

1982

Town of Levant Ordinances

Levant (Me.). Town Planning Committees

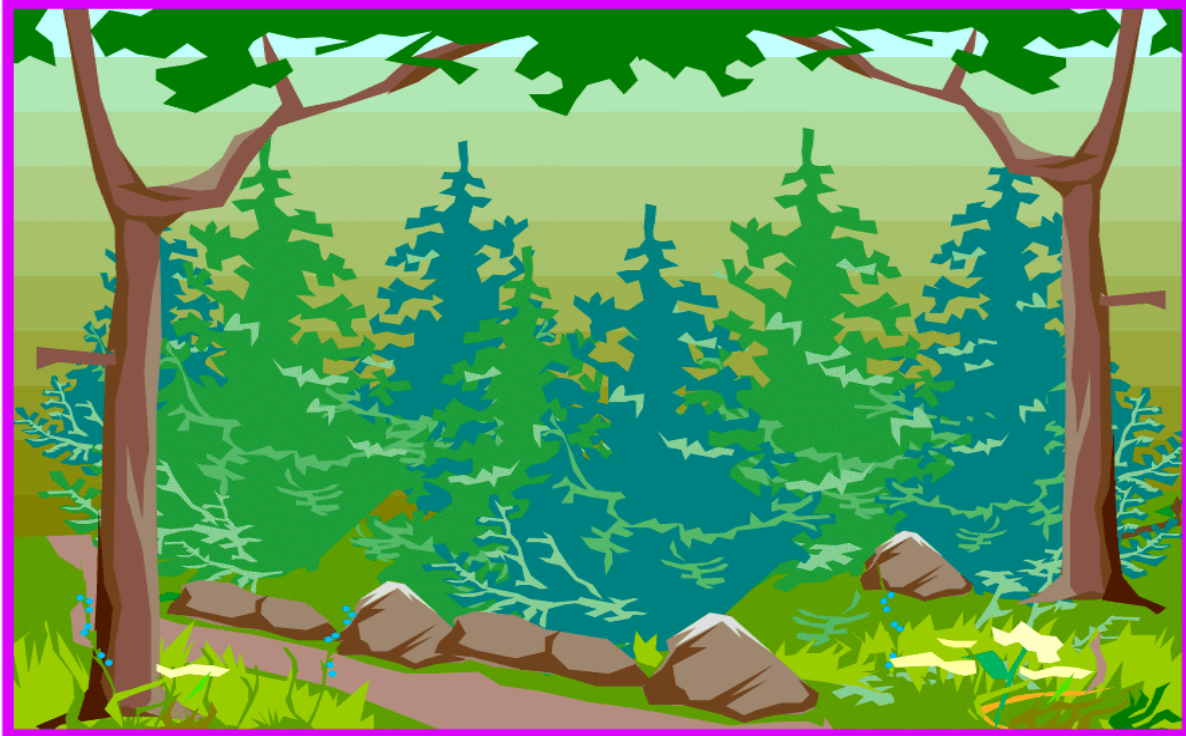
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Town of Levant – Land Use Ordinance



Adopted
At the Annual Town Meeting
June 22, 1996

Amended at the Annual Town Meeting
June 26, 2000
June 24, 2002
June 23, 2007

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Article 100 Title and Purpose

This Ordinance shall be known and may be cited as the Land Use Ordinance of the Town of Levant, Maine and will be referred to herein as this "Ordinance". It is enacted by the voters of the Town of Levant to protect public health, safety, welfare; provide for efficiency of public service; prevent and control pollution; and provide for orderly development in Levant.

Article 200 Authority and Administration

210 Authority

This Ordinance is enacted under authority granted to the Town by the constitution and the statutes of the State of Maine.

220 Administration

The Planning Board, Board of Selectmen, and the Code Enforcement Officer (as specified in this Ordinance) shall administer this Ordinance.

230 Effective Date

The effective date of this Ordinance shall be the day it is adopted by vote of the legislative body of the Town of Levant.

Article 300 Applicability

This Ordinance shall apply to all buildings or structures hereinafter erected, reconstructed, enlarged, or moved, and all uses of premises in the Town of Levant.

Article 400 Severability

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

Article 500 Conflict with Other Ordinances

This Ordinance shall in no way impair or remove the necessity of compliance with any other rule, regulation, bylaw, permit, or provision of law. Where this Ordinance imposes a greater restriction upon the use of the land, buildings, or structures, the provisions of this Ordinance shall prevail.

Article 600 Repeal of Conflicting Ordinances

The Land Use Ordinance of the Town of Levant, Maine, adopted March 24, 1984, and all amendments thereto, is hereby repealed. Provided, however, that the repeal of said Ordinance shall not preclude the prosecution of any violations thereof that occurred on or before the effective date of repeal.

Article 700 Amendment

The procedure to be followed in initiating and securing amendments to this Ordinance is as follows:

710 Initiation

A proposal to amend this Ordinance may be initiated by:

- The Planning Board, by majority vote;
- The Board of Selectmen, through a request to the Planning Board;
- The Public, through a written petition signed by at least ten percent of the number of voters in the last gubernatorial election and registered to vote in the Town of Levant.

720 Review

The process to be followed in adopting an amendment to this Ordinance is as follows:

- A. Proposed amendments must first be submitted to the Planning Board for their consideration.
- B. The Planning Board and Board of Selectmen shall, within thirty (30) days of receiving a proposed amendment, set a date to hold a joint public hearing on the proposed amendment.
- C. Notice of the public hearing shall be posted in the Municipal Office at least fourteen (14) days before the hearing. Notice shall also be published at least twice in a newspaper that complies with 1 M.R.S.A. s.s. 601 and has a general circulation in town. The date of the first publication must be at least fourteen (14) days before the hearing and the date of the second publication must be at least seven (7) days before the hearing. This notice shall contain a brief description of the nature of the proposed amendment.
- D. After the Planning Board votes to either support or oppose a proposed amendment, that proposed amendment shall be placed on the warrant for the Town Meeting next following the public hearing.
- E. The Planning Board shall report its official findings and conclusions in support or opposition report at the next Town Meeting following the public hearing.

730 Enactment

A majority of the voters present and voting at the Town Meeting shall be required to enact the amendment(s).

740 Effective Date

The provisions of this Ordinance and any amendments thereto shall become effective the day of their enactment.

Article 800 Filing

A copy of this Ordinance and any amendments hereto shall be filed with the Town Clerk and shall be accessible to any member of the public.

Article 900 Non-Conformity

910 Non-Conformity Defined

A legally existing (grandfathered) non-conforming lot, structure, sign, or use that lawfully existed immediately prior to the enactment of this Ordinance, or any subsequent applicable amendment hereto, and which, as a result of the enactment or subsequent amendment, fails to comply with any of the requirements of this Ordinance.

920 General Provisions

The following provisions apply to non-conformities generally:

A. Normal Repair and Maintenance

The normal upkeep and maintenance of non-conforming structures, including repairs or renovations which do not involve expansion of the non-conforming use or structure, and such other changes in a non-conforming use or structure as Federal, State, or local building and safety codes may require are permitted.

B. Transfer of Ownership

Any legal non-conformity may be transferred and the new owner may, subject strictly to the requirements of this Section, continue such non-conformity provided, however, that nothing contained herein shall be construed to permit any person or entity to occupy or use any lot or structure or to continue any use in violation of any other Federal, State, or Municipal statute, ordinance, or regulation.

C. Burden of Proof Related to Establishing Legal Non-Conformity

The burden of proof establishing that any non-conformity is a legal non-conformity shall, in all cases, be upon the owner of such non-conformity and not upon the Town of Levant.

D. Conversion To Conformity Encouraged

All non-conformities shall be encouraged to convert to conformity whenever possible and, when required by this Ordinance, shall convert to conformity.

E. Reversion to Non-Conformity Prohibited

Once converted to conformity, no lot, structure, or use shall revert to non-conformity.

930 Non-Conforming Structures

The following provision shall apply to non-conforming structures:

A. Expansion of Non-Conforming Structures

A non-conforming structure may be added to or expanded after obtaining a permit from the same permitting authority identified in Section 1000 as that for a new structure, if such addition or expansion does not increase the non-conformity of the structure and is in accordance with subparagraphs 1. and 2. below.

1. If any portion of a structure is less than the required setback from a property line, 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.
2. Construction or enlargement of a foundation beneath the existing structure shall not be considered an expansion of the structure provided:
 - a. The structure and new foundation are placed such that the setback requirement is met to the greatest practical extent as determined by the planning board or its designee, basing its decision on the criteria specified in ***Subsection B. Relocation of Non-Conforming Structures***, below;
 - b. The completed foundation does not extend beyond the exterior dimensions of the structure.

B. Relocation of Non-Conforming Structures

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, 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 system to be more non-conforming.

In determining whether the building relocation meets the setback to the greatest practical extent, the Planning Board shall consider size of the lot, clearing needed, slope of the land, relationship to roadway entrances, potential for soil erosion, location of the septic system, and other on-site soils suitable for septic systems.

C. Reconstruction or Replacement of Non-Conforming Structures

Any non-conforming structure which fails to meet the dimensional requirements of Sub-section 1210C, and which is damaged, destroyed, or removed, by more than fifty percent (50%) of the market value of the structure before such damage, destruction or removal, may be reconstructed or replaced within one (1) year of the date of said damage, destruction, or removal, provided that such reconstruction or replacement is in compliance with the setback requirements to the greatest practical extent as determined by the Planning Board 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.

Any nonconforming structure which is damaged or destroyed by fifty percent (50%) or less of the market value of the structure, excluding normal maintenance and repairs, may be repaired or reconstructed in place within one (1) year of such damage or destruction, with a permit from the Code Enforcement Officer.

In determining whether the structure reconstruction or replacement meets setbacks to the greatest practical extent, the Planning Board shall consider the type of foundation present, if any, and the considerations contained in Sub-section 930B, second paragraph. It is not the intent of this Sub-section to require the destruction of functional concrete or block foundations in order to meet setback requirements.

940 Existing Non-Conforming Mobile Homes

Notwithstanding any other provision of this Ordinance, the lawful use of a mobile home as a single-family dwelling and not certified pursuant to M.R.S.A. 30-A 4358, which legally existed on the date of the enactment of this Ordinance, may be continued, except that the mobile home shall not be:

- A. Rebuilt, altered, or repaired after being damaged in excess of fifty percent (50%) of its assessed value at the time of destruction as determined by the Code Enforcement Officer. The damaged home must be removed within sixty (60) days.

Any mobile home lawfully used as a single-family dwelling may be improved by the addition of a foundation or by other new construction, alteration, or repair, subject to the requirements of any applicable building code or other law, and subject to the other provisions of this Ordinance including performance standards in Section 1200 and 1300.

950 Non-Conforming Uses

The following provisions shall apply to non-conforming uses:

- A. **Expansion**
Expansion of non-conforming uses is prohibited.

B. Resumption Prohibited

A lot, building, or structure in or on which a non-conforming use ceases to be actively pursued for a period exceeding one (1) year, or which is superseded by a conforming use, may not again be devoted to a non-conforming use.

C. Change of Use

An existing non-conforming use may not be changed to another non-conforming use.

960 Non-Conforming Lots**A. Non-Conforming Lots**

A single parcel of land, the legal description or dimensions of which are recorded on a document or map on file at the Penobscot County Registry of Deeds at the effective date of this Ordinance or any amendment, and which, as a result of the enactment or respective amendment of this Ordinance, does not meet the lot area, road frontage, 150x150 area requirements may be built upon or conveyed without the need for a variance, subject to the following:

1. Such building or construction shall, in all other respects, comply with the provisions of this Ordinance.
2. No permit shall be granted until the owner demonstrates to the satisfaction of the Code Enforcement Officer that there is or will be reasonable access to the site for emergency vehicles.
3. Such lots shall be limited to single-family dwellings and accessory structures.
4. Variances relating to setback or other requirements not involving lot size, road frontage, or the 150x150 area requirement shall be obtained by action of the Board of Appeals.

B. Contiguous Built Lots

If two or more contiguous lots or parcels are in a single or joint ownership of record at the time of adoption of this Ordinance, if all or part of the lots do not meet the dimensional requirements of this Ordinance, and if a principal use or structure exists on each lot, the non-conforming lots may be conveyed separately or together, provided that they conform to all other provisions of this Ordinance and they meet the dimensional requirements to the greatest extent possible as determined by the Planning Board.

Article 1000 Permits Required

Depending on the type of activity planned to be undertaken, a permit from the CEO or Planning Board approval may be required.

No building, structure, or use for which Planning Board approval and/or CEO permit is required shall be constructed until and unless Planning Board approval and/or CEO permit has been obtained from the Code Enforcement Officer.

No building or structure for which a Planning Board approval and/or CEO permit is required shall be inhabited or used until requirements of Section 1030 have been met.

NOTE: Even if no permit is required, compliance with all standards in this Ordinance is still mandatory.

1010 Table of Permitting Responsibilities and Requirements

<i>No Permit Required</i>	<i>CEO Permit Required</i>	<i>Planning Board Permit & CEO Permit Required</i>
Filling and grading less than 200 cu. yds.	Filling and grading between 200 cu. yds and 1000 cu. yds.	Filling, grading, or removing in excess of 1000 cu. yds.
Residential accessory structures up to 100 sq. ft.	Residential accessory structures over 100 sq. ft.	
Maintenance and repair of Town facilities and roads	Expansion at commercial establishments up to 200 sq. ft.	Expansion over 200 sq. ft. at commercial establishments and public developments
Fences and boundary walls	Single Family Residential & duplex construction	Multi- unit housing
Activities not listed for CEO or Planning Board approval	Barns and associated structures for agricultural purposes	Change in use on non-conforming lots
Removal or demolition or relocation on same lot (unless building is non-conforming).	Reconstruction of a damaged building	Any new business, commercial or public development
	Relocating or locating 1 or 2 buildings on to a lot	Three or more principal structures on a single lot.

1005 Fees

- A. No permit shall be issued without payment of a fee according to the following schedule:
 - CEO Permit for Residential and Commercial activities: \$50.00, except residential accessory structures and commercial accessory structures (less than 200 sq. ft.) which are \$20.00
 - a) Planning Board Review: \$25.00
 - b) Occupancy/Use Permits: Free
 - c) Entrance Permit: Free
- B. CEO permit, after expiration, may be renewed at no charge.

- C. Additionally, a late fee equivalent to the permit fee will be required in the event a Building permit is not first obtained prior to the start of construction.
- D. Any person who fails to keep a scheduled appointment for an inspection shall be required to pay an additional permit fee equal to that previously paid. If the CEO fails to keep a scheduled appointment, the CEO Permit fee shall be refunded on request. Cancellation of an appointment may be made within five (5) hours of scheduled appointment without penalty.
- E. No inspection shall be made and no permit shall be issued until the permit fees are paid in full.
- F. For those projects requiring a Planning Board approval, no permit shall be issued until said approval has been obtained.

1020 Procedure

A. Filing an Application for a Permit

Any person requiring a CEO Permit shall file an application with the Code Enforcement Officer. Within seven (7) days of the filing of an application for a CEO Permit, the Code Enforcement Officer shall act on the application. The Code Enforcement Officer shall determine whether Planning Board approval is required:

- If Planning Board approval is required, the Code Enforcement Officer shall so inform the Applicant, in writing, and shall inform the Applicant of the procedures for Planning Board approval.
- If Planning Board approval is not required, the Code Enforcement Officer shall review the application to determine whether it meets all relevant performance standards in Section 1200 and 1300-Performance Standards of this Ordinance. If all performance standards are met, the Code Enforcement Officer shall issue the permit. If all relevant standards are not met, the Code Enforcement Officer shall deny the permit and inform the Applicant, in writing, of the reasons for denying the permit.

B. Issuance of Permit

No CEO permit for a building or structure on any lot shall be issued except to the owner of record thereof, or his authorized agent, in writing.

C. Application Attachments

The Code Enforcement Officer shall require that any application for such permit shall be accompanied by a plot plan, accurately drawn to scale, showing the actual shape and dimensions of the lot to be built upon, an on-site soils survey as appropriate to the proposed development, the exact location and size of all buildings or structures already on the lot, the location of the new building to be constructed

together with the lines within which all buildings and structures are to be constructed, the existing and intended use of each building or structure, and such other information as may be necessary to provide for the execution and enforcement of this Ordinance.

D. Application Records

Applications for permits with their accompanying plans and building permits shall be maintained as a permanent record by the Code Enforcement Officer.

E. Permit Expiration

CEO permit secured under the provisions of this Ordinance shall expire if the work or change is not commenced within six (6) months of the date on which the permit is granted, or if the work or change is not substantially completed within two (2) years of the date on which the permit is granted. The Code Enforcement Officer may grant an extension to the foregoing deadlines for a period not to exceed six (6) months. The Board of Selectmen, in its sole discretion, may grant an additional extension for good cause shown.

F. Plumbing Permit Required

No Building permit shall be issued for any structure or use involving the construction, installation, or alteration of plumbing facilities unless a valid Plumbing permit has been secured by the Applicant or his authorized agent in conformance with the Plumbing Code of the State of Maine.

1030 Occupancy/Use Permit

A certificate of Occupancy/Use certifying that all applicable provisions of this Ordinance have been satisfied shall be obtained from the CEO.

- A. After the Applicant notifies the CEO that the work specified by Planning Board Approval and/or CEO Permit has been completed:
1. Inspections on residential structures or commercial structures open to the public are to be performed by the CEO within five (5) business days of notification.
 2. A permit issued for a use other than that specified in Section 1030A.1. shall be approved or denied for occupancy or use within five (5) business days of notification. Otherwise, the Applicant may use or occupy the land or structures referenced in the Permit.

1040 Entrance Permit

Before a driveway is placed onto a town road, an entrance permit must be obtained from the CEO.

A. The CEO will do the following before issuing a permit:

- Check with the Road Commissioner or Agent to determine the size of the culvert needed and if the proposed culvert is new or in good condition.
- That the proposed location of the driveway conforms to the provisions of this Ordinance.

Article 1100 Planning Board Approval

1110 Purpose

These Planning Board approval regulations are established to promote the public health, safety, and general welfare by requiring plans to be submitted to and reviewed by the Planning Board for certain uses which have a potential for significant impact on a neighborhood, but which when properly designed with respect to their surroundings can be acceptable uses in the neighborhood. The overall purpose of such a review shall be to ensure orderly and beneficial development of the Town of Levant and to encourage the most appropriate use of the land.

1120 Applicability

The Planning Board shall review and make recommendations concerning all plans for non-residential units and mobile home parks whether or not such development includes a subdivision or re-subdivision of a site.

1130 Application and Review Procedures

1131 Procedures

A. Pre-application Meeting With CEO

CEO will explain the permit review process to the Applicant and review a copy of the proposed application. The CEO may inform the Applicant of the general completeness of the application.

B. Copies of Applications

Persons seeking a Planning Board approval shall submit five (5) copies of an application, with all the information required in Section 1132 of this Ordinance, to the Planning Board at least fourteen (14) days before a regularly scheduled meeting of the Planning Board.

C. Verification

The CEO, Town Clerk, or agent shall issue the Applicant a dated receipt for the application and application fee. The CEO shall verify that the abutter notification

forms are complete (see item E Section 1132) and in a pre-addressed stamped envelope. The CEO or Town staff shall mail these within five (5) business days.

D. Determination of Complete Application

Within thirty five (35) days of the filing of an application for Planning Board approval, the Planning Board shall determine if the application is complete. The Planning Board shall notify the Applicant, in writing, either that the application is a complete application or, if the application is incomplete, the additional material needed to make a complete application. After the Planning Board has determined that a complete application has been filed, it shall begin its full evaluation of the proposed site plan.

E. Public Hearing

The Planning Board shall hold a public hearing on the application, such hearing to be held within thirty five (35) days of the Board's determination that the application is complete. The hearing shall be advertised by the Town, at least seven (7) days prior to the hearing. Notices shall be posted in the same location as Selectmen's Warrants. The purpose of the public hearing shall be to receive input from the general public relative to the elements listed in Section 1140 — Standards for Governing Site Plan Review.

F. Planning Board Review and Action

Within thirty (30) days after the public hearing, the Planning Board shall approve, approve with modifications, or disapprove the proposed action application. The Board shall limit its review to the criteria set forth in Section 1140 - Standards for Review of this Ordinance. The Board may consult with the Applicant or any other party in making its review.

The Board shall inform the Applicant of its decision, in writing. In cases of disapproval or approval with modifications, reasons for such actions shall be stated. A copy of the Board's decision shall be filed with the Code Enforcement Officer. No CEO permit shall be issued until Planning Board approval is granted.

G. Records of Applications

Applications for Planning Board approval with their accompanying plans and the Planning Board's action shall be maintained as part of the permanent record of the Planning Board.

H. Site Plan Approval

After Site Plan approval has been granted, the appropriate CEO Permit may be issued.

1132 Required Information on Plans

Applications for the establishment of uses requiring Planning Board approval shall be accompanied by plans, drawn to scale, containing the following information:

- A. Name and address of the Applicant
- B. Name and address of owner of property, if different than Applicant
- C. Project description: Include, if applicable, the number of employees, type of business, projected number of customers, solid waste disposal, water need
- D. A description of the interest the Applicant has in the property (option, land purchase contract, lease, record ownership, etc.)
- E. Abutter's names and addresses including those directly across roads.
- F. Scale of the map
- G. Boundaries of the tract of land
- H. Location of existing and proposed buildings and other structures, including use and proposed use thereof
- I. Location of buildings on abutting properties and within 300 feet of the property line of the proposed development
- J. Location of existing public streets
- K. Location of proposed access drives to the lot from public streets
- L. Location and arrangement of proposed off-street parking and loading areas and their appurtenant drives and maneuvering areas
- M. Location of existing and proposed pedestrian walkways
- N. Location of existing and proposed utilities and easements therefore, including sanitary sewerage, water, and electricity
- O. Location of existing natural drainageways and proposed storm drainage facilities, including dimensions of culverts, pipes, etc.
- P. Location, intensity, type, size and direction of all outdoor lighting
- Q. Location and proposed use of areas proposed for outdoor recreation
- R. Location and type of existing and proposed screening
- S. Contour lines at a minimum of twenty foot (20') intervals to show the effect on the land of existing and proposed grades for areas proposed to be excavated or filled

- T. Location and size of signs and all permanent outdoor fixtures
- U. Information about soils conditions on the site:
 - If subsurface sewage disposal is proposed, the information shall include evidence of soil suitability according to the Maine State Plumbing Code. The Site Plan shall show the location of soil test areas.
 - If no subsurface sewage disposal is proposed, medium-intensity soils survey information about the site shall be included in the application. The Planning Board may require more intensive soils information if needed in order to adequately review the proposal.

1140 Standards Governing Site Plan Review

In approving an application for Site Plan Review, the Planning Board shall first determine that the development, as planned, will conform to the requirements of this Ordinance. Following such determination, the Board shall proceed to find that the proposed plan adequately meets the following standards applicable to the proposed development. In all cases, the burden of proof shall be upon the Applicant.

- A. The proposed use, buildings, design and layout meets the provisions of all applicable regulations and ordinances of the Town of Levant and meets the intent of the Comprehensive Plan, as amended.
- B. The proposed site development shall not adversely impact either the quality or quantity of groundwater available.
- C. The proposed layout will be of such a nature that it will make vehicular or pedestrian traffic no more hazardous than is normal for the area involved. Factors for the Planning Board to consider in this determination are the turning movements relative to traffic flow, proximity to intersections, location and access of off-street parking, provisions of pedestrian traffic, and minimization of pedestrian vehicular contacts.

- D. The proposed location and height of buildings or structures, walls and fences, parking, loading and landscaping shall be such that it will not interfere with or discourage the appropriate development in the use of land adjacent to the proposed site.
- E. Signs shall be in accordance with the regulations of this Ordinance and, in addition, shall be designed and located so as not to present a hazard or glare to either adjacent property owners or to motorists.
- F. Buildings shall be located with consideration of the topography and other natural features of the site.
- G. The development is designed to minimize erosion.
- H. All manufactured slopes, other than those constructed of stone, concrete or other impervious materials, shall be planted or otherwise protected from the effects of storm runoff erosion. All graded slopes shall be of a character to cause the slope to blend with the surrounding terrain and development.
- I. Adequate drainage is provided for storm water runoff from developed areas.
- J. The proposed use is designed to minimize, as far as possible, adverse impacts on farm land.

Article 1200 Performance Standards

These standards shall apply to all buildings or structures and all uses of premises in the Town of Levant.

1210 Lot Dimensions

The following minimum lot dimensions shall apply to all uses in the Town of Levant:

- A. **Minimum lot area:** 1.5 acre; 1 acre in subdivisions.
- B. **Minimum road frontage:**
 - 1. 150 feet on Minor Streets or a 50 foot right-of-way. Minor Streets are here defined as dead-end roads and loop roads that have both entrances on the same street. They shall include but are not limited to: Black Stream Dr., Sunny Acres Dr., Wagner Rd., Hodgdon Rd., Sinclair Rd., Francis Dr., Robichaud Rd., Ross Rd., Dill Rd., Doughty Blvd., McIntosh Ave. and French Rd.
 - 2. 200 feet on Collector Streets and Arterials.
 - a. Arterials shall include but are not limited to: Union St., Avenue Rd., Stetson Rd. (East and West), Wing Rd. and Kenduskeag Rd.

- b. All existing roads and streets not classified as Arterials or Local Streets are classified as Collector Streets.
 - c. Future roads shall be classified by the Planning Board prior to submission to the Board of Selectmen for approval at a Town Meeting.
3. All lots must be capable of accommodating a square 150 feet by 150 feet.

C. Minimum setback

1. Minimum setback of all structures or buildings from all rear or side lot lines shall be 25 feet, except that one story accessory residential structures of no more than 1000 square feet in area and no more than 15 feet in height from the first floor to the highest point of the peak may have a 15 foot side and rear setback.
2. Minimum setback of all structures or buildings from the front lot line shall be 50 feet. For the purposes hereof, the front lot line shall be the line which separates the lot from the strip of land dedicated and used as a public or private street, regardless of whether the street exists as a right of way or is owned by the Town or State of Maine.
3. Structural elements such as ramps, enclosures, balconies, devices and appliances such as wheelchair platform lifts and similar accommodations necessary for providing access to a means of egress to existing buildings for the handicapped are exempt from the setback requirements for structures provided the encroachment in the setback is the minimum necessary to meet the provisions for handicap access when required by State or Federal Law or Regulation.

D. Minimum setback of all structures or buildings from waterbodies and wetlands: Regulated by the Shoreland Zoning Ordinance.

E. Minimum lot area for multi-family housing: One-half acre for every dwelling unit.

F. No more than one principal structure may be placed on a lot unless permission for additional principal structure(s) is granted by the CEO under the following conditions:

1. Adequate subsurface sewage disposal is available for all uses on the lot.
2. No unsafe or unhealthy condition is created by establishing the additional uses on the lot.
3. The layout of the buildings are such that legal lot(s) as defined by this ordinance and state law can be created in the future. **-OR-** Only one structure is occupied during construction of a principle dwelling.

