Way Width Dimension Ordinance of the Town of Lincolnville, Maine. This Ordinance is promulgated pursuant to Title 23, Section 2103 (Lost and unrecorded Boundaries).

PURPOSE
The purpose of this Ordinance is to establish road width dimensions in the Town of Lincolnville, Maine so as to avoid conflict with existing Zoning Ordinance.

ROAD BOUNDARIES

Article 1.

Section 1. When a town road survey has not been properly recorded, preserved or the termination of the boundaries cannot be ascertained, the Board of Selectmen may use and control for Town road purposes up to one and one half rods on each side of the center of the traveled portion of such road. (1 rod = 16.5 feet – ½ rod = 8.25 ft.).

GRANDFATHER CLAUSE

Section 2. Structure in existence prior to the enactment of this Ordinance which by their close proximity to a road, prevent full expansion as set forth, shall be grandfathered.

SEPARABILITY

Article 2.

In any section, subsection, sentence, or clause is for any reason held invalid, such portion shall be deemed as a separate, distinct, and independent provision and such holding shall not affect the validity of the remaining portions of this Ordinance.

EFFECTIVE DATE

Article 3.

This Ordinance shall be effective immediately following enactment.

Adopted: March 19 1984
TOWN OF LINCOLNVILLE
SIGN ORDINANCE

PURPOSE

The purpose of this Ordinance is to help achieve a successful, attractive, business climate while preserving the quality of life for the residents of the Town of Lincolnville through the regulations of all on-premise business signs and more restrictive regulation of all official business directional signs permitted by the Maine Traveler Information Services Act, Title 23 MRSA Section 1901-1925. This Ordinance requires the use of business signs that are:

1. Compatible with the rural character of the Town;
2. Attractive, readable, and clear; while
3. Safe and non-disturbing for pedestrian and vehicular traffic.

AUTHORITY

This Ordinance is enacted pursuant to the Home Rule authority set forth in Title 30-A MRSA Section 3001.

SECTION 1
ON PREMISE SIGNS

1. All on-premise signs existing prior to the enactment of this Ordinance and continuously from that date until the date of this amendment of the Ordinance shall be exempt from the provisions of the Ordinance, but must be registered with the Codes Enforcement Officer (CEO). Signs shall be registered upon providing to the Codes Enforcement Officer (CEO) proof that the sign or signs existed prior to the enactment of this Ordinance (March 20, 1990) and have been displayed continuously since that date. Registration shall be by sign permit application accompanied by a photograph(s) of the complete sign(s). Signs not registered within 90 days after enactment shall be subject to the full provisions of this Ordinance.

Such proof shall consist, at a minimum, of affidavit, under oath, signed by the registration applicant, on a form approved by the Town, which verifies the required facts. The application for registration and proof of facts supporting the registration must be submitted to the Codes Enforcement Officer within ninety (90) days of the date of enactment of this Ordinance amendment, and if not submitted, then within thirty (30) days of a written notice from the Codes Enforcement Officer requiring registration and proof that a sign is exempt pursuant to this section of the Ordinance.

2. No on-premise sign shall be erected unless a sign permit for said sign has been issued by the Codes Enforcement Officer, except as specifically exempted by this Ordinance.
If the location where the sign or signs are to be placed requires review under the Subdivision Ordinance or any other land use ordinance or regulation of the Town of Lincolnville, no sign permit shall be issued until such review has been completed and approved. The erection of signs in the Shoreland Districts of the Lincolnville Shoreland Zoning Ordinance shall be subject to the restrictions and regulations set forth in that Shoreland Zoning Ordinance. Signs on private roads should not be placed within the full width of the road right-of-way.

3. No on-premise signs shall be permitted:

   A. Within 33 feet of the centerline or within a right-of-way (whichever distance is greater) of any State or State-Aid Highway (specifically Route 1, 52, 173, and 235).

   B. For properties which abut any town road without calculating setbacks using the formula as follows: One half of the width of the traveled way (as measured from the center of the traveled way) plus 15 feet equals the setback for the sign post, minus 3 feet which equals the distance allowed for the sign support and sign. No portion of the sign or sign support shall be closer to the road than 3 feet measured horizontally from the sign post. The bottom of the sign must be at least 5 feet above the roadway as measured from the bottom of the sign vertically to the level of the roadway edge.

   C. Within the full width of the right-of-way of any public way.

4. Off-Building Signs: No more than three (3) on-premise sign locations not on a building, with a maximum combined total area of 80 square feet shall be permitted per business. In addition, a sign permit may also allow specified accessory signs for identification of parking areas, restrooms, office, entrance, exit, and other information which is reasonably required. These accessory signs shall not contain advertising, shall not exceed three (3) square feet each, and shall be uniform in size, color, and lettering. Awnings and canopies containing business names or advertising shall be considered to be signs.

5. On-Building Signs:

   A. Must not exceed a combined total of 80 square feet in area.

   B. May be installed on building exterior walls, in building windows, and on building roofs.

   C. Roof signs shall not exceed two (2) feet in height, shall not extend above the roof ridgeline, nor extend beyond the outer edge of the roof.

6. The maximum total area for any one sign permitted under this Ordinance shall be 40 square feet measured from the outer edge to the outer edge including any frame,
excluding supports.

7. The maximum height of any sign affixed to an in-ground post, including the post to which the sign is affixed, shall not exceed 20 feet, measured from ground level. No signs, including accessory signs, shall be affixed to trees, utility poles, rocks, or to a vehicle permanently parked at the business location.

8. No sign shall remain at a location where the business it advertises has ceased to exist. All signs shall be removed within 90 days of the date on which business activity ceased. Leaving a sign at such location in excess of 90 days shall constitute a violation of this Ordinance for which the property owner of the business site shall be responsible.

9. A two-sided sign shall be considered to be one sign, provided the two sides are not separated by more than 12 inches.

SECTION 2
OFF-PREMISE SIGNS

1. No business advertising signs shall be displayed on property other than that property on which the business exists. Except that those Official Business Directional Signs permitted by the Maine Traveler Information Services Act, Title 23 MRSA Section 1901-1925, may be erected off the business property.

2. A business is allowed to erect only four (4) Official Business Directional Signs in the Town of Lincolnville.

SECTION 3
PROHIBITED SIGNS

1. Streamers, pennants, ribbons, spinners, or other devices shall not be constructed, posted, or erected. Exceptions include flags and buntings exhibited to commemorate national patriotic holidays, and temporary banners announcing charitable or civic events.

2. Signs with flashing, blinking, or fluttering lights, rotating signs, signs containing moving parts, and signs containing reflective elements which sparkle or twinkle in the sunlight, or artificial light are not permitted. Signs indicating the current time and/or temperature are permitted provided they meet all other provisions of this Ordinance. A sign may be illuminated by direct or indirect lighting of constant intensity of one color, providing that the light does not interfere with the traffic or by reason of glare, reflection, intensity or angle create a hazard or unreasonable annoyance to neighbors.

3. No Sign, except for a traffic, regulatory, or informational sign, shall use the words
“stop”, “caution”, or “danger”, or shall incorporate red, amber, or green lights resembling traffic lights, or shall resemble “stop” or “yield” signs in shape or color.

4. Signs that appear to direct the movement, or interfere with the movement, of traffic are not permitted.

5. Signs that prevent a clear and unobstructed view of official signs and approaching or merging traffic are not permitted.

6. Signs in disrepair and/or cracked, broken, or incomplete are not permitted.

SECTION 4
EXEMPT SIGNS

1. Temporary FOR SALE and FOR RENT signs commonly used for the sale or lease of property. However, only one such sign may be placed at a location at any one time, the sign shall not exceed six (6) square feet in area, and the sign must conform to the requirements of Section 1, paragraph 3 of this Ordinance. For the purposes of this paragraph, the term “temporary” shall mean the length of time required to dispose of the property advertised.

2. Temporary signs advertising non-profit events, providing they meet all other provisions of this Ordinance.

3. Signs displayed for less than four (4) days in any 30 day period, but such signs must conform to all other provisions of the Ordinance.

4. Contractors’ signs placed at a construction site during the period of actual construction work. The sign shall be free standing, not to exceed a total of 32 square feet including frame, excluding supports, shall meet all setback requirements, and shall be removed within one (1) week of completion of said construction.

5. Customary holiday decorations, providing they meet all other provisions of this Ordinance.

6. Traffic control and informational signs.

7. Residential address, family name, and no trespassing signs, as well as residential display of the national flag.

SECTION 5
FEE SCHEDULE

1. A one-time fee, to be set by the Selectmen annually, must accompany each business sign application under this Ordinance. A description and the number of accessory signs shall be included in the application. Sign permits must be obtained from the
Codes Enforcement Officer.

2. In addition to the requirements of this Ordinance, the placement of signs may require approval from the Commissioner of Transportation, in accordance with Title 23 MSRA Section 1906.

SECTION 6
REVIEW OF APPLICATIONS AND APPEALS

1. After review by the Codes Enforcement Officer (CEO) of the on-premise or off-premise sign permit application to determine compliance with this Ordinance, the application shall be approved or denied and the applicant notified by regular mail of the action taken. This notification shall be made within 30 days of receipt of the application by the CEO. If the application is denied, the reason for denial shall be stated in writing.

2. Anyone aggrieved by a decision of the CEO in granting or denying a sign permit may appeal such decision to the Board of Appeals within 15 days of the date of notification of the decision. Such appeal shall set forth, in writing, the specific grounds for appeal. A fee shall be paid at the time of filing of the appeal, to cover the cost of advertising. The Board of Appeals shall, forthwith, cause to be advertised in a newspaper of general circulation in the Town a Notice of Appeal which shall state the location of the business involved, the nature of the appeal, and the date, time and place of the public hearing. The Board of Appeals shall at the same time notify by first class mail the owners of all property abutting and immediately across the street or way from the property that is subject of the appeal. The Board of Appeals shall notify the CEO so that he may be present at the hearing.

The appeal shall be in order for hearing within ten (10) days after the first publication of the Notice of Appeal. The hearing shall be held in accordance with state law. Following such hearing, the Board of Appeals may reverse the decision of the CEO only if it finds a mistake of fact or law, or a misinterpretation of the provisions of this Ordinance. The written decision of the Board of Appeals granting or denying the appeal, together with finding of fact supporting the Board’s decision, shall be mailed to the party making the appeal and to the CEO within ten (10) days of the date of the Board’s decision.

3. Any person aggrieved by the decision of the Board of Appeals may appeal that decision to the Superior Court within 30 days of the date of the Board’s decision, in accordance with Rule 80B of the Maine Rules of Civil Procedure.

SECTION 7
VIOLATIONS AND PENALTIES

1. It shall be the responsibility of the Codes Enforcement Officer to enforce this Ordinance.
2. Non-compliance with any provision of this Ordinance shall constitute a violation.

3. Any person or persons, contractor or sub-contractor, firm or corporation who shall violate any of the provisions of this Ordinance or any permit issued hereunder, for which a specific penalty is not set forth herein or for which a specific penalty not otherwise provided by the laws of the State of Maine, shall be subject to the monetary penalties set forth in Title 30-A MRSA Section 4452, which include, without limitation, a minimum penalty for a specific violation in the amount of $100.00 and a maximum penalty for a specific violation in the amount of $2,500.00. Such penalties shall be recoverable in the District Courts of the Superior Court of the State of Maine, in accordance with Title 30-A MRSA Section 4452; and that violator shall further be subject to an action by the Town of Lincolnville, in a court of competent jurisdiction, for injunctive relief in order to prevent or abate violation of this Ordinance.

4. The CEO may revoke permits issued under this Ordinance, for cause after notice and hearing, in the event the permit holder is in violation of this Ordinance.

SECTION 8
SEVERABILITY

The invalidity of any section or provision of this Ordinance shall not be held to invalidate any other section or provision of this Ordinance.

SECTION 9
REPEAL OF ANY AND ALL PRIOR SIGN ORDINANCES

This Ordinance is intended to replace any existing Ordinance regulating signs which are not in conformity with this Ordinance.

SECTION 10
DEFINITIONS

SIGN - Any display of lettering, logos, colors, lights or illuminated neon tubes visible to the public from outside of a building or from a traveled way, which conveys a message to the public or intends to advertise, direct, invite, announce, or draw attention to, directly or indirectly, a use conducted, goods, products, services or facilities available, either on the lot or on any other premises, excluding window displays and merchandise.

FLASHING SIGN – A sign whose illumination is not kept constant in intensity at all times when in use, and which exhibits changes in light, color, direction, or animation. Illuminated signs which indicated the date, time, and/or temperature will not be considered flashing signs.
ILLUMINATED SIGN – Any sign lit by electrical bulbs, fluorescent lights, or neon tubes. Neon tubes used as abstract, graphic, decorative, or architectural elements shall be considered to constitute an illuminated sign.

MOVEABLE SIGN – A sign capable of being readily moved or relocated, including portable signs mounted on a chassis and wheels, or supported by legs.

OFF-PREMISE SIGN – Any sign which is not on the premise of the business.

ON-PREMISE SIGN - Any sign that advertises, calls attention to or identifies the occupant of the premises on which the sign is maintained, or the business transacted thereon, or advertises the property itself or any part thereof as for sale or rent.

BUSINESS – Any retail, service, wholesale, manufacturing, distribution, factory outlet, sales or professional activity where profit is the ultimate goal achieved by the offering for sale or for a fee or commission goods, services and/or professional care and advice to the general public and business invitees.

PLACE OF BUSINESS – Any location where retail and/or wholesale goods and products are sold, made, manufactured and distributed; any location where services are rendered to the general public and business invitees; any location where professional care and/or advice are held out for hire to the general public and business invitees.

OFFICIAL BUSINESS DIRECTIONAL SIGN – A sign erected and maintained to indicate to the traveling public the route and distance to public accommodations, facilities, commercial services for the traveling public and point of scenic, historical cultural, recreational, educational and religious interest.

LOGO – A single or multicolored symbol or design used by a business as a means of identifying its products or services.

PERSON – An individual, corporation, joint venture, partnership or any other legal entity.

TRAFFIC CONTROL SIGN OR DEVICE – An official route marker, warning sign, sign directing traffic to or from a community, bridge, ferry or airport, or sign regulating traffic, which has been erected by officers having jurisdiction over the public way. These signs shall be exempt from the requirements of this Ordinance.

VISIBLE – Capable of being seen without visual aid by a person of normal visual acuity.

ENACTED 03-20-90
AMENDED 03-18-96
AMENDED 06-16-97
AMENDED 03-10-98
AMENDED 06-17-06

K:\Ordinances\Sign Ordinance 1990 Amended last 2006.doc

7
TOWN OF LINCOLNVILLE
ORDINANCE GOVERNING THE ISSUANCE, SUSPENSION AND REVOCATION OF SPECIAL AMUSEMENT PERMITS

ARTICLE I

Section 1. Title

This Ordinance shall be known and may be cited as the Special Amusement Permit Ordinance of the Town of Lincolnville, Maine. This Ordinance is codified pursuant to Title 28-A, MRSA, subsection 1054 as amended and this Ordinance has been duly enacted by the Town of Lincolnville at a regularly constituted Town meeting on the twentieth day of June 1983.

Section 2. Purpose

The purpose of this Ordinance is to control the issuance of special permits for music, dancing, or entertainment in facilities licensed by the State of Maine to sell liquor within the meaning of Title 28-A, MRSA, subsection 1054.

Section 3. Definitions

(A) Entertainment. For the purpose of this Ordinance, “entertainment” shall include any amusement, performance, exhibition or diversion for patrons or customers of licensed premises whether provided by professional entertainers or by full-time employees of the licensed premises whose incidental duties include activities with an entertainment value.

(B) Licensee. For purpose of this Ordinance, “licensee” shall include the holder of a license issued under the Alcoholic Beverages Statutes of the State of Maine, or an person, individual, partnership, firm, association, corporation, or other legal entity, or any agent, or employee of any such licensee.

(C) Tumultuous Conduct. For purposes of this Ordinance, tumultuous conduct shall be defined as conduct of such nature and magnitude as to require or to cause the involvement of law enforcement authorities.

(D) Unnecessary Noise. For purposes of this Ordinance, unnecessary noise shall constitute noise of such a level and duration that said noise is clearly audible outside the premises for which a permit has been issued and sufficiently irritating to disturb the residents in the neighborhood where this establishment is located.
ARTICLE II
General

Section 1. Permit Required

No license for the sale of liquor to be consumed on a licensed premises shall permit, on a licensed premises, any music, except radio or other mechanical device, any dancing or entertainment of any sort unless the licensee shall have first obtained from the municipality in which the licensed premises are situated a special amusement permit signed by at least a majority of the municipal officers.

Applications for all special amusement permits shall be made in writing to the municipal officers and shall state the name of the applicant; his residence and address; the name of the business to be conducted; his business address; the nature of his business and the type of entertainment; the location to be used; whether the applicant has ever had a license to conduct the business therein described either denied or revoked and, if so, the applicant shall describe those circumstances specifically; whether the applicant, including all partners or corporate officers, has ever been convicted of a felony and, if so, the applicant shall describe specifically those circumstances; and any additional information as may be needed by the municipal officers in the issuing of the permit, including but not limited to a copy of the applicant’s current liquor license.

No permit shall be issued for anything, or act, or premises, if the premises and building to be used for the purposes do not fully comply with all ordinances, articles, by-laws, or rules and regulations of the municipality.

The fee for a special amusement permit shall be set annually as determined by the Board of Selectmen.

The municipal officers shall, prior to granting a permit and after reasonable notice to the municipality and the applicant, hold a public hearing, at which the testimony of the applicant and that of any interested members of the public shall be taken. The municipal officers shall give the applicant written notice of their decision within fifteen days of the date of receiving the permit.

The municipal officers shall grant a permit unless they find that the issuance of the permit would be detrimental to the public health, safety, or welfare, or would violate municipal ordinances, or rules and regulations, articles or by-laws.

A permit shall be valid only for the license year of the applicant’s existing liquor license.

(A) Public notice of the date of the hearing shall be published in a newspaper of general local circulation no less than seven days prior to the date of the hearing on this matter.

(B) The municipal officers shall be governed by the standards of Article II Sect. 4 in the issuance, revocation, or suspension of the permit hereunder.
Section 2. Inspection

Whenever inspections of the premises used for or in connection with the operation of a licensed business which has obtained a special amusement permit are provided for or required by ordinances or state law, or are reasonably necessary to secure compliance with any ordinance provision, state law, or municipal rules and regulations, it shall be the duty of the licensee, or the person in charge of the premises to be inspected, to admit any officer, official, or employee of the municipality authorized to make the inspection at any reasonable time that admission is requested.

Whenever an analysis of any commodity or material is reasonably necessary to secure conformance with any ordinance provision or state law, it shall be the duty of the licensee, or the person in charge of the premises, to give any authorized officer, official, or employee of the municipality requesting the same sufficient samples of the material or commodity for analysis.

In addition to any other penalty which may be provided, the municipal officers may revoke the special amusement permit of any licensee in the municipality who refuses to permit any such officer, official, or employee to make an inspection or take sufficient samples for analysis, or who interferes with such officer, official, or employee while in the performance of his duty. Provided, that no license or special amusement permit shall be revoked unless written demand for the inspection or sample is made upon the licensee or person in charge of the premises seven days prior to the time it is sought to make the inspection.

Section 3. Suspension or Revocation of a Permit

The municipal officers may, after a public hearing preceded by written public notice to interested parties, suspend, or revoke any special amusement permits which have been issued under this Ordinance on the grounds that the music, dancing, or entertainment so permitted constitutes a detriment to the public health, safety, or welfare, or violates any municipal ordinances, articles, by-laws or rules and regulations.

(A) Public notice to interested parties shall consist of notice published in a local newspaper of general circulation at least seven days prior to the date of the hearing.

Section 4. Standards

The following standards, in addition to provisions of Section 5 of this Article, shall govern the issuance of a special amusement permit and the suspension or revocation of such permits:

(1) **Hours of Operation.** The permitted activities under a special amusement permit shall cease no later than 11:00 PM, on every night except Saturday night. The permitted activities commencing Saturday night under a special amusement permit shall cease no later than 1:00 a.m. Sunday morning.
shall be deemed detrimental to the public safety or welfare for entertainment of the type requiring a special amusement permit to occur on any night except Saturday night between 11:00 p.m. and 6:30 a.m. the next morning. It shall be deemed detrimental to the public safety or welfare for entertainment of the type requiring a special amusement permit to occur on Sunday morning between the hours of 1:00 a.m. and 6:30 a.m.

(2) Amplified music in the Town of Lincolnville in connection with a Special Amusement Permit shall be permitted only upon an express finding by the municipal officers that such amplified music does not constitute a detriment to the public heath, safety, or welfare, or violate any municipal ordinances or regulations. In connection with the issuance of a permit, the municipal officers may impose reasonable conditions in order to protect the public health, safety and welfare. For purposes of this Ordinance, “amplified music” shall include any amplification of sound by musical instruments, or the use of amplified systems in playing tapes, CD’s, records, or videos for the provision of entertainment.

(A) For amplified music which occurs inside a building or structure on the license premises, the applicant must set forth in the license application the following information:

(1) The type of amplified music which will occur;

(2) The time of day during which the amplified music will occur;

(3) Sufficient evidence or information which demonstrates, to the satisfaction of the municipal officers, that the Licensee has taken and will take appropriate measurers and safeguards prior to the inception of the use of amplified music in the licensed premises to prevent amplified music which is clearly audible and annoying or detrimental to the quiet enjoyment of any person who is located outside the legal boundaries of the licensed premises. Those measures may include, without limitation, soundproofing, a requirement that windows and doors must remain closed during the occurrence of such amplified music, and sound suppression measure for that amplified music.

Based on the information in the application and the evidence at the public hearing, the municipal officers shall determine whether the applicant has produced sufficient proof that the standard set forth (A) (3) above has been satisfied.

If the Board imposes conditions which include a measure or safeguard set forth in (A) (3) above, then the Code Enforcement Officer shall have the authority to inspect the licensed premises in order to determine that the measure or safeguard has been appropriately undertaken by the Licensee. The inspection shall take place at a reasonable
time during the day. Following that inspection, the Code Enforcement Officer shall report the results of that inspection to the municipal officers.

