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Sumner, Maine, Selected Ordinances

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SUBDIVISION ORDINANCE OF THE TOWN OF SUMNER

SECTION I. PURPOSE

The purpose of this subdivision ordinance is to assure the comfort, convenience, health and welfare of the people of the Town of Sumner to protect the environment and to promote the development of an economically sound and stable community. To this end, in approving subdivisions within the Town of Sumner, Maine, the Planning Board shall consider the following criteria and, before granting approval, shall make findings of fact that the provisions of these regulations have been met and that the proposed subdivision will meet the guidelines of Title 30-A, M.R.S.A. Section 4404, subsection 3, as amended.

Review Criteria

When adopting any subdivision regulations and when reviewing any subdivision for approval, the municipal reviewing authority shall consider the following criteria and, before granting approval, must determine that:

1. Pollution. The proposed subdivision will not result in undue water or air pollution. In making this determination, it shall at least consider:
 - A. The elevation of land above sea level and its relation to the flood plains;
 - B. The nature of soils and subsoils and their ability to adequately support waste disposal;
 - C. The slope of the land and its effect on effluents;
 - D. The availability of streams for disposal of effluents; and
 - E. The applicable state and local health and water resource rules and regulations;
2. Sufficient water. The proposed subdivision has sufficient water available for the reasonably foreseeable needs of the subdivision;
3. Municipal water supply. The proposed subdivision will not cause an unreasonable burden on an existing water supply, if one is to be used;
4. Erosion. The proposed subdivision will not cause unreasonable soil erosion or a reduction in the land's capacity to hold water so that a dangerous or unhealthy condition results;
5. 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 roads existing or proposed;
6. Sewage disposal. The proposed subdivision will provide for adequate sewage waste disposal and will not cause an unreasonable burden on municipal services if they are utilized;
7. Municipal solid waste and sewage disposal. The proposed subdivision will not cause an unreasonable burden on the municipality's ability to dispose of solid waste and sewage, if municipal services are to be utilized;
8. Aesthetic, cultural and natural values. The proposed subdivision will not have an undue adverse effect on the scenic or natural beauty of the area, aesthetics, historic sites, significant wildlife habitat identified by the Department of Inland Fisheries and Wildlife or the municipality, or rare and irreplaceable natural areas or any public rights for physical or visual access to the shoreline;

9. Conformity with local ordinances and plans. The proposed subdivision conforms with a duly adopted subdivision regulation or ordinance, comprehensive plan, development plan or land use plan, if any. In making this determination, the municipal reviewing authority may interpret these ordinances and plans;
10. Financial and technical capacity. The subdivider has adequate financial and technical capacity to meet the standards of this section;
11. Surface waters; outstanding river segments. Whenever situated entirely or partially within the watershed of any pond or lake within 250 feet of wetland, great pond or river as defined in Title 38, chapter 3, subchapter I, article 2-B, the proposed subdivision will not adversely affect the quality of that body of water or unreasonably affect the shoreline of the body of water.
- A. When lots in a subdivision have frontage on an outstanding river segment, the proposed subdivision plan must require principal structures to have a combined lot shore frontage and setback from the normal high-water mark of 500 feet.
- (1) To avoid circumventing the intent of this provision, whenever a proposed subdivision adjoins a shoreland strip narrower than 250 feet which is not lotted, the proposed subdivision shall be reviewed as if lot lines extended to the shore.
- (2) The frontage and setback provisions of this paragraph do not apply either within areas zoned as general development or its equivalent under shoreland zoning, Title 38, chapter 3, subchapter I, article 2-B, or within areas designated by ordinance as densely developed. The determination of which areas are densely developed must be based on a finding that existing development met the definitional requirements of section 4401, subsection 1, on September 23, 1983;
12. Ground water. The proposed subdivision will not, alone or in conjunction with existing activities, adversely affect the quality or quantity of ground water;
13. Flood areas. Based on the Federal Emergency Management Agency's Flood Boundary and Floodway Maps and Flood Insurance Rate Maps, and information presented by the applicant, whether the subdivision is in a flood-prone area. If the subdivision, or any part of it, is in such an area, the subdivider shall determine the 100-year flood elevation and flood hazard boundaries within the subdivision. The proposed subdivision plan must include a condition of plat approval requiring that principal structures in the subdivision will be constructed with their lowest floor, including the basement, at least one foot above the 100-year flood elevation;
14. Freshwater wetlands. All freshwater wetlands within the proposed subdivision have been identified on any maps submitted as part of the application, regardless of the size of these wetlands. Any mapping of freshwater wetlands may be done with the help of the local soil and water conservation district;
15. River, stream or brook. Any river, stream or brook within or abutting the proposed subdivision has been identified on any maps submitted as part of the application. For purposes of this section, "river, stream or brook" has the same meaning as in Title 38, section 480-B, subsection 9;
16. Storm water. The proposed subdivision will provide for adequate storm water management;
17. Spaghetti-lots prohibited. If any lots in the proposed subdivision-have shore frontage on a river, stream, brook, great pond or coastal wetland as these features are defined in Title 38, section 480-B, none of the lots created within the subdivision have a lot depth to shore frontage ratio greater than 5 to 1; and

18. Lake phosphorous concentration. The long-term cumulative effects of the proposed subdivision will not unreasonably increase a great pond's phosphorous concentration during the construction phase and life of the proposed subdivision.

SECTION II. AUTHORITY AND ADMINISTRATION

A. Authority

1. This Ordinance is adopted pursuant to Home Rule Powers as provided for in Article VIII-A of the Maine Constitution and Title 30-A, M.R.S.A., Section 3001.
2. This Ordinance shall be known and cited as the "Subdivision Ordinance for the Municipality of Sumner, Maine".
3. Upon adoption of this Ordinance, all previous Subdivision Regulations or Ordinances shall be repealed.