1220 Excavation, Removal or Fill of Land**A. General.**

The following provisions shall apply to excavation, removal or fill of soil, earth, loam, sand, gravel, rock and other deposits. Existing gravel pits may continue to operate as long as the extraction does not make the pit more non conforming. Excavation, removal, or fill of land or other earth moving activity which would result in erosion, sedimentation, or impairment of water quality or fish or aquatic life is prohibited.

All existing gravel pits at the time of the adoption of this ordinance do not need Planning Board Approval to continue operation.

B. Excavation, removal, or fill activities not requiring a permit.

The following activities shall be allowed without a permit:

1. The excavation, removal, or fill of less than 200 cubic yards of material from or onto any lot in a calendar year.
2. Excavation, removal, or fill activities associated with the construction of any structure for which a valid Building permit or valid Plumbing permit has been issued.
3. Routine road maintenance and winter sanding performed or contracted by the Town of Levant.

C. Review and permit required.

- All excavation, removal, or fill in excess of 200 cubic yards and up to 1000 cubic yards in a calendar year shall require a CEO permit before the activity is commenced; greater than 1000 cubic yards in a calendar year shall require Planning Board approval before the activity is commenced. Site Plan approval is only required once as long as the approved plan is followed.
- In addition to the information required in a Site Plan Review application, before granting Site Plan approval, the Planning Board shall require that the Applicant present a conservation plan for the operation of the activity and the restoration of the land. Such plan shall indicate the manner of operation of the activity. It shall include provision for preventing erosion, siltation, sedimentation, and runoff and plans for temporary and permanent conservation practices.
- The restoration plan shall indicate how the site will be stabilized and revegetated at the completion of the operation, the expected completion date, and the final relief of the land after it has been restored.
- One condition of the issuance of Site Plan approval shall be that the plan approved by the Planning Board must be followed by the operator.

D. Mineral excavation activities.

The following requirements shall apply to mineral excavation activities:

1. All excavations, including test pits and holes, shall be promptly capped, refilled, or secured by other equally effective measures so as to reasonably restore disturbed areas and to protect the public health and safety.
2. Access way approaches to stream channels shall be located and designed so as to divert water runoff from the way in order to prevent such runoff from directly entering the stream.
3. In addition to the foregoing minimum requirements, when conducting mineral exploration activities and creating and maintaining associated access ways, provision shall be made to effectively stabilize all areas of disturbed soil so as to reasonably avoid soil erosion and sedimentation of surface waters. These measures shall include seeding and mulching if necessary to insure effective stabilization.
4. A natural vegetative buffer of not less than fifty feet (50') in width shall be retained between any facility intended primarily for public use, excluding privately owned roads and the mineral exploration or extraction activity.

Within twenty-five feet (25') of any property line and within the buffer strip, visual screening shall be provided. The visual screening shall consist of a berm or minimally, two staggered rows with at least 6' of height, placed 12' on center, of nursery stock landscaping (such as coniferous shrubs or trees). The screening shall be maintained throughout the life of the project. The screening shall effectively screen at least 80% of the structures from the view of the adjacent properties.

5. If the owner is operating under Planning Board approval and within twelve (12) months following the completion of extraction operations at any extraction site, or when less than one hundred (100) cubic yards of materials are removed in any consecutive twenty-four (24) 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 originating on-site may be buried or covered on-site.
 - b) The final graded slope shall be one vertical foot to two horizontal feet (1:2) slope or flatter.
 - c) Material capable of growing vegetation shall be retained to cover all disturbed land areas which shall be reseeded and stabilized with vegetation native to the areas. Additional material shall be

obtained from off-site sources, if necessary, to complete the stabilization project.

6. No ditches, trenches, pumping or other methods shall be used to lower the water table or permit more gravel extraction than could occur under normal conditions. Extraction operations shall not be permitted within one hundred fifty feet (150') of any property line, without written permission of the owner of such adjacent property. In no event shall they be permitted closer than twenty-five feet (25') to any property line, unless there is another mineral extraction operation on the other side of the property line in question. The distance may not be reduced to less than twenty-five feet (25') from a cemetery.
7. Access roads into and around the pit shall not be oiled. Dust from the pit, including dust associated with traffic, must be controlled by watering, paving, sweeping or other best management practices.
8. The pit shall not be used for storage or dumping of any substances that could produce a harmful leachate, both during operation of the pit and following its permanent closure.
9. Storage of hazardous materials and petroleum products in the pit is prohibited.
10. Refueling and oil changes in the pit are prohibited, unless adequate protection and containment is provided. Adequate protection and containment means a spill prevention, control and counter measures plan as required by 38 M.R.S.A. Section 490-D. Excavation may not occur below road level within one hundred fifty feet (150') of a road or right-of-way except that excavation below road level may occur within one hundred fifty feet (150') of a private right-of-way with written permission of the owner of the right-of-way.

1230 Signs

A. Off-Premises Signs

No off-premise sign shall be erected or maintained in the Town of Levant except in conformity with M.R.S.A. Title 23, Section 1901-925, the Maine Traveler Information Services Law. Off-premises official business directional signs may be located in the Town of Levant in such location and in such manner as allowed under M.R.S.A. Title 23, Section 1901-925 and under the rules and regulations of the State of Maine Department of Transportation.

B. On-Premises Signs

All on-premises signs shall be located and erected in conformity with State Law M.R.S.A. Title 23 Section 1901-1925. In addition, the following regulations shall apply:

1. No sign shall be erected adjacent to any public way in such manner as to obstruct clear and free vision or where, by reason of its position, shape, color, illumination, or wording, the sign may interfere with, obstruct the view of, or be confused with any authorized traffic sign, signal, or device or otherwise constitute a hazard to pedestrian or vehicular traffic.
2. Flashing, moving, or animated signs are prohibited. No sign shall exceed 25 feet in height.
3. No sign shall be located within 10 feet of front property line and/or 25 feet of any other lot line.
4. Roof signs shall not extend more than 10 feet above the roof line.
5. No sign shall exceed a total area of 32 square feet.
6. No more than 3 signs per parcel.

1240 General Welfare**A. Dust, Fumes, Vapors, Gases, Odors, Noise, Glare, and Explosive Materials**

1. Emission of dust, dirt, fly ash, fumes, vapors or gases which pose an unreasonable risk harm to human health or the environment shall be prohibited.
2. No land use or establishment shall be permitted to produce unreasonable offensive or harmful odors perceptible beyond their lot lines, measured either at ground or habitable elevations.
3. No land use or establishment shall be permitted to produce unreasonable noise, glare or brightness beyond its lot lines.
4. No highly flammable or explosive liquids, solids or gases shall be stored in bulk above ground, unless they are stored in compliance with the requirements of the National Fire Protection Association (NFPA), Sections 30, 58, and 59-A.

B. Oil and Chemical Storage

1. All storage of petroleum or liquid petroleum products shall be in conformance with the provisions of Title 38, M.R.S.A., Section 541 et seq.

which establishes a ten-year compliance schedule for the discontinuance and removal of non-conforming underground oil storage facilities and requires qualified personnel to oversee the removal of certain underground facilities.

2. Such storage shall be in conformance with the NFPA Codes applicable to the stored substance.
3. When applicable, the Applicant shall have the burden of proof to assure the Planning Board or Code Enforcement Officer that all provisions of the above statutes have been met before the issuance of any permit may take place.

C. Pollution Levels

1. Any pollutant introduced into soil on the site shall not exceed a concentration in the ground water that is greater than the guideline established for it in the Safe Drinking Water Standard, EPA Health Advisory, or NAS Health Advisory. Any violation of this standard shall be cause to order the immediate cessation of the use or activity responsible for the contamination.

D. Deer Yards

If a use is proposed in an Inland Fisheries and Wildlife (IF&W) mapped deer yard, the applicant must consult with an IF&W Biologist for best management practices.

1250 Aquifer Protection

A. Groundwater Protection

The proposed site development and use shall not adversely impact either the quality or quantity of groundwater available to abutting properties or public water supply systems. Projects involving common on-site water supply or sewage disposal systems with a capacity of two thousand (2,000) gallons per day or greater have demonstrated that the groundwater at the property line shall comply, following development, with the standards for safe drinking water as established by the State of Maine.

B. Uses Prohibited Adjacent to Significant Sand and Gravel Aquifers

The following uses are prohibited directly over and within one thousand feet (1000') of the boundaries of significant sand and gravel aquifers, as defined herein:

- Subsurface storage of petroleum and other refined petroleum products with the exception of household heating oil where the underground storage tank is in full compliance with Department of Environmental Protection regulations
- Petroleum storage for commercial or industrial use
- Engineered subsurface waste disposal systems as defined herein
- Multi-family dwellings
- Industrial uses except those permitted as home occupations

- Salt-sand and road salt storage and loading area
- Dumping of snow containing deicing chemicals
- Junkyards/ auto graveyards
- Sanitary landfills or construction/demolition debris or stump dumps
- Commercial animal feedlots
- Metal plating
- Commercial furniture stripping
- Dry cleaning establishments/ Laundromats
- Commercial motor vehicle repair or service
- Non-residential pipelines for transmission of oil, gas, or hazardous materials
- Spray irrigation of sewage
- Any other use that involves the manufacture, storage, use, transportation or disposal of toxic or hazardous materials

1260 Erosion Control

A. Erosion and Sedimentation Control

The following measures relating to conservation, erosion and sediment control shall be included where applicable as part of all projects submitted for review and approval by the Planning Board:

1. The procedures outlined in the erosion and sedimentation control plan, prepared and submitted by the Applicant, shall be implemented during the site preparation, construction, and clean-up stages.
2. Erosion of soil and sedimentation of watercourses and water bodies shall be minimized by employing the following best-management practices:
 - a) Stripping of vegetation, soil removal and re-grading or other development shall be done in such a way as to minimize erosion.
 - b) The development shall not unreasonably increase the rate or volume of surface water runoff from the proposed site.
 - c) Whenever feasible, natural vegetation shall be retained, protected and supplemented.
 - d) The disturbed area and the duration of exposure shall be kept to a practical minimum.
 - e) Disturbed soils shall be stabilized as quickly as practicable.
 - f) Temporary vegetation or mulching shall be used to protect disturbed areas during development.

- g) Permanent (final) vegetation and mechanical erosion control measures, in accordance with the standards of the County Soil and Water Conservation District or the Maine Soil and Water Conservation Commission, shall be installed as soon as practicable after construction ends.
- i) Until the disturbed area is stabilized, sediment in the runoff water shall be trapped by the use of debris basins, sediment basins, silt traps or other acceptable methods.
- j) The top of a cut or the bottom of a fill section shall not be closer than ten feet (10') to an adjoining property line, unless otherwise specified by the Planning Board. Extraction operations (gravel pits, etc.) shall not be permitted within one hundred fifty feet (150') of any property line in the absence of prior written agreement of the owner of such adjoining property.
- k) During grading operations, methods of dust control shall be employed wherever practicable.
- l) Whenever sedimentation is caused by stripping vegetation, re-grading or other development, it shall be the responsibility of the developer causing such sedimentation to remove it from all adjoining surfaces, drainage systems and watercourses and to repair any damage at his expense as quickly as possible.
- m) Any activity on a stream, watercourse or swale, or upon floodway or right-of-way shall comply with the Natural Resource Protection Act, Title 38, M.R.S.A., Sections 480-A and 480-S. Any such activity shall also be conducted in such a manner so as to maintain as nearly as possible the present state of the stream, watercourse, swale, floodway, or right-of-way for the duration of the activity and shall be returned to its original or equal condition after such activity is completed.
- n) Maintenance of drainage facilities or watercourses originating and completely on private property is the responsibility of the owner to the point of open discharge at the property line or at a communal watercourse within the property.

1270 Buffer Strip Requirement for Activities Requiring Planning Board Approval

- A. A fifty foot (50') wide buffer strip shall be provided along all property boundaries which require Planning Board approval and abut incompatible uses.

No structures, streets, or utilities may be placed in the buffer strip, except that utilities only may cross a buffer strip to provide services.

- B. Within twenty-five feet (25') of any property line and within the buffer strip, visual screening shall be provided. The visual screening shall consist minimally of two staggered rows with at least 6' of height, placed 12' on center, nursery stock landscaping (such as coniferous shrubs or trees). The screening shall be maintained throughout the life of the project. The screening shall effectively screen at least 80% of the structures from the view of the adjacent properties

1280 Road Entrances, Curb Cuts, Driveways

All road entrances, curb cuts, and driveways shall be designed – considering land topography, street design, and existing and expected traffic patterns – to promote to the greatest extent possible safe pedestrian and vehicular traffic and to protect public safety. Driveways and roads in multi-family housing projects shall be designed and laid out to provide for adequate traffic circulation and for access of emergency service vehicles to every housing unit on the premises.

Private roads must have a fifty foot (50') right-of-way and must be screened if the right-of-way passes within thirty-five feet (35') of a residence. The visual screening may consist of fences, berms, landscaping (such as coniferous shrubs and trees) and/or natural existing vegetation. The screening shall be maintained throughout the life of the right-of-way. The screening shall effectively screen at least 80% of the structures from the view of the right-of-way. If vegetative screening is chosen, the owner has five (5) years to comply with this standard.

NOTE: Any driveway or road on a state highway or state aid road requires an entrance permit from DOT.

A. Vehicular Access

The following standards apply to design and construction of vehicular access to properties:

1. Each property shall be provided with vehicular access to the property by abutting private or public ways. Private right-of-ways shall be protected by permanent easements.
2. The following criteria shall be followed for entrances and/or driveways to any use other than single and two-family dwellings:
 - a) All entrance and exit driveways shall be located and designed in profile and grading to afford safety to traffic, provide for safe and convenient access to and from the site, and to minimize conflict with the flow of traffic.

- b) The dimensions of driveways shall be designed to adequately accommodate the volume and character of vehicles anticipated to be attracted daily.
- c) Provision shall be made for convenient and safe emergency vehicle access to all buildings and structures at all times.
- d) For a distance of twenty feet (20') from the intersection of any two (2) streets along street lines, no wall, fence, sign, or other structure and no hedges, trees, or other growth shall be planted or erected in such a manner as to materially impede vision between a height of two and one-half (2 1/2) and ten feet (10') above street level.
- e) Any exit driveway or driveway lane shall be designed in profile and grading and located so as to provide the following minimum sight distance measured in each direction. The measurements shall be from the driver's seat of a vehicle standing on that portion of the exit driveway with the front of the vehicle a minimum of ten feet (10') behind the curbline or edge of shoulder.

Allowable speed (Miles per hour)	Required Sight Distance (Feet)
25	160
35	240
40	275
45	325
50	350
55	425

- f) Where a site occupies a corner of two (2) intersecting roads, no driveway entrance or exit shall be located within fifty feet (50') of the point of tangency of the existing or proposed curb radius of that site. Access to the lot shall be provided across the frontage and to the street where there is less potential for traffic congestion and for hazards to traffic and pedestrians.
- g) The intersection of any access drive or proposed street shall function at a Level of Service of C following development if the project will generate four hundred (400) or more vehicle trips per twenty-four (24) hour period or at a level which shall allow safe access into and out of the project if less than four hundred (400) trips are generated. Projects generating four hundred (400) or more vehicle trips per twenty-four (24) hour period shall provide two (2) or more separate points of vehicular access into and out of the site.
- h) Where two (2) or more driveways connect on a single site to any one (1) road, a minimum clear distance of one hundred feet (100')

measured along the right-of-way shall separate the closest edges of any two (2) such driveways, unless the driveways are one way only. In that case, the minimum clear distance shall be no less than fifty feet (50').

- i) **Angles.** Driveways used for two-way operation shall 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 used by vehicles in one (1) direction of travel (right-turn only) shall not form an angle smaller than forty-five (45) degrees with the road, unless acceleration and deceleration lanes are provided.
- j) **Dimensions.** The dimensions of driveways shall be designed to adequately accommodate the volume and character of vehicles anticipated. The required maximum and minimum dimensions for driveways are indicated below. Driveways serving large volumes of daily traffic or traffic of over fifteen percent (15%) truck traffic shall be required to utilize maximum dimensions.

	One-way Operation Driveways* Width (Feet)	Two-Way Operation Driveways* Width (Feet)
Three (3) to ten (10) dwelling units	10 to 15	15 to 25
Ten (10) dwelling units or more	15 to 25	20 to 35
Commercial and industrial	15 to 30	25 to 35
* All driveways shall be five feet (5') wider at the curb line and this additional width shall be maintained for a distance of twenty feet (20') into the site.		

- k) **Grades.** For all driveways entering onto Route 222, the grade shall not be more than three percent (3%) for the first fifty feet (50') from the edge of the pavement. Driveways shall not be located where visibility is limited because of curves or topography.

B. Highway Access

The following provisions shall apply to all properties which abut and/or have frontage on Route 222:

1. All lots of record legally existing at the time of the adoption of this Ordinance shall be allowed one (1) direct access to Route 222 provided that the minimum sight distance is met.
2. One curbcut is allowed for every 150 feet of frontage provided it meets the minimum sight distances specified.

C. Emergency Vehicle Access

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

1290 Off-Street Parking and Loading Requirements**A. Off-Street Loading/Unloading Requirements**

On every lot on which a commercial or industrial use is hereafter established, space with access to a public street shall be provided as indicated below for the loading and unloading of vehicles.

1. **BUSINESS:** One (1) space twelve feet (12') by fifty-five feet (55') with a minimum overhead clearance of fifteen feet (15') for every ten thousand (10,000) square feet or fraction thereof of floor space.

B. Off-Street Parking

1. **PARKING SPACE SHALL BE PROVIDED:** No structure shall be erected nor shall any of the following uses be established unless at least the minimum number of off-street parking spaces as specified below is provided. Where a fractional number of spaces would be called for, at least the next higher whole number of spaces shall be required. Each parking space shall measure at least nine feet (9') in width by eighteen feet (18') in length and shall have access for vehicles to a public street. Parking lots for more than five (5) vehicles shall be arranged so that vehicles can be turned around within such lots without entering the street. Private roads, separated from public right-of-ways, but not allowing for turn-around space are deemed adequate for these requirements.
 - a) **Automobile Repair and Filling Stations:** one (1) space for each regular employee, plus one (1) space for each one hundred (100) square feet of floor area used for service work
 - b) **Boarding and Rooming House:** one (1) space for each guest room
 - c) **Drive-in Restaurants and Dairy Stands:** ten (10) spaces plus one (1) additional space for each person serving or preparing food on the largest shift employed at least once a week on a regularly scheduled basis during the peak season of operations
 - d) **Hospitals and Nursing Homes:** one (1) space for each five (5) beds, plus one (1) space for each staff or visiting doctor, plus one (1) space for each four (4) employees

- e) **Fraternal Organizations and Clubs:** one (1) space for each five (5) members
 - f) **Business and Professional Offices:** one (1) space for each two hundred (200) square feet of working space
 - g) **Places of Amusement or Public Assembly:** one (1) space for each fifty (50) square feet of floor area devoted to patron use
 - h) **Residential:** Two (2) spaces for each dwelling unit
 - i) **Restaurants, Cocktail Lounges, and Bottle Clubs:** one (1) space for each four (4) customer seats, plus one (1) space for each two (2) employees
 - j) **Retail Business:** four (4) spaces for each one thousand (1,000) square feet of sales area
 - k) **Roadside Farm Stands:** four (4) spaces
 - l) **Elementary Schools:** two (2) spaces per classroom plus one (1) space for every four (4) seats of public assembly or ten (10) spaces for every one thousand (1,000) square feet of assembly space if no fixed seats
 - m) **Wholesale Business:** one (1) space for each three hundred (300) square feet of floor space
 - n) **Churches:** one (1) space for each three (3) persons seating capacity
 - o) **For uses not specifically listed in this section,** the Code Enforcement Officer shall prescribe the number which in no case will be less than an adequate number to provide for employees and customers and visitors anticipated on the site.
2. **LOCATION ON OTHER PROPERTY:** If the required automobile parking spaces cannot be provided on the same lot where the principal use is conducted, the Planning Board can permit that such spaces may be provided on other off-street property provided that such property lies within four hundred feet (400') of the main entrance to such principal use. Such automobile parking space shall be associated with the principal use and shall not thereafter be reduced or encroached upon in any manner provided, however, that it may serve different principal uses at different times of day.

1300 Performance Standards (continued)

1310 Swimming Pools

Any in-ground private or public swimming pool shall be enclosed by a fence no less than four (4) feet high designed to prevent uncontrolled access.

1320 Sewage Disposal

All plumbing facilities in the Town of Levant and all sewage disposal systems shall be installed and operated in compliance with the State of Maine Plumbing Law.

Plumbing and sewage disposal systems shall be installed only after a Plumbing permit has been obtained.

1330 Building Construction Standards

All new structures built in the Town of Levant shall be designed and built to conform to the generally-accepted standards of good practice for such construction.

No manufactured housing shall be located within the Town of Levant unless it meets the standards of 30A M.R.S.A. sec 4358 as amended.

1340 Campgrounds

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

- A. Each tent or shelter site shall contain a minimum of twenty-five hundred (2,500) square feet of suitable land, not including driveways and roads, for each site.
- B. A minimum of two hundred (200) square feet of off-street parking plus maneuvering space shall be provided for each tent or shelter site.
- C. The area intended for placement of the tent or shelter site and utility and service buildings shall be set back a minimum of fifty feet (50') from the exterior lot lines of the camping area, and one hundred feet (100') from the normal high water mark of any river, pond, stream, and upland edge of a wetland.
- D. Screening shall be required to shield the campground from abutting areas.

All campgrounds established in the Town of Levant shall meet all the following standards:

Campgrounds shall be located on well-drained sites properly graded to insure rapid drainage and freedom from stagnant pools of water. The sites shall not be exposed to unpredictable adverse influences such as sudden flooding, land slumping, or erosion which would expose persons or property to hazards.

1341 Campers

All campers shall be located at least twenty-five feet (25') from all campground boundaries and at least ten feet (10') from any campground road.

1342 Site size requirement

- A. Each campsite for motorized vehicles shall contain not less than twenty-five hundred (2,500) square feet and shall be at least fifty feet (50') wide.
- B. Each campsite for non-motorized devices shall contain not less than one thousand 1,000 square feet and shall be at least thirty-five feet (35') wide.

1343 Camper Siting

All campers shall be arranged so that there will be a minimum of fifteen feet (15') between each unit.

1350 Mobile Home Standards

All mobile homes in the Town of Levant shall meet the following design criteria:

- A. Placement on a permanent foundation.
- B. Constructed with a pitched, shingled roof.
- C. Constructed with exterior siding that is residential in appearance.

The terms "permanent foundation" and "pitched, shingled roof" shall have the meaning set forth at 30-A M.R.S.A. section 4358 (1) (D) & (E), as amended.

- D. Certified, pursuant to 30-A M.R.S.A. section 4358.

Article 1400 Enforcement

1410 Nuisances

Any violation of this Ordinance shall be deemed a nuisance.

1420 Code Enforcement Officer

The Code Enforcement Officer established in the Town of Levant shall have the duty to enforce the provisions of this Ordinance. If the Code Enforcement Officer shall find that any provision of this Ordinance is being violated, he 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, structures, or work being done, removal of illegal buildings or structures, and abatement of nuisance conditions. A copy of such notices shall be maintained as a permanent record. Any such

notice is not a prerequisite to bringing legal action noted in Section 1430, and the failure to give notice shall not in any way affect the legal action.

1430 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 authorized and directed to institute any and all actions and proceedings, either legal or equitable, including seeking injunctions of violations and the imposition of fines, and/or consent agreements, that may be appropriate or necessary to enforce the provisions of this Ordinance in the name of the municipality.

1440 Fines

Any person, including but not limited to a landowner, a landowner's agent or a contractor, who orders or conducts any activity in violation of this Ordinance shall be penalized in accordance with Title 30-A, M.R.S.A., Section 4452. Any fines imposed shall inure to the Town.

Article 1500 Appeals

1510 Board of Appeals

The Board of Appeals as established in the Town of Levant shall hear appeals relative to this Ordinance.

1520 Jurisdiction of the Board of Appeals

1521 Variance

The Board of Appeals may, upon written application of the affected landowner, grant a variance from the strict application of this Ordinance, when the Board finds that such application could cause undue hardship to the petitioner and his property. The words "undue hardship" mean:

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

A variance shall be authorized only for lot area, frontage, and setback, and shall be limited to an appellate review

1522 Administrative Appeal

The Board of Appeals may, upon written application of an aggrieved party and after public notice, hear appeals from determinations of the Planning Board or Code Enforcement Officer in the administration of this Ordinance. Such hearings shall be held in accordance with State Laws, and the Board's deliberations and decisions limited to appellate review.

Following such hearing, the Board of Appeals may reverse the decision of the Planning Board or Code Enforcement Officer only upon a finding that the decision is clearly contrary to specific provisions of this Ordinance.

A. Time Limit

An administrative or variance appeal may be taken to the Board by an aggrieved party from any decision of the Code Enforcement Officer or Planning Board. Such appeal shall be taken within thirty (30) days of the date of the decision appealed from, and not otherwise, except that the Board, upon a showing of good cause, may waive the thirty (30) day requirement.

1610 Construction of Language

In this Ordinance, certain terms or words shall be interpreted as follows:

- The word "**person**" includes a firm, association, organization, partnership, trust, company, or corporation as well as an individual.
- The present tense includes the future tense. The singular number includes the plural, and the plural includes the singular.
- The word "**shall**" is mandatory, and the word "**may**" is permissive.
- The words "**used**" or "**occupied**" include the words "intended", "designed", or "arranged to be used or occupied".
- The word "**building**" includes the word "**structure**", and the word "**dwelling**" includes the word "**residence**".
- The word "**lot**" includes the words "**plot**" or "**parcel**".

In the case of any difference of meaning or implication between the text of this Ordinance and any map or illustration, the text shall control. Terms not defined shall have the customary dictionary meaning.

1620 Definitions

In this Ordinance, the following terms shall have the following meanings unless a contrary meaning is required by the context or is specifically prescribed:

Accessory	A structure of a nature customarily incidental or structure subordinate to that of the principal structure other than primary use to which the premises are devoted.
Arterial	Major roadways which serve long distance through traffic.
Camper	A vehicle designed to be moved on wheels and intended as a temporary dwelling for travel, recreation and vacation use. This term shall also include travel trailers, camper-trailers, and other short-term shelter vehicles or devices, including tents.
Campground	Any parcel of land which contains, or is designed, laid out, or adapted to accommodate two or more campers, as defined.
Collector Streets	Roadways which connect local streets or arterials, and generally provide access to abutting land.
Dwelling	A fixed structure containing one or more dwelling units.
Dwelling Unit	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 and eating.
Excavation	Any removal of earth material from its original location.
Equipment	Anything constructed which is freely and immediately movable and does not require specific location for its use.
Filling	Depositing or dumping any matter on or into the ground or water.
Frontage, Road	The continuous linear distance, measured along the lot line which separates the lot from a public or private way.
Incompatible Use	A use or activity that creates a conflicting demand on current and reasonable uses of an adjacent property.
Living Space	Enclosed dwelling place used as principal structure. Enclosed porches are included in this definition.
Local Streets	Roadways which directly serve abutting properties.
Lot Area	The total horizontal area within the lot lines.
Lot of Record	A parcel of land, a legal description of which or the dimensions of which are recorded on a document or map on file with the Penobscot County Register of Deeds.