(B) For amplified music which occurs outside of buildings or structures on the licensed premises, the license application shall include the following:

(1) All of the information set forth above for amplified music inside a building or structure;

(2) The specific dates on which such amplified music shall occur;

(3) A written commitment from the Licensee that the Licensee will cease further outdoor use of amplified music, until municipal officers have had an opportunity to evaluate those complaints at a public hearing, if such music results in two or more complaints to the municipal officers that such outdoor amplified music is irritating or detrimental to individuals located outside the licensed premise; provided that those complaints are accompanied by a letter from the Code Enforcement Officer or Constable of the Town that there is a reasonable basis for those complaints. Such a public hearing will be conducted in accordance with the provisions of Section 6 of this Ordinance.

Based on the information in the application and the evidence at the public hearing, the municipal officers shall determine whether the applicant has provided sufficient proof that the standard set forth in (A) (3) above has been satisfied and that the written commitment set forth in (B) (3) above has been made. The applicant has the burden of proof that the requirements have been satisfied. In connection with the approval of a permit, which allows amplified music outside of buildings or structures on the licensed premises, the Board of Selectmen may impose reasonable conditions in order to protect the public health, safety, and welfare. Those conditions may include, among other reasonable conditions, the following conditions:

(A) That the Licensee shall not allow more than a specific number of events with amplified music outside buildings or structures in any month during the license year;

(B) That outside amplified music shall occur only during certain specified hours of the day and that the duration of such music shall not exceed a specific length of time;

(C) That the outside amplified music occur only in a specific location on the premises; and
That each event with outside amplified music must obtain the approval of the Selectmen for that music no less than ten days prior to the occurrence of the event upon written request to the municipal officers for such event.

The facilities receiving a permit under the terms of this Ordinance shall be adequate to assure the safety of all patrons of that establishment and shall comply with all state laws and ordinances regarding such an establishment.

Section 5. Incidents of Tumultuous Conduct and Unnecessary Noise.

Incidents of tumultuous conduct shall be grounds for the suspension or revocation of a permit following notice and hearing and subject to the procedures of Article II, Section 3 of this Ordinance. The licensee of the permit hereunder shall not permit tumultuous conduct in his establishment at anytime. Incidents or occurrences of tumultuous conduct as defined herein twice in one week or three times in one month shall be such conduct constituting grounds for suspension or revocation of the permit following notice and hearing and upon a finding of fact that the owner or manager of said establishment took no reasonable actions to abate this conduct shall be prima facie evidence of a condition detrimental to the public health, safety or welfare of the community.

(a) An instance of tumultuous conduct involving more than five people shall constitute riotous conduct. One such instance or occurrence of riotous conduct shall be such conduct constituting grounds for suspension or revocation of the permit following notice and hearing and upon a finding of fact that the owner or manager of said establishment took no reasonable actions to abate this conduct shall be prima facie evidence of a condition detrimental to the public health, safety or welfare of the community.

(b) Unnecessary noise as defined herein constitutes a detriment to the public health, safety, or welfare.

SECTION 6.

In the event that the municipal officers, after a public hearing preceded by a written public notice to interested parties, determine that a licensee with a special amusement permit has violated provisions of the Ordinance or that valid grounds exist for the suspension or revocation of that special amusement permit; and in the event that the municipal officers have found a violation of the Ordinance or just grounds for revocation or suspension of that party’s special amusement permit after public hearing and notice on three prior occasions concerning that same party within a period of one year, then the municipal officers shall suspend that licensee’s special amusement permit for a period of at least thirty days and in addition may assess any other penalties permitted herein. In the event that a licensee with a special amusement permit is determined by the municipal officers, following public hearing and said public notice, to have violated the provisions
of this Ordinance or in the event that grounds have been found by the municipal officers for the revocation or suspension of that special amusement permit and in the event that said special amusement permit has been suspended for a period of at least thirty days as a result of the immediately preceding sentence on prior occasion within one year of this determination, then the municipal officers shall suspend that licensee’s special amusement permit for at least the remainder of the license year, and in addition may assess other penalties permitted herein.

ARTICLE III
Permit and Appeal Procedure

Section 1.

Any licensee requesting a special amusement permit from the municipal officers shall be notified in writing of their decision no later than fifteen days from the date his request was received. In the event that a licensee is denied a permit, the licensee shall be provided with the reasons for denial in writing. The licensee may not reapply for a permit within thirty days after an application for a permit which has been denied.

Section 2.

Any licensee who has requested a permit and has been denied, or whose permit has been revoked or suspended, may, within thirty days of the denial, suspension, or revocation, appeal the decision to the municipal Board of Appeals as defined in 30-A MRSA subsection 2691.

The municipal Board of Appeals may grant or reinstate the Special Amusement Permit if the Board finds that:

(A) The permitted activities would not constitute a detriment to the public health, safety or welfare, or violate municipal ordinances or regulations; or

(B) The denial, revocation or suspension was arbitrary and capricious.

Section 3. Admission

A licensed hotel, Class A restaurant, Class A tavern or restaurant malt liquor licensee who has been issued a special amusement permit may charge admission in designated areas approved by the municipal special amusement permit.
ARTICLE IV
Penalty

Section 1. Fine

Whoever violates any provision of this Ordinance, shall be punished by a fine of not more than one hundred dollars ($100) for the first offense and up to two hundred dollars ($200) for each subsequent offense, to be recovered, on complaint, to the use of the Town of Lincolnville.

ARTICLE V
Separability

Section 1.

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.

ARTICLE VI
Effective Date

Section 1.

The effective date of the Ordinance shall be June 21, 1983.

Amended July 13, 1995 Special Town Meeting.
TOWN OF LINCOLNVILLE  
SPECIAL WELFARE FUNDS  
OPERATING PROCEDURES

PURPOSE: The Special Welfare Funds may be established by benefactors, who may wish to remain anonymous, to benefit those Lincolnville Residents, who, needing financial assistance yet unable to qualify for the Town’s General Assistance Program for whatever reason, may receive sufficient funds to provide the basic necessities to carry them over a particularly difficult time. To distinguish one fund from another, these special welfare funds may be assigned different names at the discretion of the Lincolnville Welfare Director.

FUNDS: The funds to support this welfare program are provided by the anonymous benefactors; the original amounts may be established by the benefactors and may be increased or decreased on a yearly basis. The funds should be used completely each fiscal year.

RESPONSIBLE AGENT: The Lincolnville Welfare Director is responsible for the administration of these funds.

REQUIREMENTS:
1. With the exceptions of the below listed requirements, this program will function under the guidelines specified in the latest Town of Lincolnville General Assistance Ordinance.
2. At the time of application for assistance from these funds, each applicant must have been a resident of the Town of Lincolnville for more than one week (seven days), with a place of residence (home or apartment, not a motel/hotel/inn room) in which they have been living.
3. Each applicant will complete the Lincolnville Welfare Application, the same used for the Town’s General Assistance Program.
4. Each person who applies to this program must have been found ineligible for the Town’s General Assistance Program for other than violations of Sections 5.5, 5.6, 5.7 and 6.4 of the Town’s General Assistance Ordinance. Persons in violation of the above sections of the GA Ordinance are ineligible for this program also.

LEVELS OF ASSISTANCE:
1. Funds will be used for one category of assistance only from the following list: food, electricity, fuel (home heating/cooking only), or rent. No more than one category will be funded at one time, unless a bonafide emergency can be determined using those criteria outlined in the General Assistance Ordinance.
2. Each applicant who qualifies for this program is entitled to funds sufficient to reduce the need to workable level, as determined by the General Assistance Administrator and the Applicant.
3. The maximum level of funding for any one category will be $200.00 per applicant.

FUNDING METHODS: The Special Welfare Fund will pay only invoices, bills or the like. No money will be dispensed to the applicant directly.
RECOVERY OF GRANTED FUNDS:
1. The recipient is urged to repay the resources granted to them by the special welfare fund; there is no required time period for this repayment; however, if at all possible, restitution should be made within one year from the date the assistance was granted.
2. The fund should not attempt to recover granted funds if the recovery would place the recipient in the financial position of needing welfare funds again.

ENACTMENT DATE: This Operating Procedure is enacted by the Lincolnville Board of Selectmen at a public meeting on November 16, 1992.
TOWN OF LINCOLNVILLE
ORDINANCE CONCERNING THE STORAGE AND DISPOSAL OF SLUDGE AND SEPTAGE ON SITES IN THE TOWN OF LINCOLNVILLE

Preface

This Ordinance shall be known and may be cited as the “Sludge, Disposal, and Storage Ordinance of the Town of Lincolnville, Maine.” This Ordinance is promulgated pursuant to Title 30, MRSA, § 2151 (1) (A), Title 30, MRSA, § 2151 (6), and Title 38, MRSA, § 1305 (2).

The purpose of this Ordinance is to provide for the general welfare and the public safety of the Town of Lincolnville and to control the disposal and storage of sludge and septage which results in odors offensive and discomforting to the inhabitants of the Town of Lincolnville.

SECTION 1

The disposal and the storage of sludge and septage within boundaries of the Town of Lincolnville, Maine is strictly prohibited unless the person causing or permitting disposal or storage of such sludge or septage obtains a permit in writing from the Board of Selectmen in the Town of Lincolnville permitting such disposal or storage.

A. The Permit Application

The person seeking a permit for the disposal or storage of sludge and septage, hereinafter referred to as “Disposal and Storage Permit” shall complete and file with the Board of Selectmen of the Town of Lincolnville an application on a form prescribed by the Board of Selectmen and accompanied by the applicable application fee. In support of that application, the person seeking such permit shall submit any information concerning plans for the disposal, and storage of sludge and septage, including plans for the spreading of sludge and septage, as required by the Board of Selectmen. In addition, the Selectmen shall have the authority to prescribe additional information to be submitted by each applicant.

The Selectmen shall set a fee for the application which said fee shall be $15.00. The Selectmen may increase the application fee in the event that the cost of administering and enforcing the Ordinance warrants such increase in the fee.

B. Duration of Permit

Disposal and storage permits shall be issued for a period of six months from the date of issuance. Issuance of the permit shall allow the person who obtains such a permit, hereinafter referred to as the “Permittee”, to cause or permit the disposal and storage of sludge and septage on a site approved in accordance with the terms of this Ordinance for a period not to exceed six months from the date of issuance. The storage and disposal permit shall not be reassigned or transferred and sold to any other person and a new owner of the approved site shall reapply for
a new permit before causing or permitting any future sludge or septage to be disposed or stored on the approved site.

C. Revocation of a Permit

Any violation of a condition of the Storage and Disposal Permit or of this Ordinance by Permittee may result in a revocation of the permit, after notice to the Permittee and hearing. In the event that disposal or storage on the approved site ceases to conform with the standards of Section II, then the Board of Selectmen may revoke the permit after notice to the Permittee and hearing.

SECTION II

Standards of Granting a Permit

A permit for disposal and storage of sludge and septage shall be approved by the Board of Selectmen only after a determination by the Board of Selectmen to the satisfaction of that Board that the storage and disposal of sludge and septage as appears in the application of the applicant for the requested site will conform with the following standards:

A. That the proposed location for the disposal and storage of sludge and septage is not undesirable for that proposed use and that such use will not have an unreasonable adverse affect on the use and quiet possession of the surrounding land owners;

B. That the proposed use of the site for the disposal and storage of sludge and septage will not significantly depreciate the value of adjacent real estate;

C. That the proposed use of the site for disposal and storage of sludge or septage will not constitute a hazard to the health or safety of the residents of the Town of Lincolnville and that such use will not adversely affect the quality of the air, rivers, streams, or other bodies of water in the Town of Lincolnville, including ground water;

D. That the proposed use of the site for disposal and storage of sludge and septage will not cause unreasonable increase in the provision of municipal services or the cost of municipal services by the Town of Lincolnville;

E. That the proposed use of the site for disposal and storage of sludge or septage will not adversely affect the character of the neighborhood in which the site is located; and,

F. That the proposed use of the site for disposal and storage of sludge or septage conforms strictly with all federal laws and regulations, state laws and regulations and all municipal ordinances including the Zoning Ordinances of the Town of Lincolnville; and including without limitation regulations pursuant to Title 38, Maine Revised Statutes, §1305.

In order for a permit to be granted in accordance with the foregoing standards, the applicant has the burden of proof that the applicant complies with all of those aforementioned standards. Strong and prolonged odor originating from the proposed
site and detectable outside the property boundaries of the proposed site shall be
evidence of a violation of the standards set forth in Paragraph (A), Paragraph (B),
Paragraph (C), and Paragraph (E) of this Section of the Ordinance. Strong and
prolonged odors from the approved site caused by disposal and storage of sludge or
septage shall be grounds for revocation of any permit granted pursuant to this
Ordinance, after notice and hearing.

SECTION III

In connection with the granting of a permit for any applicant who complies with
all of the foregoing standards, the Board of Selectmen may prescribe reasonable
additional requirements as conditions to the granting of a permit in order to give
reasonable protection for the neighborhood in the Town of Lincolnville. These
reasonable additional conditions shall not constitute a waiver of any of the standards
contained in Section II above but shall assure strict compliance with the standards of
Section II above. Any denial of a permit shall be in writing and specify the reasons for
denial.

SECTION IV

Whenever inspections of any property or premises of a Permittee hereunder
shall be deemed necessary by the Board of Selectmen for the purposes of this
Ordinance, or are reasonably necessary to secure compliance with any ordinance,
 provision, state law or other municipal rules and regulations concerning storage and
disposal of sludge or septage, it shall be the duty of the Permittee or the person in
charge of the premises to be inspected, to admit any officer, official or employee of the
Town of Lincolnville authorized to make the inspection, at any reasonable time that
admission is required.

In the event that any Permittee, or person in charge of the premises of a
Permittee, refuses to permit any such inspection, including taking of sufficient samples
for analysis, or in the event that such Permittee or such person interferes with such
inspection, that action shall be deemed a violation of this Ordinance by the Permittee.

SECTION V

Enforcement Procedures

(A) Notification of Violation

Whenever any person has violated or is violating this Ordinance, or any
prohibition, limitation or requirement contained herein or in a Disposal and Storage
Permit, the Town shall send a written notice to that person stating the nature of the
violation and requiring satisfactory correction of that violation.

(B) Enforcement Action

If any person permits or causes sludge or septage disposal or storage contrary to
the provision of this Ordinance or any permit granted hereunder, the Town may
commence an action for legal and/or equitable relief including injunctive relief in the appropriate Superior Court. Any disposal and storage of sludge or septage in violation of the provision of this Ordinance or any permit granted hereunder shall be considered a public nuisance. In the event that the person receiving written notice as set forth in Section V(A) does not take appropriate corrective steps to cure the violation within the time set forth in that notice, then the Town shall commence immediate action for legal or equitable relief.

SECTION VI

Penalties/Cost

Any person, who fails to comply with any provisions of this Ordinance, and the conditions of any permit granted hereunder, shall be fined not less than $250 and not more than $1,000 for each offense. Each instance of violation or failure of compliance that occurs shall be deemed a separate and distinct offense. In addition to the penalties provided herein, the Town may recover reasonable attorney fees and expenses of litigation in any suit commenced by the Town against the person who adjudged to have violated this Ordinance or any of the condition of any permit granted hereunder.

SECTION VII

Appeals

Upon written application of an aggrieved party from any decision or order of the Board of Selectmen under the terms of this Ordinance, and after public notice, the Board of Appeals may hear appeals from any such decision or order of the Board of Selectmen in the administration of this Ordinance. Upon such hearing, the Board of Appeals shall affirm, modify or set aside the decision from which an appeal lies. Any modification and reversal of the decision from which the appeal is taken shall occur only upon a finding that the decision of the Board of Selectmen is clearly contrary to the specific provisions of this Ordinance. Any such appeal to the Zoning Board of Appeals shall occur no later than thirty (30) days from the date of issuance of the decision or order by the Board of Selectmen.

An appeal from any decision of the Zoning Board of Appeals may be taken by the aggrieved party to the Superior Court in accordance with state law within thirty (30) days of the date of such decision.

SECTION VIII

Separability

If any section, subsection, sentence, clause, phrase or portion of this Ordinance is for any reason held invalid or unconstitutional by any Court of competent jurisdiction, such portion shall be deemed as a separate, distinct and independent
provision and such holding shall not affect the validity of the remaining portions of this Ordinance. To the extent that any provision of this Ordinance are less stringent than or inconsistent with provisions of Title 38, Maine Revised Statutes, §1305 (6) through 1308 or the regulations adopted thereunder, then provisions of those statutes and the regulations adopted thereunder shall control.

In addition to the provisions of this Ordinance, any person providing a site for the disposal of septage for a site located with in the Town of Lincolnville shall be subject to the requirements of Title 38, Maine Revised Statutes, §1305 (6).

SECTION X

Definitions

(1) Sludge shall mean any residue of waste and effluent generated by a municipal or private sewerage treatment plant including both such residue produced by sewage treatment within the Town of Lincolnville and by sewerage treatment outside of the Town of Lincolnville.

(2) Septage shall mean waste, refuse, effluent, sludge and any other materials from septic tanks, cesspools or other similar facilities including both materials produced within the Town of Lincolnville and outside the Town of Lincolnville.

(3) Person shall mean any natural person, firm, corporation, partnership, or other business entity or organization.

(4) Disposal shall mean any permanent disposition of sludge or septage at a site within the Town of Lincolnville.

(5) Storage shall mean any retention of sludge or septage on a site within the Town of Lincolnville which involves temporary retention or placement of that material at that site.

(6) Site shall mean any parcel of land or location in the Town of Lincolnville upon which sludge or septage is to be disposed or stored or for which sludge or septage is being disposed or stored.

(7) Applicant shall mean the person or persons who make an application pursuant to this Ordinance for disposal or storage of sludge or septage at this site. Under normal circumstances, the applicant shall be the owner of the proposed site.

SECTION X1

This Ordinance shall be effective immediately upon enactment at a duly constituted town meeting.

Adopted: November 10 1983

K:\Ordinances\Storage & Disposal of Sludge & Septage.doc
Town of Lincolnville
Subdivision Ordinance

November 8, 2005

Amended:

06-10-2008---Article 4, Section 4.4.1 Conceptual Plan
Town of Lincolnville
Subdivision Ordinance

November 8, 2005

Amended:

06-10-2008—Article 4, Section 4.4.1 Conceptual Plan
# Lincolnville Subdivision Ordinance

## Contents

<table>
<thead>
<tr>
<th>Article</th>
<th>Title</th>
<th>Pages</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Purpose and Intent</td>
<td>5</td>
</tr>
<tr>
<td>2</td>
<td>Authority and Administration</td>
<td>6</td>
</tr>
<tr>
<td>2.1</td>
<td>Authority</td>
<td>6</td>
</tr>
<tr>
<td>2.2</td>
<td>Administration</td>
<td>6</td>
</tr>
<tr>
<td>2.3</td>
<td>Amendments</td>
<td>6</td>
</tr>
<tr>
<td>2.4</td>
<td>Effective date</td>
<td>6</td>
</tr>
<tr>
<td>4</td>
<td>Preapplication Meeting, Site Inspection and Design Designation</td>
<td>10</td>
</tr>
<tr>
<td>4.1</td>
<td>Preapplication Meeting</td>
<td>10</td>
</tr>
<tr>
<td>4.2</td>
<td>Purpose</td>
<td>10</td>
</tr>
<tr>
<td>4.3</td>
<td>Procedure</td>
<td>10</td>
</tr>
<tr>
<td>4.4</td>
<td>Submissions</td>
<td>12</td>
</tr>
<tr>
<td>4.5</td>
<td>Classification of Subdivision Design</td>
<td>12</td>
</tr>
<tr>
<td>4.6</td>
<td>Establishment of File</td>
<td>13</td>
</tr>
<tr>
<td>4.7</td>
<td>Prohibition of site activity during review</td>
<td>13</td>
</tr>
<tr>
<td>5</td>
<td>Minor Subdivisions</td>
<td>14</td>
</tr>
<tr>
<td>5.1</td>
<td>Procedure</td>
<td>14</td>
</tr>
<tr>
<td>5.2</td>
<td>Submissions</td>
<td>15</td>
</tr>
<tr>
<td>6</td>
<td>Preliminary Plan for Major Subdivision</td>
<td>21</td>
</tr>
<tr>
<td>6.1</td>
<td>Procedure</td>
<td>21</td>
</tr>
<tr>
<td>6.2</td>
<td>Submissions</td>
<td>23</td>
</tr>
<tr>
<td>7</td>
<td>Final Approval and Filing</td>
<td>29</td>
</tr>
<tr>
<td>7.1</td>
<td>Procedure</td>
<td>29</td>
</tr>
<tr>
<td>7.2</td>
<td>Submissions</td>
<td>31</td>
</tr>
<tr>
<td>7.3</td>
<td>Final Approval and Filing</td>
<td>33</td>
</tr>
<tr>
<td>8</td>
<td>Conservation Subdivisions</td>
<td>35</td>
</tr>
<tr>
<td>8.1</td>
<td>Purpose and Intent</td>
<td>35</td>
</tr>
<tr>
<td>8.2</td>
<td>Application procedure</td>
<td>35</td>
</tr>
<tr>
<td>8.3</td>
<td>Conservation subdivision requirements</td>
<td>36</td>
</tr>
<tr>
<td>8.4</td>
<td>Ownership of common open space and facilities</td>
<td>38</td>
</tr>
<tr>
<td>8.5</td>
<td>Further Subdivision</td>
<td>38</td>
</tr>
<tr>
<td>8.6</td>
<td>The common open space</td>
<td>39</td>
</tr>
<tr>
<td>8.7</td>
<td>Requirements for owners’ association</td>
<td>39</td>
</tr>
<tr>
<td>9</td>
<td>Revisions to Approved Plans</td>
<td>40</td>
</tr>
<tr>
<td>9.1</td>
<td>Procedure</td>
<td>40</td>
</tr>
<tr>
<td>9.2</td>
<td>Submissions</td>
<td>40</td>
</tr>
<tr>
<td>9.3</td>
<td>Scope of Review</td>
<td>41</td>
</tr>
<tr>
<td>10</td>
<td>Review Criteria</td>
<td>42</td>
</tr>
<tr>
<td>10.1</td>
<td>Pollution</td>
<td>42</td>
</tr>
<tr>
<td>10.2</td>
<td>Sufficient water</td>
<td>42</td>
</tr>
<tr>
<td>10.3</td>
<td>Municipal water supply</td>
<td>43</td>
</tr>
<tr>
<td>10.4</td>
<td>Erosion</td>
<td>43</td>
</tr>
<tr>
<td>10.5</td>
<td>Traffic</td>
<td>43</td>
</tr>
</tbody>
</table>
ARTICLE 1 – PURPOSE AND INTENT

1.1 The purpose of this ordinance is to:
   a) Provide for an expeditious and efficient process for the review of proposed Subdivisions.
   b) Adopt the approval criteria of the State Subdivision Law found in Title 30-A M.R.S.A § 4404.
   c) Assure new development in the Town of Lincolnville meets the goals and conforms to the policies of the Lincolnville Comprehensive Plan.
   d) Allow land owners to responsibly and appropriately develop their land.