B. Administration

1. This Ordinance shall be administered by the Planning Board for the Town of Sumner, Maine, hereafter referred to as the "Board".
2. The provisions of this Ordinance shall apply to all of the land area of all proposed subdivisions, as defined, located in the Town of Sumner, Maine.
3. 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 received Board approval and recorded in the Registry of Deeds. No public utility, water district, sanitary district or any utility company of any kind shall install services to any lot in a subdivision which has not received Board approval and recorded in the Registry of Deeds. A Subdivision Plan recorded without Board approval shall be void. Any person violating any provision of this Ordinance shall be fined a minimum of \$100 and a maximum of \$2,500 for each violation.

SECTION III. DEFINITION OF A SUBDIVISION

A division of a tract or parcel of land into three or more lots, as defined by State Law, which period begins after September 22, 1971, whether accomplished by sale, lease, development, buildings, or otherwise, provided that a division accomplished by devise, condemnation, order of court, gift to a person related to the donor by blood, marriage or adoption, or a gift to a municipality, unless the intent of that gift is to avoid the objectives of these regulations, or by transfer of any interest in land to the owner of land abutting thereon, shall not be considered to create a lot or lots for the purposes of these regulations.

In determining whether a tract or parcel of land is divided into three or more lots, the first dividing of such tract or parcel, unless otherwise exempted herein, shall be considered to create the first two lots and the next dividing of either of the first two lots, by whomever accomplished, unless otherwise exempted herein, shall be considered to create the third lot, unless both those dividings are accomplished by a subdivider who shall have retained one of the lots for his own use as a single-family residence or for open space land as defined in Title 36, M.R.S.A. Section 1102, for a period of at least five years prior to such second dividing. Lots of forty or more acres but less than 500 acres shall be counted as lots.

For the purpose of this Ordinance, a tract or parcel of land is defined as all contiguous land in the same ownership, provided that lands located on opposite sides of a year-round maintained state or town road shall be considered each a separate tract or parcel of land. All contiguous land in the same ownership located on opposite sides of any other type of road shall be considered a single parcel.

The term subdivision shall also include developments where there are three (3) or more units involved, such as mobile home parks, multiple family dwellings, condominiums, shopping centers and industrial parks.

SECTION IV. PROCEDURES FOR SUBDIVISION REVIEW

A. Introduction

The subdivider's application for subdivision approval will not be considered complete until a Final Plan, based on a survey, has been submitted to the Planning Board. While a subdivider may submit a Final Plan and all related materials to the Board without any prior contact with the Board, the subdivider is strongly advised against doing this, as any potential problems may not be resolved within the Statutory time limits for reviewing completed applications, resulting in a negative decision of the Board, and unnecessary expenses to the subdivider for revising the application materials and possibly for surveying the land.

B. Pre-application Meeting and Submission of Sketch Plan

1. Prior to submitting an application for subdivision approval and the Preliminary Plan, the subdivider or his authorized agent should appear informally at a regular meeting of the Planning Board to discuss the proposed subdivision.

2. The subdivider may present to the Board, for informal review and comment, a sketch plan of the proposed subdivision. The sketch plan shall consist of a rough outline of the proposed subdivision, and may be a free-hand, penciled sketch of the parcel, showing the proposed layout of streets, lots, and other features which may be of assistance to the Board in making its determinations.

3. No binding commitments shall be made between the subdivider and the Board at this stage. The purpose of the pre-application meeting shall be to understand what is proposed, what is possible and what is acceptable.

C. Inspection of the Site

In order for the Planning Board to be more fully informed about the site, the subdivider shall arrange an inspection of the site with the Planning Board, or an individual appointed by the Chairman to act as the Board's representative for the inspection. The on-site inspection may be conducted at or shortly after the time of submission of the sketch plan or preliminary plan.

D. Submission of a Preliminary Plan

Upon submission of a sketch plan, and following an on-site inspection of the site, the Planning Board will outline, by checking specific items on an application form (as detailed in Section VI. A. and B.), the specific requirements for Preliminary Plan submission. The Preliminary Plan shall be submitted to the Planning Board at a regularly scheduled meeting. The applicant shall submit four (4) copies of the Preliminary Plan and four (4) copies of the application for the proposed subdivision as detailed in

Section VI. A. and B. The Board shall issue a dated receipt to the applicant. Within thirty (30) days from the date of receipt, the Board shall notify the applicant in writing either that the Preliminary Plan and application are complete, or if incomplete, the specific additional material needed to make them complete. Specific requirements will vary according to the size and complexity of the subdivision proposal. In some instances, the Planning Board may waive the requirement for a Preliminary Plan, in which case the application form must be submitted with the Final Plan. Determination by the Board that the Preliminary Plan and Application are complete in no way commits or binds the Board as to the adequacy of the Plan to meet the criteria of Title 30-A, M.R.S.A., Section 4956, and the provision of this Ordinance are met.

E. Upon recent adoption of the Preliminary Plan, the Planning Board shall notify all abutters to the proposed subdivision that an application has been filed.

F. Application Fee

The following fee(s) shall be paid at the time of submission of any preliminary plan:

1. Review fee, \$30.00 per lot, building unit or dwelling unit, whichever is more.

2. Physical Inspection fee, \$10.00 per hour per participating Planning Board member (see Section IV. C.). To start upon leaving the Town Office, and to end upon returning to the Town Office. To be paid immediately following the physical inspection.

3. Review escrow account, \$50.00 per lot (or living unit for multiplex developments) deposited in an escrow account established by the Town, which monies may be used by the Board to pay for professional reviews and advice related to the developer's application as it deems necessary. The Board shall provide the applicant with notice of its intent to spend any portion of this account which notice shall specify the purpose for the proposed expenditures. Those monies deposited by the developer and not spent by the Planning Board in the course of its review shall be returned to the developer within thirty (30) days after the Board renders its final decision on the application.

4. The Board may hold a public hearing on the Preliminary Plan. Regulations for such a hearing shall be according to State Law as provided in Section VII.