Lot Lines	<p>The lines bounding a lot as defined below: <u>Front Lot Line</u> – On an interior lot, the line separating the lot from the street. On a corner or through lot, the line separating the lot from either street <u>Rear Lot Line</u> – The lot line opposite the front lot line. On a lot pointed at the rear, the rear lot line shall be an imaginary line between the side lot lines parallel to the front lot line, not less than ten feet long, lying farthest from the front lot line. On a corner lot, the rear lot line shall be opposite the front lot line of least dimension. <u>Side Lot Line</u> – Any lot line other than the front lot line or rear lot line.</p>
Manufactured	<p>A structural unit or housing units designed for occupancy, constructed in a manufacturing facility, and then transported by the use of its own chassis or placement on an independent chassis to a building site. The term includes any type of building which is constructed at a manufacturing facility and then transported to a building site where it is utilized for housing and may be purchased or sold by a dealer in the interim.</p>
Mobile Home	<p>Manufactured housing which is built on a permanent chassis and designed to be used as a dwelling, with or without permanent foundation, when connected to the required utilities, including plumbing, heating, air conditioning, and electrical systems contained therein.</p>
Mobile Home Park	<p>Any parcel of land which contains, or is designed, laid out, or adapted to accommodate three or more mobile homes. Nothing herein shall be construed to apply the term "Mobile Home Park" to any premises used solely for storage or display of mobile homes.</p>
Multi-Family Structure	<p>Building containing more than two dwelling units.</p>
Parking Space	<p>A parking space shall be an area adequate for parking an automobile with room for opening doors on both sides. Such a space shall measure at least 9 feet wide by 18 feet long.</p>
Premises	<p>One or more lots which are in the same ownership and are contiguous or separated only by a waterbody, including all buildings, structures, and improvements.</p>
Principal Use	<p>The primary purpose to which the premises are structure devoted, and the main purpose for which the premises exist. Examples of principal structures include a single-family residence, an auto service station, a school.</p>
Screening	<p>Is a visual barrier consisting of either: 1) two staggered rows of minimally 6’ in height, 12’ on center nursery stock landscaping (such as coniferous shrubs and/or trees) 2) A berm (to be utilized only in excavation activities)</p>

Setback	The minimum horizontal distance from a lot line to the nearest part of a structure.
Structure	Anything constructed or erected, except a fence or boundary wall, the use of which requires permanent location on the ground or permanent attachment to something on the ground. Signs, satellite dishes, and mobile homes are structures.
Use	The purpose for which land or a structure is arranged, designed, or intended, or for which land or a structure is or may be occupied.

MANUFACTURED HOMES ORDINANCE
TOWN OF LEVANT, MAINE

ARTICLE 10: PURPOSE

The purpose of this Manufactured Homes Ordinance shall be to assure the comfort, health, safety and general welfare of the people, to protect the environment, to provide for orderly development of a sound and stable community for the residents and property owners of the Town of Levant.

ARTICLE 100: AUTHORITY

This ordinance has been prepared in accordance with the provisions of Title 38, Section 435-449 of the Maine Revised Statues Annotated (M.R.S.A.).

ARTICLE 110 EFFECTIVE DATE:

The effective date of this ordinance shall be the day it is adopted by the vote of the legislative body of the Town of Levant.

ARTICLE 200: APPLICABILITY.

This Ordinance applies to all new and used manufactured homes, modular and other types of manufactured dwellings that will enter the Town of Levant. The ordinance is designed for the safety and health of manufactured homeowners. It is intended to apply to all manufactured homes. However, manufactured home parks, which are now licensed, and all manufactured homes currently on private lots that may not comply with all design and construction standards of this ordinance, shall be deemed acceptable if capable of being maintained and operated in a safe and sanitary condition. This ordinance shall not be construed as relieving the installer of a manufactured home of responsibility for compliance with the manufacturer's installation instructions, state laws, local ordinances, codes or regulations.

It shall be unlawful for any person to cause or allow any manufactured home located in individual site or in parks to be parked, located, placed, maintained or used for business, living or other purposes on any street, driveway, park, town property or private property within the boundaries of The Town of Levant except in conformance with these regulations

ARTICLE 210 TYPES OF STRUCTURE COVERED

Those units constructed after June 15, 1976, which the manufacturer certifies are constructed in compliance with the HUD standard, meaning structures, transportable in one or more sections, which in the traveling mode, are 12 body feet or more in width or are 480 or more square feet, and which are built on a permanent chassis and designed to

be used as a dwelling, with a permanent foundation, when connected to an approved Subsurface Wastewater Disposal System, Water, and electrical Systems contained therein: except that such terms shall include any structure which meet all of the requirements of the paragraph except the size requirements and with respect to which the dealer or owner voluntarily files a certification required by HUD and complies with the standards established under the National Manufactured Housing Construction and Safety Standards Act of 1974.

ARTICLE 300 SEVERABILITY.

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

ARTICLE 400 CONFLICT WITH OTHER ORDINANCES

This Ordinance shall in no way impair or remove the necessity of compliance with any other state laws, local ordinances, codes or regulations. Where this Ordinance imposes a greater restriction upon the use of the land, buildings, or structure, the provisions of this Ordinance shall prevail.

ARTICLE 500 SITING AND FOUNDATION SYSTEM

All manufactured homes in the Town of Levant shall meet the following design criteria:

- A. Placement on a permanent foundation as illustrated within this Ordinance as Detail A1 – Concrete Slab and Detail B1 – Anchoring Details
- B. Constructed with a pitched shingled roof with minimum pitch of 4-12.
- C. Constructed with exterior siding that is residential in appearance. The terms "permanent foundation" and "pitched, shingled roof" shall have the meaning set forth at 30-A M.R.S.A. section 4358 (1) (D) & (E), as amended. Certified, pursuant to 30-A M.R.S.A. section 4358.

This section is applicable to all new or used manufactured homes that may be located or relocated in the Town of Levant.

510 EXCEPTIONS.

Sites for the installation of manufactured housing to provide temporary relief from fire, flood or other disaster of a period of two years from the date of installation of home.

ARTICLE 600: CLEARANCE

Clearance under any I-beam or channel beam shall be a minimum of twelve (12) inches beneath the lowest member of the main frame.

When the manufactured home is installed on a basement or split entry type foundation over a habitable lower level area, or when more than one-fourth of the area of the manufactured home is installed so that the bottom of the main frame members are more

than three (3) feet above ground level, the foundation system shall be designed by a registered professional engineer or architect.

ARTICLE 700: SKIRTING.

Skirting materials shall be of durable material suitable for exterior exposures.

Skirting shall be installed in accordance with the manufacturer's installation instructions. It shall be secured, as necessary, to assure stability, to minimize vibrations, to minimize susceptibility to wind damage, and to compensate for possible frost heaves. Access opening(s) not less than 18" in any dimension and not less than 3 square feet in area shall be provided and shall be located so that any water supply and sewer drain connection located under the manufactured home are accessible for inspection. Such access panel(s) or door(s) shall not be fastened in a manner requiring the use of a special tool to remove or open same. On site fabrication of skirting shall meet the objectives cited herein.

ARTICLE 800: PLUMBING.

All plumbing shall meet the State of Maine Plumbing Codes. All plumbing permits must be obtained from the Local Plumbing Inspector before placement of a manufactured home on the site.

Each manufactured home site foundation shall provide water and sewer located and arranged to permit attachments to the manufactured home.

ARTICLE 900: PERMITS

No person, firm, corporation or other legal entity shall locate a manufactured home in the Town of Levant or move a manufactured home from one lot or parcel of land to another without a permit from the Code Enforcement Officer.

No manufactured housing may be sited within the Town of Levant without either a bill of sale indicating the name, address, dealer registration number and sales tax certificate number of the person who sold or provided the manufactured housing to the buyer locating such housing in this town; or evidence of certification of payment of the sales tax in accordance with Title 36, M.R.S.A. Section 1760, Subsection 40 and Title 36 M.R.S.A. Section 1952B. A copy of each document required for each housing unit shall be filed with the Code Enforcement Officer prior to the siting of said unit.

Every applicant for a permit shall submit a written application, including a scaled site plan and subsurface wastewater disposal permit (if a new site). A complete State of Maine Certificate of taxes/sewer fees paid on manufactured home (if required) manufactured home information (make, model, year, color, serial Number). If applicant is not the owner or lessee of the property that person shall submit a letter of authorization from the owner or lessee.

Unless located within an approved manufactured home park, a modular or manufactured home, whatever its date of manufacture, must comply with the same setback and minimum lot size requirements as applicable to single-family dwellings in the Town of Levant as outlined in the Land Use Ordinance.

Any type of manufactured home that has been placed illegally upon a tract of land in the town of Levant shall first remove said manufactured home before an application for approval shall be accepted.

ARTICLE 1000: ENFORCEMENT

The Code Enforcement Officer established in the Town of Levant shall have the duty to enforce the provisions of this Ordinance. If the Code Officer finds that any provision of this Ordinance is being violated, he shall notify, in writing, the person responsible for such violation, indicating the nature of the violation and ordering the action necessary to correct it.

ARTICLE 1100: LEGAL ACTION

When the above action does not result in the correction or abatement of the violation or condition, the Municipal Officers, upon notice from the Code Enforcement Officer, are hereby authorized and directed to institute any and all actions and proceedings, either legal or equitable, including seeking injunctions of violations and the imposition of fines, and/or consent agreements, that may be appropriate or necessary to enforce the provisions of this Ordinance in the name of the municipality.

**MOBILE HOME PARK
ORDINANCE**



ADOPTED: JUNE 24, 1995

AMENDED: JUNE 25, 2005

AMENDED: JUNE 23, 2007

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STEPS TO GAIN APPROVAL OF NEW MOBILE HOME PARK

1. Obtain a copy of the Subdivision and Mobile Home Park Ordinances from the Town Office.
2. Develop a sketch plan including a rough lay out of the park.
3. Present the sketch plan to the Planning Board. The Planning Board will classify as a major or minor subdivision and schedule an on-site visit. The Planning Board will also identify any design problems.
4. The next step is to present the Planning Board with a preliminary plan. This step can be waived if it is a minor subdivision. At this point, the Planning Board will perform a thorough review of the plans and schedule a public hearing.
5. The last step before the Planning Board will be the presentation of the final plan and the public hearing. These usually occur at the same time.
6. After approval by the Planning Board, the applicant may begin construction of the park including the roads, driveways, foundations, and septic systems.
7. Following the completion of construction, the applicant needs to apply for a license from the Selectmen to begin operation of the park.
8. Once the applicant has applied for a license, the CEO will inspect the park to ensure that it was constructed according to the standards in the ordinance and any conditions that the Planning Board placed on the approval. The CEO will make a written report to the Selectmen and they will issue a license if the park is in compliance.

SECTION I: GENERAL PROVISIONS

A. TITLE

This Ordinance shall be known and may be cited as the “Mobile Home Park Ordinance of the Town of Levant, Maine,” and will be referred to herein as the “Ordinance.”

B. AUTHORITY

This Ordinance is enacted under authority granted to the Town by the constitution and the statues of the State of Maine.

C. PURPOSES

The purposes of this Ordinance are:

1. to promote the public health, safety, and welfare of the citizens of the Town;
2. to protect the natural environment from unacceptable adverse impacts;
3. to integrate new development harmoniously into the Town’s physical environment;
4. to promote the development of an economically sound, diverse, and stable community;
5. to establish standards for Mobile Home Park construction and maintenance;
6. to establish procedures whereby Town officials may review Mobile Home Park proposals by providing fair and reasonable standards for their evaluations and to provide a public hearing process through which the Town residents may raise questions and receive answers regarding such proposals.

D. APPLICABILITY

The provisions of this Ordinance shall apply to Mobile Home Parks and Mobile Home Subdivisions as defined by this Ordinance and by Title 30-A, MRSA, Section 4358 within the boundaries of the Town of Levant.

E. CONFLICT WITH OTHER ORDINANCES

Whenever the requirements of this Ordinance are in conflict with the requirements of any other lawfully adopted rule, regulation, ordinance, deed restriction or covenant, the more restrictive covenant shall govern, unless otherwise prohibited by State law.

SECTION I: GENERAL PROVISIONS (continued)

F. SUPERSEDURE

The Mobile Home Park Ordinance in effect at the time this Ordinance is enacted is hereby repealed (Article 1200 of the Town of Levant Maine, Land Use Ordinance, 1984.) provided, however, that the Ordinance repealed by this section or parts thereof shall remain in full force and effect with respect to any violation thereof in existence at the time of the adoption of this Ordinance.

G. SEPARABILITY

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

H. AMENDMENTS

The procedure to be followed in initiating and securing amendments to this Ordinance is as follows:

1. INITIATION

A proposal to amend this Ordinance may be initiated by:

- a. The Planning Board, by majority vote;
- b. The Board of Selectmen, through a request to the Planning Board
- c. The Public, through a written petition signed by at least fifty (50) residents registered to vote in the Town of Levant

2. REVIEW

The process to be followed in adopting an amendment to this Ordinance is as follows:

- a. Proposed amendments must first be submitted to the Planning Board for their consideration.
- b. The Planning Board shall, within thirty (30) days of receiving a proposed amendment, set a date to hold a public hearing on the proposed amendment.

SECTION I: GENERAL PROVISIONS (continued)

- c. Notice of the public hearing shall be posted in the Municipal Office at least fourteen (14) days before the hearing. Notice shall also be published at least once in a newspaper of general circulation. The date of the first publication must be at least seven (7) days before the hearing. This notice shall contain a brief description of the nature of the proposed amendment.
- d. After the Planning Board votes to either support or not support a proposed amendment, that proposed amendment shall be placed on the warrant for the Town Meeting next following the public hearing.
- e. The Planning Board shall make its official report at the next Town Meeting following the public hearing.

3. ENACTMENT

A majority of the voters shall be required to enact the amendment(s).

I. EFFECTIVE DATE

The provisions of this Ordinance and any amendments thereto shall become effective the day of their enactment.

SECTION II: NONCONFORMING PARKS

A. NONCONFORMING MOBILE HOME PARK DEFINED

A Mobile Home Park or part thereof not in conformity with the provisions of this Ordinance or subsequent amendments hereto is declared to be a nonconforming Mobile Home Park.

B. LAWFUL NONCONFORMING MOBILE HOME PARKS

A Mobile Home Park in existence or under construction pursuant to Subsection D of this section at the time of the adoption of this Ordinance or subsequent amendments hereto, and which part becomes a nonconforming Mobile Home Park by the adoption of this Ordinance or subsequent amendments, or which park was a lawful nonconforming Mobile Home Park at the time of the adoption of this Ordinance or subsequent amendments hereto, becomes a lawful nonconforming Mobile Home Park.

SECTION II: NONCONFORMING PARKS (continued)

C. CONTINUANCE ALLOWED

The use of lawful nonconforming Mobile Home Park may continue.

D. PARKS LEGALLY UNDER CONSTRUCTION NOT REQUIRED TO CHANGE PLANS

This Ordinance shall not require a change in plans or construction of a Mobile Home Park for which Planning Board approval has been issued prior to the adoption of this Ordinance or any subsequent amendments thereto provided that the construction of said park is underway within sixty (60) calendar days after the issuance of said approval.

E. EXPANSION PERMITTED

Expansion of a lawful nonconforming Mobile Home Park may be permitted provided that the expanded portion of the lawful nonconforming Mobile Home Park shall conform to the provisions of this Ordinance.

SECTION III: ADMINISTRATION

A. RESPONSIBILITY ASSIGNED

1. CODE ENFORCEMENT OFFICER

It shall be the responsibility of the Code Enforcement Officer to enforce the provisions of this Ordinance and to carry out inspections as requested by the Town Manager.

2. PLANNING BOARD

It shall be the responsibility of the Planning Board to review proposals for new Mobile Home Parks and the expansion of existing parks for compliance as subdivisions with provisions of the Town's Subdivision Ordinance and of this Ordinance.

3. BOARD OF SELECTMEN'S RESPONSIBILITY

It shall be the responsibility of the Board of Selectmen to approve, approve conditionally, or disapprove the Mobile Home Park licenses pursuant to the requirements of this Ordinance.

SECTION III: ADMINISTRATION (continued)

B. PLANNING BOARD SUBDIVISION REVIEW

1. SUBDIVISION REVIEW AND APPROVAL REQUIRED

New Mobile Home Parks and expansions of existing Parks shall be reviewed by the Planning Board as residential subdivisions pursuant to the Town of Levant's Subdivision Ordinance.

2. CONFORMANCE WITH SUBDIVISION STANDARDS REQUIRED

New Mobile Home Parks and expansions of existing parks shall conform with the procedural design and performance standards contained in the Town's Subdivision Ordinance unless such standards are in conflict with the provisions of this Ordinance, in which case the provisions of this Ordinance shall take precedent.

C. ANNUAL MOBILE HOME PARK LICENSE REQUIRED

1. LICENSE REQUIRED

No person, firm, or corporation shall establish a new, or maintain an existing Mobile Home Park within the Town without a license issued in conformity with the provisions of this Ordinance. A license must be obtained prior to installation of the first mobile home.

2. SUBDIVISION APPROVAL REQUIRED PRIOR TO LICENSE

Submission of evidence of Subdivision approval by the Planning Board is required with the application for a Mobile Home Park license.

3. APPLICATION TO THE CODE ENFORCEMENT OFFICER

Application for a license for a new Mobile Home Park and for license renewals shall be filed with the CEO who shall, in turn, present said applications, along with a written status report, to the Board of Selectmen for their action.

4. CEO'S STATUS REPORT

The CEO shall inspect the premises and prepare a written status report detailing the Mobile Home Park's compliance with the provisions of this Ordinance and citing any violation thereof. The CEO shall consult with the Chief of the Fire Department, the Road Commissioner, the Health Officer, and the Plumbing Inspector in the preparation of said status report.

SECTION III: ADMINISTRATION (continued)

5. ANNUAL EXPIRATION DATE

Each such license shall expire on the first day of June next following the date of issuance. Applications for license renewal shall be submitted between the first day of January and the fifteenth day of April in order to be acted upon by the first day of June.

6. POSTING OF LICENSE

Such licenses shall be conspicuously posted on the premises at all times and shall not be transferable.

D. MOBILE HOME PERMIT

1. MOBILE HOME PERMIT REQUIRED

No person shall place a mobile home in a Mobile Home Park without first obtaining a mobile home permit from the CEO. Such permit may not be issued if the Mobile Home Park is not duly licensed by the Board of Selectmen.

2. PERMIT REQUIRED FOR THE REPLACEMENT OF EXISTING MOBILE HOMES

No person shall replace existing mobile home unit in a Mobile Home Park with another unite without first obtaining a permit from the CEO.

When an existing mobile home is replaced with a larger mobile home, the CEO may, upon request, reduce the required minimum lot coverage and setbacks in accordance with Section III.F of this Ordinance.

3. DECLARATION FROM MOBILE HOME PARK OPERATOR REQUIRED

All applications for mobile home permits shall be made to the CEO in writing and shall be accompanied by a written declaration from the Mobile Home Park operator that the site will be made available to the applicant.

E. CERTIFICATE OF COMPLIANCE REQUIRED

No site in a Mobile Home Park requiring approval under this Ordinance shall be conveyed, rented, leased, or occupied, nor shall any mobile home unit be placed upon such site, without a certificate of compliance issued by the CEO indicating that all of the required public improvements have been constructed as required and all applicable conditions of approval have been met.

SECTION III: ADMINISTRATION (continued)

F. MODIFICATION OF LOT COVERAGE AND SETBACK STANDARDS IN EXISTING PARKS

1. INCREASE IN LOT COVERAGE

The Code Enforcement Officer may allow an increase in lot coverage (Including all buildings on the lot, accessory buildings and structures, open decks and parking spaces.) in Mobile Home Parks existing at the time of adoption of this Ordinance of up to ten percent (10%), in approving proposed new decks and accessory structures.

Prior to allowing an increase in lot coverage, the Code Enforcement Officer shall make a finding that:

- a. Strict conformity with the lot coverage standards will result in a deck or accessory structure that is so small or irregular in shape that it would be substantially unusable or impractical; and
- b. His/her determination that compliance would result in a deck or accessory structure substantially unusable or impractical is based upon the average person standard and not the personal taste or desires of the applicant.

The Board of Appeals (BOA) may review a denial of a request to increase lot coverage by the CEO. However, the BOA must abide by the standards set forth in sections F1, subsection F1a and F1b above.

- c. The BOA may grant a variance to lot coverage and setback requirements to a property owner of a Mobile Home Park for the purpose of making that property accessible to a person with a disability living on the property. The Board shall restrict any variance granted under this subsection solely due to the installation of equipment or the construction of structures necessary for access to or egress from the property 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 on the property. For purposes of this subsection, a disability has the same meaning as a physical or mental handicap under MRSA Title 5, Section 4553.

G. VIOLATIONS AND ENFORCEMENT

1. VIOLATIONS CONSIDERED NUISANCES

Any condition existing in violation of this Ordinance is considered a nuisance.

SECTION III: ADMINISTRATION (continued)

2. ENFORCEMENT

The Code Enforcement Officer, with the advice and consent of the Board of Selectmen, is authorized to institute, or cause to be instituted by the Town Attorney, in the name of the Town of Levant, any and all actions, legal or equitable, that may be appropriate or necessary for the enforcement of this Ordinance.

3. VIOLATIONS MAY RESULT IN LICENSE REVOCATION

The Code Enforcement Officer is hereby authorized to revoke any license issued pursuant to the terms of this Ordinance if after due investigation it is determined that the holder thereof has violated any of the provisions of this Ordinance or any other applicable code, law, or statute. The licensee has thirty (30) days from receipt of notification by the CEO to comply.

4. PENALTIES

Any person, firm, or corporation being the owner or operator of, or having control or use of any mobile home, mobile home lot, Mobile Home Park, who violates the provisions of these regulations shall be guilty of a misdemeanor and subject to the penalties provided in Title 30-A, MRSA, Section 4452. Monetary penalties may be assessed on a per day bases and shall be treated as civil penalties.

H. APPEALS

1. APPEALS FROM CEO/PLANNING BOARD DECISIONS

An appeal may be taken within thirty (30) days after any decision is rendered by the Planning Board or CEO, by any party to the Board of Appeals in accordance with State law.

2. APPEALS FROM BOARD OF APPEALS DECISIONS

An appeal may be taken within thirty (30) days after any decision is rendered by the Board of Appeals, by any party to Superior Court in accordance with State law.

I. FEE SCHEDULE

The following fee schedule shall be in effect for the approvals, permits, and certificates required under this Ordinance.

1. SUBDIVISION REVIEW FEES

The fee for the Planning Board's review of the plans for new Mobile Home Parks and for the expansion of existing Mobile Home Parks shall be as provided in the Levant Subdivision Ordinance.

SECTION III: ADMINISTRATION (continued)

2. ANNUAL MOBILE HOME PARK LICENSE FEE

The fee for a Mobile Home Park license issued by the Board of Selectmen shall be fifty (\$50.00) dollars.

3. MOBILE HOME PERMIT FEE

The fee for a mobile home permit issued by the CEO, pursuant to Section III.D of this Ordinance, is fifty (\$50.00) dollars.

SECTION IV: DESIGN AND PERFORMANCE STANDARDS

A. COMPLIANCE WITH LAWS AND ORDINANCES

Except as stipulated below, Mobile Home Parks shall comply with the design and performance provisions of all applicable state laws and municipal ordinances and shall meet the requirements of the Levant Subdivision Ordinance.

B. OVERALL PARK DENSITY

The overall density of a Mobile Home Park served by a central subsurface sewage disposal system shall be no greater than one unit per 20,000 square feet of total park area.

C. MINIMUM LOT SIZE AND WIDTHS

Lots in a Mobile Home Park shall meet the following lot size and width requirements:

1. Lots served by individual subsurface sewage disposal system:

Minimum lot area: 20,000 square feet

Minimum lot width: 100 feet

2. Lots served by a central subsurface wastewater disposal system:

Minimum lot area: 12,000 square feet

Minimum lot width: 75 feet

SECTION IV: DESIGN AND PERFORMANCE STANDARDS (continued)

D. MINIMUM LOT SETBACKS

In placing mobile homes on their respective lots, the following requirements shall be met:

1. The following lot setbacks shall apply to all homes and accessory buildings:

Front setback: 20 feet

Side setbacks: 20 feet

Back setback: 10 feet

If a lot is on a public road, the setback shall conform with the residential setback requirements applicable to residential dwelling units.

E. LOT COVERAGE

All buildings on the lot, including accessory building and structures, open decks and parking spaces, shall not cover more than 50% of the lot area.

F. PERMANENT FOUNDATION REQUIRED

Any mobile home units within the park used as dwelling units shall be installed on a concrete foundation, designed according to specifications of the Mobile Home Installation Standard, State of Maine Department of Professional and Financial Regulation, Manufactured Housing Board.

G. BUFFER STRIPS

1. A fifty (50) foot wide buffer strip shall be provided along all property boundaries that:
 - a. Abut residential land which has a gross density of less than half of that proposed in the park, or
 - b. Abut residential land that is zoned at a density of less than half of that proposed in the park.

No structures, streets, or utilities may be placed in the buffer strip, except that utilities only may cross a buffer strip to provide services to the park.

SECTION IV: DESIGN AND PERFORMANCE STANDARDS (continued)

2. Within twenty-five feet (25') of any property line and within the buffer strip, visual screening shall be provided. The visual screening shall consist minimally of two staggered rows with at least 6' of height, placed 12' on center, nursery stock landscaping (such as coniferous shrubs or trees). The screening shall be maintained throughout the life of the project. The screening shall effectively screen at least 80% of the structures from the view of the adjacent properties.

H. ROAD STANDARDS

1. OWNERSHIP, DESIGN, AND MAINTENANCE

- A. All roads within the Mobile Home Park shall be owned, constructed, maintained, and serviced by the Mobile Home Park owner.
- B. All roads within the Mobile Home Park shall be designed by a professional engineer, licensed in the State of Maine and all roads shall be designed and constructed according to the Town of Levant Subdivision Ordinance.

2. INTERSECTIONS

Mobile Home Park roads which intersect with public roads shall meet the following standards:

- A. The desired angle of intersection shall be 90 degrees.
The minimum angle of intersection shall be 75 degrees.
- B. The maximum permissible grade within 75 feet of intersection shall be 2%.

SECTION IV: DESIGN AND PERFORMANCE STANDARDS (continued)

- C.** The minimum sight distance shall be 10 feet times the posted speed limit on the existing road. Example: 45 mph would require 450-foot sight distance. Sight distances shall be measured from the driver's seat of a vehicle that is 10 feet behind the curb or edge of shoulder line with the height of the eye 3-1/2 feet above the pavement and the height of object 4-1/4 feet. Where necessary, the park land bordering the intersection shall be cleared of all growth and sight obstructions to achieve the required visibility.
- D.** The centerline of any street within a park intersecting an existing public street shall be at least 125 feet from the centerline of any other street intersecting that public street.

3. ACCESS AND CIRCULATION

- A.** Primary access to the Mobile Home Park must be from a Town or State road or a private road built and maintained to applicable Maine Department of Transportation standards.
- B.** For Mobile Home Parks consisting of 40 or more units, there shall be at least two entrances from public streets or roads.
- C.** On-street parking is only permitted on one side of the street.
- D.** No mobile home lot may have vehicular access directly onto a town road or state highway.
- E.** A traffic impact analysis prepared by a licensed professional engineer shall be required if the park consists of 40 or more units.