1.2 The provisions set forth in this subdivision Ordinance are intended to protect the public health and safety, promote the general welfare of the community and conserve and protect the environment by assuring that subdivisions are designed and developed in a manner which assures that adequate provisions are made for traffic safety; emergency access; water supply; sewage disposal; management of storm water, erosion, and sedimentation; protection of the groundwater; wildlife habitat, fisheries, and unique natural areas; protecting historic and archaeological resources; conserving the Town’s natural beauty and visual character, minimizing the adverse impacts on adjacent properties; and fitting the project harmoniously into the fabric of the community.
ARTICLE 2 – AUTHORITY AND ADMINISTRATION

2.1 Authority

2.1.1 This Subdivision Ordinance has been prepared in accordance with the provisions of Title 30A-M.R.S.A., §4404 under the Home Rule authority granted to the Town of Lincolnville by the statutes of the State of Maine.

2.1.2 This ordinance shall be known and may be cited as “Subdivision Ordinance of the Town of Lincolnville.”

2.2 Administration

2.2.1 The Planning Board of the Town of Lincolnville, hereinafter called the Board, shall administer this ordinance.

2.2.2 The provisions of this ordinance shall pertain to all land and buildings proposed for subdivision as defined in Title 30-A, M.R.S.A. 4401 within the boundaries of the Town of Lincolnville.

2.2.3 All requests to the Board and all required fee payments made by subdivision applicants shall be processed by the Lincolnville town office through the Code Enforcement Officer, hereinafter called the CEO, within the required time period specified in this ordinance.

2.2.4 Each year the Board of Selectmen shall act to approve the fee schedule for this ordinance as recommended by the Planning Board.

2.3 Amendments

2.3.1 Amendments to this ordinance must be approved by the municipal legislative body of the Town of Lincolnville.

2.3.2 Public hearings shall be held prior to the adoption of any amendment. Notice of all hearings shall be provided at least seven days in advance of the hearing.

2.4 Effective date

2.4.1 This Subdivision Ordinance herein shall be enacted and be in full force and effect on the day following the date of approval of this Ordinance by the voters of the Town of Lincolnville at a Town Meeting, and any previously-enacted Subdivision Ordinance of
the Town of Lincolnville in effect prior to the date of enactment of this ordinance shall be repealed as of that date.

2.4.2 Applicants for subdivision approval or permit who have filed applications prior to the effective date of this Subdivision Ordinance shall be governed by the terms of the previously-enacted Subdivision Ordinance only in the event that the Planning Board had determined, by a majority vote, that the application for preliminary plan approval was complete, as set forth in Section IV (A) (4) of the previously-enacted Subdivision Ordinance, unless the Applicant elects, in writing, to the Planning Board to be governed by the terms of this Subdivision Ordinance.
ARTICLE 3 – ADMINISTRATIVE PROCEDURE

3.1 The CEO shall prepare a written agenda for each regularly scheduled meeting no less than one week in advance of the meeting. The agenda shall be distributed to Board members, applicants, and posted at the Town Office.

3.2 Prior to submitting a formal application for a minor project (four lots or less) or major project, or a phased development as outlined in Sections 7.3.6 and 7.3.7 of this Ordinance, the applicant or their representative shall request from the CEO a pre-application conference with the Board to discuss the proposed subdivision. When the required fee for a pre-application meeting has been submitted, the applicant shall be issued a current Lincolnville subdivision Ordinance if the applicant does not have a copy of the latest revision.

3.3 At the pre-application stage for minor and major subdivision application and final plan review stage for major subdivision review, the applicant shall submit all applicable documentation, along with any required fees, with a request to the CEO to be placed on the Board’s agenda at least fourteen (14) days prior to the regularly scheduled meeting in order to be heard.

3.4 For the final stage of a minor subdivision review or the preliminary stage of a major subdivision review, the applicant shall submit all applicable documentation, along with any required fees, and request to the CEO to be placed on the Board’s agenda, at least twenty one (21) days prior to the regularly scheduled meeting in order to be heard.

3.5 For final plan approval of a major subdivision, the applicant shall provide the amount of the Performance Guarantee or request a Conditional Agreement in writing at Final Plan submission, as required in Article 13.

3.6 The applicant, or his duly authorized representative, shall attend the meeting of the Board to present the final plan for a minor subdivision and to present the preliminary and final plans for a major subdivision. Failure to attend the meeting shall postpone any
action by the Board until the next meeting for which the applicant is placed on the agenda and attends.

3.7 Upon the Board finding the application to be complete as set forth in Section 5.1.4 as to a minor subdivision and Section 6.1.4 as to a major subdivision, the CEO shall notify in writing the Road Commissioner, School Superintendent, Police Chief, and Fire Chief of the proposed subdivision, the number of dwelling units proposed, the length of roadways, and any other major characteristics of the site. The CEO shall request that these officials comment upon the adequacy of their department’s existing capital facilities to service the proposed subdivision.

3.8 Failure to comply with these provisions shall mean that the Board shall not consider that stage of the application process until the applicant has complied with the applicable provision.

3.9 As described in 7.3.1, a plan may be considered, but no plan shall be approved by the Board as long as the applicant is in violation of the provisions of a previously approved Plan within the Town or as long as the applicant is in violation of the Town’s Subdivision Ordinance and/or the Land Use Ordinance.
ARTICLE 4 – PREAPPLICATION MEETING, SITE INSPECTION AND DESIGN DESIGNATION

4.1 Preapplication Meeting

Fourteen (14) days prior to a meeting of the Board the Applicants or their representative shall request a pre-application conference. Such review shall not cause the plan to be a pending application or proceeding under Title 1 M.R.S.A. Sec 302. No decision on the substance of the plan shall be made at a pre-application conference. When the required fee for a pre-application meeting has been submitted, the applicant shall be issued a current Lincolnville Subdivision Ordinance, if the applicant does not already have one.

4.2 Purpose

The purposes of the pre-application conference and on-site inspection are to:

- Allow the Board to understand the nature of the proposed use and required submissions.
- Allow the applicant to understand the development review process and required submissions.
- Identify issues and potential conflicts (e.g. technical, procedural, environmental, etc.) that need to be addressed in future submissions.
- Make the applicant aware of any opportunities for coordinating the development with community policies, programs, or facilities.
- Identify potential conflicts with abutters, neighbors, and community members.

4.3 Procedure

4.3.1 The applicant shall present the conceptual plan and make a verbal presentation regarding the proposed subdivision and the site on which it will be developed.

4.3.2 The Board at the initial pre-application meeting shall schedule an on-site inspection of the land to be subdivided within thirty (30) days of the pre-application meeting and shall inform the applicant in writing of the required contour interval for use on the preliminary plan application, or final plan in the case of a minor subdivision. The Board and the
applicant, or applicant’s representative, shall jointly attend the site inspection. The applicant shall place “flagging” at the centerline of any proposed streets, and at the approximate intersections of the street centerlines and lot corners, prior to the on-site inspection. The Board shall not conduct on-site inspections when there is more than one foot of snow on the ground.

4.3.3 For major subdivisions, a public input and discussion meeting shall be entered on the agenda of the next scheduled Board meeting prior to formal acceptance of a subdivision application. For minor subdivisions, a public input and discussion meeting may be held at the board’s discretion if there has been significant expressed public interest or if there has been a specific request for a hearing from the public. The purpose and intent of this meeting shall be the same as those of a pre-application meeting with the addition of public input and shall have the same informal status. This forum could provide the Board or the applicant with information that could prove important in future conflict resolutions.

4.3.4 Notice of the Public Input and Discussion Meeting

(a) Twelve days prior to the Public Input and Discussion Meeting, notice shall be sent by the Town via certified mail, return receipt requested, to all abutters and interested parties, notifying them of the date, time, and place of the Public Input and Discussion Meeting at which the subdivision will be discussed.

(b) At least two weeks prior to the scheduled Public Input and Discussion Meeting, a sign or signs shall be posted along all frontage roads notifying passers-by of the proposed development. Under the heading “PROPOSED SUBDIVISION ON THIS SITE”, the sign shall contain the tax map and lot numbers and the proposed number of lots. Signs shall be prominently displayed and easily readable from the road, using contrasting colors. When a subdivision is to be on a private road, a similar sign shall be placed at the nearest intersection with a public way, with an arrow pointing the direction to the property, which shall also be posted as above. These signs shall remain in place throughout the review process.
4.4 Submissions

4.4.1 Conceptual plan. The conceptual plan is not intended to be an engineered plan, but should be a simple illustration that accurately portrays the layout of the subdivision shown in context with specific site conditions. The outline of the proposed subdivision shall be drawn upon a copy of a town tax map, enlarged to a workable and legible size, showing the following resources on, or adjacent to, the site: streams, significant wetlands, 100-year floodplains, ridge lines, public roads and trails, public land(s), conserved land(s), existing driveways or access roads and skidder roads, the general location of any easements or encumbrances, existing wells, and the boundaries of any scenic viewshed(s) identified on the Scenic View map available at the Town Office. The proposed layout of the subdivision shall show the layout of lots, building envelopes and/or house sites, and probable access roads to the lots.

4.4.2 Location Map: the outline of the proposed subdivision shall be drawn on a copy of a USGS topographical map of Lincolnville, enlarged to a workable and legible size. The copy shall, where possible, show one or more numbered contour lines and a named feature for orientation purposes.

4.4.3 Information on any historically significant sites including graves and stone boundary walls shall either be indicated on the conceptual plan or provided separately.

4.5 Classification of Subdivision Design

4.5.1 At their next meeting following the site visit the Board shall make a determination regarding the classification of the application as either traditional design or conservation design. If, in the opinion of the Board, evidence presented on the conceptual plan, on the site visit, and from other available documentation indicates that any of the following criteria have been met, the Board shall require the applicant to submit a plan for conservation design:

a) The parcel is in a view-shed identified in the Comprehensive Plan.

b) The parcel contains open fields suitable for agricultural production.
c) The parcel has critical wildlife habitat as defined by the Maine Department of Conservation or Comprehensive Plan, or is of historic significance as identified by the Lincolnville Historical Society in the Comprehensive Plan, or is on the National Register of Historic Places.

4.5.2 Request for modification. Prior to submission of the preliminary plan (or the plan for minor subdivisions), an applicant may request that the Board reconsider their decision to require a conservation design. Evidence to support the Applicant’s request to submit a modified conservation design or a traditional subdivision design must be submitted giving specific reasons that the proposed design will conserve the natural resource.

4.5.3 Voluntary election to submit a conservation design. Prior to submission of a preliminary plan, an applicant may request of the Board that they be allowed to submit a Conservation Design for a parcel that would not otherwise qualify. In return for concessions made in the design, the Applicant may be able to take advantage of provisions allowing smaller lots sizes and decreased infrastructure costs to decrease development costs.

4.6 Establishment of File

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

4.7 Prohibition of site activity during review.

Developers should note that the following construction activities related to site preparation and development are prohibited on the site of a proposed major subdivision until final plan approval has been received: construction of streets; cutting of trees for development purposes on the proposed site (other than minor thinning), and grading of land.
ARTICLE 5 - MINOR SUBDIVISIONS

5.1 Procedure

5.1.1 Within six months after the on-site inspection by the Board and twenty-one days prior to a scheduled meeting of the Board, the applicant shall submit an application for plan approval. Applications, along with any required fees, shall be submitted to the Lincolnville CEO. The CEO shall schedule the application on the agenda for review by the Board. In addition, the CEO shall:

a) Notify in writing all owners of property within 500 ft of the proposed subdivision boundaries as shown on most recent tax records and parties who have filed for notice of interest, specifying the location of the proposed subdivision and including a general description of the project.

b) Notify the clerk and the review authority of the neighboring municipalities if any portion of the subdivision abuts or crosses the Town boundary.

The plan shall approximate the layout shown on the conceptual plan, plus any recommendations made by the Board. Failure to submit the application within six months shall require re-submission of the conceptual plan to the Board.

5.1.2 The applicant, or his duly authorized representative, shall attend the meeting of the Board to present the plan. Failure to attend the meeting shall postpone any action by the Board until the next meeting for which the applicant is placed on the agenda and attends.

5.1.3 Within three days after the meeting at which an application for plan approval of a minor subdivision is initially presented, the CEO shall issue a dated receipt to the applicant.

5.1.4 Within thirty days of the receipt of the plan application, the Board shall determine whether the application is complete and notify the applicant in writing of its determination. If the application is not complete, the Board shall notify the applicant of the specific additional material needed to complete the application.
Article 5 – Minor Subdivisions

5.1.5 Upon determining that a complete application has been submitted for review, the Board shall determine whether to hold a public hearing on the plan application. The Board may hold a public hearing if there has been significant expressed public interest or there has been a specific request for a hearing from the public.

5.1.6 If the Board decides to hold a public hearing, it shall hold the hearing within thirty days of determining that it has received a complete application, and shall publish a notice of the date, time and place of the hearing in a newspaper of general circulation in the town at least two times, the date of the first publication to be at least seven days prior to the hearing. A copy of the notice shall be mailed to the applicant and abutters. In addition, the Town shall post the date, location and time of the public hearing on its website as well as on the available event notification space afforded the Town as a community service by any local internet news service.

5.1.7 Within thirty days from the public hearing or within sixty days of determining a complete application has been received, if no hearing is held, or within another time limit as may be otherwise mutually agreed to by the Board and the applicant, the Board shall make findings of fact, and conclusions relative to the criteria contained in Article 10 and Title 30-A M.R.S.A., §4404, and the standards of Articles 11 and 12. If the Board finds that all the criteria of Article 10 and the Statute and the standards of Articles 11 and 12 have been met, the Board shall approve the plan. If the Board finds that any of the criteria of Article 10 or the statute or the standards of Articles 11 and 12 have not been met, the Board shall either deny the application or approve the application with conditions to ensure all of the criteria and standards will be met by the subdivision. The Board shall issue a written notice of its decision to the applicant, including its findings, conclusions and any reasons for denial or conditions of approval.

5.2 Submissions

The Board may require that a minor subdivision comply with some or all of the submission requirements and/or plat plan of a major subdivision. Upon review of the supporting documentation outlined below, the Board may determine that the Application does not
appear to have met all of the criteria for approval in Article 10 or Title 30-A M.R.S.A., §4404 and/or the standards from Articles 11 and 12 of these regulations. In that case, the Board may require additional documentation on specific criteria, or it may require full compliance with all requirements for submissions as outlined under the provisions for major subdivisions.

The plan application submissions shall consist of the following items: the Application Form, the Location Map, the Plan Submissions, and the Plat Plan.

5.2.1 Application Form.
These forms are supplied by the Town Office and are also available at the Town web site (http://www.town.lincolnville.me.us/).

5.2.2 Location Map
A tax map or maps showing the relationship of the proposed subdivision to:

a) Properties within 500 feet
b) An outline of the proposed subdivision and any remaining portion of the owner’s property, if the plan submitted covers only a portion of the owner’s entire contiguous holding.
c) Existing subdivisions within 1,000 feet of the proposed subdivision.

5.2.3 Plan Submissions Requirements
a) The names and addresses of the record owner, applicant and the name of the municipality in which it is located, plus the assessor’s map and lot numbers.
b) Verification of right, title, or interest in the property and a copy of the most recently recorded deed for the parcel including all deed restrictions, rights-of-way, or other encumbrances currently affecting the property. When access is over a private road outside the subdivision, documented proof of right of access and right to improve the road to, at minimum, Private Way standards.
c) A list of property owners within 500’ including names, addresses, and phone numbers.
d) Test pit analysis by a licensed site evaluator or a certified soil scientist, referenced by numbers relating to the numbered test pits shown on the Plan.
Article 5 – Minor Subdivisions

e) Information on the type of water supply system(s) to be used in the subdivision and recent information (when available) on wells in the immediate area.

f) If any portion of the proposed subdivision is located in the direct watershed of a great pond, the application shall indicate which great pond as shown in the watershed boundary maps available at the Town Office.

g) If open space is proposed for dedication to the town, the applicant shall provide a written offer to convey title to the municipality of all public open spaces shown on the plan, as described in Section 7.2.1 (d). Dedication of land to the Town requires an affirmative vote of the voters at a Town Meeting.

h) Written approval from the Board of Appeals for variances or special exceptions, if required, and any conditions imposed.

5.2.4 Plat Plan Requirements

The subdivision plan for a minor subdivision shall consist of one reproducible transparency and one black and white paper copy of the plan to be recorded at the Registry of Deeds, and two paper copies to be filed at the Town Office, three copies of one or more maps or drawings drawn to a scale of not more than one hundred feet to the inch (1" : 100′) and three copies of all information accompanying the plan. As required by Title 33 M.R.S.A, §652, the reproducible transparencies shall be embossed with the seal of the architect, professional engineer and/or registered land surveyor responsible for preparation of the plan. Plans 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 notes and endorsements by the Board and a signature block shall be provided for the Board. In addition, one copy of the Plan(s) reduced to a size of 8-1/2 by 11 inches or 11 by 17 inches, and all accompanying information shall be provided to the Town office for distribution to each Board member no less than seven days prior to the meeting.

The subdivision plan shall show the following information:

a) A standard boundary survey of the parcel, giving complete descriptive data by bearings and distances, made and certified by a registered land surveyor. The
Article 5 – Minor Subdivisions

corners of the parcel shall be located on the ground and marked by monuments. The plan shall indicate the type of monument found or to be set in the future at each lot corner.

b) Proposed name of the subdivision, or identifying title, and individual or company who prepared the plan.

c) The date the plan was prepared, north point, and graphic map scale.

d) Adjoining property owners names, addresses and Map and Lot Numbers.

e) The location of all test pits dug on the site for evaluation of the subsurface wastewater disposal systems. The pits shall be numbered to correspond to the test pit analysis required in 5.2.3 (d).

f) Location of any existing wells.

g) The total number of acres within the proposed subdivision, location of property lines, location of all existing buildings, vegetative cover type, the location of any trees larger than 30 inches in diameter at 48” above ground level within areas the developer proposes to clear and other essential existing physical features. A plan note detailing any restrictions placed on clearing existing vegetation on lots abutting any town or state road.

h) The location of rivers, streams and brooks within or adjacent to the proposed subdivision.

i) Contour lines at the interval specified by the Board, showing elevations in relation to mean sea level.

j) The land use district in which the proposed subdivision is located and the delineation of any land use boundaries affecting the subdivision.

k) The location and size of existing and proposed sewers, water mains, culverts, and drainage ways on or adjacent to the property to be subdivided.

l) The location, names, and present widths of existing streets and parks and other open spaces within or adjacent to the subdivision.

m) Sufficient data to allow the location, bearing and length of every street line, lot line, and boundary line to be readily determined and be reproduced upon the ground. These lines shall be tied to reference points previously established.
Article 5 – Minor Subdivisions

n) The location of any open space to be preserved and a Plan Note that describes any covenants or restrictions which apply.

o) All parcels of land proposed to be dedicated to public use and the conditions of such dedication.

p) The outline of sensitive areas listed in 11.3.2, 11.4, and 11.5.

q) 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, as depicted on the municipality’s Flood Insurance Rate Map, shall be delineated on the plan.

r) If the Board finds that one or more of the following conditions is present, the Board may require a storm water management plan or an erosion and sedimentation control plan, as specified in 7.2.1 (b) and (c):

   ▪ The proposed subdivision is in the direct watershed of a great pond and is within 1,000 feet of the high water mark of that pond.
   ▪ The proposed subdivision has recently undergone or will involve grading and/or timber harvesting which changes drainage patterns.
   ▪ The addition of impervious surfaces such as roofs and driveways is more than 5% of the area of the subdivision.

s) Areas within or adjacent to the proposed subdivision which have been identified as high or moderate value wildlife habitat by the Maine Department of Inland Fisheries and Wildlife or within the Comprehensive Plan. If any portion of the subdivision is located within a area designated as a critical natural area by the comprehensive plan or the Maine Natural Areas Program, a plan note shall indicate appropriate measures for the preservation of the values which qualify the site for such designation.

t) If the proposed subdivision is in the direct watershed of a great pond, a phosphorus control plan prepared following the standards of Art 11.17.3 for minor subdivisions.

u) All areas within or adjacent to the proposed subdivision which are either listed on or eligible to be listed on the National Register of Historic Places, or have been identified in the comprehensive plan as sensitive or likely to contain such sites.
Article 5 – Minor Subdivisions

v) Plan note referring to written approval from the Board of Appeals for variances or special exceptions, if required in 5.2.3 (h), and any conditions imposed.