5. The Board shall, within thirty (30) days of a public hearing, or within sixty (60) days of having received the completed Preliminary Plan, if no hearing is held, or within such other time limit as may be mutually agreed to, deny or grant approval on such terms and conditions as it may deem advisable to satisfy the criteria contained in this Ordinance and in Title 30-A, M.R.S.A., Section 4404, and to preserve the public health, safety and general welfare. In all instances, the burden of proof shall be upon the subdivider. In issuing its decision, the Board shall make a written finding of fact establishing that the Preliminary Plan does or does not meet the provisions of this Ordinance and Title 30-A, M.R.S.A., Section 4404. Approval of the Preliminary Plan in no way commits or binds the Board to approve the Final Plan.

SECTION V. FINAL PLAN

A. The applicant shall submit the original and three copies of the Final Plan to the Board at a regularly scheduled meeting, within six (6) months from the date of approval of the Preliminary Plan.

The Board shall issue a dated receipt to the applicant. The Final Plan shall include all the information requested in Section VI. B. and will also include all changes recommended by the Board in the approval of the Preliminary Plan. There shall be no other substantial changes between the Preliminary Plan and the Final Plan. The Final Plan shall be drawn in ink on linen or polyester film suitable for permanent recording in the Oxford County Registry of Deeds.

B. Application Fee. The following fee shall be paid at the time of submission of the Final Plan.

1. \$30.00 per lot, building unit or dwelling unit, whichever is more.

C. The Board has the option of holding a public hearing on the Final Plan. Regulations for such a hearing shall be according to State Law as provided in Section VII.

D. The Board shall, within thirty (30) days of a public hearing or within sixty (60) days of having received the completed Final Plan, if no hearing is held, or within such other time limit as may be mutually agreed to, deny or grant approval of the Final Plan or grant approval on such terms and conditions as it may deem advisable to satisfy the criteria contained in the Ordinance and in Title 30-A, M.R.S.A., Section 4404, and to preserve the public's health, safety and general welfare. In issuing its decision, the Board shall make a written finding of fact establishing that the Final Plan does or does not meet the provisions of this Ordinance and Title 30-A, M.R.S.A., Section 4404.

SECTION VI. SUBMISSION REQUIREMENTS

A. Application

The application form shall be furnished by the Board, filled out by the applicant and shall include the following information: (items marked with an "X" shall be required in all instances; items without an "X" may be required at the discretion of the Board.)

1. Name of and address of Owner.
2. Name of and address of Applicant (if other than Owner).
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.
4. Name of Applicant's authorized representative.
5. Name, address and number of Registered Professional Engineer, Land Surveyor or Planner who prepared the Plan.
6. Address to which all correspondence from the Planning Board should be sent.
7. What interest does the Applicant have in the parcel to be subdivided (option, land purchase contract, recorded Ownership, etc.)?
8. What interest does Applicant have in any property abutting parcel to be subdivided?
9. State whether the subdivision covers entire or contiguous holdings of Applicant.
10. Location of property: map and lot (from Assessor's office).
11. Location of property: book and page (from Registry of Deed).
12. Current zoning of property.
13. Acreage of parcel to be subdivided.
14. Proposed method of sewage disposal and the results of an on-site soils investigation for each lot.
15. Soils report for entire area.
16. Names and mailing addresses of property owners within 500 feet of the parcel to be subdivided.

X 17. Indicate the nature of any restrictive covenants to be placed on the deeds.

X 18. A statement of financial and technical capability.

B. Subdivision Plan

The Subdivision Plan shall be a map of the tract to be subdivided, certified by a Registered Land Surveyor and tied to established reference points. The plan shall not be less than 18" by 24" and shall be drawn to a scale of 1" equals not more than 100'. The Subdivision Plan shall include the following information: (items marked with an "X" shall be required in all instances; items without an "X" may be required at the discretion of the Board.)

Preliminary Plan	Final Plan	
<u>X</u>	<u>X</u>	1. Proposed name of Subdivision.
<u>X</u>	<u>X</u>	2. Lot numbers
<u>X</u>	<u>X</u>	3. Date, north point, graphic map scale (show on plan)
<u>X</u>	-	4. Proposed lot lines with approximate dimensions and lot areas and total area of land to be subdivided.
-	<u>X</u>	5. Proposed lot lines with dimensions, bearings, deflection angles, radii and central angles sufficient to reproduce any line on the ground and lot areas and total area of land to be subdivided.
<u>X</u>	-	6. Location of temporary markers to enable the Board to locate each lot readily and appraise the basic lot layout in the field.
-	<u>X</u>	7. Location of permanent markers, both natural and man-made.
<u>X</u>	<u>X</u>	8. Location of all parcels to be dedicated to public use and the condition of such dedication.
<u>X</u>	<u>X</u>	9. Names of abutting property owners and subdivisions. Reference to recorded subdivision plans of adjoining lands by book and page number.
<u>X</u>	<u>X</u>	10. Location of woodlands and areas subject to storm flooding.
<u>X</u>	<u>X</u>	11. Location of all required soils investigation test pits. (Test pits for subsurface sewage disposal systems shall be in the area where such a system would be likely to be placed.)
<u>X</u>	<u>X</u>	12. Location and size of existing buildings.
<u>X</u>	<u>X</u>	13. Suggested location of buildings, subsurface sewage disposal systems and wells.
<u>X</u>	<u>X</u>	14. Location of all natural features or site elements to be preserved.
<u>X</u>	<u>X</u>	15. Location of any existing watercourses and other essential existing physical features.
<u>X</u>	<u>X</u>	16. Location and size of any existing sewers and water mains and other utilities; location and size of culverts.
<u>X</u>	<u>X</u>	17. Location, names and widths of existing and proposed streets, highways, easements and rights-of-way.
<u>X</u>	<u>X</u>	18. Plan profiles and cross-sections for roadways, sidewalks and storm drainage facilities.