4. RIGHT-OF-WAY AND SURFACE WIDTH

- A.** Two-way park roads shall have a minimum right-of-way of 23 feet and a minimum surface of 20 feet.
- B.** One-way streets shall have a minimum right-of-way of 18 feet and a minimum surface of 14 feet. On-street parking shall be prohibited.
- C.** Parking lanes shall be a minimum of 8 feet in width, if provided
- D.** Cul-de-sac turnarounds shall have minimum radii of 90 feet at the outer edge of the roadway, exclusive of any parking areas.

SECTION IV: DESIGN AND PERFORMANCE STANDARDS (continued)

I. PARKING REQUIREMENTS

1. OCCUPANT PARKING

For each mobile home lot there shall be provided and maintained at least two (2) off-street parking spaces. Each parking space shall contain a minimum area of one hundred sixty-two (162) square feet, not including maneuvering area, with minimum dimensions of nine (9) feet by eighteen (18) feet. This requirement may be waived if an equivalent number of spaces is provided by parking lane.

2. GUEST PARKING

In addition to occupant parking, off-street guest and services parking shall be provided within the boundaries of the park at a ration of one (1) space for each four (4) mobile home lots. Such parking spaces shall be reserved for the sole use of park residents guests. This requirement shall be waived if additional sources of off street parking results in a total ratio of 2.25 spaces per unit.

J. LIGHTING

Outdoor lighting shall be provided to adequately illuminate entrances, exits, and common facilities. Lights shall be sized and directed to avoid adverse impact on adjacent properties.

K. SIGNS

One identifying sign is permissible at each entrance of the Mobile Home Park no larger than 32 square feet which may be indirectly lit, but not flashing. The style and location of the identifying sign shall not interfere with vehicle sight distance and shall be constructed in accordance with the local sign regulations.

L. STORAGE

1. FUEL SUPPLY AND STORAGE

A. Natural gas and liquefied petroleum gas systems shall comply with all applicable codes and regulations. Installation of systems shall be subject to inspection and approval by the Code Enforcement Officer.

SECTION IV: DESIGN AND PERFORMANCE STANDARDS (continued)

- B.** All fuel oil supply systems shall be constructed and installed in each mobile home lot in accordance with all applicable codes and regulations. Installation of the system shall be subject to inspection and approval of the Code Enforcement Officer.

2. REFUSE STORAGE

Storage of refuse shall be accomplished in such a manner as to minimize; health hazards, rodent harborage, insect breeding areas, accident, wild fire, obnoxious odors, air pollution, and access to domestic or wild animals.

M. ACCESSORY STRUCTURES/ATTACHED STRUCTURES

1. Accessory structures may be allowed upon Mobile Home Park lots provided each shall:
 - a. Be located not less than twenty (20) feet from the street right-of-way, ten (10) feet from the rear lot lines, and not less than twenty (20) feet from a side lot line.
 - b. Not obstruct required openings for light and ventilation of the mobile homes nor prevent inspection of any mobile home equipment or utility connection.
2. A Building Permit under the Land Use Ordinance may be issued by the Code Enforcement Officer for extensions to mobile homes, such as porches and decks, provided that all extensions shall meet the lot setback and lot coverage provisions of this Ordinance.
3. No storage facility, accessory structure, or extension, such as a porch or deck shall be placed or constructed upon a mobile home lot, in a Mobile Home Park, without first obtaining a Building Permit under the Land Use Ordinance from the Code Enforcement Officer.

N. UTILITY REQUIREMENTS

All Mobile Home Parks shall provide permanent electrical, water and sewage disposal connections to each mobile home in accordance with applicable state and local rules and regulations, and as follows:

SECTION IV: DESIGN AND PERFORMANCE STANDARDS (continued)

1. WATER SUPPLY

- A.** Each mobile home shall be provided with an adequate, safe, potable water supply.
- B.** The water supply shall provide a minimum of two hundred (200) gallons of water per day per mobile home with a minimum of twenty (20) pounds of pressure at all times.
- C.** Water supply systems shall be installed and maintained by the Mobile Home Park operator in accordance with applicable provisions of the State of Maine Plumbing Code, and all revisions in effect at that time.

2. SANITARY SEWAGE DISPOSAL

- A.** Individual Sanitary Sewer Systems shall comply with the applicable provisions of the Maine State Plumbing Code, in effect at the time such system is proposed.
- B.** When a centralized sanitary sewer system and treatment facility is installed. It shall be designed and installed under the supervision of an Engineer licensed in the State of Maine.
- C.** The owner and operator of a Mobile Home Park is/are responsible for the proper construction and maintenance of a sanitary sewer system within the Mobile Home Park.

3. ELECTRIC SUPPLY

- A.** A Mobile Home Park shall contain an electrical system designed, installed, and maintained in accordance with applicable state and local regulations.
- B.** The electrical system shall be designed and installed under the supervision of an Electrical Engineer licensed in the State of Maine or licensed Master Electrician.

SECTION IV: DESIGN AND PERFORMANCE STANDARDS (continued)

O. COMMON RECREATION FACILITIES

No less than five percent (5%) of the total area of any Mobile Home Park established under this Ordinance shall be devoted to common recreational areas and facilities, such as undeveloped areas, playgrounds, swimming pools, community buildings, ways for pedestrians and cyclists away from streets, and play areas for small children or other recreational areas in block interiors. Common recreational areas shall not include streets or parking areas, shall be closed to automotive traffic except for maintenance and service vehicles, and shall be improved and maintained for the uses intended.

P. FIRE PROTECTION

The Planning Board may require the applicant to construct water storage structures with dry hydrants for fire fighting purposes of a type, design, and capacity acceptable to the Planning Board. An easement shall be issued to the Town granting access to the hydrants when necessary. The Planning Board may waive this requirement for water storage structures only upon submittal of written evidence by the Fire Chief, municipal engineer or any other source the Planning Board deems appropriate, that a nearby supply is deemed available and adequate for fire fighting.

SECTION V: MANAGEMENT STANDARDS

A. PARK OCCUPANTS REGISTER REQUIRED

The Mobile Home Park owner shall maintain a register containing the names and lot numbers of the Mobile Home Park occupants. The register shall be available for inspection by state and local authorities upon request during normal business hours.

B. LOT IDENTIFICATION

1. LOT NUMBERS REQUIRED

Each mobile home lot shall have a number supplied by the owner of the Mobile Home Park, and the lots shall be numbered consistent with the 911E Permanent Addressing Ordinance, adopted March 25, 1995.

SECTION V: MANAGEMENT STANDARDS (continued)

2. UNIT NUMBERS REQUIRED

Each mobile home shall be numbered in a manner consistent with the number assigned to the lot.

3. SIZE

The mobile home lot number shall be approximately three (3) inches high.

4. VISIBILITY

The mobile home lot number shall be prominently displayed upon the mobile home if possible.

C. STREET NAMES AND SIGNS

1. NAMES TO DIFFER FROM EXISTING NAMES

Proposed street names shall be substantially different from existing street names so as to not be confused in sound or spelling.

2. NAMES REQUIRED

Streets shall have names rather than numbers or letters.

3. LOCATION AND DESIGN

Street name signs shall be erected at all street/road intersections. Lettering shall be at least four (4) inches high and in a readily readable typeface. Conventional abbreviations are acceptable except for the street name itself. The street name sign should be reflecterized and shall have dark background with white lettering.

D. PARK OWNER RESPONSIBLE FOR UTILITY CONNECTIONS

The Mobile Home Park owner shall be responsible to ensure that all the connection of utilities to each mobile home unit is both safe and made according to law.

SECTION V: MANAGEMENT STANDARDS (continued)

E. REFUSE COLLECTION

Collection of refuse shall be conducted at least weekly. Collection and disposal of refuse shall be the responsibility of the Mobile Home Park operator and shall be accomplished according to state and local regulations.

Existing Mobile Home Parks at the time of the adoption of this ordinance shall continue to receive refuse collection services as provided by the Town until the Park is either expanded, or ownership changes, or July 1, 1996; whichever comes first.

F. CERTAIN UNITS PROHIBITED IN MOBILE HOME PARKS

Certain occupied units in Mobile Home Parks in the Town of Levant are limited to mobile homes, as defined herein, and single-wide and double-wide modular homes, but not site-built homes, panelized homes, recreation vehicles, travel trailers, or units not suitable for year-round occupancy.

G. CERTIFICATE REQUIRED BEFORE UNIT REMOVAL

Any mobile home shall not be removed from a lot until a written certificate is obtained from the tax collector of the Town of Levant identifying the mobile home and stating that all property taxes applicable to the mobile home, including those for the current tax year, have been paid or that the mobile home is exempt from such taxation.

H. LOCATION OF PARKS LIMITED BY LAND USE AND SHORELAND ORDINANCES

Mobile Home Parks shall only be allowed in those areas specified in the Land Use Ordinance of the Town of Levant, Maine.

I. ACCESSORY STRUCTURES REQUIRE BUILDING PERMIT

Accessory structures shall not be established upon a mobile home lot without a building permit issued by the Code Enforcement Officer of the Town of Levant.

J. FIRE PROTECTION

A Mobile Home Park shall comply with State and local fire regulations.

K. MAILBOXES

The Mobile Home Park operator shall supply mailboxes for the residents in a place, number, and manner satisfactory to the U.S. Post Office.

SECTION V: MANAGEMENT STANDARDS (continued)

L. RUINED UNITS TO BE REMOVED WITHIN 30 DAYS

Units or accessory structures damaged by fire or other causes shall be removed within thirty (30) consecutive calendar days from the time of their destruction unless a building permit to repair or reconstruct the unit or structure has been obtained from the CEO within that time. If a building permit is so obtained, the unit or structure must be repaired or reconstructed within sixty (60) days of the issuance, or removed at the expiration of that time.

M. PLACEMENT OF BOTTLED GAS TANKS

Bottled gas tanks shall not be placed such that they face a street or road.

N. CONVERSION OF PARK

No individual lot in a Mobile Home Park may be sold or conveyed unless said lot meet or exceeds the minimum lot size requirement of the district in which it is located.

O. PARK ADMINISTRATION

The owner, developer, or operator of a Mobile Home Park shall be responsible for ensuring the maintenance of all park-owned structures and their sites. Park management shall conform to state laws. Compliance with this Ordinance shall not exempt the park owner, developer, or operator from complying with other applicable local ordinances, state statutes, and federal rules.

SECTION VI: DEFINITIONS

A. CONSTRUCTION OF LANGUAGE

In this Ordinance, certain terms and works shall be interpreted as follows:

1. The words “person” and “applicant” includes individuals, firms, associations, corporations, organizations, and similar entities;
2. Words used or defined in one tense or form shall include other tenses or derivative forms;
3. Words in the singular shall include the plural number and words in the plural shall include the singular number.
4. The masculine gender shall include the feminine and the feminine shall include the masculine.
5. The word “shall” is mandatory.
6. The word “may” is permissive.
7. In case of difference of meaning or implication between the text of this Ordinance and any map, illustrations, or table, the text shall control.

B. DEFINITIONS

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

1. **ACCESSORY STRUCTURE** - A structure incidental and subordinate to the principal structure.
2. **BUILDING:** Any structure, either temporary or permanent, having a roof, awning, or other covering, containing three (3) or more enclosed sides, and designed or used for the shelter or enclosure of any person, animal, or property of any kind.

SECTION VI: DEFINITIONS (continued)

3. **CODE ENFORCEMENT OFFICER:** A person appointed by the Board of Selectmen to administer and enforce Town Ordinances. Reference to the Code Enforcement Officer shall include Building Inspector, Plumbing Inspector, Electrical Inspector and the like if applicable. In the absence of any officially hired state certified Code Enforcement Officer it shall be the responsibility of the Chairman of the Planning Board to enforce the provisions of this Ordinance.
4. **LICENSEE:** The owner of the Mobile Home Park or the applicant for a Mobile Home Park license. These terms (applicant, owner, licensee) are interchangeable unless the text indicates otherwise.
5. **LICENSING AUTHORITY:** The Board of Selectmen of the Town of Levant.
6. **MANUFACTURED HOUSING:** A structure or structural unit or units designed for occupancy and constructed in a manufacturing facility and transported, by the use of its own chassis or an independent chassis, to a building site. The term includes any type of building which is constructed at a manufacturing facility and transported to a building site where it is used for housing and may be purchased or sold by a dealer in the interim. Two types of manufactured housing are included under this definition.
 - a. **Mobile Homes:** Those units constructed after June 15, 1976 which the manufacturer certifies are constructed in compliance with the United States Department of Housing and Urban Development standards, meaning structures transportable in one or more sections, which, in the traveling mode are 14 body feet or more in width and are 750 or more square feet, and which are built on a permanent chassis and designed to be used as dwellings, with or without permanent foundations, when connected to the required utilities including the plumbing, heating, air-conditioning, or electrical systems contained in the unit; except that the term shall include any structure which meets all the requirements of this paragraph, except the size requirements and with respect to which the manufacturer voluntarily files a certification required by the Secretary of the United States Department of Housing and Urban Development and complies with the standards established under the National Manufactured Housing Construction and Safety Standards Act of 1974, United State Code, Title 42, Section 5401, et, seq.; and

SECTION VI: DEFINITIONS (continued)

- b. **Modular Homes:** Those units which the manufacturer certifies are constructed in compliance with the Maine's Manufactured Housing Act and regulations, meaning structures transportable in one or more sections, which are not constructed on a permanent chassis and are designed to be used as dwellings on foundations when connected to required utilities, including the plumbing, heating, air-conditioning, or electrical systems contained therein.
- 7. **MOBILE HOME PARK LOT:** An area of land in a Mobile Home Park used for installation of a mobile home and the exclusive use of its occupants.
 - 8. **MOBILE HOME PARK:** A parcel of land under unified ownership approved by the Town for the placement of three (3) or more manufactured homes.
 - 9. **MOBILE HOME PARK SUBDIVISION OR DEVELOPMENT:** A parcel of land approved by the Planning Board under the Levant Subdivision Ordinance and Title 30-A, MRSA, Section 4401 for the placement of manufactured houses on individually owned lots.
 - 10. **PERMANENT FOUNDATION:** A permanent foundation includes any of the following:
 - a. A full, poured concrete or masonry foundation;
 - b. A poured concrete frost wall or a mortared masonry frost wall, with or without a concrete floor;
 - c. A reinforced, floating concrete pad;
 - d. Reinforced, concrete runners.
 - 11. **RECREATIONAL VEHICLE:** A vehicle or vehicular attachment designed for human temporary living quarters for one or more persons, such as a pick-up camper, travel trailer, tent trailer, or motor home.
 - 12. **CENTRAL WASTEWATER DISPOSAL SYSTEM:** Is a disposal system that serves two or more mobile homes and is not wholly or partially on any lot.

TOWN OF LEVANT SHORELAND ZONING ORDINANCE

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Chapter 1000: GUIDELINES FOR MUNICIPAL SHORELAND ZONING ORDINANCES

Shoreland Zoning Ordinance for the Municipality of

LEVANT

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 freshwater 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 waters; to conserve natural beauty and open space; and to anticipate and respond to the impacts of development in shoreland areas.
2. **Authority.** This Ordinance has been prepared in accordance with the provisions of Title 38 sections 435-449 of the Maine Revised Statutes Annotated (M.R.S.A.).
3. **Applicability.** This Ordinance applies to all land areas within 250 feet, horizontal distance, of the

- normal high-water line of any great pond or river, or
- upland edge of a freshwater wetland,

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

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

4. **Effective Date**

A. Effective Date of Ordinance and Ordinance Amendments. This Ordinance, which was adopted by the municipal legislative body on November 3, 2009, shall not be effective unless approved by the Commissioner of the Department of Environmental Protection. A certified copy of the Ordinance, or Ordinance Amendment, attested and signed by the Municipal Clerk, shall be forwarded to the Commissioner for approval. If the Commissioner fails to act on this Ordinance or Ordinance Amendment, within forty-five (45) days of his/her receipt of the Ordinance, or Ordinance Amendment, it shall be automatically approved.

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

B. Repeal of Municipal Timber Harvesting Regulation. The municipal regulation of timber harvesting activities is repealed on the statutory date established under 38 M.R.S.A. section 438-B(5), at which time the State of Maine Department of Conservation's Bureau of Forestry shall administer timber harvesting standards in the shoreland zone. On the date

established under 38 M.R.S.A section 438-B(5), the following provisions of this Ordinance are repealed:

- Section 14. Table of Land Uses, item 3 (Forest management activities except for timber harvesting) and item 4 (Timber harvesting);
- Section 15(O) in its entirety; and
- Section 17. Definitions, the definitions of “forest management activities” “residual basal area” “skid trails and slash”

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

9. Districts and Zoning Map

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

- (1) Resource Protection
- (2) Limited Residential
- (3) Limited Commercial
- (4) General Development I
- (5) General Development II
- (6) Stream Protection

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

C. Certification of Official Shoreland Zoning Map. The Official Shoreland Zoning Map shall be certified by the attested signature of the Municipal Clerk and shall be located in

the municipal office. In the event the municipality does not have a municipal office, the Municipal Clerk shall be the custodian of the map.

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

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

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

12. Non-conformance.

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

B. General

(1) Transfer of Ownership. Non-conforming structures, lots, and uses may be transferred, and the new owner may continue the non-conforming use or continue to use the non-conforming structure or lot, subject to the provisions of this Ordinance.

(2) Repair and Maintenance. This Ordinance allows, without a permit, the normal upkeep and maintenance of non-conforming uses and structures including repairs or renovations that do not involve expansion of the non-conforming use or structure, and such other changes in a non-conforming use or structure as federal, state, or local building and safety codes may require.

C. Non-conforming Structures

(1) Expansions. A non-conforming structure may be added to or expanded after obtaining a permit from the same permitting authority as that for a new structure, if such addition or expansion does not increase the non-conformity of the structure and is in accordance with subparagraphs (a) and (b) below.

- (a) After January 1, 1989 if any portion of a structure is less than the required setback from the normal high-water line of a water body or tributary stream or the upland edge of a wetland, that portion of the structure shall not be expanded, as measured in floor area or volume, by 30% or more, during the lifetime of the structure. If a replacement structure conforms with the requirements of Section 12(C)(3), and is less than the required setback from a water body, tributary stream or wetland, the replacement structure may not be expanded if the original structure existing on January 1, 1989 had been expanded by 30% in floor area and volume since that date.
 - (b) Whenever a new, enlarged, or replacement foundation is constructed under a non-conforming structure, the structure and new foundation must be placed such that the setback requirement is met to the greatest practical extent as determined by the Planning Board or its designee, basing its decision on the criteria specified in Section 12(C)(2) Relocation, below. If the completed foundation does not extend beyond the exterior dimensions of the structure, except for expansion in conformity with Section 12(C)(1)(a) above, and the foundation does not cause the structure to be elevated by more than three (3) additional feet, as measured from the uphill side of the structure (from original ground level to the bottom of the first floor sill), it shall not be considered to be an expansion of the structure.
- (2) Relocation. A non-conforming structure may be relocated within the boundaries of the parcel on which the structure is located provided that the site of relocation conforms to all setback requirements to the greatest practical extent as determined by the Planning Board or its designee, and provided that the applicant demonstrates that the present subsurface sewage disposal system meets the requirements of State law and the State of Maine Subsurface Wastewater Disposal Rules (Rules), or that a new system can be installed in compliance with the law and said Rules. In no case shall a structure be relocated in a manner that causes the structure to be more non-conforming.

In determining whether the building relocation meets the setback to the greatest practical extent, the Planning Board or its designee shall consider the size of the lot, the slope of the land, the potential for soil erosion, the location of other structures on the property and on adjacent properties, the location of the septic system and other on-site soils suitable for septic systems, and the type and amount of vegetation to be removed to accomplish the relocation. When it is necessary to remove vegetation within the water or wetland setback area in order to relocate a structure, the Planning Board shall require replanting of native vegetation to compensate for the destroyed vegetation. In addition, the area from which the relocated structure was removed must be replanted with vegetation. Replanting shall be required as follows:

- (a) Trees removed in order to relocate a structure must be replanted with at least one native tree, three (3) feet in height, for every tree removed. If more than five trees are planted, no one species of tree shall make up more than 50% of the number of trees planted. Replaced trees must be planted no further from the water or wetland than the trees that were removed.

Other woody and herbaceous vegetation, and ground cover, that are removed or destroyed in order to relocate a structure must be re-established. An area at least the same size as the area where vegetation and/or ground cover was disturbed,

damaged, or removed must be reestablished within the setback area. The vegetation and/or ground cover must consist of similar native vegetation and/or ground cover that was disturbed, destroyed or removed.

- (b) Where feasible, when a structure is relocated on a parcel the original location of the structure shall be replanted with vegetation which may consist of grasses, shrubs, trees, or a combination thereof.
- (3) Reconstruction or Replacement. Any non-conforming structure which is located less than the required setback from a water body, tributary stream, or wetland and which is removed, or damaged or destroyed, regardless of the cause, by more than 50% of the market value of the structure before such damage, destruction or removal, may be reconstructed or replaced provided that a permit is obtained within eighteen (18) months of the date of said damage, destruction, or removal, and provided that such reconstruction or replacement is in compliance with the water body, tributary stream or wetland setback requirement to the greatest practical extent as determined by the Planning Board or its designee in accordance with the purposes of this Ordinance. In no case shall a structure be reconstructed or replaced so as to increase its non-conformity. If the reconstructed or replacement structure is less than the required setback it shall not be any larger than the original structure, except as allowed pursuant to Section 12(C)(1) above, as determined by the non-conforming floor area and volume of the reconstructed or replaced structure at its new location. If the total amount of floor area and volume of the original structure can be relocated or reconstructed beyond the required setback area, no portion of the relocated or reconstructed structure shall be replaced or constructed at less than the setback requirement for a new structure. When it is necessary to remove vegetation in order to replace or reconstruct a structure, vegetation shall be replanted in accordance with Section 12(C)(2) above.

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

In determining whether the building reconstruction or replacement meets the setback to the greatest practical extent the Planning Board or its designee shall consider, in addition to the criteria in Section 12(C)(2) above, the physical condition and type of foundation present, if any.

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

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

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

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

- (3) Contiguous Lots - Vacant or Partially Built: If two or more contiguous lots or parcels are in single or joint ownership of record at the time of or since adoption or amendment of this Ordinance, if any of these lots do not individually meet the

dimensional requirements of this Ordinance or subsequent amendments, and if one or more of the lots are vacant or contain no principal structure the lots shall be combined to the extent necessary to meet the dimensional requirements.

This provision shall not apply to 2 or more contiguous lots, at least one of which is non-conforming, owned by the same person or persons on November 5, 1991 and recorded in the registry of deeds if the lot is served by a public sewer or can accommodate a subsurface sewage disposal system in conformance with the State of Maine Subsurface Wastewater Disposal Rules; and

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

13. Establishment of Districts

A. Resource Protection District. The Resource Protection District includes areas in which development would adversely affect water quality, productive habitat, biological ecosystems, or scenic and natural values. This district shall include the following areas when they occur within the limits of the shoreland zone, exclusive of the Stream Protection District, except that areas which are currently developed and areas which meet the criteria for the Limited Commercial or General Development I Districts need not be included within the Resource Protection District.

- (1) Areas within 250 feet, horizontal distance, of the upland edge of freshwater wetlands, 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.
- (2) Floodplains along rivers and floodplains along artificially formed great ponds along rivers, defined by the 100 year floodplain as designated on the Federal Emergency Management Agency's (FEMA) Flood Insurance Rate Maps or Flood Hazard Boundary Maps, or the flood of record, or in the absence of these, by soil types identified as recent floodplain soils.
- (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 freshwater wetland as defined, and which are not surficially connected to a water body during the period of normal high water.

B. Limited Residential District. The Limited Residential District includes those areas suitable for residential and recreational development. It includes areas other than those in the Resource Protection District, or Stream Protection District, and areas which are used less intensively than those in the Limited Commercial District or the General Development Districts.

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

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

- (1) Areas of two or more contiguous acres devoted to commercial, industrial or intensive recreational activities, or a mix of such activities, including but not limited to the following:
 - (a) Areas devoted to manufacturing, fabricating or other industrial activities;
 - (b) Areas devoted to wholesaling, warehousing, retail trade and service activities, or other commercial activities; and
 - (c) Areas devoted to intensive recreational development and activities, such as, but not limited to amusement parks, race tracks and fairgrounds.
- (2) Areas otherwise discernible as having patterns of intensive commercial, industrial or recreational uses.

E. General Development II District. The General Development II District includes the same types of areas as those listed for the General Development I District. The General Development II District, however, shall be applied to newly established General Development Districts where the pattern of development at the time of adoption is undeveloped or not as intensively developed as that of the General Development I District.

Portions of the General Development District I or II may also include residential development. However, no area shall be designated as a General Development I or II District based solely on residential use.

In areas adjacent to great ponds classified GPA and adjacent to rivers flowing to great ponds classified GPA, the designation of an area as a General Development District shall be based upon uses existing at the time of adoption of this Ordinance. There shall be no

newly established General Development Districts or expansions in area of existing General Development Districts adjacent to great ponds classified GPA, and adjacent to rivers that flow to great ponds classified GPA.

F. 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 wetland. Where a stream and its associated shoreland area are located within two-hundred and fifty (250) feet, horizontal distance, of the above water bodies or wetlands, that land area shall be regulated under the terms of the shoreland district associated with that water body or wetland.

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

Key to Table 1:

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

No - Prohibited

PB - Allowed with permit issued by the Planning Board.