5.2.5 Homeowners’ or Road Association. If there is property held in common or private roads or private ways to be maintained, the applicant shall form and incorporate a homeowners’ or a road association. As evidence of the creation of such an association the submission shall include copies of the by-laws developed by the applicant. The document shall clearly establish:

a) The association’s responsibility to properly and routinely maintain and repair private roads, and private ways serving the subdivision after the applicant has legally relinquished that responsibility.

b) Covenants for mandatory membership to be included in the deed for each lot.

c) The association’s responsibility for maintaining any common open space.

d) The establishment of annual charges for all property owners to maintain roads and common open space.
ARTICLE 6 - PRELIMINARY PLAN FOR MAJOR SUBDIVISION

6.1 Procedure

6.1.1 Within six months after the on-site inspection by the Board, the applicant shall submit an application for approval of a preliminary plan at least twenty one days prior to a scheduled meeting of the Board. Applications and any required fees shall be submitted to the Lincolnville CEO. The CEO shall schedule the application on the agenda for review by the Board. In addition, the CEO shall:

a) Notify in writing all owners of property within 500 ft of the proposed subdivision boundaries as shown on most recent tax records and parties who have filed for notice of interest, specifying the location of the proposed subdivision and including a general description of the project.

b) Notify the clerk and the review authority of the neighboring municipalities if any portion of the subdivision abuts or crosses the Town boundary.

Failure to submit an application within six months shall require rescheduling of a pre-application meeting with the Board and resubmission of a conceptual plan and fee. The preliminary plan shall approximate the layout shown on the conceptual plan, plus any recommendations made by the Board.

6.1.2 All applications for preliminary plan approval of a major subdivision shall be accompanied by a non-refundable application fee per lot, payable by check to the Town of Lincolnville. The application fee per lot for a major subdivision shall be approved annually by the Board of Selectmen at a Selectmen’s meeting as recommended by the Planning Board. In addition, the Board upon reviewing the application and finding the need for outside professional assistance, may, at its sole discretion and at the full expense of the applicant, hire its own civil engineer, soil scientist, geologist or other experts to review the plan submitted by the applicant. The applicant shall deposit an amount determined by the Board in an account with the Town of Lincolnville in advance of hiring such experts to cover this expense. Any balance in the account remaining after the decision on the final plan by the Board shall be returned to the applicant.
6.1.3 Within three days after the meeting at which an application for preliminary plan approval of a major subdivision is initially presented, the CEO shall issue a dated receipt to the applicant.

6.1.4 Within thirty days of receiving the preliminary plan application, the Board shall determine whether the application is complete and notify the applicant in writing of its determination. If the application is not complete, the Board shall notify the applicant of the specific additional material needed to complete the application.

6.1.5 A public hearing shall be held within thirty days of the Board’s determination that it has received a completed preliminary plan application. The Board shall send notice of the date, time, and place of the hearing. The applicant shall be notified and the notice shall be published in a newspaper of general circulation in Lincolnville at least two times, the date of the first publication to be at least seven days prior to the hearing. In addition, the Town shall post the date, location and time of the public hearing on its web site as well as on the available event notification space afforded the Town as a community service by any local internet news service.

6.1.6 Within thirty days from the public hearing, or within another time limit as may be otherwise mutually agreed to by the Board and the applicant, the Board shall make findings of fact on the application, and approve, approve with conditions, or deny the preliminary plan application. The Board shall specify in writing its findings of facts and conclusions relative to the criteria contained in Article 10 and Title 30-A M.R.S.A., §4404 and the standards of Articles 11 and 12. If the Board finds that all the criteria of Article 10 and the Statute and the standards of Articles 11 and 12 have been met, the Board shall approve the preliminary plan. If the Board finds that any of the criteria of Article 10 and the statute or the standards of Articles 11 and 12 have not been met, the Board may: 1) approve the preliminary plan with condition(s); or 2) require that the applicant return with additional documentation and/or a revised preliminary plan; or 3) deny the preliminary plan.
6.1.7 When granting approval to a preliminary plan, the Board shall state the conditions of such approval, if any, with respect to:
   a) The specific changes which it will require in the final plan;
   b) The character and extent of the required improvements for which waivers may have been requested and which the Board finds may be waived without jeopardy to the public health, safety, and general welfare; and
   c) The construction items for which cost estimates and performance guarantees will be required as prerequisite to the approval of the final plan.

6.1.8 Approval of a preliminary plan shall not constitute approval of the final plan or intent to approve the final plan, but rather it shall be deemed an expression of approval of the design of the preliminary plan as a guide to the preparation of the final plan. The final plan shall be submitted for approval by the Board upon fulfillment of the requirements of these regulations and the conditions of preliminary approval, if any. Prior to the approval of the final plan, the Board may require that additional information be submitted and changes in the plan be made as a result of further study of the proposed subdivision or as a result of new information received.

6.2 Submissions

The preliminary plan application shall consist of the following items.

6.2.1 Application Form.

These forms are supplied by the Town Office and are also available at the Town web site (http://www.town.lincolnville.me.us/).

6.2.2 Location Map.

The location map shall be drawn at a size adequate to show the relationship of the proposed subdivision to properties within 500 feet, and to allow the Board to locate the subdivision within the municipality. The map should not be greater than one thousand feet to the inch (1”:1000’) in scale and shall show:
   a) Existing subdivisions in the proximity of the proposed subdivision.

   b) Locations and names of existing and proposed streets.
c) Boundaries and designations of land use districts.

d) An outline of the proposed subdivision and any remaining portion of the owner’s property if the final plan submitted covers only a portion of the owner’s entire contiguous holding.

6.2.3 Preliminary Plan Submissions Requirements.

The submissions presented for approval of a major subdivision shall include the following information.

a) The names and addresses of the record owner, applicant and the name of the municipality in which it is located, plus the assessor’s map and lot numbers.

b) Verification of right, title, or interest in the property and a copy of the most recently recorded deed for the parcel.

c) A copy of all deed restrictions, easements, rights-of-way, or other encumbrances currently affecting the property. When access is over a private road outside the subdivision, documented proof of right of access and right to improve the road to, at minimum, Private Way standards.

d) A copy of any deed restrictions intended to cover all or part of the lots or dwellings in the subdivision.

e) A list of property owners within 500 feet, including names, addresses, and phone numbers.

f) Test pit analysis shall be provided by a licensed site evaluator or a certified soil scientist. This information shall be referenced by numbers relating to the numbered test pits shown on the Plan.

g) Information on the type of water supply system(s) to be used in the subdivision and recent information (when available) on wells in the immediate area.

h) If any portion of the proposed subdivision is located in the direct watershed of a great pond, the application shall indicate which great pond and the source of that information.

i) If applicable, written offers to convey title to the municipality of all public open spaces shown on the plan, and/or copies of agreements or other documents showing the manner in which open spaces to be retained by the applicant 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 to convey title shall be included. Dedication of land to the Town requires an affirmative vote of the voters at a Town Meeting.

j) The location and method of disposal for land clearing and construction debris and/or the quantity and type of fill to be brought in.

k) Written approval from the Board of Appeals for variances or special exceptions, if required, and any conditions imposed.

6.2.4 Preliminary Plat Plan Requirements

The Subdivision Preliminary Plat Plan shall be submitted in five (5) copies which may be printed or reproduced on paper drawn to a scale of not more than one hundred (100) feet to the inch. Where practical, the sheet size of the drawings shall be 24” by 36”. In addition, seven (7) copies of the plan reduced to a size of 8 ½” x 11” shall be submitted. The following information shall be shown on the preliminary plan.

a) A standard boundary survey of the parcel, giving complete descriptive data by bearings and distances, made and certified by a registered land surveyor. The corners of the parcel shall be located on the ground and marked by monuments. The plan shall indicate the type of monument found or to be set in the future at each lot corner.

b) Proposed name of the subdivision, or identifying title, and individual or company who prepared the plan.

c) The date the plan was prepared, north point, and graphic map scale.

d) Adjoining property owners names, addresses and map and lot numbers.

e) The location of all test pits dug on the site for evaluation of the subsurface wastewater disposal systems. The pits shall be numbered to correspond to the test pit analysis required above.

f) Location of any existing wells.

g) The total number of acres within the proposed subdivision, location of property lines, location of all existing buildings, vegetative cover type, the location of any trees larger than 24 inches in diameter at 48” above ground level within areas the developer proposes to clear and other essential existing physical features. On wooded sites, the
plan shall indicate the area where clearing for lawns and structures shall be permitted, and shall include a plan note detailing any restrictions placed on clearing existing vegetation, on those lots abutting any Town or State road.

h) The location of rivers, streams and brooks within or adjacent to the proposed subdivision

i) Contour lines at the interval specified by the Board, showing elevations in relation to mean sea level.

j) The land use district in which the proposed subdivision is located and the delineation of any land use boundaries affecting the subdivision.

k) The location and size of existing and proposed sewers, water mains, culverts, and drainage ways on or adjacent to the property to be subdivided.

l) The location, names, and present widths of existing streets, and the location and names of parks and other open spaces within or adjacent to the subdivision.

m) Sufficient data to allow the location, bearing and length of every street line, lot line, and boundary line to be readily determined and be reproduced upon the ground. These lines shall be tied to reference points previously established.

n) The location of any open space to be preserved and a plan note that describes any covenants or restrictions which apply.

o) All parcels of land proposed to be dedicated to public use and the conditions of such dedication.

p) The outline of sensitive areas listed in 11.3.2, 11.4, and 11.5.

q) 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, as depicted on the municipality’s Flood Insurance Rate Map, shall be delineated on the plan.

r) The Board may require a storm water management plan, prepared in accordance with the *Stormwater Management for Maine: Best Management Practices*, published by the Maine Department of Environmental Protection (1995), if the subdivision is in the direct watershed of a great pond, if the proposed subdivision has recently undergone or will involve grading and/or timber harvesting which changes drainage patterns, or if the addition of impervious surfaces such as roofs and driveways is more than 5% of the area of the subdivision.
s) An erosion and sedimentation control plan prepared in accordance with the *Maine Erosion and Sedimentation Control Handbook for Construction: Best Management Practices*, published by the Cumberland County Soil and Water Conservation District and the Maine Department of Environmental Protection, current edition. The Board may waive submission of the erosion and sedimentation control plan if the subdivision is not in the direct watershed of a great pond, the proposed subdivision will not involve grading and/or timber harvesting which changes drainage patterns, and the addition of impervious surfaces such as roofs and driveways is less than 5% of the area of the subdivision.

t) Areas within or adjacent to the proposed subdivision which have been identified as high or moderate value wildlife habitat by the Maine Department of Inland Fisheries and Wildlife or within the comprehensive plan. If any portion of the subdivision is located within an area designated as a critical natural area by the comprehensive plan or the Maine Natural Areas Program, a plan note shall indicate appropriate measures for the preservation of the values which qualify the site for such designation.

u) If the proposed subdivision is in the direct watershed of a great pond, a phosphorus control plan prepared following the standards of Art 11.17.3 for major subdivisions.

v) All areas within or adjacent to the proposed subdivision which are either listed on or eligible to be listed on the National Register of Historic Places, or have been identified in the comprehensive plan as sensitive or likely to contain such sites.

w) A plan note referring to the written approval from the Board of Appeals for variances or special exceptions in 6.2.3 (k), if required, and any conditions imposed.

6.2.5 Homeowners’ or Road Association. If there is property held in common, or private roads or private ways to be maintained, the applicant shall form and incorporate a homeowners’ or road association. As evidence of the creation of such an association the submission shall include copies of the by-laws developed by the applicant. The document shall clearly establish:

a) The association’s responsibility to properly and routinely maintain and repair private roads, and private ways serving the subdivision after the applicant has legally relinquished that responsibility. Maintenance for gravel roads shall include grading,
including grading in the spring when the road has dried out to the point that it is able to support heavy equipment.

b) Covenants for mandatory membership to be included in the deed for each lot.

c) The association’s responsibility for maintaining any common open space.

d) The establishment of annual charges for all property owners to maintain roads and common open space.
ARTICLE 7 - FINAL PLAN FOR MAJOR SUBDIVISION

7.1 Procedure

7.1.1 Within six months after the approval of the preliminary plan, the applicant shall submit an application for approval of the final plan at least fourteen days prior to a scheduled meeting of the Board. Applications shall be submitted by mail to the Board in care of the Town Office or delivered by hand to the Town Office. If the application for the final plan is not submitted within six months after preliminary plan approval, the Board shall require resubmission of the preliminary plan, unless the applicant requests an extension, as stipulated below. The final plan shall approximate the layout shown on the preliminary plan, plus any changes required by the Board.

If an applicant cannot submit the final plan within six months, due to delays caused by other regulatory bodies, or other reasons, the applicant may request an extension. Such a request for an extension to the filing deadline shall be filed, in writing, with the Board prior to the expiration of the filing period. In considering the request for an extension, the Board shall request that the applicant show the status of the Final Plan at the time of the request, along with any requests for approval from other agencies. The Board shall also assure that Town of Lincolnville ordinances or regulations which may impact on the proposed development have not been amended since the date the application was filed.

7.1.2 All applications for final approval of a major subdivision shall be accompanied by a non-refundable application fee per lot or dwelling unit, payable by check to the Town of Lincolnville. The non-refundable application fee per lot for final approval of major subdivisions shall be approved annually by the Board of Selectmen at a Selectmen’s meeting, as recommended by the Board.

7.1.3 Final plan submission shall include copies of all necessary approvals for compliance with any State or Federal requirements pertaining to the project including Maine Department of Environmental Protection review under the Site Location of Development Act, if applicable.
7.1.4 The applicant, or the applicant’s duly authorized representative, shall attend the meeting of the Board to discuss the final plan. Failure to attend the meeting to present the final plan application shall result in a delay of the Board’s receipt of the plan until the next meeting which the applicant attends.

7.1.5 At the meeting at which an application for final plan approval of a major subdivision is initially presented, the Board shall issue a dated receipt to the applicant.

7.1.6 Within thirty days of the receipt of the final plan application, the Board shall determine whether the application is complete and notify the applicant in writing of its determination. If the application is not complete, the Board shall notify the applicant of the specific additional material needed to complete the application.

7.1.7 The Board may hold a public hearing on the final plan if: the preliminary plan has been approved with a condition that is of public concern, there has been significant expressed public interest, or there has been a specific request for a hearing.

7.1.8 If the Board decides to hold a public hearing, it shall hold the hearing within thirty days of determining that it has received a complete application, and shall publish a notice of the date, time and place of the hearing in a newspaper of general circulation in the town at least two times, the date of the first publication to be at least seven days prior to the hearing. A copy of the notice shall be mailed to the applicant and abutters. In addition, the Town shall post the date, location and time of the public hearing on its website as well as on the available event notification space afforded the Town as a community service by any local internet news service.

7.1.9 Before the Board grants approval of the final plan, the applicant shall meet the performance guarantee requirements contained in Article 13.

7.1.10 Within thirty days from the public hearing or within sixty days of determining a complete application has been received, if no hearing is held, or within another time limit as may be otherwise mutually agreed to by the Board and the applicant, the Board shall
make findings of fact, and conclusions relative to the criteria contained in Article 10, Title 30-A M.R.S.A., §4404 and the standards of Article 11 and 12 of this ordinance. If the Board finds that all the criteria in Article 10, the statute, or the standards of Articles 11 and 12 have been met, the Board shall approve the final plan. If the Board finds that any of the criteria of Article 10, the statute, or the standards of Articles 11 and 12 have not been met, the Board shall either deny the application or approve the application with conditions to ensure all of the criteria and standards will be met by the subdivision. The Board shall issue a written notice of its decision to the applicant, including findings of fact, conclusions, and any reasons for denial or conditions of approval.

7.2 Submissions

The subdivision final plan for a major subdivision shall consist of one reproducible transparency and one black and white paper copy of the plan to be recorded at the Waldo County Registry of Deeds, and two paper copies to be filed at the town office, three copies of one or more maps or drawings drawn to a scale of not more than one hundred feet to the inch (1”:100’) and three copies of all information accompanying the plan. As required by Title 33 M.R.S.A, §652, the reproducible transparencies shall be embossed with the seal of the architect, professional engineer and/or registered land surveyor responsible for preparation of the plan. Plans 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 notes and endorsements by the Board. In addition, one copy of the Plan(s) reduced to a size of 8-1/2 by 11 inches or 11 by 17 inches, and all accompanying information shall be provided to the Town office for distribution to each Board member no less than seven days prior to the meeting.

The final plan shall consist of all information contained on the approved preliminary plat plan with revisions made only to address any conditions of approval of that plan, and all accompanying information including any additional documentation required of the applicant at the time of preliminary plan approval. The plan must meet the same requirements described at 6.2.4 and shall be submitted to the CEO for distribution to the Board. If substantial changes have been made to the final plan, the Board may choose to
again review the plan against the submission requirements of 6.2.4 to assure that all required information has been submitted.

7.2.1 In addition, the following submission requirements may apply:

a) Evidence satisfactory to the Board that the applicant has the financial and technical capability to complete the public improvements of the subdivision and to meet all of the requirements of the Board concerning the subdivision.

b) A performance bond or guarantee in a form and amount meeting the requirements in Article 13 to secure the completion of all improvements required by the Board.

c) The location and method of disposal for land clearing and construction debris and/or the quantity and type of fill to be brought in.

d) If different than those submitted with the preliminary plan, a copy of any proposed deed restrictions intended to cover all or part of the lots or dwellings in the subdivision.

e) If required under conditions stated in 6.2.4 (r), a storm water management plan, prepared by a registered professional engineer in accordance with the *Stormwater Management for Maine: Best Management Practices*, published by the Maine Department of Environmental Protection (1995).

f) Unless waived under conditions stated in 6.2.4 (s), an erosion and sedimentation control plan prepared in accordance with the *Maine Erosion and Sedimentation Control Handbook for Construction: Best Management Practices*, published by the Cumberland County Soil and Water Conservation District and the Maine Department of Environmental Protection (current edition).

g) If applicable, any written offers to convey title to the Town of all public ways and open spaces shown on the Plan for dedication, 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 proposed streets and/or open spaces or other land is to be offered to the Town, written evidence that the Board of Selectmen are satisfied with the legal sufficiency of the written offer to convey title shall be included. The approval of the Board shall require as a condition that any public ways or open spaces dedicated to the Town must be accepted by a vote of the Town at a Town Meeting.
Article 7 – Major Subdivision Final Plan

h) If it was determined the proposed subdivision is in the direct watershed of a great pond, the phosphorus export control plan submitted for compliance with Art 11.17.4.

7.3 Final Approval and Filing

7.3.1 No plan shall be approved by the Board as long as the applicant is in violation of the provisions of a previously approved plan within the Town or as long as the applicant is in violation of the Town’s Subdivision Ordinance and/or Land Use Ordinance.

7.3.2 Final plan submission shall include copies of all necessary approvals for compliance with any State or Federal requirement pertaining to the project including Maine Department of Environmental Protection review under the Site Location of Development Act, if applicable.

7.3.3 Upon findings of fact and determination that all criteria in Title 30-A M.R.S.A., §4404 and criteria of Article 10 and standards of Articles 11 and 12 of this ordinance 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. Any subdivision not recorded in the Waldo County 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.

7.3.4 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 9. The Board shall make findings that the revised Plan meets the criteria of Title 30-A M.R.S.A., §4404, and the standards of this ordinance. 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.
7.3.5 The approval by the Board of a subdivision plan shall not be deemed to constitute or be evidence of any acceptance by the Town of any street, easement, or other open space shown on such plan. When a park, playground, or other recreation area shall have been shown on the plan to be dedicated to the Town, approval of the plan shall not constitute an acceptance by the Town of such areas. The Board shall require the plan to contain appropriate notes to this effect. The Board may also require the filing of a written agreement between the applicant and the Board of Selectmen covering future deed and title dedication, and provision for the cost of grading, development, equipment, and maintenance of any such dedicated area.

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

7.3.7 Except in the case of a phased development plan, failure to complete substantial construction of the subdivision within five years of the date of approval and signing of the plan shall render the plan null and void. In the case of phased subdivisions, the first phase shall be substantially completed within five years and subsequent phases will be completed within five years of approval. Upon determining that a subdivision’s approval has expired under this paragraph, the Board shall have a notice placed in the Waldo County Registry of Deeds to that effect.
ARTICLE 8 – CONSERVATION SUBDIVISIONS

Explanatory Statement

Conservation subdivision designs promote the goals of Lincolnville’s residents, as expressed in the Comprehensive Plan, to retain the rural nature of the Town by retaining open space and by buffering the views of development. Conservation developments encourage innovative approaches to layout and design of a proposed subdivision that preserves the most recognized significant features of the landscape. Incentives for this type of development include reduced development costs resulting from smaller minimum lot sizes and a reduction in road frontage requirements. Retaining land for agriculture and forestry, protecting significant wildlife habitat, and maintaining the tradition of allowing public access to hunting and fishing grounds and recreational trails are but a few of the benefits of this type of development.

8.1 Purpose and Intent

- To promote development that preserves Lincolnville’s rural character including agricultural lands, forests, wildlife habitat, open space, scenic views, historic and archeological sites, and natural features.
- To preserve access to recreational trails, forest, pastureland, and hunting grounds, and to foster an integrated system of preserved open spaces.
- To promote flexibility in the pattern of development of dwelling units within the subdivision, and to promote shared septic, potable water and storm water systems that prevent the degradation of water quality.
- To promote flexibility in road design and reduce the amount of required roadway.

8.2 Application procedure

Conservation subdivision applications shall follow the applicable provisions for submission requirements stated in Article 5 or Articles 6 & 7 of this ordinance, depending on the number of lots in the proposal.
8.3 Conservation subdivision requirements

Conservation Subdivisions shall meet all requirements of these provisions and must meet all the standards of this and other Lincolnville ordinances except those standards dealing with lot size, density and set backs.

8.3.1 A minimum of 30% of the parcel shall be conserved as open space or in its natural state; provided, however, that the Planning Board may require, in its discretion, to allocate all or a portion of such open space to common open space or contiguous open space, as defined in this ordinance. This conserved area shall contain as much of the protected resource identified in 4.5.1 (a), (b) and/or (c) as is practicable. In determining the practicability of a design, the Board shall consider the following criteria:

a) Excessive cost
b) Undue impact on the environment
c) Circumstances of the site
d) Surrounding area characteristics
e) Impact on other significant resources such as historical or archaeologically significant sites or wildlife habitat.