- 19. A soil erosion and sediment control plan for construction and for permanent control.
- 20. Contour lines at 20 foot intervals (or other intervals as specified by the Board).
- 21. Proposed uses of property.
- 22. Other information not indicated above as required by the Board.
- 23. Suitable space to record on the approved plan the date and conditions of approval, if any.

This space shall be similar to the following example:

Approved by the Town of Sumner Planning Board:

Signed:

Date:

Conditions:

SECTION VII. PUBLIC HEARING

The decision to hold a public hearing is discretionary, and in making its decision, the Board may consider the size and type of subdivision, the community impact and whether any written requests for such a hearing have been received. In the event that the Board determines to hold a public hearing on either the Preliminary Plan or the Final Plan of the proposed subdivision, it shall hold such public hearing within thirty (30) days of having notified the applicant in writing that a complete Subdivision Plan has been received and shall cause notice of the date, time and place of such hearing to be given to the subdivider, and published in a newspaper of general circulation in Sumner at least two (2) times; the date of the first publication shall be at least seven (7) days prior to the hearing. Public hearings shall be conducted in accordance with the procedures in Title 30-A, M.R.S.A., Section 2691, Subsection 3 a, b, c, d and e. The Planning Board shall notify all property owners within five hundred (500) feet of the boundaries of the Public Hearing.

SECTION VIII. GENERAL REQUIREMENTS

A. Buffer Strip

The Board may require a buffer strip, such as natural vegetation, where separation is desirable.

B. Conformance With Other Laws, Regulations

The proposed subdivision shall be in conformance with all pertinent local, state and federal ordinances, statutes, laws and regulations. If the proposed subdivision meets the definition of a subdivision as defined in the Site Location of Development Act, Title 38, M.R.S.A., Section 482, the subdivider must secure the approval of the Board of Environmental Protection and the Board before any construction activity may begin in the subdivision.

C. Construction Prohibited

Utility installations, ditching, grading or construction of roads, grading of land or lots, or construction of buildings shall not be started on any part of the proposed subdivision until the final Plan has been approved and endorsed as provided for by this Ordinance.

D. Impact on Community Services and Facilities

Any proposed subdivision shall be reviewed by the Board with respect to its effect upon existing community services and facilities including schools and recreational areas. The Board shall advise the Selectmen and the developer regarding the designation of space for future community facilities and may withhold approval of the Final Plan pending such designation.

E. Lots

1. Lot sizes shall be in conformance with the following dimensional requirements:

a. A minimum lot size of two (2) acres shall be required for each dwelling unit. Each dwelling unit shall require a minimum of 175 feet of frontage on a town or state road which is maintained on a year-round basis or a road constructed in accordance with the Road Ordinance for the Town of Sumner. A lot abutting a lake, pond, river, stream or freshwater wetland as defined in the Shoreland Zoning Ordinance for the Municipality of Sumner shall have a minimum shore frontage of 200 feet or as otherwise required by the above-mentioned Ordinance.

b. If more than one dwelling unit is constructed on a single lot, all dimensional requirements shall be met for each dwelling unit, except as provided for in this section.

c. Lots for Planned Developments and multi-family structures shall contain a minimum of two (2) acres of land area per dwelling unit. Each ten (10) dwelling units within a Planned Development shall be located on their own twenty (20) acre parcel of land. Where there is less than 10 units, the required parcel size shall be determined by multiplying the number of units by two (2) acres.

d. Flag lots and other odd shaped lots in which narrow strips are joined to other parcels in order to meet minimum lot size requirements are prohibited. The ratio of lot length to width shall not be more than three to one.

e. All structures shall be back at least 35 feet from all property lines and at least 75 feet from the center line of streets, roads and rights-of-way.

F. Lot Access

Any proposed subdivision shall be so designed that each lot has access to a town or state road which is maintained on a year-round basis or a road constructed in accordance with the Road Ordinance for the Town of Sumner.

G. Land Not Suitable for Development

The Planning Board shall not approve such portions of any proposed subdivision that are located on land below sea level, within the 100 year frequency flood plain, or on land which must be

filled or drained or on land created by diverting a water course. In no instance shall the Board approve any part of a subdivision located on filled tidal land or filled or drained Great Ponds.

H. Planned Development

1. A planned development is a residential or mixed-use land development which is developed under unified management; is planned as a whole according to comprehensive and detailed plans, including streets, utilities, lots or building sites, open space and preserved natural features, recreational facilities and design principles for proposed buildings, is reviewed and approved as a subdivision by the Planning Board and in addition is subject to the requirements of this section; may be developed in clearly identified stages; and provides for the creation and maintenance of common facilities. A Planned Development includes developments such as multi-family, condominium type ownership and mobile home parks.

2. Purpose: The purpose of this section is to allow for large-scale, well-planned developments that;

- a. are in accordance with the Town's Comprehensive Plan;
- b. are reasonably self-sufficient in the provision of necessary services, such as sewerage, water supply, off-street parking, recreational amenities, and long-term management of common facilities;
- c. integrate a variety of residential, commercial and recreational uses;
- d. preserve open space;
- e. incorporate a pattern of development that is in harmony with the natural features of the land;
- f. provide for efficient use of the land, minimizing the required network of streets and utilities.

3. Proposed planned developments shall be reviewed as subdivisions under the ordinance and shall be reviewed by, and the final decisions shall be made by, the Planning Board. The tract or parcel of land proposed for planned unit development must be in single ownership or the subject of an application filed jointly by the owners of all the property included. The applicant must demonstrate right, title or interest in the land that is the subject of the application.