CEO - Allowed with permit issued by the Code Enforcement Officer

LPI - Allowed with permit issued by the Local Plumbing Inspector

Abbreviations:

RP - Resource Protection GD - General Development I and General Development II

LR - Limited Residential LC - Limited Commercial

SP - Stream Protection

TABLE 1. LAND USES IN THE SHORELAND ZONE
LAND USES

	<u>DISTRICT</u>				
	<u>SP</u>	<u>RP</u>	<u>LR</u>	<u>LC</u>	<u>GD</u>
1. Non-intensive recreational uses not requiring structures such as hunting, fishing and hiking	yes	yes	yes	yes	yes
2. Motorized vehicular traffic on existing roads and trails	yes	yes	yes	yes	yes
3. Forest management activities except for timber harvesting	yes	yes	yes	yes	yes
4. Timber harvesting	yes	CEO	yes	yes	yes
5. Clearing or removal of vegetation for activities other than timber harvesting	CEO	CEO ¹	yes	yes	yes
6. Fire prevention activities	yes	yes	yes	yes	yes

7. Wildlife management practices	yes	yes	yes	yes	yes
8. Soil and water conservation practices	yes	yes	yes	yes	yes
9. Mineral exploration	no	yes ²	yes ²	yes ²	yes ²
10. Mineral extraction including sand and gravel extraction	no	PB ³	PB	PB	PB
11. Surveying and resource analysis	yes	yes	yes	yes	yes
12. Emergency operations	yes	yes	yes	yes	yes
13. Agriculture	yes	PB	yes	yes	yes
14. Aquaculture	PB	PB	PB	yes	yes
15. Principal structures and uses					
A. One and two family residential, including driveways	PB ⁴	PB ⁹	CEO	CEO	CEO
B. Multi-unit residential	no	no	PB	PB	PB
C. Commercial	no	no ¹⁰	no ¹⁰	PB	PB
D. Industrial	no	no	no	no	PB
E. Governmental and institutional	no	no	PB	PB	PB
F. Small non-residential facilities for educational, scientific, or nature interpretation purposes	PB ⁴	PB	CEO	CEO	CEO
16. Structures accessory to allowed uses	PB ⁴	PB	CEO	CEO	yes
17. Piers, docks, wharfs, bridges and other structures and uses extending over or below the normal high-water line or within a wetland					
a. Temporary	CEO ¹¹	CEO ¹¹	CEO ¹¹	CEO ¹¹	CEO ¹¹
b. Permanent	PB	PB	PB	PB	PB
18. Conversions of seasonal residences to year-round residences	LPI	LPI	LPI	LPI	LPI
19. Home occupations	PB	PB	PB	CEO	yes
20. Private sewage disposal systems for allowed uses	LPI	LPI	LPI	LPI	LPI
21. Essential services					
A. Roadside distribution lines (34.5kV and lower)	CEO ⁶	CEO ⁶	yes ¹²	yes ¹²	yes ¹²
B. Non-roadside or cross-country distribution lines involving ten poles or less in the shoreland zone	PB ⁶	PB ⁶	CEO	CEO	CEO
C. Non-roadside or cross-country distribution lines involving eleven or more poles in the shoreland zone	PB ⁶	PB ⁶	PB	PB	PB
D. Other essential services	PB ⁶	PB ⁶	PB	PB	PB
22. Service drops, as defined, to allowed uses	yes	yes	yes	yes	yes
23. Public and private recreational areas involving minimal structural development	PB	PB	PB	CEO	CEO
24. Individual, private campsites	CEO	CEO	CEO	CEO	CEO
25. Campgrounds	no	no ⁷	PB	PB	PB
26. Road construction	PB	no ⁸	PB	PB	PB
27. Parking facilities	no	no ⁷	PB	PB	PB
28. Marinas	PB	no	PB	PB	PB
29. Filling and earth moving of <10 cubic yards	CEO	CEO	yes	yes	yes
30. Filling and earth moving of >10 cubic yards	PB	PB	CEO	CEO	CEO
31. Signs	yes	yes	yes	yes	yes
32. Uses similar to allowed uses	CEO	CEO	CEO	CEO	CEO
33. Uses similar to uses requiring a CEO permit	CEO	CEO	CEO	CEO	CEO
34. Uses similar to uses requiring a PB permit	PB	PB	PB	PB	PB

¹In RP not allowed within 75 feet horizontal distance, of the normal high-water line of great ponds, except to remove safety hazards.

²Requires permit from the Code Enforcement Officer if more than 100 square feet of surface area, in total, is disturbed.

³In RP not allowed in areas so designated because of wildlife value.

⁴Provided that a variance from the setback requirement is obtained from the Board of Appeals.

⁶See further restrictions in Section 15(L)(2).

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

⁸Except as provided in Section 15(H)(4).

⁹Single family residential structures may be allowed by special exception only according to the provisions of Section 16(E), Special Exceptions. Two-family residential structures are prohibited.

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

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

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

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

- A. Dredging, bulldozing, removing or displacing soil, sand, vegetation or other materials;
- B. Draining or otherwise dewatering;
- C. Filling, including adding sand or other material to a sand dune; or
- D. Any construction or alteration of any permanent structure.

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

A. Minimum Lot Standards

	Minimum Lot Area (sq.Ft.)	Minimum Shore Frontage (ft)
(1)		
(a) Residential per dwelling unit	65,340	200
(b) Governmental, Institutional, Commercial or Industrial per principal structure	65,340	300
(c) Public and Private Recreational Facilities	65,340	300
(2)	Land below the normal high-water line of a water body or upland edge of a wetland and land beneath roads serving more than two (2) lots shall not be included toward calculating minimum lot area.	
(3)	Lots located on opposite sides of a public or private road shall be considered each a separate tract or parcel of land unless such road was established by the owner of land on both sides thereof after September 22, 1971.	
(4)	The minimum width of any portion of any lot within one hundred (100) feet, horizontal distance, of the normal high-water line of a water body or upland edge of a wetland shall be equal to or greater than the shore frontage requirement for a lot with the proposed use.	
(5)	If more than one residential dwelling unit, principal governmental, institutional, commercial or industrial structure or use, or combination thereof, is constructed or established on a single parcel, all dimensional requirements shall be met for each additional dwelling unit, principal structure, or use.	

B. Principal and Accessory Structures

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

In addition:

- (a) The water body, tributary stream, or wetland setback provision shall neither apply to structures which require direct access to the water body or wetland as an operational necessity, such as piers, docks and retaining walls, nor to other functionally water-dependent uses.

 - (b) On a non-conforming lot of record on which only a residential structure exists, and it is not possible to place an accessory structure meeting the required water body, tributary stream or wetland setbacks, the code enforcement officer may issue a permit to place a single accessory structure, with no utilities, for the storage of yard tools and similar equipment. Such accessory structure shall not exceed eighty (80) square feet in area nor eight (8) feet in height, and shall be located as far from the shoreline or tributary stream as practical and shall meet all other applicable standards, including lot coverage and vegetation clearing limitations. In no case shall the structure be located closer to the shoreline or tributary stream than the principal structure.
- (2) Principal or accessory structures and expansions of existing structures which are permitted in the Resource Protection, Limited Residential, Limited Commercial, and Stream Protection Districts, shall not exceed thirty-five (35) feet in height. This provision shall not apply to structures such as transmission towers, windmills, antennas, and similar structures having no floor area.
 - (3) The lowest floor elevation or openings of all buildings and structures, including basements, shall be elevated at least one foot above the elevation of the 100 year flood, the flood of record, or in the absence of these, the flood as defined by soil types identified as recent flood-plain soils.
 - (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 General Development District adjacent to rivers that do not flow to great ponds classified GPA, 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;

- (b) 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;
- (c) 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, and tributary streams, as designated on the Federal Emergency Management Agency's (FEMA) Flood Insurance Rate Maps or Flood Hazard Boundary Maps, or the flood of record, or in the absence of these, by soil types identified as recent flood-plain soils.
- (f) The area behind the wall is revegetated with grass, shrubs, trees, or a combination thereof, and no further structural development will occur within the setback area, including patios and decks; and
- (g) A vegetated buffer area is established within 25 feet, horizontal distance, of the normal high-water line of a water body, tributary stream, or upland edge of a wetland when a natural buffer area does not exist. The buffer area must meet the following characteristics:
 - (i) The buffer must include shrubs and other woody and herbaceous vegetation. Where natural ground cover is lacking the area must be supplemented with leaf or bark mulch;
 - (ii)Vegetation plantings must be in quantities sufficient to retard erosion and provide for effective infiltration of stormwater runoff;
 - (iii)Only native species may be used to establish the buffer area;
 - (iv)A minimum buffer width of 15 feet, horizontal distance, is required, measured perpendicularly to the normal high-water line or upland edge of a wetland;
 - (v) A footpath not to exceed the standards in Section 15(P)(2)(a), may traverse the buffer;
- (6) Notwithstanding the requirements stated above, stairways or similar structures may be allowed with a permit from the Code Enforcement Officer, to provide shoreline access in areas of steep slopes or unstable soils provided: that the structure is limited to a maximum of four (4) feet in width; that the structure does not extend below or over the normal high-water line of a water body or upland edge of a wetland, (unless permitted by the Department of Environmental Protection pursuant to the Natural Resources Protection Act, 38 M.R.S.A. section 480-C); and that the applicant demonstrates that no reasonable access alternative exists on the property.

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

- (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 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 below the normal high-water line of a water body or within a wetland unless the structure requires direct access to the water body or wetland as an operational necessity.
- (6) New permanent piers and docks 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 below the normal high-water line of a water body or within a wetland shall be converted to residential dwelling units in any district.
- (8) Except in the General Development Districts, structures built on, over or abutting a pier, wharf, dock or other structure extending below the normal high-water line of a water body or within a wetland shall not exceed twenty (20) feet in height above the pier, wharf, dock or other structure.

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

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

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

- (1) One campsite per lot existing on the effective date of this Ordinance, or thirty thousand (30,000) square feet of lot area within the shoreland zone, whichever is less, may be permitted.
- (2) Campsite placement on any lot, including the area intended for a recreational vehicle or tent platform, shall be set back one hundred (100) feet, horizontal distance, from the normal high-water line of a great pond classified GPA or river flowing to a great pond classified GPA, and seventy-five (75) feet, horizontal distance, from the normal high-water line of other water bodies, tributary streams, or the upland edge of a wetland.
- (3) Only one recreational vehicle shall be allowed on a campsite. The recreational vehicle shall not be located on any type of permanent foundation except for a gravel pad, and no structure except a canopy shall be attached to the recreational vehicle.
- (4) The clearing of vegetation for the setting of the recreational vehicle, tent or similar shelter in a Resource Protection District shall be limited to one thousand (1000) square feet.
- (5) A written sewage disposal plan describing the proposed method and location of sewage disposal shall be required for each campsite and shall be approved by the Local Plumbing Inspector. Where disposal is off-site, written authorization from the receiving facility or land owner is required.
- (6) When a recreational vehicle, tent or similar shelter is placed on-site for more than one hundred and twenty (120) days per year, all requirements for residential structures shall be met, including the installation of a subsurface sewage disposal system in compliance with the State of Maine Subsurface Wastewater Disposal Rules unless served by public sewage facilities.

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

- (1) Auto washing facilities
 - (2) Auto or other vehicle service and/or repair operations, including body shops
 - (3) Chemical and bacteriological laboratories
 - (4) Storage of chemicals, including herbicides, pesticides or fertilizers, other than amounts normally associated with individual households or farms
 - (5) Commercial painting, wood preserving, and furniture stripping
 - (6) Dry cleaning establishments
 - (7) Electronic circuit assembly
- Laundromats, unless connected to a sanitary sewer

- (9) Metal plating, finishing, or polishing
- (10) Petroleum or petroleum product storage and/or sale except storage on same property as use occurs and except for storage and sales associated with marinas
- (11) Photographic processing
- (12) Printing

G. Parking Areas

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

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

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

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

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

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

Grade (Percent)	Spacing (Feet)
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0-2	250
3-5	200-135
6-10	100-80
11-15	80-60
16-20	60-45
21 +	40

- (b) Drainage dips may be used in place of ditch relief culverts only where the grade is ten (10) percent or less.
- (c) On sections having slopes greater than ten (10) percent, ditch relief culverts shall be placed at approximately a thirty (30) degree angle down-slope from a line perpendicular to the centerline of the road or driveway.
- (d) Ditch relief culverts shall be sufficiently sized and properly installed in order to allow for effective functioning, and their inlet and outlet ends shall be stabilized with appropriate materials.
- (9) Ditches, culverts, bridges, dips, water turnouts and other storm water runoff control installations associated with roads and driveways shall be maintained on a regular basis to assure effective functioning.

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

- (1) Signs relating to goods and services sold on the premises shall be allowed, provided that such signs shall not exceed six (6) square feet in area and shall not exceed two (2) signs per premises. In the Limited Commercial District, however, such signs shall not exceed sixteen (16) square feet in area. Signs relating to goods or services not sold or rendered on the premises shall be prohibited.
- (2) Name signs are allowed, provided such signs shall not exceed two (2) signs per premises, and shall not exceed twelve (12) square feet in the aggregate.
- (3) Residential users may display a single sign not over three (3) square feet in area relating to the sale, rental, or lease of the premises.
- (4) Signs relating to trespassing and hunting shall be allowed without restriction as to number provided that no such sign shall exceed two (2) square feet in area.
- (5) Signs relating to public safety shall be allowed without restriction.
- (6) No sign shall extend higher than twenty (20) feet above the ground.
- (7) Signs may be illuminated only by shielded, non-flashing lights.

J. Storm Water Runoff

- (1) All new construction and development shall be designed to minimize storm water runoff from the site in excess of the natural predevelopment conditions. Where

possible, existing natural runoff control features, such as berms, swales, terraces and wooded areas, shall be retained in order to reduce runoff and encourage infiltration of stormwaters.

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

K. Septic Waste Disposal

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

L. Essential Services

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

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

Mineral extraction may be permitted under the following conditions:

- (1) A reclamation plan shall be filed with, and approved, by the Planning Board before a permit is granted. Such plan shall describe in detail procedures to be undertaken to fulfill the requirements of Section 15 (M)(3) below.
- (2) No part of any extraction operation, including drainage and runoff control features, shall be permitted within one hundred (100) feet, horizontal distance, of the normal high-water line of a great pond classified GPA or a river flowing to a great pond classified GPA, and within seventy-five (75) feet, horizontal distance, of the normal

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

- (3) 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 (7 M.R.S.A. sections 4201-4209).
- (2) Manure shall not be stored or stockpiled within one hundred (100) feet, horizontal distance, of a great pond classified GPA or a river flowing to a great pond classified GPA, or within seventy-five (75) feet horizontal distance, of other water bodies, tributary streams, or wetlands. All manure storage areas within the shoreland zone must be constructed or modified such that the facility produces no discharge of effluent or contaminated storm water.
- (3) Agricultural activities involving tillage of soil greater than forty thousand (40,000) square feet in surface area, within the shoreland zone shall require a Conservation Plan to be filed with the Planning Board. Non-conformance with the provisions of said plan shall be considered to be a violation of this Ordinance.
- (4) There shall be no new tilling of soil within one-hundred (100) feet, horizontal distance, of the normal high-water line of a great pond classified GPA; within seventy-five (75) feet, horizontal distance, from other water bodies; 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; nor within twenty-five (25) feet, horizontal distance, of tributary streams and freshwater wetlands. Livestock grazing associated with ongoing farm activities, and which are not in conformance with the above setback provisions may continue, provided that such grazing is conducted in accordance with a Conservation Plan.

O. Timber Harvesting

- (1) In a Resource Protection District abutting a great pond, timber harvesting shall be limited to the following:
 - (a) Within the strip of land extending 75 feet, horizontal distance, inland from the normal high-water line, timber harvesting may be conducted when the following conditions are met:
 - (1) The ground is frozen;
 - (2) There is no resultant soil disturbance;
 - (3) The removal of trees is accomplished using a cable or boom and there is no entry of tracked or wheeled vehicles into the 75-foot strip of land;
 - (4) There is no cutting of trees less than 6 inches in diameter; no more than 30% of the trees 6 inches or more in diameter, measured at 4 ½ feet above ground level, are cut in any 10-year period; and a well-distributed stand of trees and other natural vegetation remains; and
 - (5) A licensed professional forester has marked the trees to be harvested prior to a permit being issued by the municipality.
 - (b) Beyond the 75 foot strip referred to in Section 15(O)(1)(a) above, timber harvesting is permitted in accordance with paragraph 2 below except that in no case shall the average residual basal area of trees over 4 ½ inches in diameter at 4 1/2 feet above ground level be reduced to less than 30 square feet per acre.
- (2) Except in areas as described in Section 15(O)(1) above, timber harvesting shall conform with the following provisions:
 - (a) Selective cutting of no more than forty (40) percent of the total volume of trees four (4) inches or more in diameter measured at 4 1/2 feet above ground level on any lot in any ten (10) year period is permitted. In addition:
 - (i) Within one-hundred (100) feet, horizontal distance, of the normal high-water line of a great pond classified GPA or a river flowing to a great pond classified GPA, and within seventy-five (75) feet, horizontal distance, of the normal high-water line of other water bodies, tributary streams, or the upland edge of a wetland, there shall be no clearcut openings and a well-distributed

stand of trees and other vegetation, including existing ground cover, shall be maintained.

- (ii) At distances greater than one-hundred (100) feet, horizontal distance, of a great pond classified GPA or a river flowing to a great pond classified GPA, and greater than seventy-five (75) feet, horizontal distance, of the normal high-water line of other water bodies or the upland edge of a wetland, harvesting operations shall not create single clearcut openings greater than ten-thousand (10,000) square feet in the forest canopy. Where such openings exceed five-thousand (5000) square feet they shall be at least one hundred (100) feet, horizontal distance, apart. Such clearcut openings shall be included in the calculation of total volume removal. Volume may be considered to be equivalent to basal area.
- (b) Timber harvesting operations exceeding the 40% limitation in Section 15(O)(2)(a) above, may be allowed by the planning board upon a clear showing, including a forest management plan signed by a Maine licensed professional forester, that such an exception is necessary for good forest management and will be carried out in accordance with the purposes of this Ordinance. The planning board shall notify the Commissioner of the Department of Environmental Protection of each exception allowed, within fourteen (14) days of the planning board's decision.
 - (c) 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.
 - (d) 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.
 - (e) 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.
 - (f) 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.
 - (g) Except for water crossings, skid trails and other sites where the operation of machinery used in timber harvesting results in the exposure of mineral soil shall be located such that an unscarified strip of vegetation of at least seventy-five (75) feet, horizontal distance, in width for slopes up to ten (10) percent shall be

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

P. Clearing or Removal of Vegetation for Activities Other Than Timber Harvesting

- (1) In a Resource Protection District abutting a great pond, there shall be no cutting of vegetation within the strip of land extending 75 feet, horizontal distance, inland from the normal high-water line, except to remove safety hazards.

Elsewhere, in any Resource Protection District the cutting or removal of vegetation shall be limited to that which is necessary for uses expressly authorized in that district.

- (2) Except in areas as described in Section P(1), above, and except to allow for the development of permitted uses, within a strip of land extending one-hundred (100) feet, horizontal distance, inland from the normal high-water line of a great pond classified GPA or a river flowing to a great pond classified GPA, and seventy-five (75) feet, horizontal distance, from any other water body, tributary stream, or the upland edge of a wetland, a buffer strip of vegetation shall be preserved as follows:

- (a) There shall be no cleared opening greater than 250 square feet in the forest canopy (or other existing woody vegetation if a forested canopy is not present) as measured from the outer limits of the tree or shrub crown. However, a footpath not to exceed six (6) feet in width as measured between tree trunks and/or shrub stems is allowed provided that a cleared line of sight to the water through the buffer strip is not created.
- (b) Selective cutting of trees within the buffer strip is allowed provided that a well-distributed stand of trees and other natural vegetation is maintained. For the purposes of Section 15(P)(2)(b) a "well-distributed stand of trees" adjacent to a great pond classified GPA or a river or stream flowing to a great pond classified GPA, shall be defined as maintaining a rating score of 24 or more in each 25-foot by 50-foot rectangular (1250 square feet) area as determined by the following rating system.

Diameter of Tree at 4-1/2 feet Above Ground Level (inches)	Points
2 < 4 in.	1
4 < 8 in.	2
8 < 12 in.	4
12 in. or greater	8

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

The following shall govern in applying this point system:

- (i) The 25-foot by 50-foot rectangular plots must be established where the landowner or lessee proposes clearing within the required buffer;
- (ii) Each successive plot must be adjacent to, but not overlap a previous plot;
- (iii) Any plot not containing the required points must have no vegetation removed except as otherwise allowed by this Ordinance;
- (iv) Any plot containing the required points may have vegetation removed down to the minimum points required or as otherwise allowed by its Ordinance;
- (v) Where conditions permit, no more than 50% of the points on any 25-foot by 50-foot rectangular area may consist of trees greater than 12 inches in diameter.

For the purposes of Section 15(P)(2)(b) "other natural vegetation" is defined as retaining existing vegetation under three (3) feet in height and other ground cover and retaining at least five (5) saplings less than two (2) inches in diameter at four and one half (4 ½) feet above ground level for each 25-foot by 50-foot rectangle area. If five saplings do not exist, no woody stems less than two (2) inches in diameter can be removed until 5 saplings have been recruited into the plot.

Notwithstanding the above provisions, no more than 40% of the total volume of trees four (4) inches or more in diameter, measured at 4 1/2 feet above ground level may be removed in any ten (10) year period.

- (c) In order to protect water quality and wildlife habitat, existing vegetation under three (3) feet in height and other ground cover, including leaf litter and the forest duff layer, shall not be cut, covered, or removed, except to provide for a footpath or other permitted uses as described in Section 15(P) paragraphs (2) and (2)(a) above.
- (d) Pruning of tree branches, on the bottom 1/3 of the tree is allowed.
- (e) In order to maintain a buffer strip of vegetation, when the removal of storm-damaged, diseased, unsafe, or dead trees results in the creation of cleared openings, these openings shall be replanted with native tree species unless existing new tree growth is present.

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

- (3) At distances greater than one hundred (100) feet, horizontal distance, from a great pond classified GPA or a river flowing to a great pond classified GPA, and seventy-five (75) feet, horizontal distance, from the normal high-water line of any other water body, tributary stream, or the upland edge of a wetland, there shall be allowed on any

lot, in any ten (10) year period, selective cutting of not more than forty (40) percent of the volume of trees four (4) inches or more in diameter, measured 4 1/2 feet above ground level. Tree removal in conjunction with the development of permitted uses shall be included in the forty (40) percent calculation. For the purposes of these standards volume may be considered to be equivalent to basal area.

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

- (4) Legally existing nonconforming cleared openings may be maintained, but shall not be enlarged, except as allowed by this Ordinance.
- (5) Fields and other cleared openings which have reverted to primarily shrubs, trees, or other woody vegetation shall be regulated under the provisions of Section 15(P).

Q. Erosion and Sedimentation Control

- (1) All activities which involve filling, grading, excavation or other similar activities which result in unstabilized soil conditions and which require a permit shall also require a written soil erosion and sedimentation control plan. The plan shall be submitted to the permitting authority for approval and shall include, where applicable, provisions for:
 - (a) Mulching and revegetation of disturbed soil.
 - (b) Temporary runoff control features such as hay bales, silt fencing or diversion ditches.
 - (c) Permanent stabilization structures such as retaining walls or rip-rap.
- (2) In order to create the least potential for erosion, development shall be designed to fit with the topography and soils of the site. Areas of steep slopes where high cuts and fills may be required shall be avoided wherever possible, and natural contours shall be followed as closely as possible.
- (3) Erosion and sedimentation control measures shall apply to all aspects of the proposed project involving land disturbance, and shall be in operation during all stages of the activity. The amount of exposed soil at every phase of construction shall be minimized to reduce the potential for erosion.
- (4) Any exposed ground area shall be temporarily or permanently stabilized within one (1) week from the time it was last actively worked, by use of riprap, sod, seed, and mulch, or other effective measures. In all cases permanent stabilization shall occur within nine (9) months of the initial date of exposure. In addition:

- (a) Where mulch is used, it shall be applied at a rate of at least one (1) bale per five hundred (500) square feet and shall be maintained until a catch of vegetation is established.
 - (b) Anchoring the mulch with netting, peg and twine or other suitable method may be required to maintain the mulch cover.
 - (c) Additional measures shall be taken where necessary in order to avoid siltation into the water. Such measures may include the use of staked hay bales and/or silt fences.
- (5) Natural and man-made drainage ways and drainage outlets shall be protected from erosion from water flowing through them. Drainageways shall be designed and constructed in order to carry water from a twenty five (25) year storm or greater, and shall be stabilized with vegetation or lined with riprap.

R. Soils. All land uses shall be located on soils in or upon which the proposed uses or structures can be established or maintained without causing adverse environmental impacts, including severe erosion, mass soil movement, improper drainage, and water pollution, whether during or after construction. Proposed uses requiring subsurface waste disposal, and commercial or industrial development and other similar intensive land uses, shall require a soils report based on an on-site investigation and be prepared by state-certified professionals. Certified persons may include Maine Certified Soil Scientists, Maine Registered Professional Engineers, Maine State Certified Geologists and other persons who have training and experience in the recognition and evaluation of soil properties. The report shall be based upon the analysis of the characteristics of the soil and surrounding land and water areas, maximum ground water elevation, presence of ledge, drainage conditions, and other pertinent data which the evaluator deems appropriate. The soils report shall include recommendations for a proposed use to counteract soil limitations where they exist.

S. Water Quality. No activity shall deposit on or into the ground or discharge to the waters of the State any pollutant that, by itself or in combination with other activities or substances, will impair designated uses or the water classification of the water body, tributary stream or wetland.

T. Archaeological Site. Any proposed land use activity involving structural development or soil disturbance on or adjacent to sites listed on, or eligible to be listed on the National Register of Historic Places, as determined by the permitting authority, shall be submitted by the applicant to the Maine Historic Preservation Commission for review and comment, at least twenty (20) days prior to action being taken by the permitting authority. The permitting authority shall consider comments received from the Commission prior to rendering a decision on the application.

16. Administration

A. Administering Bodies and Agents

- (1) Code Enforcement Officer. A Code Enforcement Officer shall be appointed or reappointed annually by July 1st.

- (2) Board of Appeals. A Board of Appeals shall be created in accordance with the provisions of 30-A M.R.S.A. section 2691.
- (3) Planning Board. A Planning Board shall be created in accordance with the provisions of State law.

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

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

C. Permit Application

- (1) Every applicant for a permit shall submit a written application, including a scaled site plan, on a form provided by the municipality, to the appropriate official as indicated in Section 14.
- (2) All applications shall be signed by an owner or individual who can show evidence of right, title or interest in the property or by an agent, representative, tenant, or contractor of the owner with authorization from the owner to apply for a permit hereunder, certifying that the information in the application is complete and correct.
- (3) All applications shall be dated, and the Code Enforcement Officer or Planning Board, as appropriate, shall note upon each application the date and time of its receipt.
- (4) If the property is not served by a public sewer, a valid plumbing permit or a completed application for a plumbing permit, including the site evaluation approved by the Plumbing Inspector, shall be submitted whenever the nature of the proposed structure or use would require the installation of a subsurface sewage disposal system.

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

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

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

- (1) Will maintain safe and healthful conditions;
- (2) Will not result in water pollution, erosion, or sedimentation to surface waters;
- (3) Will adequately provide for the disposal of all wastewater;
- (4) Will not have an adverse impact on spawning grounds, fish, aquatic life, bird or other wildlife habitat;
- (5) Will conserve shore cover and visual, as well as actual, points of access to inland waters;
- (6) Will protect archaeological and historic resources as designated in the comprehensive plan;
- (7) Will avoid problems associated with floodplain development and use; and
- (8) Is in conformance with the provisions of Section 15, Land Use Standards.

If a permit is either denied or approved with conditions, the reasons as well as conditions shall be stated in writing. No approval shall be granted for an application involving a structure if the structure would be located in an unapproved subdivision or would violate any other local ordinance, or regulation or statute administered by the municipality.

E. Special Exceptions. In addition to the criteria specified in Section 16(D) above, excepting structure setback requirements, the Planning Board may approve a permit for a single family residential structure in a Resource Protection District provided that the applicant demonstrates that all of the following conditions are met:

- (1) There is no location on the property, other than a location within the Resource Protection District, where the structure can be built.
- (2) The lot on which the structure is proposed is undeveloped and was established and recorded in the registry of deeds of the county in which the lot is located before the adoption of the Resource Protection District.
- (3) All proposed buildings, sewage disposal systems and other improvements are:
 - (a) Located on natural ground slopes of less than 20%; and
 - (b) Located outside the floodway of the 100-year flood-plain along rivers and artificially formed great ponds along rivers, based on detailed flood insurance studies and as delineated on the Federal Emergency Management Agency's Flood Boundary and Floodway Maps and Flood Insurance Rate Maps; all buildings, including basements, are elevated at least one foot above the 100-year flood-plain elevation; and the development is otherwise in compliance with any applicable municipal flood-plain ordinance.