In exchange for the allocation of a minimum of 30% of buildable land area to the open space set forth within the land proposed for subdivision, the Board may allow lots within a proposed subdivision to be reduced in lot area and in road frontage as set forth below:

a) The Board may allow lots within a proposed subdivision to be reduced in lot area to a minimum lot area of not less than 20,000 square feet for each individual dwelling unit or other principal use.

b) The Board may allow lots within a proposed subdivision to meet a minimum road frontage requirement of 60 feet, subject to the limitations on the reduction on road frontage as set forth in paragraph c, below.

(c) The Board may allow a reduction in the road frontage requirement to a minimum of 60 feet per lot for each individual dwelling unit or other use, provided that on Route 1 and Route 52, the access management standards of the Land Use Ordinance (Section 17) and of the State have been met, and that on Route 173 and 235, the State access management standards have been met.
8.3.2 Designated building envelopes shall be one element of an overall plan for site development. Only developments having a site plan that includes the proposed building envelopes of structures will be considered. The application shall also illustrate the treatment of spaces, paths, roads, service and parking and in so doing shall take into consideration all requirements of this section and of other relevant sections of this ordinance.

8.3.3 In order to determine the maximum number of lots permitted on the subdivision tract of land, the net residential acreage shall be divided by the minimum lot area required in the land use district. The net residential area of a conservation subdivision shall be calculated by taking the total area of the subdivision tract of land and subtracting, in order, the following:
   a) The area proposed for roads and parking.
   b) Portions that are unsuitable for development in their natural state due to topographical, drainage or subsoil conditions such as, but not limited to any of the conditions listed in section 11.5.

8.3.4 Each buildable lot in the conservation subdivision shall have an area suitable for subsurface wastewater disposal according to the Maine Subsurface Wastewater Disposal Rules.

8.3.5 The total area of reserved open space within the development shall equal or exceed the sum of the area by which any building lots are reduced below the minimum lot area normally required by ordinance. No less than 30% of the reserved open space shall be land which is classified under 8.3.3 (a)-(b).

8.3.6 Every building lot that is reduced in area below the amount normally required shall be within 1,000 feet of the common open space where practical.

8.3.7 Up to two dwelling units are allowed on any lot, provided that the lot is 40,000 square feet or greater in size.
8.3.8 No proposed building lot shall have direct vehicular access onto a public road existing at the time of development unless the Board grants a waiver as set forth in 12.2.4.

8.3.9 Shore frontage shall not be reduced below the minimum required by the Shoreland Zoning standards of the Lincolnville Land Use Ordinance.

8.3.10 Where a conservation subdivision abuts a body of water, a usable portion of the shoreline, as well as reasonable access to it, shall be a part of the common open space.

8.3.11 Where practical, open space shall go up to the property line to provide for the opportunity of contiguous open space. Land that is identified in the comprehensive plan as of “significant value” should be included as open space.

8.4 Ownership of common open space and facilities

All common open space and facilities shall be owned by one of the following:

8.4.1 The owners of the lots or dwelling units by means of an owners’ association;
8.4.2 An association or trust which has as its principal purpose the conservation or preservation of land in essentially its natural condition;
8.4.3 The Town, if the voters at a Town Meeting have voted to affirm dedication of land to the Town
8.4.4 The subdivider, who may retain the land for the purpose of agriculture or forestry but in so doing shall relinquish development rights to the designated common open space.

8.5 Further Subdivision

Further subdivision of the common open space and its use for other than conservation, agriculture, or non-commercial recreational 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 with Board approval. When open space is to be owned by an entity other than the municipality, there shall be a deeded conservation easement prohibiting future development recorded in the Waldo County Registry of Deeds.
8.6 **The common open space** shall be shown on the final plan with appropriate notations on the plan to indicate:

8.6.1 Further subdivision is prohibited.

8.6.2 Common open space approved for acceptance by the municipality, if any, and the purpose for which it is intended, if any.

8.7 **Requirements for owners’ association**

The plan submitted by the applicant shall include:

8.7.1 Covenants creating mandatory membership in an owners’ association setting forth the owners’ rights, interests, responsibilities, and privileges in the association and the common property and facilities and in the private roads and ways, as specified in sections 5.2.5 and 6.2.5

8.7.2 Provision shall be made in the bylaws to create funding for cost coverage of major repairs, maintenance and/or replacement of facilities on or related to the common open space land as well as tax assessments.

8.7.3 The developer or subdivider shall submit a plan for transfer of financial and maintenance responsibilities of the common open space land and any associated facilities to the owners’ association. The plan should provide for proper maintenance and support of the common land until sufficient development has occurred to support the association.
ARTICLE 9 – REVISIONS TO APPROVED PLANS

9.1 Procedure

An applicant for a revision to a previously approved plan shall, at least fourteen days prior to a scheduled meeting of the Board, request to be placed on the Board’s agenda.

9.1.1 Minor Subdivision: If the revision involves the creation of additional lots, such that the resulting subdivision would have been initially reviewed as a major subdivision, those procedures, beginning with preliminary plan approval, shall be followed. If the revision involves only modifications of the approved plan, without the creation of additional lots that increase the number of lots so that the subdivision includes more than four lots, the procedures for minor subdivision final plan approval shall be followed. If the Board determines that the revision or amendment in the previously approved plan involves only a minor adjustment of boundary lines for a lot or lots, then the Board may, at its discretion, decide to approve the revision or amendment without requiring the procedures for final plan approval.

9.1.2 Major Subdivision: If the revision involves the creation of additional lots, 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. If the Board determines that the revision or amendment in the previously approved plan involves only a minor adjustment of boundary lines for a lot or lots, then the Board may, at its discretion, decide to approve the revision or amendment without requiring the procedures for preliminary plan approval or final plan approval.

9.2 Submissions.

The applicant shall submit a copy of the approved plan as well as seven copies of the proposed revisions. The revised plan shall indicate that it is the revision of a previously approved and recorded plan and shall show the title of the subdivision and the book and page or cabinet and sheet on which the original plan is recorded at the Waldo County Registry of
Deeds. Upon approval by the Board, the revised plan shall be recorded in the Waldo County Registry of Deeds at the expense of the applicant.

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.
ARTICLE 10 REVIEW CRITERIA

In approving subdivisions in the Town of Lincolnville, the Board shall consider the following criteria in this ordinance, and the criteria set forth in Title 30-A M.R.S.A. §4404 (and other related provisions in state law concerning subdivisions). Any amendments in the state subdivision law (Title 30-A M.R.S.A. §4404) shall supplement or amend the review criteria set forth below, as appropriate, and all such amendments in the state subdivision law shall be incorporated into the provisions of Article 10 of this Ordinance. In addition, the Board shall consider the development standards set forth in Article 11 and the road and street standards set forth in Article 12 of this Ordinance. All such standards applicable to the subdivision under review shall be met by the applicant as criteria for approval by the Board.

Before granting approval the Board shall make written findings of fact that the provisions of this ordinance and the statutory review criteria have been met.

When reviewing any subdivision for approval, the Board shall consider the following criteria and, before granting approval, must determine that:

10.1 Pollution

The proposed subdivision will not result in undue water or air pollution. In making this determination, the Board shall at least consider:

10.1.1 The elevation of the land above sea level and its relation to the flood plains;
10.1.2 The nature of soils and subsoils and their ability to adequately support waste disposal;
10.1.3 The slope of the land and its effect on effluents;
10.1.4 The availability of streams for disposal of effluents; and
10.1.5 The applicable state and local health and water resource rules and regulations

10.2 Sufficient water

The proposed subdivision has sufficient water available for the reasonably foreseeable needs of the subdivision.
10.3 **Municipal water supply**

The proposed subdivision will not cause an unreasonable burden on an existing water supply, if one is to be used.

10.4 **Erosion**

The proposed subdivision will not cause unreasonable soil erosion or a reduction in the land's capacity to hold water so that a dangerous or unhealthy condition results.

10.5 **Traffic**

The proposed subdivision will not cause unreasonable highway or public road congestion or unsafe conditions on existing or proposed roads. If the proposed subdivision requires entrance onto a state or state aid highway the applicant is required to provide documentation indicating that the driveways or entrances conform to Title 23, section 704 and any rules adopted under that section.

10.6 **Sewage disposal**

The proposed subdivision will provide for adequate sewage waste disposal and will not cause an unreasonable burden on municipal services if they are utilized.

10.7 **Municipal solid waste disposal**

The proposed subdivision will not cause an unreasonable burden on the municipality's ability to dispose of solid waste, if municipal services are to be utilized.

10.8 **Aesthetic, cultural and natural values**

The proposed subdivision will not have an undue adverse effect on the scenic or natural beauty of the area, aesthetics, historic sites, significant wildlife habitat identified by the Department of Inland Fisheries and Wildlife or the municipality, or rare and irreplaceable natural areas or any public rights for physical or visual access to the shoreline.

10.9 **Conformity with local ordinances and plans**

The proposed subdivision conforms with a duly adopted subdivision regulation or ordinance, comprehensive plan, development plan or land use plan. In making this determination, the Board may interpret these ordinances and plans.
10.10 Financial and technical capacity

The subdivider has adequate financial and technical capacity to meet the standards of this section.

10.11 Surface waters; outstanding river segments

Whenever situated entirely or partially within the watershed of any pond or lake or within 250 feet of any wetland, great pond or river as defined in Title 38, chapter 3, subchapter I, article 2-B, the proposed subdivision will not adversely affect the quality of that body of water or unreasonably affect the shoreline of that body of water.

A. When lots in a subdivision have frontage on an outstanding river segment, the proposed subdivision plan must require principal structures to have a combined lot shore frontage and setback from the normal high-water mark of 500 feet.

   (1) To avoid circumventing the intent of this provision, whenever a proposed subdivision adjoins a shoreland strip narrower than 250 feet on which lots have not been created, the proposed subdivision shall be reviewed as if lot lines extended to the shore.

   (2) The frontage and set-back provisions of this paragraph do not apply either within areas zoned as general development or its equivalent under shoreland zoning, Title 38, chapter 3, subchapter I, article 2-B, or within areas designated by ordinance as densely developed. The determination of which areas are densely developed must be based on a finding that existing development met the definitional requirements of section 4401, subsection 1, on September 23, 1983.

10.12 Ground water

The proposed subdivision will not, alone or in conjunction with existing activities, adversely affect the quality or quantity of ground water.

10.13 Flood areas

Based on the Federal Emergency Management Agency's Flood Boundary and Floodway Maps and Flood Insurance Rate Maps, and information presented by the applicant whether the subdivision is in a flood-prone area. If the subdivision, or any part of it, is in such an area,
the subdivider shall determine the 100-year flood elevation and flood hazard boundaries within the subdivision. The proposed subdivision plan must include a condition of plan approval requiring that principal structures in the subdivision will be constructed with their lowest floor, including the basement, at least one foot above the 100-year flood elevation.

10.14 Freshwater wetlands

All freshwater wetlands within the proposed subdivision have been identified on any maps submitted as part of the application, regardless of the size of these wetlands. Any mapping of freshwater wetlands may be done with the help of the local soil and water conservation district.

10.15 River, stream or brook

Any river, stream or brook within or abutting the proposed subdivision has been identified on any maps submitted as part of the application. For purposes of this section, "river, stream or brook" has the same meaning as in Title 38, section 480-B, subsection 9.

10.16 Storm water

The proposed subdivision will provide for adequate storm water management.

10.17 Spaghetti lots prohibited

If any lots in the proposed subdivision have shore frontage on a river, stream, brook, great pond or coastal wetland as these features are defined in Title 38, section 480-B, none of the lots created within the subdivision have a lot depth to shore frontage ratio greater than 5 to 1.

10.18 Lake phosphorus concentration.

The long-term cumulative effects of the proposed subdivision will not unreasonably increase a great pond's phosphorus concentration during the construction phase and life of the proposed subdivision.

10.19 Impact on adjoining municipality

For any proposed subdivision that crosses municipal boundaries, the proposed subdivision will not cause unreasonable traffic congestion or unsafe conditions with respect to the use of existing public ways in an adjoining municipality in which part of the subdivision is located.
10.20 Lands subject to liquidation harvesting

Timber on the parcel being subdivided has not been harvested in violation of rules adopted pursuant to Title 12, section 8869 (14). In reviewing this criteria, the Board shall consider the provisions of Title 30-A, M.R.S.A. §4404 (20).
ARTICLE 11 – DEVELOPMENT STANDARDS

11.1 Purpose

The performance standards of Articles 11 and 12 are intended to clarify and expand upon the criteria for approval found in Article 10 of this Ordinance. In reviewing a proposed subdivision, the Board shall review the application for conformance with the performance standards of Articles 11 and 12 and make written findings that the submitted design meets the review criteria set forth in Article 10. In all instances, the burden of proof shall be upon the applicant to present adequate information in a clear and convincing manner to indicate that all statutory review criteria and the development standards below have been met.

11.2 Compliance

Any proposed subdivision shall be in conformity with the Lincolnville Comprehensive Plan as well as all pertinent State laws and local ordinances and regulations.

11.3 Utilization of the site

11.3.1 The plan for the development must reflect the natural capabilities of the site to support development. Using the natural contours of the site, building envelopes and roads shall be located to minimize the appearance of buildings and roads to the maximum extent practicable. Diversity and originality of lot layout shall be encouraged.

11.3.2 Natural drainage ways and environmentally sensitive areas, including but not limited to, wetlands, steep slopes, floodplain-plains, significant wildlife habitats, fisheries, scenic areas, habitat for rare and endangered plants and animals, unique natural communities and natural areas, and sand and gravel aquifers must be maintained and preserved to the maximum extent. The development must include appropriate measures for protecting these resources, including but not limited to, modification of the proposed design of the site, timing of construction, and limiting the extent of excavation.

11.3.3 The Board may require that the proposed subdivision include a landscape plan that will show the preservation of the scenic, historic or environmentally sensitive areas listed in 11.3.2.
11.4 Preservation of natural, scenic and historic features

The landscape must be preserved in its natural state insofar as practical by minimizing tree removal, disturbance and compaction of soil, and by retaining existing vegetation insofar as practical during construction. Extensive grading and filling must be avoided as far as possible. Except for surplus topsoil from roads, parking areas and building excavations, topsoil shall not be removed from the site.

11.4.1 Natural resources:

In predominantly natural environments and undeveloped areas, site clearing must be minimized, and vegetation retained (or provided) to lessen the visual impact of the development. Natural vegetation must be maintained adjacent to any shoreline to soften the appearance of the development.

11.4.2 Buffering

a) A subdivision in which the natural land cover type is forested shall maintain a wooded buffer strip no less than fifty feet in width or 25 feet in width for a subdivision in a Comprehensive Plan designated growth area along all existing public roads. The buffer may be broken only for driveways and streets.

b) A subdivision in which land cover type is not forested shall preserve the scenic visual corridors along town toads by providing natural landscape buffers to minimize their adverse visual impacts when topographical or other barriers do not provide reasonable screening. Such buffering shall not encroach on a view as described in 11.4.3.

c) Buffering shall be designed and maintained to provide a year-round visual screen in order to minimize adverse impacts. The species specified for buffers shall be selected from tree and shrub species found in existing hedgerows and along wooded roadside edges in the vicinity of the development proposal.

11.4.3 Scenic Resources

When a proposed development contains prominent features such as hillsides, ridgelines, or shoreland, or is located within a significant viewshed that is identified in the Scenic
Article 11 – Development Standards

View Map approved by the voters and on file in the Lincolnville Town Office, the development must be designed to minimize the encroachment of all buildings, structures, landscaping, and other site features on the identified view. Design modifications to minimize encroachment shall include, but are not limited to, orientation of the building envelope and roads on the site, siting the building envelope to the maximum extent practicable within the natural contours, and maintaining open space areas in their natural state.

(a) Hillsides and ridgelines. All hillside development must be designed to blend into the surrounding landscape to the maximum extent practicable to minimize the visibility of any roads or construction on the site. The plan shall closely control tree removal to only those trees essential to construction of the development. The plan shall restrict tree removal and prohibit the siting of building envelopes on sites at or above the elevations listed below:

1. Moody Mountain Ridgeline: 600ft.
2. Levenseller Mountain Ridgeline: 600ft.
5. Ducktrap Mountain Ridgeline: 500ft.
6. Cameron Mountain / Maiden’s Cliff Ridgeline: 500ft.

The appropriate contour line of a USGS Topographical map of Lincolnville shall be used to delineate these areas. These restrictions shall appear as notes on the plan and as covenants in the deed.

(b) Shoreland. When a proposed development is visible from a great pond, river, stream, or from Penobscot Bay, the development must be designed so that it blends into the surrounding landscape when viewed from the opposite shoreline of the water body. In developed shoreland environments, the appearance of the new development
when viewed from the water must be compatible with the existing visual character to the maximum extent practicable.

11.4.4 Slopes

a) All grading and earthmoving on slopes exceeding 15 percent shall be minimized, and no site disturbance shall be allowed on slopes exceeding 25 percent except as specified in subsection (b) below. There shall be no site disturbance to slopes in excess of 40 per cent.

b) If access to building sites is prohibited because segments of the access road or driveway traverse slopes greater than 25%, such access shall be allowed if the following criteria are met:
   - The building sites to be accessed are on slopes of 15% or less
   - The access road or driveway segments that traverse slopes in excess of 25% do not exceed 300 feet, or within a few feet of 300 feet, in length.
   - The applicant’s engineered road plan is acceptable to the Board.
   - The applicant’s engineered road plan shows that the access road or driveway meets all other standards of this ordinance.

c) In subdivisions containing slopes of fifteen per cent or greater, removal of living trees for the purpose of development shall be limited to the proposed building envelopes and roadways except when done under the supervision of a licensed forester as part of a forest management plan reviewed and accepted by the Planning Board. Vegetation remaining outside the building envelopes and roadways shall be considered buffering and shall be subject to the standards in 11.4, 11.4.1, and 11.4.2 (a)-(c).

d) On slopes of 15 to 25 percent, the only permitted grading shall be in conjunction with the siting of a single family dwelling, its access driveway and the septic system which should be designed with a long, narrow drainage field following the land contours.

e) Grading or earthmoving on all sloping lands of 15 percent or greater shall not result in earth cuts or fills whose highest vertical dimension exceeds six feet, except where in the judgment of the Board no reasonable alternatives exist for
construction of roads, drainage structures and other public improvements, in which case such vertical dimensions shall not exceed 12 feet. Vertical surfaces should be terraced at 6-foot intervals and planted to reduce the visual impact and eliminate problems associated with runoff. Roads and driveways shall follow the line of existing topography to minimize the required cut and fill. Finished slopes of all cuts and fills shall be as required to minimize disturbance of natural grades.

11.4.5 Historic and Archaeological Resources

a) If any portion of the site is or has been identified as containing historic or archaeological resources, or has been designated a site of historic or prehistoric importance by the Comprehensive Plan or the Maine Historic Preservation Commission, the site shall be designed in such a manner as to minimize the impacts on the historic features. Measures shall be taken for protecting these resources, including, but not limited to, modification of the proposed design of the site, timing of construction, and limiting the extent of excavation, and shall be included by a note on the plan.

b) The protection of an existing historic resource shall include the conservation of the landscape immediately associated with and significant to that resource, to preserve its historic context. Where, in the opinion of the Board, a plan will have an impact upon an historic resource, the developer shall mitigate that impact to the satisfaction of the Board by modifying the design, relocating proposed lot lines, providing landscape buffers, or other approved means.

c) When the historic features to be protected include buildings, the placement and the architectural design of new structures in the subdivision shall be similar to the historic structures. The Board shall seek the advice of the Maine Historic Preservation Commission in reviewing such plans.

11.4.6 Exterior Lighting
All road or driveway lighting shall be of shielded or hooded design so that it does not directly or indirectly produce deleterious effects on abutting properties or impair the vision of a vehicle operator on adjacent roadways.

11.5 Land not suitable for development

11.5.1 The following lands shall be excluded in calculations of buildable lot area:
   a) Portions of land shown to be in a floodway or a coastal high hazard zone as designated in the Flood Boundary and Floodway Map prepared by the Federal Insurance Administration, unless the applicant shows proof through the submission of material prepared by a registered land surveyor which shows that the land is outside the flood zone.
   b) Land located within a Resource Protection District and or as significant wildlife habitat as identified in the comprehensive plan.
   c) Land shown as freshwater or coastal wetlands on freshwater or coastal wetlands maps.
   d) Land which is part of a right of way, easement, open space, or green way.
   e) Portions of land covered by surface waters.
   f) Portions of land utilized for storm water management facilities.
   g) Any land identified in Article 11.4 as excluded from development.

11.5.2. Any existing public rights of access to the shoreline of a water body shall be maintained by means of easements or rights-of-way, or shall be included in the open space with provisions made for continued public access

11.6 Lots

11.6.1 Except as set forth for purposes of conservation subdivisions in Article 8, all lots shall meet the minimum requirements of the Land Use Ordinance for the district in which they are located

11.6.2 Where a tract is subdivided into lots substantially larger than the minimum size required by the Land Use Ordinance, the Board in its review may consider the potential effect of future re-subdivision.
11.6.3 Odd-shaped lots in which narrow strips are joined to other parcels to meet minimum lot size requirements are prohibited. On lots of less than two acres the ratio of lot length to width shall be no more than 3:1, except that the ratio of lot depth to shore frontage for lots in the proposed subdivision which have shore frontage, as defined in Section 10.17 of this ordinance, shall have a lot depth to shore frontage ratio no greater than 5:1.

11.6.4 Any proposed subdivision shall be so designed so that every lot has a minimum of one hundred feet of frontage or the minimum required road frontage for that district, whichever is greater. This minimum frontage dimension shall be maintained as far back as the setback requirement for a structure except as allowed in 8.3.1.

11.7 Utilities

Utilities shall be installed underground by the developer in accordance with the recorded itemized listing of utilities on the subdivision plan except as otherwise approved by the Board. In approving a plan proposing other than underground utilities, the Board shall use a criteria based upon the following:

11.7.1 View impact
11.7.2 Circumstances of the site
11.7.3 Main road frontage lots
11.7.4 Surrounding area characteristics
11.7.5 Impact on historical or archaeological significant site

The Board may also approve overhead utilities when the applicant proposes reserved affordable housing and provides evidence that the costs of underground utilities will raise the costs of the housing above the State determined mean affordable house in the area.