4. Standards:

- a. A planned development shall contain the required buildable land area in single ownership and may be a mix of residential and non-residential uses. The acreage shall be contiguous, unless the Planning Board finds that noncontiguous acres are part of a common, overall scheme of development.
- b. The planned development shall be served by centralized sewerage and water supply facilities.
- c. Lots which may be created for nonresidential uses shall include sufficient land area to support any proposed structures, the required off-street parking for the uses, whether or not the parking actually is located on the lots, and safe pedestrian circulation.
- d. The maximum height of any residential structure shall not exceed 35 feet at the highest point measured from the average grade.
- e. Where possible, buildings shall be oriented with consideration for scenic vistas, natural landscape features, topography and potential solar access.
- f. All utilities in a planned development shall be installed underground, unless specifically waived by the Planning Board.
- g. Adequate provision shall be made for erosion control and management of stormwater runoff, with particular concern for the effects of effluent draining from the site. Drainage facilities shall be designed to accommodate the 25 year storm.
- h. Planned developments shall conform to the standards of subdivision approval.

I. Definitions

Buildable Land: land which is not within the 100 year frequency floodplain, filled or drained or created by diverting a watercourse.

Freshwater Wetland: Means freshwater swamps, marshes, bogs and similar areas which are:

- a. Inundated or saturated by surface or ground water at a frequency and for a duration sufficient to support, and which under normal circumstances do support, a prevalence of wetland vegetation typically adapted for life in saturated soils; and
- b. Not considered part of a great pond, coastal wetland, river, stream or brook.

These areas may contain small stream channels or inclusions of land that do not conform to the criteria of this subsection.

J. Open Space Provisions

1. The Board may require that a proposed subdivision design include a landscape plan that will show the preservation of existing trees, the replacement of trees and vegetation, graded contours, streams and the preservation of scenic, historic or environmentally desirable areas.
2. The Board may require that the subdivider reserve an area of land as open space and/or recreational area for use by property owners in the subdivision.
 - a. If such an area is reserved, the Final Plan shall provide how title to the reserved land shall be held and how costs of development, maintenance and taxes shall be met.
 - b. Included in the instrument of conveyance to each property owner of the subdivision shall be a statement of:
 - (1) The manner of providing for the cost of development and maintenance and for property taxes of the reserved land.
 - (2) If appropriate, the individual property owner's pro rata share of development costs, maintenance cost and property taxes of the reserved land.
 - c. Land designed for public use shall not be subdivided for any other purpose. This prohibition does not apply to land areas designated for later development if the Subdivision Plan includes provision for development in discreet stages.
 - d. Any area designated for common use shall be so arranged that each property owner has access to it.

K. Performance Bond

1. Prior to approval of Final Plan, the Board may require that the subdivider file with the Board a performance guarantee in an amount sufficient to defray all expenses of the proposed public improvements. This may be tendered in the form of a certified check payable to the Town of Sumner, or a performance bond running to the Town of Sumner and issued by a surety company acceptable to the Town of Sumner.

The conditions and amount of such certified check or performance bond shall be determined by the Board of the municipality with the advice of the various municipal officers concerned. The amount shall be at least equal to the total cost of furnishing, installing, connecting and completing all of the

street grading, paving, storm drainage and utilities or other improvements specified on the plan within two years of the date of the certified check or performance bond.

2. The Board may recommend a maximum extension of twelve (12) months to the guaranteed performance period when the subdivider can demonstrate, to the satisfaction of the Board and the municipal officers, good cause for such extension. Such recommendation shall be referred to the Board of Selectmen for official action.

3. Before a subdivider may be released from any obligation requiring his guarantee of performance, the Board will require certification from the various municipal officers to the effect that all improvements have been satisfactorily completed in accordance with all applicable standards (state, federal and local codes, ordinances, laws and regulations).

4. Upon approval of the Final Plan, the Board may, at its discretion, waive the requirements of a performance bond, under the condition that no lot in the subdivision may be sold and no permit shall be issued for construction of any building on any lot in the subdivision until it shall have been certified in the manner set forth in Section VIII. K., paragraph 3, that all improvements have been made. The Board shall set a reasonable completion date for said improvements, and approval of a Final Plan shall be voided if said improvements are not completed within the specified time. The Board may, upon request from the subdivider, extend the completion date. The Board shall have the option of holding the approved Final Plan until all improvements are completed in accordance with Section VIII. K., paragraph 3.

L. Plan Revisions After Approval

No changes, erasures, modifications or revisions shall be made in any Subdivision Plan after Final Plan approval has been given by the Board and endorsed in writing on the Plan, unless the Plan is first resubmitted and the Board approves any modifications. In the event that the Subdivision Plan is recorded without complying with this requirement, the Plan shall be considered null and void, and the Board shall institute proceedings to have the Plan stricken from the records of the Selectmen and Registry of Deeds.

M. Initiation of Development Within Two Years

If construction of the public improvements are not begun within two years from the approval date, the approval shall lapse and the applicant shall reapply to the Board for a new approval. Reapplication for approval shall state the reasons why construction was not begun and the reasons why the applicant will be able to begin the activity within two years from the granting of a new approval, if granted. Reapplication for approval may include information submitted in the initial application by reference.

N. Storm Drainage

Adequate drainage shall be provided so as to reduce the danger of flooding and erosion. Adequate storm water drainage facilities shall be the responsibility of the subdivider and subject to the approval of the Board.

O. Impact on Woodlands

Any proposed subdivision shall be reviewed by the Board with respect to destruction of existing forestry resources during a period of two (2) years prior to submission of an application. Any clearcutting (removal of more than 75% of the biomass) shall be accomplished only after Board approval or after consultation with two foresters approved by the Board to certify the need for a clearcut. Selective cutting after being marked by a reputable forester prior to submission is encouraged by the Board.

P. Validity

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, and to this end, the provisions of the Ordinance are hereby declared to be severable.

Q. Effective Date

This Ordinance shall take effect and be in force from and after the date of its official adoption.