If the floodway is not shown on the Federal Emergency Management Agency Maps, it is deemed to be 1/2 the width of the 100-year flood-plain.

- (4) The total ground-floor area, including cantilevered or similar overhanging extensions, of all principal and accessory structures is limited to a maximum of 1,500 square feet. This limitation shall not be altered by variance.
- (5) All structures, except functionally water-dependent structures, are set back from the normal high-water line of a water body, tributary stream or upland edge of a wetland to the greatest practical extent, but not less than 75 feet, horizontal distance. In determining the greatest practical extent, the Planning Board shall consider the depth of the lot, the slope of the land, the potential for soil erosion, the type and amount of vegetation to be removed, the proposed building site's elevation in regard to the flood-plain, and its proximity to moderate-value and high-value wetlands.

F. Expiration of Permit. Permits shall expire one year from the date of issuance if a substantial start is not made in construction or in the use of the property during that period. If a substantial start is made within one year of the issuance of the permit, the applicant shall have one additional year to complete the project, at which time the permit shall expire.

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

H. Appeals

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

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

 - (b) Variance Appeals: To authorize variances upon appeal, within the limitations set forth in this Ordinance.
- (2) Variance Appeals. Variances may be granted only under the following conditions:
- (a) Variances may be granted only from dimensional requirements including, but not limited to, lot width, structure height, percent of lot coverage, and setback requirements.
 - (b) Variances shall not be granted for establishment of any uses otherwise prohibited by this Ordinance.
 - (c) The Board shall not grant a variance unless it finds that:
 - (i) The proposed structure or use would meet the provisions of Section 15 except for the specific provision which has created the non-conformity and from which relief is sought; and
 - (ii) The strict application of the terms of this Ordinance would result in undue hardship. The term "undue hardship" shall mean:
 - a. That the land in question cannot yield a reasonable return unless a variance is granted;
 - b. That the need for a variance is due to the unique circumstances of the property and not to the general conditions in the neighborhood;
 - c. That the granting of a variance will not alter the essential character of the locality; and
 - d. That the hardship is not the result of action taken by the applicant or a prior owner.
 - (d) Notwithstanding Section 16(H)(2)(c)(ii) above, the Board of Appeals may grant a variance to an owner of a residential dwelling for the purpose of making that dwelling accessible to a person with a disability who resides in or regularly uses the dwelling. The board shall restrict any variance granted under this subsection solely to the installation of equipment or the construction of structures necessary

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

- (e) The Board of Appeals shall limit any variances granted as strictly as possible in order to ensure conformance with the purposes and provisions of this Ordinance to the greatest extent possible, and in doing so may impose such conditions to a variance as it deems necessary. The party receiving the variance shall comply with any conditions imposed.
- (f) A copy of each variance request, including the application and all supporting information supplied by the applicant, shall be forwarded by the municipal officials to the Commissioner of the Department of Environmental Protection at least twenty (20) days prior to action by the Board of Appeals. Any comments received from the Commissioner prior to the action by the Board of Appeals shall be made part of the record and shall be taken into consideration by the Board of Appeals.

(3) Administrative Appeals

When the Board of Appeals reviews a decision of the Code Enforcement Officer the Board of Appeals shall hold a “de novo” hearing. At this time the Board may receive and consider new evidence and testimony, be it oral or written. When acting in a “de novo” capacity the Board of Appeals shall hear and decide the matter afresh, undertaking its own independent analysis of evidence and the law, and reaching its own decision.

When the Board of Appeals hears a decision of the Planning Board, it shall hold an appellate hearing, and may reverse the decision of the Planning Board only upon finding that the decision was contrary to specific provisions of the Ordinance or contrary to the facts presented to the Planning Board. The Board of Appeals may only review the record of the proceedings before the Planning Board. The Board Appeals shall not receive or consider any evidence which was not presented to the Planning Board, but the Board of Appeals may receive and consider written or oral arguments. If the Board of Appeals determines that the record of the Planning Board proceedings are inadequate, the Board of Appeals may remand the matter to the Planning Board for additional fact finding.

(4) Appeal Procedure

(a) Making an Appeal

- (i) An administrative or variance appeal may be taken to the Board of Appeals by an aggrieved party from any decision of the Code Enforcement Officer or the Planning Board, except for enforcement-related matters as described in Section 16(H)(1)(a) above. Such an appeal shall be taken within thirty (30) days of the date of the official, written decision appealed from, and not otherwise, except that the Board, upon a showing of good cause, may waive the thirty (30) day requirement.

- (ii) Applications for appeals shall be made by filing with the Board of Appeals a written notice of appeal which includes:
 - a. A concise written statement indicating what relief is requested and why the appeal or variance should be granted.
 - b. A sketch drawn to scale showing lot lines, location of existing buildings and structures and other physical features of the lot pertinent to the relief sought.
 - (iii) Upon receiving an application for an administrative appeal or a variance, the Code Enforcement Officer or Planning Board, as appropriate, shall transmit to the Board of Appeals all of the papers constituting the record of the decision appealed from.
 - (iv) The Board of Appeals shall hold a public hearing on an administrative appeal or a request for a variance within thirty-five (35) days of its receipt of a complete written application, unless this time period is extended by the parties.
- (b) Decision by Board of Appeals
- (i) A majority of the full voting membership of the Board shall constitute a quorum for the purpose of deciding an appeal.
 - (ii) The person filing the appeal shall have the burden of proof.
 - (iii) The Board shall decide all administrative appeals and variance appeals within thirty five (35) days after the close of the hearing, and shall issue a written decision on all appeals.
 - (iv) The Board of Appeals shall state the reasons and basis for its decision, including a statement of the facts found and conclusions reached by the Board. The Board shall cause written notice of its decision to be mailed or hand-delivered to the applicant and to the Department of Environmental Protection within seven (7) days of the Board's decision. Copies of written decisions of the Board of Appeals shall be given to the Planning Board, Code Enforcement Officer, and the municipal officers.
- (5) Appeal to Superior Court. Except as provided by 30-A M.R.S.A. section 2691(3)(F), any aggrieved party who participated as a party during the proceedings before the Board of Appeals may take an appeal to Superior Court in accordance with State laws within forty-five (45) days from the date of any decision of the Board of Appeals.
- (6) Reconsideration. In accordance with 30-A M.R.S.A. section 2691(3)(F), the Board of Appeals may reconsider any decision within forty-five (45) days of its prior decision. A request to the Board to reconsider a decision must be filed within ten (10) days of the decision that is being reconsidered. A vote to reconsider and the action taken on that reconsideration must occur and be completed within forty-five (45) days of the date of the vote on the original decision. Reconsideration of a decision shall require a positive vote of the majority of the Board members originally voting on the decision, and proper

notification to the landowner, petitioner, planning board, code enforcement officer, and other parties of interest, including abutters and those who testified at the original hearing(s). The Board may conduct additional hearings and receive additional evidence and testimony.

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

I. Enforcement

- (1) Nuisances. Any violation of this Ordinance shall be deemed to be a nuisance.
- (2) Code Enforcement Officer
 - (a) It shall be the duty of the Code Enforcement Officer to enforce the provisions of this Ordinance. If the Code Enforcement Officer shall find that any provision of this Ordinance is being violated, he or she shall notify in writing the person responsible for such violation, indicating the nature of the violation and ordering the action necessary to correct it, including discontinuance of illegal use of land, buildings or structures, or work being done, removal of illegal buildings or structures, and abatement of nuisance conditions. A copy of such notices shall be submitted to the municipal officers and be maintained as a permanent record.
 - (b) The Code Enforcement Officer shall conduct on-site inspections to insure compliance with all applicable laws and conditions attached to permit approvals. The Code Enforcement Officer shall also investigate all complaints of alleged violations of this Ordinance.
 - (c) The Code Enforcement Officer shall keep a complete record of all essential transactions of the office, including applications submitted, permits granted or denied, variances granted or denied, revocation actions, revocation of permits, appeals, court actions, violations investigated, violations found, and fees collected. On a biennial basis, a summary of this record shall be submitted to the Director of the Bureau of Land and Water Quality within the Department of Environmental Protection.
- (3) Legal Actions. When the above action does not result in the correction or abatement of the violation or nuisance condition, the Municipal Officers, upon notice from the Code Enforcement Officer, are hereby directed to institute any and all actions and proceedings, either legal or equitable, including seeking injunctions of violations and the imposition of fines, that may be appropriate or necessary to enforce the provisions of this Ordinance in the name of the municipality. The municipal officers, or their authorized agent, are hereby authorized to enter into administrative consent agreements for the purpose of eliminating violations of this Ordinance and recovering fines without Court action. Such agreements shall not allow an illegal structure or use to continue unless there is clear and convincing evidence that the illegal structure or use was constructed or conducted as a direct result of erroneous advice given by an authorized municipal official and there is no evidence that the owner acted in bad faith, or unless the removal of the structure or use will result in a threat or hazard to public health and safety or will result in substantial environmental damage.

- (4) Fines. Any person, including but not limited to a landowner, a landowner's agent or a contractor, who violates any provision or requirement of this Ordinance shall be penalized in accordance with 30-A, M.R.S.A. section 4452.

17. Definitions.

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

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

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

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

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

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

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

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.

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

DBH – the diameter of a standing tree measured 4.5 feet from ground level.

Development – a change in land use involving alteration of the land, water or vegetation, or the addition or alteration of structures or other construction not naturally occurring.

Dimensional requirements - numerical standards relating to spatial relationships including but not limited to setback, lot area, shore frontage and height.

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

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

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

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

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

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

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

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

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

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

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

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

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

1. Of ten or more contiguous acres; or of less than 10 contiguous acres and adjacent to a surface water body, excluding any river, stream or brook, such that in a natural state, the combined surface area is in excess of 10 acres; and
 2. Inundated or saturated by surface or ground water at a frequency and for a duration sufficient to support, and which under normal circumstances do support, a prevalence of wetland vegetation typically adapted for life in saturated soils.
1. Freshwater wetlands may contain small stream channels or inclusions of land that do not conform to the criteria of this definition.

Functionally water-dependent uses - those uses that require, for their primary purpose, location on submerged lands or that require direct access to, or location in, coastal or inland waters and that can not be located away from these waters. The uses include, but are not limited to commercial and recreational fishing and boating facilities, excluding recreational boat storage buildings, finfish and shellfish processing, fish storage and retail and wholesale fish marketing facilities, waterfront dock and port facilities, shipyards and boat building facilities, marinas, navigation aids, basins and channels, retaining walls, industrial uses dependent upon water-borne transportation or requiring large volumes of cooling or processing water that can not reasonably be located or operated at an inland site, and uses that primarily provide general public access to coastal or inland waters.

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

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

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

Height of a structure - the vertical distance between the mean original (prior to construction) grade at the downhill side of the structure and the highest point of the structure, excluding chimneys, steeples, antennas, and similar appurtenances that have no floor area.

Home occupation - an occupation or profession which is customarily conducted on or in a residential structure or property and which is 1) clearly incidental to and compatible with the

residential use of the property and surrounding residential uses; and 2) which employs no more than two (2) persons other than family members residing in the home.

Increase in nonconformity of a structure - any change in a structure or property which causes further deviation from the dimensional standard(s) creating the nonconformity such as, but not limited to, reduction in water body, tributary stream or wetland setback distance, increase in lot coverage, or increase in height of a structure. Property changes or structure expansions which either meet the dimensional standard or which cause no further increase in the linear extent of nonconformance of the existing structure shall not be considered to increase nonconformity. For example, there is no increase in nonconformity with the setback requirement for water bodies, wetlands, or tributary streams if the expansion extends no further into the required setback area than does any portion of the existing nonconforming structure. Hence, a structure may be expanded laterally provided that the expansion extends no closer to the water body, tributary stream, or wetland than the closest portion of the existing structure from that water body, tributary stream, or wetland. Included in this allowance are expansions which in-fill irregularly shaped structures.

Individual private campsite - an area of land which is not associated with a campground, but which is developed for repeated camping by only one group not to exceed ten (10) individuals and which involves site improvements which may include but not be limited to a gravel pad, parking area, fire place, or tent platform.

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

Institutional – a non-profit or quasi-public use, or institution such as a church, library, public or private school, hospital, or municipally owned or operated building, structure or land used for public purposes.

Lot area - The area of land enclosed within the boundary lines of a lot, minus land below the normal high-water line of a water body or upland edge of a wetland and areas beneath roads serving more than two lots.

Marina - a business establishment having frontage on navigable water and, as its principal use, providing for hire offshore moorings or docking facilities for boats, and which may also provide accessory services such as boat and related sales, boat repair and construction, indoor and outdoor storage of boats and marine equipment, bait and tackle shops and marine fuel service facilities.

Market value - the estimated price a property will bring in the open market and under prevailing market conditions in a sale between a willing seller and a willing buyer, both conversant with the property and with prevailing general price levels.

Mineral exploration - hand sampling, test boring, or other methods of determining the nature or extent of mineral resources which create minimal disturbance to the land and which include reasonable measures to restore the land to its original condition.

Mineral extraction - any operation within any twelve (12) month period which removes more than one hundred (100) cubic yards of soil, topsoil, loam, sand, gravel, clay, rock, peat, or other like material from its natural location and to transport the product removed, away from the extraction site.

Minimum lot width - the closest distance between the side lot lines of a lot. When only two lot lines extend into the shoreland zone, both lot lines shall be considered to be side lot lines.

Multi-unit residential - a residential structure containing three (3) or more residential dwelling units.

Native – indigenous to the local forests.

Non-conforming condition – non-conforming lot, structure or use which is allowed solely because it was in lawful existence at the time this Ordinance or subsequent amendment took effect.

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

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

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

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

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

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

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

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

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

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

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

Recent floodplain soils - the following soil series as described and identified by the National Cooperative Soil Survey:

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

Recreational facility - a place designed and equipped for the conduct of sports, leisure time activities, and other customary and usual recreational activities, excluding boat launching facilities.

Recreational vehicle - a vehicle or an attachment to a vehicle designed to be towed, and designed for temporary sleeping or living quarters for one or more persons, and which may include a pick-up camper, travel trailer, tent trailer, camp trailer, and motor home. In order to be considered as a vehicle and not as a structure, the unit must remain with its tires on the ground, and must be registered with the State Division of Motor Vehicles.

Replacement system - a system intended to replace: 1.) an existing system which is either malfunctioning or being upgraded with no significant change of design flow or use of the structure, or 2.) any existing overboard wastewater discharge.

Residential dwelling unit - a room or group of rooms designed and equipped exclusively for use as permanent, seasonal, or temporary living quarters for only one family at a time, and containing cooking, sleeping and toilet facilities. The term shall include mobile homes and rental units that contain cooking, sleeping, and toilet facilities regardless of the time-period rented. Recreational vehicles are not residential dwelling units.

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

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

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

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

Service drop - any utility line extension which does not cross or run beneath any portion of a water body provided that:

1. in the case of electric service
 - a. the placement of wires and/or the installation of utility poles is located entirely upon the premises of the customer requesting service or upon a roadway right-of-way; and
 - b. the total length of the extension is less than one thousand (1,000) feet.
2. in the case of telephone service
 - a. the extension, regardless of length, will be made by the installation of telephone wires to existing utility poles, or
 - b. the extension requiring the installation of new utility poles or placement underground is less than one thousand (1,000) feet in length.

Setback - the nearest horizontal distance from the normal high-water line of a water body or tributary stream, or upland edge of a wetland, to the nearest part of a structure, road, parking space or other regulated object or area.

Shore frontage - the length of a lot bordering on a water body or wetland measured in a straight line between the intersections of the lot lines with the shoreline.

Shoreland zone - the land area located within two hundred and fifty (250) feet, horizontal distance, of the normal high-water line of any great pond or river; within 250 feet, horizontal distance, of the upland edge of a 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 wetland.

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

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

Stream - a free-flowing body of water from the outlet of a great pond or the confluence of two (2) perennial streams as depicted on the most recent edition of a United States Geological Survey 7.5 minute series topographic map, or if not available, a 15-minute series topographic map, to the point where the body of water becomes a river or flows to another water body or wetland within the shoreland area.

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

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

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.

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

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

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

Upland edge of a wetland - the boundary between upland and wetland. For purposes of a 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.

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

Water body - any great pond, river or stream.

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

Wetland - a freshwater wetland.

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

TOWN OF LEVANT

SUBDIVISION ORDINANCE



Adopted June 21, 1997

Amended June 24, 2002

Amended June 30, 2003

Amended June 25, 2005

Amended June 23, 2007

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Article 10 - Repeal of Conflicting Ordinances

The Town of Levant Subdivision Ordinance, adopted May 24, 1982, and all amendments thereto, is hereby repealed. Provided, however, that the repeal of said Ordinance shall not preclude the prosecution of any violations thereof that occurred on or before the effective date of repeal.

Article 100 - Purpose

The purpose of this Subdivision Ordinance shall be to assure the comfort, health, safety and general welfare of the people, to protect the environment, to provide for the orderly development of a sound and stable community and to uphold the State Subdivision Law (*MRSA Title 30-A, Section 4401.*)(Amended 6/24/02)

Article 200 - Authority and Administration

210 - Authority

211 - This Ordinance is adopted pursuant to and consistent with *MRSA Title 30-A, Section 4401.* (Amended 6/24/02)

212 - This Ordinance shall be known and cited as the “Subdivision Ordinance for the Town of Levant”.

220 - Administration and Enforcement

221 - The Planning Board of the Town of Levant, with the assistance of the Board of Selectmen (as specified in the Ordinance), shall administer this Ordinance.

222 - The provisions of this Ordinance shall pertain to all land proposed for subdivision, as herein defined, within the boundaries of the Town of Levant.

223 - No person, firm, corporation or other legal entity may sell, lease, develop, build upon or convey for consideration, offer or agree to sell, lease, develop, build upon or convey for consideration any land in a subdivision which has not been approved by the Levant Planning Board and recorded in the Penobscot County Registry of Deeds, nor shall such person, firm, corporation or other legal entity sell or convey any land in such approved subdivision unless a permanent marker is set at all lot corners of the lot sold or conveyed. The term “permanent marker”

includes but is not limited to the following: A granite monument, a concrete monument, an iron pin, or a drill hole in ledge. Approval for the purpose of recording shall appear in writing on the plan. No public utility, water district, sanitary district or any utility company of any kind shall install services to any lot in a subdivision for which a plan has not been approved.

224 - The Levant Board of Selectmen of the Town of Levant may institute proceedings to enjoin any violations of this Ordinance; and if a violation is found in Court, the Town of Levant may be allowed attorney fees.

225 - Any person, firm or corporation, or other legal entity found guilty of a violation of this Ordinance shall be punished by a fine of not more than \$1,000 for each such occurrence.

Article 300 - Waiver and Modification of These Regulations

310 -Where the Planning Board finds that extraordinary and unnecessary hardships may result from strict compliance with this Ordinance, or where there are special circumstances of a particular plan, it may waive any provisions of this Ordinance provided that such waiver will not have the effect of nullifying the purpose of this Ordinance, the Comprehensive Plan, the Shoreland Zoning Ordinance, the Land Use Ordinance, or any other ordinance of the Town of Levant. Provided, however, that any such waiver shall not become effective unless approved by the Board of Selectmen. Such waivers, when granted, must be duly noted on the transparencies submitted for the Final Plan Phase and any other plans submitted for Planning Board review.

320 - In granting any waiver, the Planning Board shall require such conditions as will, in its judgment, secure substantially the objectives of the requirements so waived. Such waiver shall not in any way jeopardize the health, welfare, or safety of the community.

330 - The Planning Board must put this request in writing to the Selectmen along with any recommendation.

Article 400 - Validity, Effective Date, Conflict of Ordinances, and Filing

410 -Should any Article or provision of this Ordinance be declared by the courts to be invalid, such Article shall not invalidate any other Article or provision of this Ordinance, and to this end, the provisions of this Ordinance are hereby declared to be severable.

420 - The effective date of this Ordinance is immediately at the time of the vote accepting this Ordinance.

430 - This Ordinance shall not repeal, annul, or in any way impair or remove the necessity of compliance with any other rule, regulation, by-law, permit, or provision of law. Where this Ordinance imposes a higher standard for the protection and promotion of health and safety, the provisions of this Ordinance shall prevail.

440 -A copy of this Ordinance shall be filed at the Penobscot County Registry of Deeds and with the Town Clerk and shall be accessible to any member of the public.

Article 500 - Amendments

The procedure to be followed in initiating and securing amendments to this Ordinance is as follows:

510 - Initiation

A proposal to amend this Ordinance may be initiated by:

- The Planning Board, by majority vote;
- The Board of Selectmen, through a request to the Planning Board;
- The Public, through a written petition signed by at least ten percent of the number of voters in the last gubernatorial election and registered to vote in the Town of Levant.

520 - Review

The process to be followed in adopting an amendment to this Ordinance is as follows:

- A. Proposed amendments must first be submitted to the Planning Board for their consideration.
- B. The Planning Board and Board of Selectmen shall, within thirty (30) days of receiving a proposed amendment, set a date to hold a joint public hearing on the proposed amendment.
- C. Notice of the public hearing shall be posted in the Municipal Office at least fourteen (14) days before the hearing. Notice shall also be published at least twice in a newspaper that complies with *I M.R.S.A. s.s. 601* and has a general circulation in town. The date of the first publication must be at least

fourteen (14) days before the hearing and the date of the second publication must be at least seven (7) days before the hearing. This notice shall contain a brief description of the nature of the proposed amendment.

- D. After the Planning Board votes to either support or oppose a proposed amendment, that proposed amendment shall be placed on the warrant for the Town Meeting next following the public hearing.
- E. The Planning Board shall report its official findings and conclusions in support or opposition in writing at the next Town Meeting following the public hearing.

530 - Enactment

A majority of the voters present and voting at the Town Meeting shall be required to enact the amendment(s).

540 - Effective Date

The provisions of this Ordinance and any amendments thereto shall become effective the day of their enactment.

Article 600 - Appeals

An appeal may be taken, within 30 days, from the Planning Board’s decision on the Final Plan, by any party to Superior Court in accordance with Rule 80B of the Rules and Civil Procedure.

Article 700 - Definitions

710 -Words and terms not defined in Article 720 shall have their customary dictionary meanings.

720 -The following words and terms, for the purpose of this Ordinance, shall be defined as follows:

721 -Subdivision is the division of a tract or parcel of land into three (3) or more lots within any five (5)-year period, whether accomplished by:

1. Sale or lease of land;
2. Offering to sell or lease land;
3. Construction, sale or lease of principal buildings; or
4. Offering to construct, sell or lease principal buildings.

The term “subdivision” also includes the division of a new structure or structures on a parcel or tract of land into three (3) or more dwelling units within a five-year period, or by the construction or placement of three (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 three (3) or more dwelling units within a five-year period.

In determining whether a tract or parcel of land is divided into three or more lots, the first dividing of such tract or parcel shall be considered to create the first two (2) lots and the next dividing of either of said first two (2) lots, by whomever accomplished, unless otherwise exempted herein, shall be considered to create a third lot, unless:

- Both dividings are accomplished by a subdivider who has retained one of the lots for his own use as a single-family residence that has been the subdivider’s principal residence for a period of at least five (5) years immediately preceding the second division; or
- The division of the tract or parcel is otherwise exempt from this definition.

A mobile home park shall be considered to be a subdivision.

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.

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.

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.

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 cannot be given for consideration that is more than 1/2 the assessed value of the real estate.

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.

A division accomplished by the transfer of any interesting 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.

In determining the number of dwelling units in a structure, the provisions regarding the determination of the number of lots shall apply, including exemptions from the definition of a subdivision of land. (Amended 6/24/02)

722 -Tract or parcel of land - All contiguous land in the same ownership, provided that, land located on opposite sides of, a public road shall be considered each a separate tract of land unless such road was established by the owner of land on both sides thereof.

723 -Minor Subdivision - A subdivision containing four (4) lots or dwelling units or less and which does not involve the construction or reconstruction of a road.

724 - Major Subdivision - A subdivision which contains five (5) or more lots or dwelling units

725 - Street - A street means and includes such ways as alleys, avenues, boulevards, highways, roads, and other rights-of-way intended for use by motorized vehicles.

726 - Minor Residential Street - A dead-end road or a loop road with both entrances on the same street, and is classified as a Local Street in the Levant Land Use Ordinance, Art. 1200, Sec. B. (Amended 6/24/02)

727 - Collector Street - A street which serve as a feeder to arterial streets, and a collector of traffic from minor streets, and is classified as a Collector Street in the Levant Land Use Ordinance, Art. 1200, Sec. B. (Amended 6/24/02)

728 - Arterial Street - A street which serves heavy flows of traffic and which is used primarily as a route for traffic between communities and/or other heavy traffic generating areas and includes, but is not limited to, those so classified in the Levant Land Use Ordinance, Art. 1200, Sec. B. (Amended 6/24/02)

729 - Cul-de-Sac: End of a street having only one outlet for the purpose of reversal of traffic movement. Such as a circular turn around at end of street.

730 - Industrial or Commercial Street: Streets servicing industrial or commercial uses.

732- Applicant: The person applying for subdivision approval under these regulations.

733- Buffer Area: A 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 (e.g. noise, dust, visibility, glare, etc) on adjacent properties or on sensitive natural resources.

734- Cluster Subdivision: A subdivision in which the lot sizes are reduced below those normally required in return for the provision of preserved open space.

735- Preserved Open Space: A minimum of ten (10) acres of land set aside through easement, transferred to the town or trust for the purpose of preserving the land in a manner acceptable to the Planning Board and Board of Selectmen.

736- Common Recreation Area: Land within or related to the 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. It may include complimentary structures and improvements, typically used for maintenance and operation of the recreation area, such as outdoor recreation.

737- Complete Application: An application shall be considered complete upon submission of the required fee and all information required by these regulations. The Board shall issue a written statement to the applicant upon its determination that the application is complete.

738- Comprehensive Plan: A document or interrelated documents adopted by the legislative body, 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.

739- Density: The number of dwelling units per acre of land.

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

741- Driveway: A vehicular accessway serving four (4) dwelling units or less and less than four hundred (400) feet long.

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

743- Engineered Subsurface Waste Water Disposal System: A subsurface waste water system designed, installed, and operated as a single unit to treat 2,000 gallons of effluent per day or more, or any other system designed to treat waste water with characteristics significantly different from domestic waste water.

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

745- Fresh Water Wetland: Areas which are inundated or saturated by surface or ground water at a frequency and duration sufficient to support, and which under normal circumstances do support, a prevalence of wetland vegetation typically adapted for life in saturated soils; and are not part of a great pond, coastal wetland, river, stream, or brook. Freshwater wetlands may contain small stream channels or inclusions of land that do not conform to the above criteria.

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

747- 100 Year Flood: The highest level of flood that, on average, has a one percent (1%) chance of occurring in any given year.

748- High Water Mark 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.