11.8 Monuments

Permanent monuments shall be set at all corners and angle points of the subdivision. Monuments shall be 5/8 inch or larger rebar. Permanent monuments shall be referenced on the final plan and shall comply with the standards of the Maine Board of Land Surveyors.

11.9 Sewage Disposal

11.9.1 Private Systems
a) The applicant shall submit evidence of site suitability for subsurface sewage disposal prepared by a Maine Licensed Site Evaluator in full compliance with the requirements of the State of Maine Subsurface Wastewater Disposal Rules.

11.9.2 On lots in which the limiting factor has been identified as being within 24 inches of the surface, a second site with suitable soils shall be shown as a reserve area for future replacement of the disposal area. The reserve area shall be shown on the plan and restricted so as not to be built upon.

11.10 Soil erosion

11.10.1 The proposed subdivision shall prevent soil erosion from entering water bodies, wetlands, intermittent streams and adjacent properties by following best management practices as outlined in Maine Erosion and Sedimentation Control Handbook for Construction: Best Management Practices as revised.

11.10.2 The plan submitted for erosion and sedimentation control shall be implemented during the site preparation, construction, and clean-up stages.

11.10.3 Topsoil shall be considered part of the subdivision. Except for surplus topsoil from roads, parking areas and building excavations, topsoil shall not be removed from the site.

11.11 Solid Waste

All solid waste from the proposed subdivision shall be disposed of in a manner which complies with all state and town laws and ordinances. During the construction phase of the subdivision, the applicant or his agent shall be responsible for proper disposal of solid waste.

11.12 Water Pollution

11.12.1 The proposed subdivision shall not discharge wastewater to a water body without a license from the Maine Department of Environmental Protection.

11.12.2 The development plan must fully adhere to those sections of the Land Use Ordinance applicable to Shoreland Zoning. The development must not adversely affect the water quality or shoreline of any adjacent water body.
11.13 Impact on Ground Water Quantity and Quality
The proposed development shall be served by an adequate supply of water for domestic use and fire protection purposes.

11.13.1 Wells
Lot design shall permit placement of wells, subsurface wastewater disposal areas, and reserve sites for subsurface wastewater disposal areas in compliance with the *Maine Subsurface Wastewater Disposal Rules* and the *Well Drillers and Pump Installers Rules*.

11.13.2 Fire Protection
   a) Roadways and landscaping or other obstacles around improvements in the subdivision shall be designed so as not to impair or impede accessibility for Fire Department operations.
   b) Where deemed necessary, fire ponds are encouraged and are subject to review and approval by the Fire Chief. Minimum pipe size for dry hydrant connections shall be six inches.
   c) Where dry hydrant or other water source is not within the right-of-way of a proposed or existing street, an easement to the Town of Lincolnville shall be provided to allow access. A suitable access way to the hydrant or water source shall be constructed.
   d) Fire Department personnel shall have ready access to locking mechanisms on any gates that access the subdivision.

11.14 Floodplain Management
Within the flood plain area of the Town, the plan shall include a statement that structures in the subdivision shall be constructed with their lowest floor, including the basement, as least one foot above the 100-year flood elevation. Such restriction shall be included in any deed, lease, purchase and sale agreement, or document transferring or expressing intent to transfer any interest in real estate or structure, including but not limited to a time-share interest. The statement shall clearly articulate that the Town may enforce any violation of the construction requirement and that provision shall also be included in the deed or any other document previously described. The construction requirement shall also be clearly stated on the plan.
11.15 Storm Water Management

11.15.1 Adequate provision shall be made for the management of the quality and quantity of all storm water generated within the subdivision, and any drained ground water through a management system of swales, culverts, underdrains, storm drains and best management practices equivalent to those described in the policies of the Comprehensive Plan and in Stormwater Management for Maine: Best Management Practices, published by the Maine Department of Environmental Protection (1995), as revised.

11.15.2 Quantity

a) 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.

b) Downstream drainage requirements shall be studied to determine the effect of the proposed development. The storm drainage shall not overload existing or future planned storm drainage systems downstream from the development. The applicant shall be responsible for financing any improvement to existing drainage systems required to handle the increased storm flows.

c) The storm water management system shall be designed to conduct storm water flows to existing watercourses. The natural state of watercourses, swales, floodways, or rights-of-way shall be preserved at their natural gradient.

d) The storm water drainage system will not adversely affect neighboring properties, downstream water quality, or cause soil erosion. Whenever possible, onsite absorption of runoff waters shall be utilized to detain or retain water such that the rate of flow from the site after development does not exceed the predevelopment rate. Where appropriate, storm water may be collected to provide for on site fire protection.

e) The minimum pipe size for any storm drainage pipe shall be 12 inches. Maximum trench width at the pipe crown shall be the outside diameter of the pipe plus 2 feet. Pipe shall be bedded in a fine granular material, containing no stones or clay lumps.
Article 11 – Development Standards

larger than 3 inches, or organic matter, reaching a minimum of 6 inches below the bottom of the pipe and extending to 6 inches above the top of the pipe.
f) Catch basins shall be installed where necessary and located at the curb line.
g) Inlets and outlets shall be stabilized against soil erosion by stone riprap or other suitable materials to reduce storm water velocity.
h) Where soils require a subsurface drainage system, the drains shall be installed and maintained separately from the storm water drainage system

11.15.3 Where necessary to achieve the above standards, there shall be provided easements or drainage rights-of-way with swales, culverts, catch basins or other means of channeling surface water within the subdivision and over other properties. Wherever the storm drainage system is not within the right-of-way of a public street, perpetual easements, at a minimum of 30 feet, shall be provided to the municipality allowing for maintenance and improvement of the system.

11.16 Identification of Freshwater Wetlands

Freshwater wetlands shall be identified in accordance with the 1987 *Corps of Engineers Wetland Delineation Manual*, published by the US Army Corps of Engineers.

11.17 Phosphorus Impact

*Explanatory Statement*

*The primary source of new and increasing phosphorus levels in lakes, ponds and rivers today is land development - residential, commercial and industrial. Phosphorus, which is a nutrient, stimulates growth of algae that can create a significant and noticeable decline in water quality, and has an effect on fish and waterfowl habitat. Its impact on water quality is permanent, and has been so significant that the State of Maine now requires the issue be addressed for all proposed subdivision developments within the watersheds of great ponds. Because much of the land within Lincolnville is in the direct watershed of a great pond or the rivers, streams and brooks that feed them, this issue takes on great importance for the Town. However, controls to limit phosphorus impact are common-sense in nature. Limiting changes or damage to the*
natural growth on a site proposed for development is the simplest way to ensure there will not be a significant change in phosphorus export from a subdivision site. A developer would be well advised to address this review criterion before undertaking any clearing or cutting for development of a proposed subdivision.

11.17.1 Purpose and Intent

The goal of these standards is to prevent phosphorus over-enrichment of Lincolnville's great ponds, as well as great ponds in neighboring towns that share these watersheds, by ensuring that residential development does not generate more phosphorus than a water body can handle.

11.17.2 Any subdivision within the watershed of a great pond shall limit its post-development phosphorus export to specific standards dependent on the water quality of the great pond in whose watershed the development is located. Upon determination of the applicable watershed, the allowable phosphorus export figure (in pounds per acre) shall be used to determine whether the proposed development meets its allocation.

The Department of Environmental Protection has provided pond-by-pond statistics to use in calculating the necessary information, and current figures used to determine per acre phosphorus allocation are available in the Lincolnville Town Office. Calculation procedures and design criteria used shall be from Phosphorus Control in Lake Watersheds: a Technical Guide for Evaluating New Development published by the Maine Department of Environmental Protection (DEP) as currently revised.

11.17.3 Minor subdivisions shall be reviewed using the following standards for restricting phosphorus export. NOTE: Applicants should refer to the Ordinance definition of "buffer" in developing landscaping plans or deed restrictions.

a) Natural growth buffers must be left or established down-gradient of developed areas and must be protected by deed restrictions. The following buffer widths are required to the maximum extent reasonably feasible given lot layout restrictions:

- If the watersheds area allocation is 0.05 lb/acre or less, 75 ft wooded or 125 ft non-wooded.
• If the watersheds area allocation is greater than 0.05 lb/acre, 50 ft wooded or 100 ft non-wooded.
b) Driveways and parking areas must be designed and constructed so that runoff is quickly shed from driveway to buffer areas and distribution of natural drainage patterns is minimized.
c) Roof runoff may not be channeled to the lake but must be distributed over stable, well-vegetated areas or infiltrated into the soil.
d) Use of fertilizers containing phosphorus are prohibited except when establishing new turf.
e) Septic system must meet current requirements - plumbing code with loam liner where appropriate.
f) A proposed subdivision which could be further divided such that five or more lots may result shall be subject to the standard review procedure for major subdivision unless there are conditions of approval or covenants that prohibit more than five lots in total.

11.17.4 Major subdivisions shall be reviewed using the applicant’s submitted plan for phosphorus export control measures designed to meet the pounds per acre phosphorus export allocation for the watershed area in which the development is planned. The plan shall be prepared according to procedures set forth in Section 11.17.2. This plan must, in the judgment of the Board, meet the review criterion for limitation of phosphorus export.

11.17.5 Deed restrictions shall be created, and responsibility for their coverage assigned, for maintaining whatever means the proposed plan has put in place to assure the long term restriction of phosphorus export.
ARTICLE 12 – ROADS AND STREETS

12.1 Purpose

Provision shall be made for vehicular access to the subdivision and circulation within the subdivision in such a manner as to:

12.1.1 Safeguard against hazards to traffic and pedestrians in existing streets and within the subdivision.
12.1.2 Avoid traffic congestion on any street
12.1.3 Provide safe and convenient circulation on public streets and within the subdivision.
12.1.4 Provide adequate and reasonable access for municipal services and emergency vehicle movement.

12.2 Access.

12.2.1 The proposed subdivision road shall provide for safe access to and from public and private roads and must be located to avoid hazardous conflict with existing turning movements and traffic flows. The following criteria shall be used by the Board in reviewing applications for a subdivision. If a development is on any roadway covered by Section 17 of the Lincolnville Land Use Ordinance (Access Management) or the State Access Management Law, the provisions of that ordinance apply and, in addition the provisions below apply if more restrictive than the standards of Section 17 of the Land Use Ordinance.

12.2.2 A proposed subdivision of less than twenty (20) lots shall have no more than one two-way access onto a single roadway.

12.2.3 Any subdivision containing twenty (20) or more lots shall have at least two (2) road connections with existing public roads or roads on a previously-approved subdivision plan for which performance guarantees have been filed and accepted, provided that where such roads intersect with state or state aid roads, all such roads shall be designed in accordance with the applicable access management standard(s).
12.2.4 Direct access to an arterial, collector, or Town road from any individual lot within a proposed subdivision is not permitted. This requirement shall be noted on the plan and in the deed of any lot with frontage on an arterial, collector or Town road. The Board may grant a waiver to this requirement after finding that the shape or physical condition of the parcel does not permit access to the proposed subdivision street or road, and provided the applicant has obtained a permit from Maine Department of Transportation where applicable. In approving a plan that otherwise allows direct access, the Board shall use criteria based on one or more of the following:

(a) The road is a dead end or a seasonal through road.

(b) Driveways or driveway entrances are shared by at least two lots.

and/or

(c) The shallowness of the lot or topography of the parcel makes an internal subdivision road impractical in the opinion of the Board.

12.2.5 Where a lot has frontage on two or more streets, the access to the lot shall be provided across the frontage and to the street where there is lesser potential for traffic congestion and for hazards to traffic and pedestrians. This restriction shall appear as a note on the Plan and as a deed restriction to the affected lots.

12.2.6 Sight Distances. Accesses shall be located and designed in profile and grading to provide the required sight distance measured in each direction. A minimum sight distance shall be maintained or provided as shown in Table 12-2 under 2.4.3.

12.2.7 Vertical Alignment. Access shall be flat enough to prevent the dragging of any vehicle undercarriage. The grade of any proposed access where practical must be not more than +/- 3% for a minimum of forty feet from the intersection of the access and the road, measured from the near edge of the traveled way of the existing road.

12.2.8 Location and spacing.

a) The access must be located no less than 75 feet from the closest intersection of two public roads. The distance shall be measured from the point of tangency of the
intersection to the point of tangency of the access. The Board may reduce this requirement if the shape of the site does not allow conformity with this standard.

b) The minimum distance between the proposed access and adjoining accesses or driveways must be 75 feet measured from the center lines of the access points at the right-of-way line. The Board may reduce this requirement when it cannot be met because of driveway location on adjacent lots or because of topographic or other compelling on-site conditions.

12.2.9 Provisions shall be made for providing and maintaining adequate and safe emergency vehicle access to the proposed subdivision and each proposed lot.

12.2.10 Where the applicant proposes improvements to existing public streets, the proposed design and construction details shall be approved in writing by the Road Commissioner or the Maine Department of Transportation, as appropriate.

12.3 Street Design Standards

12.3.1 The Board shall not approve any subdivision unless proposed streets are designed in accordance with any local ordinance or the specifications contained in this Ordinance. These design guidelines shall control the roadway, shoulders, curbs, sidewalks, drainage systems, culverts, and other features associated with the street, and shall be met by all streets within a subdivision, unless the applicant can provide clear and convincing evidence that an alternate design will meet good engineering practice and will meet the performance standards of Title 30-A MRSA §4404 (5) and this Article. Approval of the final plan by the Board shall not be deemed to constitute or be evidence of acceptance by the municipality of any street or easement.

12.3.2 Applicants shall submit to the Board, as part of the final plan, detailed construction drawings showing a plan view, profile, and typical cross-section of the proposed streets. Existing streets within 300 feet of any proposed intersections shall be shown. The plan view shall be at a scale of one inch equals no more than fifty feet. The vertical scale of
the profile shall be one inch equals no more than five feet. The plans shall include the following information:

a) Date, scale, and north point, indicating magnetic or true.

b) Intersections of the proposed street with existing streets.

c) Roadway and right-of-way limits including edge of pavement, edge of shoulder, sidewalks, and curbs, if applicable.

d) 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.

e) Complete curve data shall be indicated for all horizontal and vertical curves.

f) Turning radii at all intersections.

g) Centerline gradients.

h) Size, type and locations of all existing and proposed overhead and underground utilities, to include but not be limited to water, sewer, electricity, telephone, lighting, and cable television.

i) Arrows at intersections showing sight distances.

j) Where street lighting is proposed, the locations and specifications of the lights.

12.3.3 Private Roads or Ways: Where the subdivision streets are to remain private roads or private ways, the following words shall appear on the recorded plan. “All roads in this subdivision shall remain private to be maintained by the developer or the lot owners and shall not be accepted or maintained by the Town, until they meet the municipal street design and construction standards at the time of the request to become public streets. The cost of such improvements shall not be borne by the Town.”

12.3.4 Where a subdivision borders an existing narrow street (not meeting the width requirements of the standards for streets in these regulations), or when the Comprehensive Plan indicates plans for realignment or widening of a road that would require use of some of the land in the subdivision, the plan shall indicate reserved areas for widening or realigning the road marked “Reserved for Road Realignment (Widening) Purposes.” Land reserved for such purposes may not be included in computing lot area.
or setback requirements of the Land Use Ordinance. When such widening or realignment is included in the municipality’s capital investment plan, the reserve area shall not be included in any lot, but shall be reserved to be deeded to the municipality or State.

12.3.5 The design standards of Table 12-1 shall apply according to street classification.
Table 12-1 Street Design Guidelines

<table>
<thead>
<tr>
<th>Description</th>
<th>Type of Street</th>
<th></th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Public Road</td>
<td>Private Road</td>
<td>Private Way</td>
<td></td>
</tr>
<tr>
<td>Minimum Right-of-Way Width</td>
<td>50 ft.</td>
<td>50 ft.</td>
<td>30 ft.</td>
<td></td>
</tr>
<tr>
<td>Minimum Traveled Way Width</td>
<td>18 ft.</td>
<td>18 ft.</td>
<td>16 ft.</td>
<td></td>
</tr>
<tr>
<td>Minimum Width of Shoulders (each side)</td>
<td>3 ft.</td>
<td>3 ft.</td>
<td>N/A</td>
<td></td>
</tr>
<tr>
<td>Sidewalk Width</td>
<td>4 ft.</td>
<td>N/A</td>
<td>N/A</td>
<td></td>
</tr>
<tr>
<td>Minimum Grade</td>
<td>N/A</td>
<td>N/A</td>
<td>N/A</td>
<td></td>
</tr>
<tr>
<td>Maximum Grade ⁴</td>
<td>10%</td>
<td>10%</td>
<td>10%</td>
<td></td>
</tr>
<tr>
<td>Minimum Centerline Radius</td>
<td>150 ft.</td>
<td>150 ft.</td>
<td>150 ft.</td>
<td></td>
</tr>
<tr>
<td>Roadway Crown ²</td>
<td>¼ in./ ft. paved</td>
<td>¼ in./ ft. paved</td>
<td>¼ in./ ft. paved</td>
<td></td>
</tr>
<tr>
<td></td>
<td>¼ in./ ft. gravel ³</td>
<td>¼ in./ ft. gravel ³</td>
<td>¼ in./ ft. gravel ³</td>
<td></td>
</tr>
<tr>
<td>Minimum Angle of Street Intersections ³</td>
<td>80°</td>
<td>80°</td>
<td>80°</td>
<td></td>
</tr>
<tr>
<td>Maximum Grade within 40 ft. of Intersection</td>
<td>3%</td>
<td>3%</td>
<td>3%</td>
<td></td>
</tr>
<tr>
<td>Minimum Curb Radii at Intersections</td>
<td>15 ft.</td>
<td>N/A</td>
<td>N/A</td>
<td></td>
</tr>
<tr>
<td>Minimum R/O/W Radii at Intersections</td>
<td>10 ft.</td>
<td>10 ft.</td>
<td>10 ft.</td>
<td></td>
</tr>
<tr>
<td>Minimum vertical clearance</td>
<td>14 ft</td>
<td>14 ft.</td>
<td>14 ft.</td>
<td></td>
</tr>
</tbody>
</table>

¹ Maximum grade of up to 10% may be allowed for a length of no more than 100 feet.
² Roadway crown is per foot of lane width.
³ Paving is not required in a minor subdivision and may not be required in a major subdivision under the conditions stated in Section 12.5.5 and 12.9.5.
⁴ Street intersection angles shall be as close to 90° as feasible, but no less than the listed angle.
12.4 Grades, Intersections, and Sight Distances.

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

12.4.2 All changes in a grade shall be connected by vertical curves in order to provide minimum stopping sight distance of 150 feet. Stopping sight distance shall be calculated with a height of eye at 3 ½ feet and the height of object at ½ (.5) foot.

12.4.3 Where new street 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 Table 12-2 below.

Table 12-2 Sight Distance Table

<table>
<thead>
<tr>
<th>Posted Speed Limit (mph)</th>
<th>20</th>
<th>25</th>
<th>30</th>
<th>35</th>
<th>40</th>
<th>45</th>
<th>50</th>
<th>55</th>
</tr>
</thead>
<tbody>
<tr>
<td>Sight Distance (ft.)</td>
<td>155</td>
<td>200</td>
<td>250</td>
<td>305</td>
<td>360</td>
<td>425</td>
<td>495</td>
<td>570</td>
</tr>
</tbody>
</table>

Sight distance is measured from the driver’s seat of a vehicle that is ten feet behind the curb line (or edge of shoulder) with the height of the driver’s eye 3.5 feet above the pavement, and the height of an object 4.25 feet above the pavement, as seen by the driver. For example, an object may be an oncoming car, a bicycle, or a jogger.

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

12.4.4 Cross (four-cornered) street intersections shall be avoided insofar as possible, except as shown on the comprehensive plan or at other important traffic intersections. A minimum distance of 125 feet shall be maintained between centerlines of minor streets and 200 feet between collectors or a collector and minor street.

12.5 Private Ways.

12.5.1 Private ways shall be limited to minor subdivisions only, except under conditions stated in Section 12.5.5. Further lot divisions causing the private way to serve more than four residences within the subdivision are prohibited without the review and approval of
the Board. Applicants seeking approval for private ways should be aware that further subdivision of any abutting remainder land that causes the private way to serve more than four residences is not permitted. The developer will be required to upgrade the private way to private road or public road standards.

12.5.2 The applicant shall submit such further information as the Board may require in circumstances in which it determines that, due to the scale, nature of the proposed private way, or the impact of the private way on safety considerations, such information is necessary to insure compliance with the intent and purposes of this section of the ordinance.

12.5.3 If the Board determines the need, a turnout shall be provided measuring five feet wide by fifty feet long for every five hundred feet of private way, to provide for larger vehicular passage.

12.5.4 Dead ends in a private way shall have a vehicle turn around area with a minimum radius of forty feet, or a turn around that is a minimum of eighteen feet wide and fifty feet deep. This turnaround shall be a continuation of and contiguous with the private way and constructed to the same material and design standards of Section 12-3 and Table 12-1.

12.5.5 Private ways off a subdivision road that serve groupings of up to four lots are permitted in a major subdivision. There shall be no interconnecting roads between these groupings that result in the private way serving more than four lots.

12.6 Dead End Streets

In addition to the design standards in Table 12-1, dead-end streets shall be constructed to provide a cul-de-sac or large vehicle turn-around with the following requirements for radii: adjacent lot lines: 80 feet; outer edge of pavement: 60 feet; inner edge of pavement: 30 feet. [See Figures 1 & 2, following pages].

Where the cul-de-sac is in a wooded area prior to development, a stand of trees shall be maintained in the center of the cul-de-sac. If not wooded, it shall remain in a natural state.
Article 12– Roads and Streets

The Board may require the reservation of an eighteen-foot easement in line with the street to provide continuation of pedestrian traffic or utilities to the next street. The Board may also require the reservation of a fifty foot easement in line with the street to provide continuation of the road where future subdivision is possible.
Figure 12-1. Cul-de-Sac

**Note:**

Figures shall also pertain to a private way. The minimum traveled way width of a private way may be maintained to within 50 feet of the entrance to the cul-de-sac.
Figure 12.2 Vehicle Turnaround

Notes:

1. Figures shall also pertain to a private way. The minimum traveled way width of a private way may be maintained to within 50 feet of the beginning of initial radius to the turn around.