R. Conflict of Ordinances

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

SECTION IX. INSPECTION OF REQUIRED IMPROVEMENTS

A. Notification of Construction

At least ten (10) days prior to commencing construction of improvements or alterations of roads and utilities, the subdivider shall notify the CEO in writing of the time when he proposes to commence construction of such improvements so that the municipal officers can cause inspection to be made to assure that all municipal specifications and requirements shall be met during the construction of required improvements, and to assure the satisfactory completion of improvements and utilities required by the Planning Board.

B. Noncompliance with Plan

If it is found, upon inspection of the improvements performed before the expiration date of the guarantee or security arrangement or performance bond required by Section VIII., that any of the required improvements have not been constructed in accordance with plans and specifications filed by the subdivider, he shall so report to the municipal officers and Planning Board, the bonding company, and take all necessary steps to preserve the municipality's rights under the guarantee, security or bond. No plan shall be approved by the Planning Board as long as the subdivider is in default on a previously approved plan with Sumner.

C. Modification During Construction

If at any time before or during the construction of the required improvements, it is demonstrated to the satisfaction of the appointed Inspector that unforeseen conditions make it necessary or preferable to modify the location or design of such required improvements, the appointed Inspector may, upon approval of the Planning Board, authorize modifications provided these modifications are within the spirit and intent of the Planning Board's approval and do not extend to the waiver or substantial alteration of the function of any improvements required by the Board. The appointed Inspector shall issue any authorization under this section in writing and shall transmit a copy of such authorization to the Planning Board at its next regular meeting.

SECTION X. ENFORCEMENT

When the violation of any provision of this Ordinance shall be found to exist, the Planning Board, Code Enforcement Officer or Selectmen are hereby authorized and directed to institute in the Town any and all actions and proceedings that may be appropriate or necessary to the enforcement of the provisions of this Ordinance.

SECTION XI. WAIVERS

Where the Board makes written findings of fact that there are special circumstances of a particular lot proposed to be subdivided, it may waive portions of the submission requirements or the standards, unless otherwise indicated in the Ordinance, to permit a more practical and economical development, provided the public health, safety and welfare are protected, and provided the waivers do not have the effect of nullifying the intent and purpose of the Comprehensive Plan or this Ordinance and provided the criteria of the State Subdivision Law are met.

Where the Board makes written findings of fact that due to special circumstances of a particular lot proposed to be subdivided, the provision of certain required improvements is not requisite to provide for the public health, safety or welfare, or are inappropriate because of inadequate or lacking connecting facilities adjacent to or in proximity of the proposed subdivision, it may waive the requirement for such improvements, subject to appropriate conditions.

In granting waivers to any of these conditions in accordance with Sections 1 and 2, the Board shall require such conditions as will assure the objectives of these regulations are met.

Waivers to be shown on Final Plan. When the Board grants a waiver to any of the standards of these conditions, the Final Plan shall indicate the waivers granted and the date on which they were granted.

SECTION XII. AMENDMENT

This Ordinance may be amended by a majority vote of the Town Meeting. Amendments may be initiated by a majority vote of the Board or by request of the Board of Selectmen to the Board or on petition of 10% of the votes cast in the last gubernatorial election in the Town. The Board shall conduct a public hearing on any proposed amendment.

SECTION XIII. APPEALS

An appeal may be taken within thirty (30) days from the Board's final decision on the Preliminary or Final Plan by any party to Superior Court in accordance with Rule 80B of the Maine Rules of Civil Procedure.

(ADOPTED AUGUST 1, 1988)
(AMENDED MARCH 23, 1993)

TOWN OF SUMNER
SHORELAND ZONING ORDINANCE

Adopted August 10, 1992

Amended August 13, 2007

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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 and waters; to conserve natural beauty and open space; and to anticipate and respond to the impacts of development in shoreland areas. The implementation and enforcement of this ordinance significantly promotes the Comprehensive Plan that was adopted in 2006.

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

3. Applicability. This Ordinance applies to all land areas within 250 feet, horizontal distance, of the

- normal high-water line of any great pond or river,
- upland edge of a 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 August 10, 1992, amended on August 13, 2007, 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-A(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-A(5), the following provisions of this Ordinance are repealed:

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

NOTE: The statutory date established under 38 M.R.S.A. section 438-A(5) is the effective date of state-wide timber harvesting standards. That date is "the first day of January of the 2nd year following the year in which the Commissioner of Conservation determines that at least 252 of the 336

municipalities identified by the Commissioner of Conservation as the municipalities with the highest acreage of timber harvesting activity on an annual basis for the period 1992-2003 have either accepted the state-wide standards or have adopted an ordinance identical to the state-wide standards.” 38 M.R.S.A. section 438-A(5) further provides that “the Commissioner of Conservation shall notify the Secretary of State in writing and advise the Secretary of the effective date of the state-wide standards.

- 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 nonconforming 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 nonconformity. 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 commercial fishing and maritime activities, and other functionally water-dependent uses.

D. Non-conforming Uses

- (1) Expansions. Expansions of non-conforming uses are prohibited, except that non-conforming residential uses may, after obtaining a permit from the Planning Board, be expanded within existing residential structures or within expansions of such structures as allowed in Section 12(C)(1)(a) above.
- (2) Resumption Prohibited. A lot, building or structure in or on which a non-conforming use is discontinued for a period exceeding one year, or which is superseded by a conforming use, may not again be devoted to a non-conforming use except that the Planning Board may, for good cause shown by the applicant, grant up to a one year extension to that time period. This provision shall not apply to the resumption of a use of a residential structure provided that the structure has been used or maintained for residential purposes during the preceding five (5) year period.
- (3) Change of Use. An existing non-conforming use may be changed to another non-conforming use provided that the proposed use has no greater adverse impact on the subject and adjacent properties and resources, including water dependent uses in the CFMA district, than the former use, as determined by the Planning Board. The determination of no greater adverse impact shall be made according to criteria listed in Section 12(C)(4) above.