749- Level of Service: A description of the operating conditions a driver will experience while traveling on a particular street or highway calculated in accordance with the provisions of the *Highway Capacity Manual*, 1991 edition, published by the National Academy of Sciences, Transportation Research Board. There are six levels of service ranging from Service A, with traffic free flow and no delays to Level of Service F, with forced flow and congestion resulting in complete failure of the roadway.

750- Multifamily Development: A subdivision which contains three or more dwelling units on land in common ownership, such as apartment buildings, condominiums or mobile home parks.

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

752- Planning Board: The Planning Board for the Town of Levant.

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

754- Professional Engineer: A professional engineer, licensed in the State of Maine.

755- Public Water System: A water supply system that provides water to at least fifteen (15) service connections or services water to at least twenty-five (25) individuals for at least thirty (30) days a year.

756- Recording Plan: An original of the Final Plan, suitable for recording in the Registry of Deeds and which need show only information relevant to the transfer of an interest in the property, and which does not show other information presented on the plan such as utility locations and sizes, culverts, and building lines.

757- 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 these regulations as a reference for unobstructed road visibility.

758- Sketch Plan: Conceptual maps, renderings, and supportive data describing the project proposed by the applicant for initial review prior to submitting an application for subdivision approval.

759- Abutter: A person owning land that borders or is directly across the street from the proposed subdivision.

760- Planning Board Approval: An affirmative vote by at least three (3) Board members present and eligible to vote.

761- Planning Board Denial: A negative vote by at least three (3) Board members present and eligible to vote.

762- Planning Board Majority: An agreement, by vote, of at least (3) three Board members present and eligible to vote.

763- Municipal Engineer: A person that meets the requirements of Article 1110 and specifically oversees the construction of roads, ditches, drainage, etc.

764- Common Septic System: A sewage system that serves two (2) or more homes.

765- Best Management Practices: Activities to control erosion as outlined by the Cumberland County Soil and Water Conservation District.

Article 800 - Procedures for Subdivision Review

810 - Introduction

Whenever any subdivision of land is proposed in the Town of Levant, the subdivider or his duly authorized agent shall apply in writing for approval of such proposed subdivision in accordance with the procedures in Article 820 (Sketch Plan Review Phase), 830 (Preliminary Plan Phase), and 840 (Final Plan Phase).

820 - Sketch Plan Review Phase

821 - Subdividers meeting with the CEO.

- A. Pre-application Meeting with the Code Enforcement Officer (CEO):
The CEO will explain the permit review process to the Applicant and review a copy of the proposed application. The CEO may inform the Applicant of the general completeness of the application.

- B. Copies of Applications
Persons seeking a Planning Board approval shall submit eight (8) copies of an application and sketch plan with all the information required in Article 823 of this Ordinance to the Planning Board at least seven (7) days before a regularly scheduled meeting of the Planning Board.

- C. Verification
The CEO, Town Clerk, or agent shall issue the Applicant a dated receipt for the application. The CEO shall verify that the abutter notification forms are complete and in pre-addressed stamped envelopes. The CEO or Town staff shall mail these within five (5) business days.

822 -The purpose of this conference between the subdivider or his authorized agent and the Planning Board are:

- a. To classify the subdivision as a major or a minor subdivision;
- b. To provide an opportunity for the subdivider and the Planning Board to informally review the subdivider’s ideas for use of the land;
- c. To discuss procedures for subdivision review and approval;
- d. To vote whether to waive the requirement for preliminary approval for minor subdivisions;
- e. If road construction is involved in the proposal, to classify the road as either private (mobile home parks only), minor, collector or arterial. A road name that has been approved by the Levant Board of Selectmen must also be provided.
- f. To discuss any apparent potential problems associated with the subdivision;
- g. To arrange for on-site inspection of the subdivision site;
- h. To determine completeness of the Sketch Plan and application.

823 -The Sketch Plan shall consist of an outline of the proposed subdivision, drawn on a map, showing the proposed layout of streets, lots and/or dwelling units, and other features in relation to existing conditions. The Sketch Plan may be a free-hand pencil sketch. Accompanying the Sketch Plan shall be a written application which includes a description of existing covenants and easements; the zoning and shoreland zoning; medium intensity soils survey information, information about available community facilities and utilities on or near the site, information describing the subdivision proposal including the number of residential lots, typical lot width and depth, plans regarding sewer and water service, road construction, and any proposed non-residential areas. Persons seeking subdivision approval shall also submit a completed abutter notification form, and a pre-addressed stamped envelope for each abutter as specified in this Ordinance. Eight (8) copies of the deed relating to the tract of land to be subdivided must also be provided by the applicant.

824 -Other than the classification of the subdivision and the roads (if necessary), and establishing the procedure for subdivision review, no binding commitments shall be made between the subdivider and the Board at this stage.

825 -The Planning Board shall act on the Sketch Plan within thirty (30) days of the time it is submitted and shall notify the subdivider of its action in writing, within thirty (30) days of its action.

826 -Inspection of Site - In order for the Board to be more fully informed about the site of the proposed subdivision, the subdivider shall arrange for an inspection of the site with the Board or an individual appointed by the Board to act as its representative for the inspection. The Sketch Plan phase of the review process shall not be considered complete until such inspection has been made.

NOTE: Site inspections are considered to be a Public Hearing: Notice must be given as specified in Article 832.6.

830 - Preliminary Plan Phase

831 - Purpose

The purpose of Preliminary Plan Review is to give the Planning Board an opportunity to review the subdivider's proposal while it is in the planning stage and to make recommendations to the subdivider as seem appropriate based on state and local laws and regulations. The intent is that all major issues relative to the design of the subdivision will be identified and resolved prior to the submission of the Final Plan.

832 - Procedures

832.1 Within six (6) months after the classification of the Sketch Plan by the Planning Board, the subdivider shall submit an application for the

consideration of a Preliminary Plan. Failure to do so may require re-submission of the Sketch Plan to the Planning Board for reclassification. The Preliminary Plan shall substantially conform to the layout shown on the Sketch Plan plus any recommendations made by the Planning Board.

832.2 The application for approval of the Preliminary Plan shall be accompanied by a fee of twenty-five (25) dollars for each lot and/or dwelling unit in the subdivision, payable by check to the Town of Levant. In addition, the subdivider must deposit the necessary fees into the Technical Review Account as provided in Article 1120 of this Ordinance. The application shall not be processed until all fees required by this Ordinance are paid in full.

832.3 The subdivider, or his duly authorized representative, shall attend the meeting of the Planning Board to discuss the Preliminary Plan.

832.4 The time of submission of the Preliminary Plan shall be the date of the regular meeting of the Planning Board at which eight (8) copies of the application for Preliminary Plan approval, complete and accompanied by the required fee and all data required by Article 833 (Preliminary Plan Phase-Submissions) of this Ordinance have been filed with the Planning Board.

832.5 Within thirty (30) days from receipt of a Preliminary Plan, the Planning Board shall notify the subdivider in writing either that the application is a complete application or, if the application is incomplete, the specific additional material needed to make a complete application. After the Planning Board has determined that a complete application has been filed, it shall notify the subdivider and begin its full evaluation of the proposed subdivision.

832.6 Public Hearing - The Planning Board shall hold a public hearing on the Preliminary Plan within thirty (30) days of the time the Preliminary Plan is deemed complete by the Planning Board. The requirement for a public hearing may not be waived by the Planning Board. Said hearing shall be posted in Levant at the town office, post office, at least two (2) businesses, and other locations where Town Warrants are posted at least seven (7) days prior to the hearing. The Town shall also send notice of Public Hearing to abutters as listed in Article 833.2 with stamped addressed envelopes provided by the applicant. The purpose of the Public Hearing shall be to enable the Planning Board to receive testimony from the public relative to any municipal or state law, ordinance, standard, or regulation which is applicable to the proposed subdivision and the relationship of the subdivision to the law, ordinance, standard, or regulation.

832.7 Within thirty (30) days after the public hearing, the Planning Board shall take action to give preliminary approval, with or without modifications, or to disapprove such Preliminary Plan. The reasons for any modification required or the grounds for disapproval shall be stated in the records of the Planning Board. The Planning Board shall engage the services of outside consultants to aid in the review or evaluation of the proposed subdivision. The cost of such consultant services shall be borne by the subdivider and paid for by funds deposited into the Technical Review Account as outlined in Article 1120. Failure of the Planning Board to act within the required time limit shall constitute denial of the Preliminary Plan.

832.8 When granting approval of a Preliminary Plan, the Planning Board shall state the conditions of such approval, if any, with respect to: (1) the specific changes which it will require in the Final Plan; and (2) the character and extent of the required improvements for which waivers may have been requested and which in its opinion may be waived without jeopardy to the public health, safety, and general welfare. The Planning Board shall notify the subdivider, in writing, of its decision and any conditions and reasons associated with it.

832.9 Approval of a Preliminary Plan shall not constitute approval of the Final Plan but rather it shall be deemed an expression of approval of the design submitted on the Preliminary Plan as a guide to the preparation of the Final Plan. The Final Plan shall be submitted for approval by the Planning Board and for recording upon fulfillment of the requirements of these standards and conditions of the preliminary approval, if any.

833 - Submissions

Eight (8) copies of the Preliminary Subdivision Plan shall be submitted at least seven (7) days prior to the Planning Board meeting at which the Preliminary Plan is to be presented. They may be either printed or reproduced on paper. The Preliminary Plan shall be not less than 8 1/2" by 11" and not more than 48" by 36". The plan shall be drawn to scale in which one inch equals no more than 100 feet. The Preliminary Plan and supporting data shall include the following information:

833.1 Information from the Applicant

Information to be on Preliminary Plan.	Written information to accompany Preliminary Plan.	
X	X	1. Name of owner.
X	X	2. Name of applicant (if other than owner).
	X	3. If applicant is a corporation, state whether the corporation is licensed to do business in Maine, and attach a copy of Secretary of State's Registration.
	X	4. Name of applicant's authorized representative
X	X	5. Name, address, and number of licensed Professional Engineer or Land Surveyor who prepared the plan.
	X	6. Address to which all correspondence from the Planning Board should be sent.
	X	7. What interest the applicant has in the parcel to be subdivided (option, land purchase contract, record ownership, etc.).
X	X	8. What interest the applicant has in any property abutting parcel to be subdivided.
	X	9. State whether Preliminary Plan covers entire contiguous holdings of applicant or not.

833.2 - Information on Parcel to be Subdivided

Information to be on Preliminary Plan.	Written information to accompany Preliminary Plan.	
X		1. Location of property: Book and Page numbers (from Registry of Deeds).
X		2. Location of property: Map and lot numbers (from Assessor’s Office).
X		3. Map survey of tract to be subdivided, certified by a licensed Land Surveyor, tied to established reference points.
X		4. Acreage of parcel to be subdivided.
X	X	5. A soils report, identifying soil types and location of soil test areas. Evidence of soil types and location of soil test areas. Evidence of soil suitability according to the Maine State Plumbing Code shall be presented if subsurface sewage disposal is proposed. There shall be at least one (1) soil test per lot if subsurface sewage disposal is proposed.
	X	6. Names and addresses of property owners abutting parcel to be subdivided. Envelopes stamped and pre-addressed with each abutter’s name and address.
	X	7. Indicate the nature of any restrictive covenants to be placed on the deeds.
X	X	8. All applicable Zoning.

833.3 - Information on Subdivision

Information to be on Preliminary Plan.	Written information to accompany Preliminary Plan.	
X	X	1. Proposed name of subdivision.
X	X	2. Number of lots and lot sizes.
X		3. Date, north point, graphic map scale.
X	X	4. Proposed lot lines with approximate dimensions and suggested locations of buildings, subsurface sewage disposal systems, and wells.
X	X	5. A soils report, identifying soil types and location of soil test areas. Evidence of soil types and location of soil test areas. Evidence of soil suitability according to the Maine Plumbing Code shall be presented if subsurface sewage disposal is proposed. There shall be at least one (1) soil test per lot if subsurface sewage disposal is proposed. A high density soil survey shall be required for all clustered development.
X		6. A location map, showing the relation of the proposed subdivision to adjacent properties and to the general surrounding area. The location map shall show all the area within two-thousand (2,000) feet of any property line of the proposed subdivision and may be drawn at a scale appropriate for the area shown.
X		7. Location and size of existing watercourses and other essential existing physical features including wetlands and floodplains.
X		8. Location and size of any existing culverts and drains on the property.
X		9. Location, names and widths of existing and proposed streets, highways, easements, building setback lines, parks and other open spaces.
X		10. Contour lines at an interval of not more than five (5) feet in elevation, unless otherwise specified by the Board. All elevations shall be referred to U.S.G.S. datum.

Information to be on Preliminary Plan.	Written information to accompany Preliminary Plan.	
X		11. Typical cross-sections of proposed grading for roadways and sidewalks, including materials to be used on roadways and sidewalks.
X		12. Storm drainage plan indicating the approximate location and size of proposed lines and means of disposal.
X	X	13. If a common sewage disposal system is proposed, the plan shall show the means of sewage disposal and the system of sewage collection and treatment.
X		14. Location of all existing and proposed utilities such as electricity and telephone.
X		15. Location and type of landscaping including natural growth to be left in place and nursery stock to be planted. This information may be indicated on a Preliminary Plan print.
X		16. If the application covers only a part of the subdivider’s entire holding, a map of the entire tract, drawn at a scale of one (1) inch equals not more than five-hundred (500) feet, showing an outline of subdivided area with its proposed streets and an indication of the probable future street system in the remaining portion of the tract. The part of the subdivider’s holding submitted shall be considered in light of the entire holding.
X	X	17. If the Preliminary Plan application covers more area than the final plan will cover, a map showing the phasing of the entire project, drawn at a scale of one (1) inch equals not more than five-hundred (500) feet and indicating the proposed timing of each phase.
X	X	18. Other reasonable information not indicated above, as specified by the Board.

840 - Final Plan Phase

841 – Procedure

1. Within six (6) months of the date of the Planning Board action on the Preliminary Plan, the subdivider shall submit the Final Plan to the Planning Board. Failure to submit the Final Plan within the designated time period may require resubmission of the Preliminary Plan if such was required or of the Sketch Plan if the Preliminary Plan was not required. The Final Plan shall consist of two (2) original transparencies of one or more maps or drawings, and eight (8) copies of all items (including maps, drawings, and written information) necessary to complete the resubmission. Such submissions must be submitted to the Planning Board at least seven (7) days prior to the meeting at which the Final Plan is to be discussed.
 - a. The application for approval of the Final Plan shall be accompanied by a fee of \$50.00 for each lot and/or dwelling unit in the subdivision, payable by check to the Town of Levant, Maine. (Amended 6/30/03)
 - b. The subdivider shall pay the required funds into the Technical Review Account as outlined in Article 1120.
2. The subdivider, or his duly authorized representative, shall attend the meeting of the Planning Board to discuss the Final Plan.
3. The time of submission of the Final Plan shall be considered to be the date of the regular meeting of the Planning Board at which the complete application containing all information required in Article 842 (Final Plan-Submissions) of this Ordinance has been filed with the Planning Board. The Planning Board shall issue the subdivider a dated receipt for the Final Plan at the time of submission of the Final Plan.
4. Within thirty (30) days from receipt of a Final Plan, the Planning Board shall notify the subdivider in writing either that the application is a complete application or, if the application is incomplete, the specific additional material needed to make a complete application. After the Planning Board has determined that a complete application has been filed, it shall notify the subdivider and begin its full evaluation of the proposed subdivision.
5. Prior to submitting the Final Plan, the subdivider of a major subdivision in which new roads will be built, existing roads will be upgraded, or other improvements will be completed, shall file an Improvement Guarantee with the Selectmen. The purpose of the guarantee is to insure that all required subdivision improvements shall be satisfactorily completed. The amount, form and duration of the guarantee shall be that defined under Article 900 (Improvement Guarantees) of this Ordinance.

6. Public Hearing - The Planning Board shall hold a public hearing on the Preliminary Plan within thirty (30) days of the time that the Preliminary Plan is deemed complete by the Planning Board. The Planning Board shall advertise the public hearing in the manner described in Article 832.6 of this Ordinance. The Town shall also send notice of Public Hearing to abutters as listed in Article 833.2. The purpose of the public hearing shall be to enable the Planning Board to receive testimony from the public relative to any municipal or state law, ordinance, standard, or regulation which is applicable to the proposed subdivision and the relationship of the subdivision to the law, ordinance, standard, or regulation.
7. Review and Action of Final Plan - The Board shall, within thirty (30) days of a public hearing, or within such other time limit as may be mutually agreed to by the Board and the subdivider, review the application and deny or grant approval of the proposed subdivision, as may be deemed advisable to satisfy the criteria contained in these regulations and state law, and to preserve the public's health, safety and general welfare. In all instances, the burden of proof shall be upon the subdivider. The Planning Board shall engage the services of outside professionals to aid them in their review or evaluation of the proposed subdivision. The cost of such consultant services shall be borne by the subdivider and shall be paid for by funds deposited into the Technical Review Account as outlined in Article 1120 of this Ordinance. In issuing its decision, the Planning Board shall make findings of fact establishing that the proposed subdivision does or does not meet the provision of this Ordinance and the state subdivision law.
8. The Plan must be approved without condition by at least three (3) Board members present and eligible to vote. Those voting in the affirmative shall sign both transparencies and the date of approval shall be written on both transparencies. The Planning Board shall retain one (1) signed transparency. No signed transparency shall be returned to the applicant until all application and/or technical review fees have been paid in full. The Planning Board shall maintain a permanent record of its action on the Final Plan.
9. No changes, erasures, modifications, or revisions shall be made in any subdivision plan after approval has been given by the Planning Board and endorsed in writing on the plan, unless the plan is first re-submitted to the Planning Board and the Board approves the modifications. In the event that any such subdivision plan is recorded without complying with this requirement, the same shall be considered null and void.
10. The subdivider shall file a signed subdivision plan at the Penobscot County Registry of Deeds within ninety (90) days of the date of approval. Any plan not filed within ninety (90) days will be considered null and void unless the particular circumstances of said subdivider or subdivision warrants the

Planning Board to grant an extension in writing. Such extension shall not exceed two (2) additional ninety-day periods.

11. If the Planning Board fails to take action within sixty (60) days of the time of submission of a complete Final Plan, or within the mutually agreed time, as specified above, the subdivision plan shall be deemed disapproved.
12. Approval of a subdivision plan does not imply that the Town will accept any road in the subdivision. Only the legislative body of the Town of Levant, the Town Meeting, can accept a road as a public way. If the Town of Levant accepts a road, a warrantee deed to the entire right-of-way will be required.
13. Building permits shall not be issued for any lot within an approved subdivision, until all of the proposed improvements relating to the subdivision have been completed.

842 - Submissions

The Final Plan shall consist of two (2) original transparencies of one or more maps or drawings and eight (8) copies of all items (including maps, drawings, and written information) necessary to complete the submission. The Final Plan shall be not less than 8 1/2” by 11” and not more than 48” by 36”. The plan shall be drawn at a scale in which one inch equals no more than one-hundred (100) feet and shall be oriented so the north direction is the same on all sheets. In cases where maps are greater in size than 8 1/2” by 11”, one reduction shall be provided of all maps that contain information about lot layout.

In addition, to all applicable items required on the Preliminary Plan, unless otherwise indicated by the Planning Board, the following items shall be required as part of the Final Plan submission:

Information to be on the Final Plan.	Written information to accompany Final Plan.	
X		1. Licensed Land Surveyor or Engineer - The name, registration number, seal and signature of the land surveyor and/or engineer who prepared the plan. This information shall be on all sheets including cross section and profile sheets.
X		2. Streets - The names and lines, lengths of all straight lines, the deflection of angles, radii, length of curves, and central angles of all curves, and tangent distances and bearings (shown on plan).
X		3. Street Profiles - Profiles of centerlines of proposed new streets on sheets separate from the plan, at a horizontal scale of one inch equals forty (40) feet. All elevations shall refer to U.S.G.S. datum.
X		4. Street Cross Section - Cross section at 50-foot horizontal intervals of proposed new streets, on sheets separate from the plan, plotted at a scale of one inch equals five (5) feet. All elevations shall refer to U. S.G.S. datum.
X		5. Sewer Profiles - If a common sewage disposal system is proposed, a plan and profile of the system to be used and evidence that it will comply with the State of Maine Plumbing Code.

X	X	6. Open Spaces - The designation of all easements, areas reserved for or dedicated to public use, and areas reserved by the subdivider. If open space or recreation land is to be dedicated to the town, accompanying the plan shall be written copies of any documents of land dedication and a letter from the town attorney that s/he is satisfied with the legal sufficiency of the documents conveying such land dedication.
Information to be on the Final Plan.	Written information to accompany Final Plan.	
X	X	7. Storm Drainage Plan – Indicating the location and size of the proposed lines and their profiles and means of disposal.
X		8. Lots - The location, bearing and length of every line; all lots to be numbered in accordance with the practice of the Town of Levant.
X		9. Permanent Reference Monuments - The location of permanent monuments and pins, identified as existing or proposed.
	X	10. Improvement Guarantee - Where applicable, accompanying the Plan shall be a letter from the Board of Selectmen indicating that the form, amount and duration of the improvement guarantee is sufficient and that it has been filed with the Board.
X		11. Approval Space - Suitable space to record on the approved plan the date and Planning Board member signatures. This space shall be similar to the following example:

Approved: Town of Levant
 Planning Board

_____, Chairman

Date:_____

Article 900 - Improvement Guarantees

910 - Improvement Guarantees Required

Before the submission of a Final Plan, the subdivider in major subdivisions as defined in this Ordinance shall provide the Town with improvement guarantees if road construction, offsite improvements, utilities, common water and/or sewer, or drainage work is planned. Such improvement guarantees shall be in the form of one or more of the guarantee options listed in Article 980 that will cover at least 100% of the cost of completing the construction of street, storm drainage system, utilities, common water and/or sewer and any offsite improvements. If the subdivider fails to complete the required improvements or fails to complete them satisfactorily to the Levant Board of Selectmen in accordance with the approved final subdivision plan.

920 – Procedure

If the Planning Board determines by majority vote that road construction, offsite improvements, utilities, common water, common sewer, or drainage work is required to accept the subdivision, the Planning Board shall, in writing, describe to the Board of Selectmen the improvements necessary to approve the project.

The subdivider shall file with the Selectmen a proposed improvement guarantee, a plan by a professional engineer for the required improvements, and estimates to complete the required work by at least two contractors.

The Selectmen shall request an opinion of the improvement plan and the cost of the improvements from the Municipal Engineer. The Municipal Engineer shall also recommend what types of inspections would be required to guarantee the standards of this Ordinance and the approved plan are met. The recommended inspections shall become part of any improvement guarantee accepted by the Selectmen.

The Selectmen shall determine whether the form, amount and duration of the improvement guarantee are sufficient.

In the event the Selectmen refuse to approve the proposed improvement guarantee as filed by the subdivider, they shall notify the subdivider and the Planning Board. The Planning Board shall not grant final approval until it has received such notification from the Selectmen.

The burden of submitting improvement guarantees in compliance with this Ordinance shall at all times remain with the subdivider.

930 - Time Limit

931 - Completion Deadline

All required improvements within a subdivision shall be completed within two (2) years of final subdivision approval. The improvement guarantee must provide performance protection to the Town during said two (2) year period plus at least six (6) months following the expiration of the two (2) year period. The additional six (6) month period is required as protection to the Town in the event the subdivider fails to complete the required improvements or fails to complete them satisfactorily.

932 - Extension

The Board of Selectmen may extend the completion deadline for two (2) additional years at one-year increments only where the subdivider presents substantial reason for doing so. No request for extension shall be considered until at least six (6) months prior to the original or extended completion deadline. Before extending the initial deadline or the initial extension, the Selectmen shall require that the improvement guarantee be extended in duration to cover the extended period of time plus an additional six (6) month period. Before extending the initial deadline or the initial extension, the Selectmen shall review the form and amount of the improvement guarantee to make certain it remains adequate.

940 - Inspection and Certification

941 – The Municipal Engineer and/or the Board of Selectmen, and/or their duly appointed representative shall regularly inspect the construction of the required improvements for defects. The subdivider shall cooperate with the Selectmen or their representative who is carrying out these inspections. Upon completion of the improvements, the Selectmen shall notify the subdivider and the Planning Board, in writing, that the improvements have or have not been satisfactorily completed according to the approved final subdivision plan. If the improvements have not been satisfactorily completed, the Selectmen shall list the defects.

For all road construction, the following inspections are required by, and must be approved by, the Municipal Engineer before work may continue:

- Stumping and grubbing;
- Sub-grade preparation, and drainage;
- Application of the base gravel;
- Application of final grade;
- Hot top, and seeding.

942 - Upon completion of the improvements, the subdivider shall file the following with the Board of Selectmen:

- a. A sworn statement from the subdivider’s engineer that all required improvements are completed in strict compliance with all applicable construction standards and the approved subdivision plan and that the engineer knows of no defects from any cause in the improvements;
- b. A sworn statement from the subdivider that the improvements are free and clear of any encumbrance or lien and that the subdivider knows of no defects from any cause in the improvements.

950 - Release of Guarantee

As soon as the Municipal Engineer and/or Board of Selectmen or their authorized representative have inspected the improvements and certified that they are satisfactorily completed, and the subdivider has filed the letter required in Article 942 of this Ordinance with the Selectmen, the Selectmen shall release the previously required improvement to the subdivider.

960 - Reduction of Guarantee

The Board of Selectmen may reduce, at their discretion, the guarantee subject to the following provisions:

- a. The project is 90% complete as determined by the Town Engineer.
- b. There are no deficiencies in the project.
- c. A cash bond performance guarantee is agreed to for one-hundred fifty percent (150%) of the remaining cost of the project.

970 - Incomplete or Unsatisfactory Work

If the Board of Selectmen determines, according to the procedures laid out in Article 940, Inspection and Certification of this Ordinance, that the improvements have not been satisfactorily completed according to the accepted subdivision plan within the agreed upon time, they shall inform the subdivider in writing of the Town's intent to exercise its rights against the improvement guarantee. They shall cause the incomplete or unsatisfactory work to be completed and to be paid for from the improvement guarantee assets. Any guarantee assets unused in the completion of the unsatisfactory or incomplete work, and associated costs, shall be returned to the subdivider at the discretion of the Selectmen.

980 - Improvement Guarantee Options

981 - Performance Bond

Under this improvement guarantee option, the subdivider shall obtain a subdivision bond from a surety bonding company authorized to do business in the State of Maine. The bond shall be payable to the Town of Levant and shall be in an amount sufficient to cover the full cost of all required improvements as estimated by a licensed Professional Engineer and as approved by the Board of Selectmen. The duration of the bond shall be for a period of time acceptable to the Selectmen, but in any case shall be for at least two (2) years and six (6) months and for not more than three (3) years, unless the subdivider is granted an extension in accordance with Article 932 of this Ordinance. In the event an extension is granted, the Selectmen shall require the duration of the subdivision bond to be extended for at least six (6) months from the termination of the new time limit but not for more than one (1) year from the termination of the new time limit.

982 - Conditional Agreement

The Board at its discretion may provide for the applicant to enter into a binding agreement with the municipality in lieu of the other financial guarantees. Such an agreement shall provide for approval of the Final Plan on the condition that no lots be sold or built upon until either:

- a. The Municipal Engineer or other agent of the Board of Selectmen has certified that all of the required improvements have been installed in accordance with these regulations and with the regulations of the appropriate utilities; or
- b. A performance guarantee, acceptable to the Town of Levant, is submitted in an amount necessary to cover the completion of the required improvements.