2. Private way right-of-way of 30 feet may be maintained for this kind of turn around.
12.7 Sidewalks and Curbs

Sidewalks and curbs will be installed by the subdivider at the discretion of the Board, and at such locations as the Board deems necessary. In making its determination, the Board shall consider the number and density of lots and any planned or existing town sidewalks. Where installed, sidewalks shall meet these minimum requirements.

12.7.1 Location. Sidewalks may be located adjacent to the curb or shoulder but sidewalks shall be located a minimum of two (2) feet from the curb facing or the edge of shoulder if the street is not curbed.

12.7.2 Bituminous Sidewalks.
   a) The “subbase” aggregate course shall be no less than twelve inches thick after compaction.
   b) The hot bituminous pavement surface course shall be MDOT plant Mix Grade D constructed in two lifts, each no less than one inch after compaction.

12.7.3 Portland Cement Concrete Sidewalks.
   a) The “subbase” aggregate shall be no less than twelve inches thick after compaction.
   b) The Portland cement concrete shall be reinforced with six inch square, number 10 wire mesh and shall be no less than four inches thick.

12.7.4 Where installed, curbs shall meet these minimum requirements: If granite curbing is used, it 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. Other materials may be considered by the Board, provided they meet standard engineering practices. The specified traveled way width above shall be measured between the curbs as specified in Table 12.1.
12.8 Street Construction Standards.

12.8.1 The minimum thickness of material after compaction shall meet the specifications in Table 12-3 below.

Table 12-3. Minimum Pavement Materials Thicknesses

<table>
<thead>
<tr>
<th>Street Materials</th>
<th>Public Road</th>
<th>Private Road</th>
<th>Private Way</th>
</tr>
</thead>
<tbody>
<tr>
<td>Aggregate Subbase Course (maximum size stone 8&quot;)</td>
<td>18 in.</td>
<td>18 in.</td>
<td>18 in.</td>
</tr>
<tr>
<td>Base Gravel</td>
<td>12 in.</td>
<td>12 in.</td>
<td>12 in.</td>
</tr>
<tr>
<td>Aggregate Base Course - 1 1/2&quot; minus</td>
<td>6 in.</td>
<td>6 in.</td>
<td>6 in.</td>
</tr>
<tr>
<td>Bituminous/Asphalt Pavement</td>
<td>Required</td>
<td>May be Required for Major</td>
<td>Not Required</td>
</tr>
<tr>
<td>Total compacted thickness</td>
<td>3 in.</td>
<td>3 in.</td>
<td>3 in.</td>
</tr>
<tr>
<td>Surface Course</td>
<td>1 in.</td>
<td>1 in.</td>
<td>1 in.</td>
</tr>
<tr>
<td>Base Course</td>
<td>2 in.</td>
<td>2 in.</td>
<td>2 in.</td>
</tr>
</tbody>
</table>

1. Paving is not required in a minor subdivision and may not be required in a major subdivision under the conditions stated in Section 12.5.5 and section 12.9.5

12.8.2 Any approved minor subdivision shall comply, at a minimum, with the Subbase course, Base Course and Surface Gravel standards in Table 12-3. Any major subdivision shall comply with the Subbase and Base Gravel Course and Bituminous/Asphalt pavement Standards (when required) of Table 12.3.

12.8.3 Preparation.

a) 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.

b) Before grading is started, the entire area within the right-of-way that is necessary for construction of the traveled way, shoulders, sidewalks, drainage-ways, and utilities
shall be cleared of all stumps, roots, brush, and other objectionable material. All shallow ledge, large boulders and tree stumps shall be removed from the cleared area.  

(c) All organic materials or other deleterious material shall be removed to a depth of two feet from below the sub-grade of the roadway. Rocks and boulders shall also be removed to a depth of two feet below the sub-grade of the roadway. On soils which have been identified as not suitable for roadways, either the subsoil shall be removed from the street site to a depth of two feet below the subgrade and replaced with material meeting the specifications for gravel aggregate sub-base below, or a Maine Department of Transportation approved stabilization geotextile may be used.  

(d) Except in a ledge cut, side slopes shall be no steeper than a slope of three feet horizontal to one foot vertical, and shall be graded, loamed, limed, fertilized, and seeded according to the specifications of the erosion and sedimentation control plan. Where a cut results in exposed ledge a side slope no steeper than one foot horizontal to four feet vertical is permitted.  

(e) All underground utilities shall be installed prior to paving to avoid cuts in the pavement. Building sewers and water service connections, if available, shall be installed to the edge of the right-of-way prior to paving.  

12.9 Bases and Pavement  

12.9.1 Bases/Subbase.  

The Aggregate Subbase course shall be sand or gravel of hard durable particles free from vegetative matter, lumps or balls of clay and other deleterious substances. The gradation of the part that passes a three inch square mesh sieve shall meet the grading requirements of Table 12-4 below.  

Table 12-4 Aggregate Subbase Grading Requirements

<table>
<thead>
<tr>
<th>Sieve Designation</th>
<th>Percentage Passing</th>
</tr>
</thead>
<tbody>
<tr>
<td>1/4 inch</td>
<td>25-70%</td>
</tr>
<tr>
<td>No. 40</td>
<td>0-30%</td>
</tr>
<tr>
<td>No. 200</td>
<td>0-7%</td>
</tr>
</tbody>
</table>
Aggregate for the subbase shall contain no particles of rock exceeding eight inches in any dimension.

12.9.2 If the Aggregate Subbase Course is found to be not fine-gradable because of larger stones, then a minimum of three inches of Aggregate Base Course shall be placed on top of the subbase course. The Aggregate Base Course shall be screened or crushed gravel of hard durable particles free from vegetative matter, lumps or balls of clay and other deleterious substances. The gradation of the part that passes a three inch square mesh sieve shall meet the grading requirements of Table 12.5, following page.

Aggregate for the base shall contain no particles of rock larger than 1 1/2 inches any dimension.

Table 12-5 Base Course Grading Requirements

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

12.9.3 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.

12.9.4 Pavements.

a) Minimum standards for the base layer of pavement shall be the Maine Department of Transportation specifications for plant mix grade B with an aggregate size no more than 1 inch maximum and a liquid asphalt content between 4.8% and 6.0% by weight depending on aggregate characteristics. The pavement may be placed between April 15 and November 15, provided the air temperature in the shade at the paving location is 35°F or higher and the surface to be paved is not frozen or unreasonably wet.
b) Minimum standards for the surface layer of pavement shall be the Maine Department of Transportation specifications for plant mix grade C or D with an aggregate size no more than 3/4 inch maximum and a liquid asphalt content between 5.8% and 7.0% by weight depending on aggregate characteristics. The pavement may be placed between April 15 and October 15, provided the air temperature in the shade at the paving location is 50°F or higher.

12.9.5 Gravel. Private Roads or Private Ways in minor subdivisions need not be paved and may have a gravel surface. Private Roads serving major subdivision need not be paved and may have a gravel surface if they meet the following criteria:
(a) At least 20% of the lots are for affordable housing
(b) The road will not serve more than 12 lots maximum.
(c) The road grade will not be greater than 8%.
ARTICLE 13 - PERFORMANCE GUARANTEES

13.1 Types of Guarantees

With submittal of the application for final plan approval, the applicant 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 An irrevocable letter of credit from a financial institution establishing funding for the construction of the subdivision, from which the Town of Lincolnville may draw if construction is inadequate, approved by the Board.

13.1.2 A performance bond payable to the Town of Lincolnville issued by a surety company, approved by the Board.

13.1.3 Either a certified check payable to the Town of Lincolnville or a savings account or certificate of deposit naming the Town of Lincolnville as owner, for the establishment of an escrow account;

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 the Town Administrator, Selectmen, Road Commissioner, 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 applicant will be in default and the Town shall have access to the funds to finish construction.

13.3 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.
13.4 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 applicant, and the procedures for collection by the Town. The bond documents shall specifically reference the subdivision for which approval is sought.

13.5 Escrow Account.

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

13.6 Conditional Agreement

The Board at its discretion may provide for the applicant to enter into a binding agreement with the Town of Lincolnville in lieu of the other financial performance guarantees. Such an agreement shall be endorsed by the Board on the approved final plan, and shall provide that no lot or parcel of land may be conveyed, and that no permit may be issued by the CEO, for any building or other permanent structure within the subdivision until the completion of the road construction paving, storm drainage, utilities, and other similar improvements as specified in the approved final plan. The agreement shall be conditioned upon the completion of all such improvements within two (2) years from the date of the approval of the final plan, recorded on the subdivision plat. If an applicant cannot complete the improvements within two years due to delays caused by other regulatory bodies, or other reasons, the applicant may request an extension. In considering the request for an extension, the Board shall request that the applicant show the status of the final plan at the time of request.
Notice of the agreement and any conditions shall be on the final plan that is recorded at the Waldo County Registry of Deeds. Release from the agreement shall follow the procedures for release of the performance guarantees contained in Section 13.7.

13.7 Release of Guarantee.

Prior to the release of any part of the performance guarantee, the Board shall determine to its satisfaction, based upon the report of the consultant for the Board or other qualified individual retained by the Board, and any other agencies and departments who may be involved, that the proposed improvements meet or exceed the design and construction requirements for that portion or phase of the subdivision for which the release is requested.

13.8 Default.

If upon inspection, the CEO finds that any of the required improvements have not been constructed in accordance with the plans and specifications filed as part of the application, the CEO shall further report in writing to the Board, the Board of Selectmen, and the applicant and/or builder. The Planning Board shall take any action necessary to enforce the rights of the Town in any performance guaranty provided by the applicant.

13.9 Improvements Guaranteed.

Performance guarantees shall be tendered for all improvements required to meet the standards of this ordinance and for the construction of the streets, storm water management facilities, public sewage collection or disposal facilities, public water systems, and erosion and sedimentation control measures.
ARTICLE 14 - WAIVERS

14.1 Waivers Authorized

Where the Board makes written findings of fact that there are special circumstances of a particular parcel proposed to be subdivided, the Board may waive submission requirements or portions of the submission requirements, unless this Ordinance otherwise prohibits such waiver, provided the applicant has demonstrated that the performance standards of this ordinance and the criteria of this Ordinance and of the state subdivision statutes have been met, provided the public health, safety, and welfare are protected, and provided the waivers do not nullify the intent and purpose of the Comprehensive Plan, the Land Use Ordinance, or this Ordinance.

14.2 Findings of Fact Required

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, the Board may waive the requirement for such improvements, subject to appropriate conditions, provided the waivers do not nullify the intent and purpose of the Comprehensive Plan, the Land Use Ordinance, or this ordinance, and further provided that the performance standards of this Ordinance and the criteria of this ordinance and the state subdivision statutes have been met by the proposed subdivision.

14.3 Conditions

Waivers may only be granted in accordance with Sections 14.1 and 14.2. When granting waivers, the Board shall set conditions so that the purposes of this ordinance are met.

14.4 Waivers to be shown on final plan

When the Board grants a waiver to any of the improvements required by these regulations, the final plan, to be recorded at the Registry of Deeds, shall indicate the waivers granted and the date on which they were granted.
ARTICLE 15 - INSPECTIONS AND ENFORCEMENT

15.1 Inspection of Required Improvements

15.1.1 At least five days prior to commencing construction of required improvements, the subdivider or builder shall if required by the Board:

(a) Notify the CEO in writing of the time when construction will begin on the improvements required by the Board. The CEO will arrange for inspections to assure that all Town specifications, requirements, and conditions of approval are met during the construction of required improvements. These improvements shall include road construction, storm water management systems and erosion and sedimentation control measures among others.

(b) For major subdivisions only, deposit with the Town Office a check for the amount of 2% of the estimated cost of the required improvements to pay for the cost of inspection, including the cost of hiring outside consultants when necessary. If the Planning Board determines that the Town Office account for inspections for the subdivision is insufficient, then the Planning Board may require that the subdivision developer pay additional funds to the Town as reasonably required for inspections. After the completion of inspections, any funds remaining in the account which are unexpended to pay for inspections shall be returned to the subdivision developer within sixty (60) days of the completion of inspections.

15.1.2 If the CEO finds upon inspection of the improvements that any of the required improvements have not been constructed in accordance with the plans and specifications filed by the subdivider, the CEO shall so report in writing to the Board and the applicant. This notification will include a description of the problems or noncompliance found and the steps that must be taken to correct them including a time frame for taking corrective actions. If this written request does not produce the necessary results, the Town shall take any steps, including legal action, reasonably necessary to assure compliance with the approved plans.
15.1.3. If at any time it appears necessary or desirable to modify the required improvements before or during the construction of the required improvements, the CEO is authorized to approve minor modifications due to unforeseen circumstances such as encountering hidden outcrops of bedrock, natural springs, etc. The CEO shall issue any approval under this section in writing and shall transmit a copy of the approval to the Board. Revised plans shall be filed with the Board. For major modifications, such as relocation of rights-of-way, property boundaries, changes of grade by more than 1%, etc., the subdivider shall obtain permission from the Board to modify the plans in accordance with Article 9.

15.1.4 By November 1 of each year during which construction was done on the site, the CEO shall report to the Board, addressing whether storm water and erosion control measures (both temporary and permanent) are in place, are properly installed, and appear adequate. The report shall also include a discussion and recommendations on any problems which were encountered.

15.1.5 Prior to the sale of any lot, the subdivider shall provide the Board with a letter from a professional land surveyor, stating that all monuments shown on the plan have been installed.

15.1.6 Upon completion of street construction, the Applicant shall notify the Town in writing if his intention is to propose that the Town accept the road as a public way. Written certification signed by a professional engineer shall be submitted to the Town by the Applicant at his expense, certifying that the proposed public way meets or exceeds the design and construction requirements of this ordinance. If there are any underground utilities, the servicing utility shall certify in writing that the underground utilities have been installed in a manner acceptable to the utility. “As built” plans shall be submitted to the Town.

15.1.7 The subdivider shall be required to maintain all improvements in a safe and acceptable condition and provide for adequate snow removal on streets and sidewalks.
Article 15 – Inspections And Enforcement

until acceptance of the improvements by the Town or control is placed with a lot owners’ association as outlined in Sections 5.2.5, 6.2.5, and 8.7.

15.2 Violations and Enforcement

15.2.1 No plan of a division of land within the Town which would constitute a subdivision shall be recorded in the Registry of Deeds until a final plan has been approved and signed by the Board in accordance with this ordinance.

15.2.2 A person shall not convey, offer or agree to convey any land in a subdivision which has not been approved by the Board and recorded in the Registry of Deeds. A person shall not sell, lease or otherwise convey any land in an approved subdivision which is not shown on the plan as a separate lot.

15.2.3 No public utility, water district, sanitary district or any utility company of any kind shall serve any lot in a subdivision for which a final plan has not been approved by the Board.

15.2.4 Development of a subdivision without Board approval shall be a violation of state subdivision law and of this Ordinance. Development includes grading or construction of roads, grading of land or lots, or construction of buildings or any other activity as set forth in M.R.S.A. Title 30-A §4406 which require a plan approved as provided in this ordinance and recorded in the Registry of Deeds.

15.2.5 No lot in a subdivision may be sold, leased, or otherwise conveyed before the street upon which the lot fronts is completed in accordance with this ordinance, up to and including the entire frontage of the lot. No unit in a multi-family development shall be occupied before the street upon which the unit is accessed is completed in accordance with this ordinance.

15.2.6 Violations of the provisions of this Ordinance are a nuisance and shall be subject to the monetary penalties and remedies set forth in Title 30-A M.R.S.A. §4452.
ARTICLE 16 - APPEALS

16.1 Appeals to Superior Court.

16.1.1 An aggrieved party may appeal any decision of the Board under this ordinance to Waldo County Superior Court, within thirty (30) days of the date the Board issues a written order of its decision.

16.1.2 In the event that an applicant is aggrieved by a decision of the Board to deny preliminary plan approval or to grant preliminary plan approval subject to conditions, the applicant may appeal that decision to the Waldo County Superior Court within thirty (30) days of the date the Board issued a written order of its decision.

16.1.3 In the event that an applicant is aggrieved by a decision of the Board to deny final plan approval or to grant final plan approval subject to conditions, the applicant may appeal that decision to the Waldo County Superior Court within thirty (30) days of the date the Board issued a written order of its decision.
ARTICLE 17 –SUBDIVISION ORDINANCE DEFINITIONS

17.1 Introduction

In general, words and terms used in this ordinance shall have their customary dictionary meanings. More specifically, any word or term defined in the Lincolnville Land Use Ordinance shall have the definition contained in that ordinance, unless defined differently below.

17.2 Relationship to Other Town Ordinances

Where there is a conflict between the language contained in this subdivision ordinance and any other Town ordinances the stricter language shall apply for purposes of this ordinance.

Other words and terms used herein are defined as follows:

17.3 Definitions

**Affordable housing** Affordable housing" means decent, safe and sanitary dwellings, apartments or other living accommodations for low-income and moderate-income households. The Maine State Housing Authority may define "affordable housing" by rule. Affordable housing includes, but is not limited to:
- a) Government-assisted housing
- b) Housing for low-income and moderate-income families
- c) Manufactured housing
- d) Multifamily housing
- e) Group and foster care facilities

[M.R.S.A Title 30-A., Part 2, Chapter 202, § 5002, Definitions]

**Applicant:** The person applying for subdivision approval under this ordinance.

**Areal Allocation:** For purposes of this ordinance, the amount of phosphorus export allowed in the area of a given watershed, measured in pounds per acre.

**Buffer:** A continuously-maintained part of a property or an entire property, which is not built upon and is specifically intended to separate and thus minimize the effects of a land use activity (including but not limited to pollutant runoff, noise, dust, visibility, glare, etc.) on adjacent properties or on sensitive natural resources.

**Building Envelope:** An area designated on the plat plan, usually with a dashed line, that indicates where a home, barn, sheds and other improvements including parking, and improved facilities are to be located. Utilities and driveways may be located outside the envelope. Building envelopes may be required for parcels with access issues, and parcels which involve prime farmland, critical natural resources or designated scenic views.
Capital Investment Plan: The portion of the Comprehensive Plan that identifies the projects for consideration for inclusion within the capital improvements program, together with an estimate of the order of magnitude for the cost of each project.

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

Clear-cut. "Clear-cut" means 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 section 8869, subsection 1. [Title 12 M.R.S.A. 8868, Definitions]

Coastal wetland: See Coastal Wetland in the Land Use Ordinance definitions.

Common Open Space: See Open Space.

Complete Application: An application shall be considered complete upon submission of the required fee and all information required by this ordinance, or by a vote by the Board to waive the submission of required information. The Board shall issue a written statement to the applicant upon its determination that an application is complete.

Completed Substantial Construction: The completion of a portion of the improvements which represents no less than thirty percent of the costs of the proposed improvements within a subdivision. If the subdivision is to consist of individual lots to be sold or leased by the subdivider, the cost of construction of buildings on those lots shall not be included. If the subdivision is a multifamily development, or if the applicant proposes to construct the buildings within the subdivision, the cost of building construction shall be included in the total costs of proposed improvements.

Comprehensive Plan: A document or interrelated documents adopted by the Town of Lincolnville, containing an inventory and analysis of existing conditions, a compilation of goals for the development of the community, an expression of policies for achieving these goals, and a strategy for implementation of the policies.

Conceptual Plan: A sketch containing all the information required in Section 4.4 that shows the features on the parcel and proposed subdivision in as simple an illustration as possible. The conceptual plan is not intended not to be an engineered or an expensive undertaking for the applicant but must be accurate enough to show what is required.

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

Conservation Subdivision: A subdivision designed in a way that preserves productive land or land identified as valuable to the town as defined in 4.5, with the point of preserving the rural
character of the town, a stated goal of the citizens in the Comprehensive Plan. Applicants may reduce lot size and frontage in return for the designation of open areas, but are not required to reduce size and frontage where larger lot sizes are desired. Design usually is a four-step process of (a) identifying land that is not buildable (such as wetlands), (2) identifying land that is desirable to preserve, (3) identifying the best house sites and (4), laying out necessary roads. All houses in a conservation subdivision are not required to be on the same roads; smaller feeder roads to clusters of lots may be created where appropriate.

**Construction Drawings:** Drawings showing the location, profile, grades, size and type of drains, sewers, water mains, underground power and telephone ducts, pavements, cross section of roads, miscellaneous structures, drainage and other easements, and similar items.

**Contiguous Lots:** Lots in the same ownership which adjoin at any line or point, except that lots on opposite sides of a public or private road shall be each considered a separate tract or parcel unless such road was established by the owner of land on both sides thereof.

Contiguous Open Space: *See Open Space*

**Cul-de-sac:** A street with only one outlet and having the other end for the reversal of traffic movement. See figure 1 in Article 12.

**Density:** The number of dwelling units allowed per acre of land. *See also Net residential density*

**Densely developed area:** Any commercial, industrial or compact residential area of 10 or more acres with an existing density of at least one principal structure per 2 acres. (Title 30-A §4401)

Designated Scenic Resource: *See Designated Scenic Resource* in the Lincolnville Land Use Ordinance definitions.

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

Developer: *See Subdivider*

**Direct Watershed of a Great Pond:** That portion of the watershed which drains directly to the great pond without first passing through an upstream great pond. For the purposes of this ordinance, the watershed boundaries shall be as delineated in the Comprehensive Plan. Due to the scale of the map in the Comprehensive Plan there may be small inaccuracies in the delineation of the watershed boundary. Where there is a dispute as to exact location of a watershed boundary, the Board or its designee and the applicant shall conduct an on-site investigation to determine where the drainage divide lies. If the Board and the applicant can not agree on the location of the drainage divide based on the on-site investigation, the burden of proof shall lie with the applicant to provide the Board with information from a registered land surveyor showing where the drainage divide lies. *See also the Land Use Ordinance definition of Great Pond.*

**Driveway:** A private vehicular entrance from a road or right-of-way. The driveway itself shall not constitute the means of legal access along which frontage may be measured.
Dwelling Unit: A single unit providing complete independent permanent or temporary living facilities for one or more persons, including permanent provisions for living, sleeping, eating, cooking and sanitation, limited to only one (1) kitchen; includes single family houses and units in an attached apartment, detached apartment or cottage, duplex, apartment house, multifamily dwellings, and residential condominiums.