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 nonconforming, owned by the same person or persons on the effective date of this Ordinance and recorded in the registry of deeds if the lot is served by a public sewer or can accommodate a subsurface sewage disposal system in conformance with the State of Maine Subsurface Wastewater Disposal Rules; and (a) Each lot contains at least 200 feet of shore frontage and at least 2 acres 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 200 feet of shore frontage and 2 acres of lot area.

13. Establishment of Districts

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

- (1) Areas within 250 feet, horizontal distance, of the upland edge of freshwater wetlands, salt marshes and salt meadows, and wetlands associated with great ponds and rivers, which are rated "moderate" or "high" value waterfowl and wading bird habitat, including nesting and feeding areas, by the Maine Department of Inland Fisheries and Wildlife (MDIF&W) that are depicted on a Geographic Information System (GIS) data layer maintained by either MDIF&W or the Department as of May 1, 2006. For the purposes of this paragraph "wetlands associated with great ponds and rivers" shall mean areas characterized by nonforested 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 or coastal wetland as defined, and which are not surficially connected to a water body during the period of normal high water

(5) Land areas along rivers subject to severe bank erosion, undercutting, or river bed movement.

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 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.

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

These notes are applicable to the Land Uses Table on the following page:

TABLE 1. LAND USES IN THE SHORELAND ZONE

<u>LAND USES</u>	<u>DISTRICT</u>				
	<u>SP</u>	<u>RP</u>	<u>LR</u>	<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 & land management roads	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	CEO1	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	yes2	yes2	yes2	yes2
10. Mineral extraction including sand and gravel extraction	no	PB3	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	PB4	PB9	CEO	CEO	CEO
B. Multi-unit residential	no	no	PB	PB	PB
C. Commercial	no	no10	no10	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	PB4	PB	CEO	CEO	CEO
16. Structures accessory to allowed uses	PB4	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	CEO11	CEO11	CEO11	CEO11	CEO11
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	PB6	PB6	PB	PB	PB
A. Roadside distribution lines (34.5kV and lower)	CEO6	CEO6	yes12	yes12	yes12
B. Non-roadside or cross-country distribution lines involving ten poles or less in the shoreland zone	PB6	PB6	CEO	CEO	CEO
C. Non-roadside or cross-country distribution lines involving eleven or more poles in the shoreland zone	PB6	PB6	PB	PB	PB
D. Other essential services	PB6	PB6	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	CEO	CEO	CEO
24. Individual, private campsites	CEO	CEO	CEO	CEO	CEO
25. Campgrounds	no	no7	PB	PB	PB
26. Road construction	PB	no8	PB	PB	PB
27. Parking facilities	no	no7	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.
5Functionally water-dependent uses and uses accessory to such water dependent uses only (See note on previous page).
6See further restrictions in Section 15(L)(2).
7Except when area is zoned for resource protection due to floodplain criteria in which case a permit is required from the PB.
8Except as provided in Section 15(H)(4).
9Single family residential structures may be allowed by special exception only according to the provisions of Section 16(E), Special Exceptions. Two-family residential structures are prohibited.
10Except for commercial uses otherwise listed in this Table, such as marinas and campgrounds, that are allowed in the respective district.
11Excluding bridges and other crossings not involving earthwork, in which case no permit is required.
12Permit not required, but must file a written "notice of intent to construct" with CEO.

NOTE: A person performing any of the following activities shall require a permit from the Department of Environmental Protection, pursuant to 38 M.R.S.A. section 480-C, if the activity occurs in, on, over or adjacent to any freshwater or coastal wetland, great pond, river, stream or brook and operates in such a manner that material or soil may be washed into them:
A. Dredging, bulldozing, removing or displacing soil, sand, vegetation or other materials;
B. Draining or otherwise dewatering;
C. Filling, including adding sand or other material to a sand dune; or
D. Any construction or alteration of any permanent structure.

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

A. Minimum Lot Standards

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

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, 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 highwater 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;
 - (c) The site where the retaining wall will be constructed is legally existing lawn or is a site eroding from lack of naturally occurring vegetation, and which cannot be stabilized with vegetative plantings;
 - (d) The total height of the wall(s), in the aggregate, are no more than 24 inches;
 - (e) Retaining walls are located outside of the 100-year floodplain on rivers, streams, coastal wetlands, and tributary streams, as designated on the Federal Emergency Management Agency's (FEMA) Flood Insurance Rate Maps or Flood Hazard Boundary Maps, or the flood of record, or in the absence of these, by soil types identified as recent flood plain soils.
 - (f) The area behind the wall is revegetated with grass, shrubs, trees, or a combination thereof, and no further structural development will occur within the setback area, including patios and decks; and
 - (g) A vegetated buffer area is established within 25 feet, horizontal distance, of the normal high-water line of a water body, tributary stream, or upland edge of a wetland when a natural buffer area does not exist. The buffer area must meet the following characteristics:
 - (i) The buffer must include shrubs and other woody and herbaceous vegetation. Where natural ground cover is lacking the area must be supplemented with leaf or bark mulch;
 - (ii) Vegetation plantings must be in quantities sufficient to retard erosion and provide for effective infiltration of storm water 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 in non-tidal waters shall not be wider than six feet for non-commercial uses.

(5) No new structure shall be built on, over or abutting a pier, wharf, dock or other structure extending beyond the normal high-water line of a water body or within a wetland unless the structure requires direct access to the water body or wetland as an operational necessity.

(6) New permanent piers and docks shall not be permitted unless it is clearly demonstrated to the Planning Board that a temporary pier or dock is not feasible, and a permit has been obtained from the Department of Environmental Protection, pursuant to the Natural Resources Protection Act.

(7) No existing structures built on, over or abutting a pier, dock, wharf or other structure extending beyond the normal high-water line of a water body or within a wetland shall be converted to residential dwelling units in any district.

(8) Except in the General Development Districts, structures built on, over or abutting a pier, wharf, dock or other structure extending beyond the normal high-water line of a water body or within a wetland shall not exceed twenty (20) feet in height above the pier, wharf, dock or other structure.