Notice of the agreement and any conditions shall be recorded on the final plan that is recorded at the Registry of Deeds.

983 - Letter of Credit

Under this improvement guarantee option, the subdivider shall provide as a guarantee an irrevocable letter of credit from a bank or other reputable institution satisfactory to the Board of Selectmen, such letter of credit to be in a form satisfactory to the Selectmen. The letter of credit shall be for an amount sufficient to cover the full cost of all required improvements as estimated by a licensed Professional Engineer and as approved by the Selectmen. The letter of credit shall be deposited with the Selectmen and shall certify the following:

- a. That the creditor does guarantee funds in an amount equal to the costs of completing all required improvements as estimated for the subdivider by a licensed Professional Engineer approved by the Selectmen,
- b. In case of failure on the part of the subdivider to complete the specified improvements satisfactorily within the required time period, the creditor shall pay to the Town of Levant immediately, and without further action, such funds as are necessary to finance the proper completion of these improvements, up to the credit limit stated in the letter;
- c. That the letter of credit is valid for the period of time required by the Selectmen. The period of time, not less than two (2)

years and six (6) months from the date of subdivision approval, shall be stated in the letter. During that time, the letter may not be withdrawn or reduced in amount except with the approval of the Selectmen.

984 - Cash Escrow

Under this improvement guarantee option, the subdivider shall provide as guarantee cash held in an account at a bank or other reputable institution subject to the approval of the Selectmen. The amount of cash shall be in an amount sufficient to cover the full cost of all required improvements as estimated by a licensed Professional Engineer who is approved by the Selectmen. The subdivider shall enter into an agreement with the Town that shall stipulate the terms under which the Town may accept a cash escrow.

Article 1000 - General Requirements and Design Standards

In considering applications for subdivision of land, the Planning Board shall be guided by the standards set forth hereinafter. The said standards shall be considered to be minimum requirements and shall be waived by the Planning Board only under circumstances set forth in Article 300, Waiver and Modification of These Regulations, of this Ordinance.

1010 - General Requirements

1011 - Conformity with other laws and regulations

All proposed subdivisions shall be in conformity with the Comprehensive Plan of the Town of Levant, as amended, and with the provisions of all pertinent State and local codes, ordinances, laws, and regulations.

1012 - Character of the Land

Land to be subdivided shall be of such character that it can be used safely for building purposes without danger to health, or peril from fire, flood, or the menace. The Planning Board shall not approve such portions of any proposed subdivision that are located on land within the 100-year frequency flood plain, or on wetland which must be filled or drained, or on land created by diverting a watercourse, or on land which cannot be provided with adequate means of sewage disposal.

1020 – Lots

1021 – Minimum Lot Size

Minimum lot size one acre unless otherwise specified.

1022 - Lots to be Buildable

The lot arrangement shall be such that, in constructing a building in compliance with the ordinances of the Town of Levant and laws of the State of Maine, there will be no foreseeable difficulties for reasons of topography or other conditions.

1023 - Side Lines

All side lines of lots shall be at right angles to straight street lines and radial to curved street lines, unless a variance from this rule will give a better street or lot plan.

1024 - Corner Lots

In general, corner lots should be larger than interior lots to provide for adequate building setback from each street and to provide a desirable building site. Corner lots shall be large enough to accommodate a 150x150-foot square building area. Corner lots shall comply with the required minimum frontage for each street classification on which they abut. (Amended 6/30/03)

1030 - Drainage Improvements

1031 - Removal of spring and surface water

The subdivider may be required by the Planning Board to carry away by pipe or open ditch any spring, surface, or storm water that may exist either previous to, or as a result of the subdivision. Such drainage facilities shall be located in the street right-of-way where feasible, or in perpetual unobstructed easements of appropriate width. All drainage structures shall be constructed in accordance with Best Management Practices.

1032 - Drainage structure to accommodate potential development upstream

A culvert or other drainage facility shall be large enough to accommodate potential runoff from its entire upstream drainage area, whether inside or outside the subdivision.

1033 - Responsibility for downstream drainage

If requested by the Planning Board, the subdivider's engineer shall study the effect of the proposed subdivision on the existing downstream drainage facilities outside the area of the subdivision. Where it is anticipated that the additional runoff incident to the development of the subdivision will overload an existing downstream drainage facility during a storm with recurrence interval of five (5) years, the Planning Board shall notify the Selectmen of such potential condition. In such case, the Planning

Board shall not approve the subdivision until provision has been made for the improvement of said condition.

1034 - Planning Board shall require that easements for drainage be turned over to the Town.

1040 - Street Standards

1041 - Layout of streets

All streets in a subdivision shall be planned so as to meet the following standards:

- a. The proposed streets shall conform, as far as practical, to the adopted Comprehensive Plan or policy statement of the Town of Levant.
- b. All roads or streets must be designed by an Engineer licensed by the State of Maine.
- c. All streets in the subdivision shall be designed so as to provide safe vehicular travel and, in minor streets, shall be designed so as to discourage movement of through traffic. The centerline of the road shall be within the centerline of the right of way plus or minus ten (10) percent of the right of way width.
- d. Reserve strips to block access to streets shall be prohibited.
- e. Intersections of streets shall be at angles as close to ninety degrees (90°) as possible. In no case shall two streets intersect at an angle of less than sixty degrees (60°).
- f. A distance of at least two-hundred-fifty (250) feet shall be maintained between centerline of two streets on the same side of the right of way.
- g. Whenever possible, subdivisions containing twenty lots or more shall have at least two (2) street connections with existing public streets or streets shown on the Official Road Map, if such exists, or streets on an approved Subdivision Plan.
- h. Where a subdivision borders an existing narrow road (below standards set herein) or when the Comprehensive Plan indicates plans for realignment or widening of a road that would require land in the subdivision, the subdivider shall be required to show areas for widening or realigning such roads on the Preliminary

and Final Plan, marked “Reserved for road realignment (or widening) purposes”. Land reserved for such purposes may not be used for building purposes.

- i. The Planning Board may require that the layout of lots and roads in a subdivision is designed so as to minimize access points from the subdivision onto heavily traveled roads. No more than one curb cut per three-hundred (300) feet of road frontage on arterial roads will be permitted.

1042 - Design and Construction Standards

All streets in a subdivision shall be designed and constructed to meet the following standards for streets according to their classification as determined by the Planning Board.

<u>Item</u>	<u>Collector</u>	<u>Minor</u>	<u>Private*</u>
1. Minimum Right-of -Way Width	55'	50'	50'
2. Minimum Travel Width	22'	20'	18'
3. Minimum Grade	0.5%	1%	1%
4. Maximum Grade	8%	8%	8%
5. Maximum Grade at Intersection	3% within 50 feet of the intersection	3% within 75 feet of the intersection	3% within 50 feet of the intersection
6. Minimum ditch depth from final road surface.	2 feet	2 feet	2 feet
7. Minimum Centerline Radii on Curves	200 feet	100 feet	100 feet
8. Minimum Tangent Length between Reverse Curves	200 feet	100 feet	100 feet
9. Depth of Sub-grade Grading	18"	18"	16"
<u>Item</u> continued	<u>Collector</u>	<u>Minor</u>	<u>Private*</u>
10. Sub Base Gravel Depth	14"	14"	12"
11. Upper Base Gravel	4"	4"	4"
12. Plant Mix Bituminous Concrete Pavement			
a. Binder	2"	2"	2"
b. Travel Surface (Sand Mix)	1"	1"	1"
13. Minimum Road Crown-Centerline to Edge of Pavement.	3"	3"	4"
14. Minimum Shoulder Width on each side of Road.	3'	3'	0"

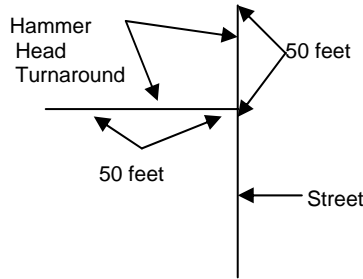
*Mobile Home Parks only

15. Dead-ends:

- 1) Radii of turn around at enclosed end of the right-of-way boundary: minimum – 90 feet.
- 2) Inside Pavement Radius - Minimum - 70 feet.
- 3) Width of Pavement - Minimum - 20 feet.

-- OR instead of 1,2 & 3 above --

Hammer Head with the following dimensions:



16. Minimum pavement curb radii at intersection - 20 feet.
17. Grades of streets shall conform as closely as possible to the original relief of the land.
18. All changes in grade shall be connected by vertical curves of such length and radius as will provide clear visibility for a distance of two-hundred (200) feet.
19. Sides slopes shall not be steeper than three (3) feet horizontal and one (1) foot vertical, graded, loamed (2 inches compacted) and seeded. If the side slope extends outside the required right-of-way, the subdivider shall expand the right-of-way to include entire side slope area.
20. All streets shall be provided with adequate drainage facilities to provide for the removal of storm water to prevent flooding on the pavement and erosion of adjacent surfaces.
 - a. The subdivider may be required by the Planning Board to carry away by pipe or open ditch any spring, surface, or storm water that may exist either previous to, or as a result of the subdivision. Such drainage facilities shall be located on the street right-of-way where feasible, or in perpetual unobstructed easements of appropriate width.

- b. Culverts and other drainage facilities shall be large enough to accommodate potential runoff from its entire upstream drainage area, whether inside or outside the subdivision.
- c. If requested by the Planning Board, the subdivider's engineer shall study the effect of the proposed subdivision on the existing downstream drainage facilities outside the area of the subdivision. Where it is anticipated that the additional runoff incident to the development of the subdivision will overload an existing downstream drainage facility during a storm with recurrence interval of twenty-five (25) years, the Planning Board shall notify the Board of Selectmen of such potential condition. In such case, the Planning Board shall not approve the subdivision until the subdivider has made provision for the improvement of said condition.
- d. The Planning Board shall require that easements for drainage be deeded to the Town of Levant.
- e. All ditches shall be stabilized in accordance with Best Management Practices (BMP).

21. In construction of roads, the entire width of the right of way shall be cleared of all stumps, roots, brush, perishable material, and all trees not intended for preservation. All organic material shall be removed from the roadway to at least sub-grade depth.

22. The roadway area shall be brought to the grade shown on the profile and cross-section by suitable gravel. The sub-base gravel shall meet the specifications for Aggregate Sub-base Courses as contained in the current edition of The Standard Specifications for Highways and Bridges of the State of Maine Department of Transportation. The upper base gravel shall meet the specifications for Aggregate Base Courses in the same standards.

23. After the upper base gravel has been thoroughly rolled, the surface of the roadway shall be paved. The pavement material and the manner of application of such shall conform to the requirements of the current addition of The Standard Specifications for Highways and Bridges of the State of Maine Department of Transportation.

24. The Planning Board may require curbing of roads.

25. The Planning Board may require sidewalks from each lot in the subdivision to all areas designated as open space or recreational land under this Ordinance.

1050 - Utilities

1051 - Water Systems

1. If individual wells are proposed for the subdivision, the Planning Board may require that the subdivider's engineer certify that sufficient potable water is available for the reasonably foreseeable needs of the subdivision.
2. If well(s) are proposed for the subdivision, the Planning Board may require that a subdivider inspect the land within three hundred (300) feet of the subdivision boundaries to determine whether there are any malfunctioning subsurface sewage disposal systems, oil spills, salt deposits, land fills, or those land uses which could negatively affect the ground water resources in the subdivision. The subdivider shall be required to report such land uses to the Planning Board.
3. If a well is proposed which would serve more than one (1) dwelling unit in the subdivision, and if the flow required from that well to adequately serve the proposed uses exceeds six-thousand (6,000) gallons/per day, the Planning Board shall require that the subdivider's engineer certify that there is sufficient water available to meet the needs of the uses expected to draw from the well.

1052 - Sanitary Sewage Systems

1. If subsurface sewage disposal is proposed, the Planning Board shall require that the subdivider provide proof that a subsurface sewage disposal system that is in conformance with the Maine State Plumbing Code can be installed on every lot.
2. If a sewage disposal system is proposed that will service more than one (1) principal structure, a reserve area shall be designated for a replacement system designed by a licensed site evaluator, in the possibility that the initial system should fail. This information shall be recorded with the deed in the Registry of Deeds. (Amended 6/24/02)
3. Common sewage systems that serve two (2) or more homes may not be located wholly or partially on individual lots.
4. If common sewage systems are proposed, the Plan must indicate where replacement systems will be located. Replacement system locations must be preserved with deed restrictions.

1053 - Utilities in Streets

The Planning Board shall require that utilities be placed in the street right-of-way between the paved roadway and the street line to simplify location and repair of lines when they require attention. The subdivider shall install service connections to the property line of each lot within the subdivision for such required utilities.

1054 – Fire Protection

The Planning Board may require the applicant ~~shall~~ to construct water storage structures with dry hydrants for fire fighting purposes of a type, design, and capacity acceptable to the Planning Board. An easement shall be issued to the Town granting access to the hydrants when necessary. The Planning Board may waive this requirement for water storage structures only upon submittal of written evidence by the Fire Chief, municipal engineer or any other source the Planning Board deems appropriate, that a nearby supply is deemed available and adequate for fire fighting.

1060 - Off-Site Improvements

Where necessary to serve the needs of the proposed subdivision and to protect the health, safety and general welfare of the community, the Planning Board may require that off-site improvements of streets be completed. The procedure is as follows:

- a. The Planning Board determines the improvements required and the design of the improvements.
- b. The Board of Selectmen and the subdivider must negotiate how the improvements will be completed, the improvements will be paid for, and the schedule for completing the improvements. The subdivider’s share must be reasonably related to the subdivision’s share of the cost of infrastructure improvements made necessary by the subdivision.
- c. The Board of Selectmen shall forward a copy of the agreement to the Planning Board before final approval.

1070 - Open Space and Recreation Land

1071 - Requirement

The Planning Board may require that up to five percent (5%) of the land area of a subdivision with more than twenty (20) acres or twenty (20) lots be set aside for open space or recreation. The

actual amount of land and its location shall be satisfactory to the Planning Board.

In deciding whether to require land set aside, the Planning Board shall be guided by the following considerations:

1. Whether the subdivision is already served by adequate recreational opportunity.
2. Whether the Town’s adopted Comprehensive Plan calls for a park to be located in the area of the subdivision.
3. Whether adjacent to the subdivision is community park or open space area which would benefit by the addition of land in the subdivision.

In making decisions about land set aside, the Planning Board shall be guided by the following standards:

1. Any land to be set aside as a requirement of this Ordinance shall be reasonably adaptable for active play and recreation purposes unless the Planning Board agrees to an open space area designed primarily for the protection of the natural environment. The Planning Board may only agree to the designation of such natural area if it determines that the active play and recreation needs of the residents of the subdivision will be reasonably met by other existent facilities. Active play and recreation areas shall be located so as to be convenient to the people to be served. Factors used in evaluating the adequacy of proposed park and recreation areas shall include size and shape, topography, geology, tree cover, access, location and projected use.
2. In no case shall a subdivider be required to set aside more than five percent (5%) of the land area of subdivision for open space or recreation purposes without financial compensation.

1072 - Provision for Ownership and Maintenance of Open Space or Recreation Land.

If land is set aside under the provisions of Article 1071 of this Ordinance, the subdivider shall make provisions for permanent ownership, protection and maintenance of such land. The Planning Board shall not approve such provisions of the subdivision until it is satisfied that the land will be

protected as open space in the future and that adequate provision has been made for its ownership and maintenance. The subdivider shall either:

1. Retain ownership and responsibility for maintenance of such land;
or
2. Dedicate such land and property or facilities to public use if the Town or another public agency has indicated it will accept such dedication; or
3. Dedicate such land and property or facilities to a Homeowners Association.

1080 – Buffers and Screening.

If the proposed subdivision has an overall density less than forty-thousand (40,000) square feet per dwelling unit then the following standards are required:

1. A fifty-foot (50 ft) wide buffer strip shall be provided along all property boundaries. No structures, streets, or utilities may be placed in the buffer strip, except that utilities only may cross a buffer strip to provide services.
2. Within twenty-five feet (25') of any property line and within the buffer strip, visual screening shall be provided. The visual screening shall consist minimally of two staggered rows with at least 6' of height, placed 12' on center, nursery stock landscaping (such as coniferous shrubs or trees). The screening shall be maintained throughout the life of the project. The screening shall effectively screen at least 80% of the structures from the view of the adjacent properties.
3. Buffer strips may not be considered as lot area, when determining if minimum lot size requirements are met.

Article 1100 - Professional Services

1110 Role and Responsibilities of Professionals

The purpose of professionals hired by the Planning Board and Board of Selectmen to review subdivisions is:

1. To offer their opinion if the proposed development meets the requirements of the ordinances of the Town of Levant and State and Federal laws and regulations.
2. To offer their opinion if the proposed development meets accepted professional standards.
3. To offer suggestions to the Planning Board concerning the proposed subdivision.
4. To inspect the construction of the proposed development at stages suggested by the professional and this Ordinance to ensure that standards of the approved subdivision plan are met.

1120 Technical Review Account

In addition to other fees, the applicant shall pay a separate fee of two-hundred (\$200.00) per lot or dwelling unit prior to the start of the Planning Board’s review of the Final Plan of a Minor Subdivision or of the Preliminary Plan of a Major Subdivision.

This fee shall be paid in the form of a check made payable to the Town of Levant. The Town shall deposit this fee into a special account designated by the particular subdivision application that is separate and distinct from all other Planning Board and Town accounts, to be used by the Planning Board and the Board of Selectmen for the following purposes:

1. Legal fees incurred by the Town for review of the project.
NOT FOR USE IN LITIGATION.
2. The cost of professionals to inspect required improvements.
3. The cost of professionals to review the proposed project.

If the balance in this account is drawn down by fifty percent (50%) or more, the Planning Board shall notify the applicant and require that an additional \$150 per lot or dwelling unit be deposited by the applicant. The Planning Board shall continue to notify the applicant and require an additional \$150 per lot or dwelling unit be deposited as necessary whenever the balance of the account is drawn down by fifty percent (50%) of the original deposit.

Any balance remaining, after the completion and inspection of required improvements, shall be returned to the applicant.

Article 1200 - Homeowners Association

When a Homeowners Association is required by this Ordinance, the following provisions must be included:

1. Covenants for mandatory membership of all lot owners in the association setting forth the owners' rights, interests, privileges, and obligations concerning the trust, recreation area, shared utilities, roads, rights of way, and preserved open space (collectively referred to as the common elements of the subdivision) shall be approved by the Planning Board and be included in the deed for each lot or dwelling.
2. The Homeowners Association shall have the responsibility of maintaining commonly owned property.
3. The association may levy a charge against all homeowners to defray the cost of operations and maintenance of association owned property.
4. The developer or subdivider shall maintain control of and be responsible for, the maintenance of the common elements of the subdivision until development sufficient to support the association has taken place. In the event the developer or subdivider and the Association cannot agree on the issue of whether sufficient development has taken place, the Planning Board shall make the decision, upon the written request of the Association, or the developer or subdivider of the subdivision.
5. The deeds of the common elements of the subdivision to the Association shall contain the following covenant therein: "The Homeowners Association may not offer to the Town of Levant any property that is owned by the association unless it is up to full compliance with all applicable standards of the Subdivision Ordinance of the Town of Levant as may be in effect at the time of the offer."
6. No covenant required by this Ordinance and/or approved by the Planning Board may be modified, altered or rescinded without prior approval of the Planning Board.

Article 1300 Clustered Residential Development

1310 - Purpose

Notwithstanding other provisions of this Ordinance, the Planning Board, in reviewing and approving proposed residential subdivisions, may modify provisions relating to space and bulk to permit innovative approaches to housing and environmental design in accordance with the following standards. Such modifications of space and bulk provisions shall not be construed as granting variances to relieve hardship. The purpose of this Article shall be to encourage housing development that will result in:

1. Open space and recreation areas;
2. Preservation of prime agriculture or forest land;
3. Efficient use of land with small networks of farmland or forest land;
4. Variety of housing.

1320 - Basic Requirements

Each building shall be an element of an overall plan for site development. Only developments having a total site plan for structures shall be considered. The applicant shall illustrate the placement of buildings and the treatment of spaces, paths, roads, service and parking and in doing so shall take into consideration all requirements of this Article and other relative Articles of this Ordinance.

No building shall be sited on any slope steeper than twenty-five percent (25%), within one-hundred (100) feet of any water body or wetland, or on a soil classified as poorly drained.

No individual lot or dwelling unit shall have direct vehicular access onto a public road existing at the time of development.

Unless a common sewage collection and treatment system is provided, no lot shall be smaller in area than twenty-thousand (20,000) square feet per dwelling unit.

1330 - Minimum Development Size

No cluster shall be considered unless ten (10) acres of forestland or agriculture land is preserved as open space.

1340 Uses

1341- Permitted: Multifamily dwellings, single family housing and associated structures and uses only.

1342 - Not Permitted: Businesses that require Planning Board approval.
Mobile homes (as defined in Levant’s Mobile Home Park Ordinance).

1350 Maximum Number of Dwelling Units

The maximum number of dwelling units on a particular parcel shall be determined by the following:

1. Multiply the gross acreage by fifteen (15) percent to determine the area taken up by roads in a standard development. This is called RA.
2. Determine the number of acres that are un-buildable due to wetlands or topography and multiply by fifty (50) percent. This is called UB.
3. Solve the formula to determine the number of dwelling units:

$$\text{Gross Acreage less (RA+UB)= Number of Dwelling Units.}$$

For example. Joe Levant wants to put a cluster subdivision on 20 acres of land. The land has 2 acres of wetland.

$$\text{RA= 20 x .15 = 3}$$

$$\text{UB=2 x .5 = 1}$$

$$\text{20-(3+1)= 16 dwelling units.}$$

1360 - Preserved Open Space

A minimum of ten (10) acres of open space must be preserved per cluster subdivision. For subdivisions greater than thirty (30) acres, one (1) acre of preserved land must be created for every three (3) acres of gross developable land.

Preserved Open Space must be contiguous.

A use plan for the Preserved Open Space must be submitted to and approved by the Planning Board. Once approved, the plan may not be amended without the approval of the Board of Selectmen and the Planning Board. The use plan restrictions must be attached to the deed. The development rights of the Preserved Open Space must be transferred to the Town as deemed acceptable by the Selectmen. The Town shall not sell, transfer, or use the development rights. The preserved Open Space may be sold or transferred by the owner.

1370 - Recreation Area Requirement

The total recreation area must be no smaller than one (1) acre for every five (5) dwelling units in the subdivision. If preserved open space is used to fulfill the recreation area requirement, an additional one-half acre for every five (5) dwelling units is required.

The recreation area must be owned and operated by the Homeowner's Association as set forth in this Ordinance. The recreation area must be within the proposed subdivision and be within one-thousand-five-hundred (1500) feet of all properties.

1380 – Lot Size Requirements

Single Family Cluster Lot Requirements:

1. Minimum lot area: 12,000 sq. ft.
2. Minimum road frontage: 80 ft.
3. Maximum lot coverage: 60%
4. Minimum side yard: 15 ft.
5. Minimum set back from front: 20 ft.
6. Minimum setback from rear yard: 30 ft.

Multi - Family Cluster Lot Requirements:

1. Minimum lot area: 12,000 sq. ft. per dwelling unit.
2. Minimum road frontage: 80 ft. per dwelling unit.
3. Maximum lot coverage: 60%
4. Minimum side yard: 15 ft.
5. Minimum set back from front: 20 ft.
6. Minimum setback from rear yard: 30 ft.
7. Minimum distance between buildings: 30 ft.
8. Two parking spaces per dwelling unit.

1390 - Septic and Water

Plans for Septic and Water must be submitted with the Preliminary and Final Plan. If common water and septic are proposed, they must be owned in common with the users in a deeded agreement or a Homeowners Association.

Article 1400 – Review Criteria (As required by State Law)

When reviewing any subdivision for approval, the Planning Board shall consider the following criteria, and before granting approval, must determine that:

1. Surface waters. Whenever the proposed subdivision is situated entirely or partially within the shoreland zone, the proposed subdivision will not adversely affect the water quality or unreasonably affect the shoreline zone;
2. Storm water. The proposed subdivision will provide for adequate storm water management
3. Traffic. The proposed subdivision will not cause unreasonable highway or public road congestion or unsafe conditions with respect to use of the highways or public or private roads existing or proposed.
4. Erosion. The proposed subdivision will not cause unreasonable soil erosion or a reduction of the land’s ability to hold water so that a dangerous or unhealthy condition results. Earth moving activities shall employ Best Management Practices as published by the Cumberland County Soil and Water Conservation District.
5. Sufficient water. The proposed subdivision has sufficient water available for reasonably foreseeable needs of the subdivision.
6. Conformity with local ordinances and plans. The proposed subdivision conforms to duly adopted subdivision regulations or ordinance, comprehensive plan, development plan or land use plan, if any.
7. Freshwater wetlands. All freshwater wetlands within the subdivision must be identified on any maps submitted as part of the application, regardless of size (1/8 of an acre). Any mapping may be done with the help of the local soil and water conservation district. Wetland impacts shall be avoided if possible. If it is impossible to avoid wetland impacts, they shall be minimized.
8. River, stream, or brook. Any river, stream, or brook within or abutting the proposed subdivision must be identified on any map submitted as part of the application. For the purposes of this subsection “river, stream, or brook” has the same meaning as in *Title 38 M.R.S.A. Section 480-b(9)*;
9. Ground water. The proposed subdivision will not, alone or in conjunction with existing activities, adversely affect the quality or quantity of ground water;
10. Spaghetti lots prohibited. If any lots in the proposed subdivision have shore frontage on Black stream or any other stream or brook as defined in *Title 38*

M.R.S.A. Section 480-b(9), none of the lots created within the subdivision may have a lot depth to shore frontage ratio greater than 5 to 1.

11. Financial and technical capacity. The subdivider has adequate financial and technical capacity to meet the standards of the Ordinance.
12. Aesthetic, cultural and natural values. The proposed subdivision will not have an undue adverse effect on the scenic or natural beauty of the area, aesthetic, historic sites, significant wildlife habitat identified by IF&W or by the Town of Levant, or rare and irreplaceable natural areas or any public rights for physical or visual access to the shoreline.
13. Municipal solid waste disposal. The proposed subdivision will not cause an unreasonable burden on municipality's ability to dispose of solid waste, if the Town of Levant's services are proposed.
14. Sewage disposal. The proposed subdivision will provide for adequate sewage disposal.
15. 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 determine whether the subdivision is in a flood-prone area. If the subdivision or any part of the subdivision is located 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 the plan approval requiring that principal structures in the subdivision shall be located outside the flood hazard area;
16. Pollution. The proposed subdivision will not result in undue water or air pollution. In making this determination, the Planning Board must consider:
 - a. Elevation of the land above the flood plain of Black Stream, its tributaries, other water bodies or wetlands;
 - b. Nature of the soils and subsoil and their ability to support waste water disposal;
 - c. Slope of the land and its effect on effluents;
 - d. Availability of streams for disposal of effluents; and
 - e. Applicable state and local health and water resource rules and regulations.

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