Easement: A right of use over the property of another created by grant, reservation, agreement, prescription, or necessary implication, either for the benefit of adjoining land, such as the right to cross, or for the benefit of a specific landowner, such as a public utility easement.

Final Subdivision Plan: The final drawings on which the subdivider's plan of subdivision is presented to the Board for approval and which, if approved, shall be filed for recording with the municipal officers and the Waldo County Registry of Deeds. See also Recording plan.

Freshwater Wetland. freshwater swamps, marshes, bogs and similar areas which are:

A. Inundated or saturated by surface or ground water at a frequency and for a duration sufficient to support, and which under normal circumstances do support, a prevalence of wetland vegetation typically adapted for life in saturated soils; and

B. Not considered part of a great pond, coastal wetland, river, stream or brook.

These areas may contain small stream channels or inclusions of land that do not conform to the criteria of this subsection. (Title 30-A §4401)

Frontage: The linear distance between the sidelines of a lot, measured along the line that borders upon whatever right-of-way serves as legal access to the lot. For the purposes of this ordinance, the following ways shall constitute legal access to a lot along which frontage may be measured:

1. A way accepted by or established as belonging to the Town of Lincolnville, or the State of Maine, provided access is not specifically prohibited;

2. A way, whether dedicated to public ownership or not, as shown on an approved subdivision plan.

Great Pond: See Great Pond in the Land Use Ordinance definitions

100-year Flood: The highest level of flood that, on the average, has a one percent chance of occurring in any given year.

High water mark:

Coastal waters: The elevation at which vegetation changes from predominantly salt tolerant to predominantly non-salt tolerant. By way of illustration, salt tolerant vegetation includes, but is not limited to: salt marsh grass, salt meadow hay, black arrow grass, seaside lavender, silverweed, salt marsh bulrush, seaside plantain, orach, salt marsh sedge, salt marsh aster. In places where vegetation is not present, the high water mark shall be the identifiable debris line left by non-storm tidal action. On a sand dune, the high water mark shall be the mean seaward limit of salt tolerant vegetation. See also Coastal Wetlands in the Land Use Ordinance definitions.

Inland 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. In the case of wetlands adjacent to rivers, streams, brooks, or ponds, the normal high-water mark is the upland edge of the wetland, and not the edge of the open water.

**Liquidation Harvesting.** The purchase of timberland followed by a harvest that removes most or all commercial value in standing timber without regard for long-term forest management principles, and the subsequent sale or attempted resale of the harvested land within five (5) years. (Title 12 M.R.S.A. § 8868)

**Major Subdivision.** Any subdivision containing more than four lots or dwelling units.

**Minor Subdivision.** Any subdivision containing four lots or less.

**Net residential acreage:** The total acreage available for the subdivision, as shown on the proposed subdivision plan, minus the area for streets or access and the areas that are unsuitable for development as outlined in Section 11.5.

**New structure or structures:** Any structure for which construction begins on or after the date of adoption of this Ordinance. The area included in the expansion of an existing structure is deemed to be a new structure for the purposes of this subchapter. (Title 30-A §4401)

**Open space:** For the purposes of this ordinance, undeveloped land areas that have important natural resources or cultural resources that are worthy of conservation and protection. Such areas may contain, but are not limited to, forests, farmland, old fields, floodplains, wetlands, and shorelands. Open space can also encompass scenic vistas, recreational areas, and historic sites; however, this ordinance has not attempted to identify such areas that do not already contain significant areas of open space.

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

**Contiguous open space:** Open space that is contiguous to open space in other parcels of land, including park or conservation land, for the purpose of providing wildlife corridors and access to recreational opportunities such as trails, hunting and fishing, or to protect contiguous resources identified under Open Space.

**Outstanding river segments.** Refer to Title 30-A §4401, Chapter 187, Subchapter 4, definition 7, in accordance with Title 12, section 402, "outstanding river segments."

**Parcel:** All contiguous land in the same ownership, provided that lands located on opposite sides of a public or private road are considered each a separate tract or parcel of land unless the road was established by the owner of land on both sides of the road. (Title 30-A §4401).

**Planning Board:** The Planning Board of the Town of Lincolnville, as created by 30 4964.
Preliminary Subdivision Plan: The preliminary drawing for a major subdivision indicating the proposed layout of the subdivision and such other information as may be required by this ordinance. Approval of a preliminary subdivision plan shall not constitute approval of the final subdivision plan.

Principal structure  See Principal structure in the Land Use Ordinance definitions.

Professional Engineer: A professional engineer, registered in the State of Maine that may be hired by the Town or the applicant on a consulting basis.

Professional Forester: A person licensed pursuant to Title 32, Chapter 76 (Title 12 § 8868)

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

Public Water System: A water supply system that provides water to at least 15 service connections or services water to at least 25 individuals daily for at least 30 days a year.

Recording Plan: An original of the final plan, suitable for recording at the Waldo County Registry of Deeds.

Ridge or Ridgeline: A relatively narrow elevation which is prominent because of the steep angle at which it rises; an elongated crest, or series of crests, with or without individual peaks, significantly higher than the adjoining ground.

Road classification: See Street and Road Classification.

Scenic Resource:  See Designated Scenic Resource in the Lincolnville Land Use Ordinance.

Shielded or Hooded Lighting: Lighting that is hooded or shielded to mask the direct horizontal surface of the light source. The light shall be aimed to insure that the illumination is pointing only downward onto the ground surface, with little or no escaping light permitted to contribute to sky glow by shining upward into the sky.

Sight distance: The length of an unobstructed view from a particular access point to the farthest visible point of reference on a roadway. Used in this ordinance as a reference for unobstructed road visibility.

Street: Public and private ways such as alleys, avenues, highways, roads, and other rights-of-way, as well as areas on subdivision plans designated as rights-of-way for vehicular access other than driveways. See also Road in Land Use Ordinance definitions.

Street and Road Classification:

  Arterial street: A major thoroughfare which serves as a major traffic way for travel between and through the municipality. The following roadways in Lincolnville shall be considered arterial streets: U.S. Route One

  Collector street or road: A street with average daily traffic of 200 vehicles per day or greater, or streets which serve as feeders to arterial streets, and collectors of traffic from
minor streets per day or greater, or streets which serve as feeders to arterial streets, and collectors of traffic from minor streets. The following roadways in Lincolnville shall be considered collector streets: Route 52, Route 173, and Route 235.

**Minor street:** A street that has an average daily traffic of less than 200 vehicles per day.

**Private Road:** A road that the general public has no right to pass over by foot or by vehicle, and for which the Town has no maintenance responsibility.

**Private Way:** A minor residential street servicing no more than four lots or dwelling units, which is not intended to be dedicated as a town road, and for which the Town has no maintenance responsibility.

**Public Road:** An Arterial Street, Collector Street, or Town road.

**Town Street or Road:** A strip of land owned or held for use by the Town for the passage and use of the general public by motor vehicles, and for which the Town has maintenance responsibility. (As defined by 23 M.R.S.A. 3021) New town roads must be accepted by a vote of the Town.

**Subsurface sewage disposal system:** *see* the definition in the Land Use Ordinance.

**Subdivision:** As defined by 30A M.R.S.A. 4401 (4), as the same may be amended from time to time; a copy of that statute in effect on the date of enactment of this ordinance is set forth in Schedule A, attached to this ordinance and incorporated by reference herein. *See also Major Subdivision, Minor Subdivision, Resubdivision.*

**Subdivider, also Developer:** Assessed owner or owners of land to be subdivided, or person with documented title, right, or interest in the land to be subdivided.

**Subdivider's representative or agent:** That person who has written authorization to act for the subdivider.

Substantial Construction: *See Completed Substantial Construction.*

**Vehicle Turnaround:** Space provided on or at the end of a public or private way for large and emergency vehicles to turn around. *See figure 2 in Article 12.*

**LAND USE ORDINANCE DEFINITIONS**

The following definitions may be found in the Land Use Ordinance.

- Coastal wetland
- Designated scenic resource
- Emergency operations
- Essential services
- Great Pond
- Line of sight (of a scenic resource)
Lot area
Multi-unit residential
Non-conforming lot
Market value
Minimum lot width
Normal high-water line
Person
River
Road
Salt marsh
Salt meadow
Service drop
Setback
Shore frontage
Stream
Structure
Subsurface sewage disposal system
Sustained slope
Tributary stream
Unreasonably adverse impact
Upland edge of a wetland
Vegetation
Viewpoint [of a scenic resource]
Water body
Wetlands associated with great ponds and rivers
SCHEDULE A  30-A M.R.S.A. §4401 Definition 2, Subdivisions

Subdivision. "Subdivision" means the division of a tract or parcel of land into 3 or more lots within any 5-year period that begins on or after September 23, 1971. This definition applies whether the division is accomplished by sale, lease, development, buildings or otherwise. The term "subdivision" also includes the division of a new structure or structures on a tract or parcel of land into 3 or more dwelling units within a 5-year period, the construction or placement of 3 or more dwelling units on a single tract or parcel of land and the division of an existing structure or structures previously used for commercial or industrial use into 3 or more dwelling units within a 5-year period.

A. In determining whether a tract or parcel of land is divided into 3 or more lots, the first dividing of the tract or parcel is considered to create the first 2 lots and the next dividing of either of these first 2 lots, by whomever accomplished, is considered to create a 3rd lot, unless:

(1) Both dividings are accomplished by a subdivider who has retained one of the lots for the subdivider's own use as a single-family residence that has been the subdivider's principal residence for a period of at least 5 years immediately preceding the 2nd division; or

(2) The division of the tract or parcel is otherwise exempt under this subchapter.
[2001, c. 359, §1 (amd).]

B. The dividing of a tract or parcel of land and the lot or lots so made, which dividing or lots when made are not subject to this subchapter, do not become subject to this subchapter by the subsequent dividing of that tract or parcel of land or any portion of that tract or parcel. The municipal reviewing authority shall consider the existence of the previously created lot or lots in reviewing a proposed subdivision created by a subsequent dividing.

C. A lot of 40 or more acres must be counted as a lot, except:

(2) When a municipality has, by ordinance, or the municipal reviewing authority has, by regulation, elected not to count lots of 40 or more acres as lots for the purposes of this subchapter when the parcel of land being divided is located entirely outside any shoreland area as defined in Title 38, section 435 or a municipality's shoreland zoning ordinance.
[2001, c. 651, §1 (amd).]

D. [2001, c. 359, §2 (rp).]

D-1. A division accomplished by devise does not create a lot or lots for the purposes of this definition, unless the intent of the transferor is to avoid the objectives of this subchapter. [2001, c. 359, §3 (new).]
D-2. A division accomplished by condemnation does not create a lot or lots for the purposes of this definition, unless the intent of the transferor is to avoid the objectives of this subchapter. [2001, c. 359, §3 (new).]

D-3. A division accomplished by order of court does not create a lot or lots for the purposes of this definition, unless the intent of the transferor is to avoid the objectives of this subchapter. [2001, c. 359, §3 (new).]

D-4. A division accomplished by gift to a person related to the donor of an interest in property held by the donor for a continuous period of 5 years prior to the division by gift does not create a lot or lots for the purposes of this definition, unless the intent of the transferor is to avoid the objectives of this subchapter. If the real estate exempt under this paragraph is transferred within 5 years to another person not related to the donor of the exempt real estate as provided in this paragraph, then the previously exempt division creates a lot or lots for the purposes of this subsection. "Person related to the donor" means a spouse, parent, grandparent, brother, sister, child or grandchild related by blood, marriage or adoption. A gift under this paragraph can not be given for consideration that is more than 1/2 the assessed value of the real estate. [2001, c. 359, §3 (new).]

D-5. A division accomplished by a gift to a municipality if that municipality accepts the gift does not create a lot or lots for the purposes of this definition, unless the intent of the transferor is to avoid the objectives of this subchapter. [2001, c. 359, §3 (new).]

D-6. A division accomplished by the transfer of any interest in land to the owners of land abutting that land that does not create a separate lot does not create a lot or lots for the purposes of this definition, unless the intent of the transferor is to avoid the objectives of this subchapter. If the real estate exempt under this paragraph is transferred within 5 years to another person without all of the merged land, then the previously exempt division creates a lot or lots for the purposes of this subsection. [2001, c. 359, §3 (new).]

E. The division of a tract or parcel of land into 3 or more lots and upon each of which lots permanent dwelling structures legally existed before September 23, 1971 is not a subdivision. [1989, c. 104, Pt. A, §45 and Pt. C, §10 (new).]

F. In determining the number of dwelling units in a structure, the provisions of this subsection regarding the determination of the number of lots apply, including exemptions from the definition of a subdivision of land. [1989, c. 104, Pt. A, §45 and Pt. C, §10 (new).]

G. Notwithstanding the provisions of this subsection, leased dwelling units are not subject to subdivision review if the municipal reviewing authority has determined that the units are otherwise subject to municipal review at least as stringent as that required under this subchapter. [1989, c. 104, Pt. A, §45 and Pt. C, §10 (new); c.
H-1. This subchapter may not be construed to prevent a municipality from enacting an ordinance under its home rule authority that:

(1) Expands the definition of "subdivision" to include the division of a structure for commercial or industrial use; or

(2) Otherwise regulates land use activities.

A municipality may not enact an ordinance that expands the definition of "subdivision" except as provided in this subchapter. A municipality that has a definition of "subdivision" that conflicts with the requirements of this subsection at the time this paragraph takes effect shall comply with this subsection no later than January 1, 2006. Such a municipality must file its conflicting definition at the county registry of deeds by June 30, 2003 for the definition to remain valid for the grace period ending January 1, 2006. A filing required under this paragraph must be collected and indexed in a separate book in the registry of deeds for the county in which the municipality is located. [2001, c. 651, §3 (new).]

I. The grant of a bona fide security interest in an entire lot that has been exempted from the definition of subdivision under paragraphs D-1 to D-6, or subsequent transfer of that entire lot by the original holder of the security interest or that person's successor in interest, does not create a lot for the purposes of this definition, unless the intent of the transferor is to avoid the objectives of this subchapter. [2001, c. 359, §5 (amd).] [2001, c. 651, §§1-3 (amd).]

Adopted: November 8 2005
Amended: June 10, 2008
TOWN OF LINCOLNVILLE
GOVERNING THE OPERATION OF TAXI-CABS

Article 1.

PURPOSE
To keep codes enforcement officials informed relative to the organization of commercial, motorized transportation and to establish regulations governing the operation of such motorized transportation, in the Town of Lincolnville, Maine, and qualifications of personnel related thereto.

Article 2.

AUTHORIZATION
Section 1. The Selectmen are hereby authorized and empowered to issue licenses to operate taxi-cabs within the Town of Lincolnville, Maine and to approve applications therefore, having due regard for the responsibilities and qualifications of the applicant and to collect an annual fee of twenty-five ($25.00) dollars which must be paid, to the Town of Lincolnville, upon approval and delivery of any such license annually.

Section 2. Every vehicle used, or to be used for hire, as a public conveyance, from place to place, shall be deemed a taxi-cab within the meaning of this Ordinance, except motor vehicles subject to regulations by the Public Utilities Commission of the State of Maine and vehicles collecting fares by ticket or coupons for interstate transportation.

Section 3. Every taxi-cab thus licensed shall have the word “TAXI” and the Town license number plainly printed in a conspicuous place on every taxi-cab operated by him/her in letters not less than two (2) inches in height.

Article 3.

PENALTIES
Section 1. Any person operating a taxi-cab based in Lincolnville, Maine without a license issued by the Selectmen of Lincolnville shall be guilty of a violation of this Ordinance and shall be subject to a fine for each offense of not less than twenty-five ($25.00) dollars and not more than fifty ($50.00) dollars. In addition to the penalties provided herein, the Town may recover reasonable attorney fees and expenses of litigation in any suit commenced by the Town against the person who is adjudged to have violated this Ordinance or any of the conditions of any license granted hereunder.

Article 4.

SEPARABILITY
Section 1. If any section, subsection, sentence, clause, phrase or portion of this Ordinance is for any reason held invalid by any court of competent jurisdiction such portion shall be deemed as a separate, distinct and independent provision, and such holding shall not effect the remaining portions of this Ordinance.

Article 5.

EFFECTIVE DATE
Section 1. This Ordinance shall be effective immediately following enactment.
Passed—Article 24  March 19, 1984
K:\Ordinances\Taxi Cab Ordinance March 1984.doc
SECTION 1. Purpose and Authority

The purpose of this Ordinance is to prevent damage to Town ways and bridges in the Town of Lincolnville which may be caused by vehicles of excessive weight, to lessen safety hazards and the risk of injury to the traveling public, to extend the life expectancy of Town ways and bridges, and to reduce the public expense of their maintenance and repair.

This Ordinance is adopted pursuant to Title 30-A M.R.S.A., Section 3009 and Title 29-A M.R.S.A. Sections 2395 and 2388.

SECTION 2. Definitions

The definitions contained in Title 29-A M.R.S.A. shall govern the construction of words contained in this Ordinance. Any word not defined therein shall be given their common and ordinary meaning.

SECTION 3. Restrictions and Notices

The Municipal Officers may, either permanently or seasonally, impose such restrictions on the gross registered weight of vehicles as may, in their judgment, be necessary to protect the traveling public and prevent abuse of the highways, and designate the Town way and bridges to which restrictions shall apply.

Whenever notice has been posted as provided herein, no person may thereafter operate any vehicle with a gross registered weight in excess of the restriction during any applicable time period on any way or bridge so posted unless otherwise exempt as provided herein. NOTE: There is no restriction if the road is solidly frozen, the term solidly frozen to mean – the air temperature is below 32 degrees Fahrenheit and no water is showing in the cracks or ruts in the road.

The notice shall contain, at a minimum, the following information:

(a) The name of the way or bridge,

(b) the gross registered weight limit,

(c) the time period during which the restriction applies,

(d) the date on which the notice was posted, and

(e) the signature of the Municipal Officers.
The notice shall be conspicuously posted at each end of the restricted way or bridge in a location clearly visible from the traveled way. Whenever a restriction expires or is lifted, the notices shall be removed wherever posted. Whenever a restriction is revised or extended, existing notices shall be removed and replaced with new notices.

No person may remove, obscure or otherwise tamper with any notice so posted except as provided herein.

SECTION 4. Exemptions

The following vehicles are exempt from this Ordinance:

(a) any vehicle delivering home heating fuel and operating in accordance with a permit issued by the Department of Transportation pursuant to Title 29-A Maine Revised Statutes 2395:

(b) any vehicle while engaged in highway maintenance or repair under the direction of the State of Town;

(c) any emergency vehicle (such as firefighting apparatus or ambulances) while responding to an emergency;

(d) any school transportation vehicle while transporting students;

(e) any public utility vehicle while providing emergency service or repairs; and

(f) any vehicle whose owner or operator holds a valid permit from the Municipal Officers as provided herein.

NOTE: The Municipal Officers request that owners and operators of exempted vehicles use common sense when conducting necessary travel over posted ways or bridges during the posting period by reducing the gross weight of their vehicles as much as possible before traveling these ways or bridges.

SECTION 5. Permits

The owner or operator of any vehicle not otherwise exempt as provided herein may apply in writing to the Municipal Officers for a permit to operate on a posted way or bridge notwithstanding the restriction. The Municipal Officers may issue a permit only upon all of the following findings:

(a) no other route is reasonably available to the applicant;

(b) it is a matter of economic necessity and not mere convenience that the applicant uses the way or bridge; and
(c) the applicant has tendered cash, a bond or other suitable security running to the Town in an amount sufficient, in their judgment, to repair any damage to the way or bridge which may reasonably result from the applicant’s use of same.

Even if the Municipal Officers make the foregoing findings, they need not issue a permit if they determine the applicant’s use of the way or bridge could reasonably be expected to create or aggravate a safety hazard or cause substantial damage. They may also limit the number of permits issued or outstanding as may, in their judgment, be necessary to preserve and protect the highways.

In determining whether to issue a permit, the Municipal Officers shall consider the following factors:

(a) the gross registered weight of the vehicle;
(b) the current and anticipated condition of the way or bridge;
(c) the number and frequency of vehicle trips proposed;
(d) the cost and availability of materials and equipment for repairs;
(e) the extent of use by other exempt vehicles; and
(f) such other circumstances as may, in their judgment, be relevant.

The Municipal Officers may issue permits subject to reasonable conditions, including but not limited to restrictions on the actual load weight and the number and frequency of vehicle trips, which shall be clearly noted on the permit.

SECTION 6. Administration and Enforcement

This Ordinance shall be administered and may be enforced by the Municipal Officers or their duly authorized designee (such as Road Commissioner, Code Enforcement Officer or Law Enforcement Officer).

SECTION 7. Penalties

Any violation of this Ordinance shall be a civil infraction subject to a fine of not less than $250.00 nor more than $1,000.00. Each violation shall be deemed a separate offense. In addition to any fine, the Town may seek restitution for the cost of repairs to any damaged way or bridge and reasonable attorney fees and costs.

Prosecution shall be in the name of the Town of Lincolnville and shall be brought in the Maine District Court.
SECTION 8. Amendments

This Ordinance may be amended by the Municipal Officers at any properly noticed meeting.

SECTION 9. Severability; Effective Date

In the event any portion of this Ordinance is declared invalid by a court of competent jurisdiction, the remaining portions shall continue in full force and effect.

This Ordinance shall take effect immediately upon enactment by the Municipal Officers at any properly noticed meeting.

Approved and Signed this 22nd day of April 1996, in Lincolnville, Maine.

Amendment: Add Note to Section 3, second paragraph, February 23, 1998.

Amendment: Change the 2-axle fuel delivery truck to any fuel delivery truck, Section 4 Exemptions (a), December 10, 2001.