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

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

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

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

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

G. Parking Areas

- (1) Parking areas shall meet the shoreline and tributary stream setback requirements for structures for the district in which such areas are located. The setback requirement for parking areas serving public boat launching facilities 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 storm water 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 highwater line of a water body, tributary stream, or upland edge of a wetland. Surface drainage which is directed to an unscarified buffer strip shall be diffused or spread out to promote infiltration of the runoff and to minimize channelized flow of the drainage through the buffer strip.
- (7) Ditch relief (cross drainage) culverts, drainage dips and water turnouts shall be installed in a manner effective in directing drainage onto unscarified buffer strips before the flow gains sufficient volume or head to erode the road, driveway, or ditch. To accomplish this, the following shall apply:

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

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

- (b) Drainage dips may be used in place of ditch relief culverts only where the grade is ten (10) percent or less.
- (c) On sections having slopes greater than ten (10) percent, ditch relief culverts shall be placed at approximately a thirty (30) degree angle downslope from a line perpendicular to the centerline of the road or driveway.
- (d) Ditch relief culverts shall be sufficiently sized and properly installed in order to allow for effective functioning, and their inlet and outlet ends shall be stabilized with appropriate materials.

- (8) Ditches, culverts, bridges, dips, water turnouts and other storm water runoff control installations associated with roads and driveways shall be maintained on a regular basis to assure effective functioning.

I. Signs. The following provisions shall govern the use of signs in the Resource Protection, Stream Protection, 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.

NOTE: This includes mining of topsoil and loam. For additional information see the definition of Mineral Extraction in Section 17

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 and wetlands; nor within twenty-five (25) feet, horizontal distance, of tributary streams and freshwater wetlands. Operations in existence on the effective date of this ordinance and not in conformance with this provision may be maintained.

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

O. Timber Harvesting

(1) In a Resource Protection District abutting a great pond, timber harvesting shall be limited to the following:

(a) Within the strip of land extending 75 feet, horizontal distance, inland from the normal high-water line, timber harvesting may be conducted when the following conditions are met:

(1) The ground is frozen;

(2) There is no resultant soil disturbance;

(3) The removal of trees is accomplished using a cable or boom and there is no entry of tracked or wheeled vehicles into the 75-foot strip of land;

- (4) There is no cutting of trees less than 6 inches in diameter; no more than 30% of the trees 6 inches or more in diameter, measured at 4 1/2 feet above ground level, are cut in any 10-year period; and a well-distributed stand of trees and other natural vegetation remains; and
 - (5) A licensed professional forester has marked the trees to be harvested prior to a permit being issued by the municipality.
- (b) Beyond the 75 foot strip referred to in Section 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 1/2 inches in diameter at 4 1/2 feet above ground level be reduced to less than 30 square feet per acre. NOTE: Consistent with 38 M.R.S.A. section 439-A(5)(B), a municipality may elect to replace subparagraph 15(O)(1)(a) with the following: (a) Within the strip of land extending 75 feet inland from the normal high-water line in a shoreland area zoned for resource protection abutting a great pond there shall be no timber harvesting except to remove safety hazards.
- (2) Except in areas as described in Section 15(O)(1) above, timber harvesting shall conform with the following provisions:
- (a) Selective cutting of no more than forty (40) percent of the total volume of trees four (4) inches or more in diameter measured at 4 1/2 feet above ground level on any lot in any ten (10) year period is permitted. In addition:
 - (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. NOTE: Subparagraph 15 (O)(2)(b) below, should be included only if a municipality desires to permit harvesting operations to exceed 40% of the volume of trees in a 10-year period if necessary for good forest management. The adoption of subparagraph 15(O)(2)(b) is not a requirement.
 - (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 highwater 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 highwater 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 is Ordinance;
 - (v) Where conditions permit, no more than 50% of the points on any 25-foot by 50- foot rectangular area may consist of trees greater than 12 inches in diameter. For the purposes of Section 15(P)(2)(b) "other natural vegetation" is defined as retaining existing vegetation under three (3) feet in height and other ground cover and retaining at least five (5) saplings less than two (2) inches in diameter at four and one half (4 1/2) 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.
- (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.

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

16. Administration

A. Administering Bodies and Agents

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

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

(3) Planning Board. A Planning Board shall be created in accordance with the provisions of State law.

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

- (1) A permit is not required for the replacement of an existing road culvert as long as:
 - (a) The replacement culvert is not more than 25% longer than the culvert being replaced;
 - (b) The replacement culvert is not longer than 75 feet; and
 - (c) Adequate erosion control measures are taken to prevent sedimentation of the water, and the crossing does not block fish passage in the watercourse.
- (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 and coastal waters;
- (6) Will protect archaeological and historic resources as designated in the comprehensive plan;
- (7) Will not adversely affect existing commercial fishing or maritime activities in a Commercial Fisheries/Maritime Activities district;
- (8) Will avoid problems associated with floodplain development and use; and
- (9) Is in conformance with the provisions of Section 15, Land Use Standards.

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

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

- (1) There is no location on the property, other than a location within the Resource Protection District, where the structure can be built.
- (2) The lot on which the structure is proposed is undeveloped and was established and recorded in the registry of deeds of the county in which the lot is located before the adoption of the Resource Protection District.
- (3) All proposed buildings, sewage disposal systems and other improvements are:
 - (a) Located on natural ground slopes of less than 20%; and
 - (b) Located outside the floodway of the 100-year flood-plain along rivers and artificially formed great ponds along rivers and outside the velocity zone in areas subject to tides, based on detailed flood insurance studies and as delineated on the Federal Emergency Management

Agency's Flood Boundary and Floodway Maps and Flood Insurance Rate Maps; all buildings, including basements, are elevated at least one foot above the 100- year flood-plain elevation; and the development is otherwise in compliance with any applicable municipal flood-plain ordinance.

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

- (4) The total 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.

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

17. Definitions.

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

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

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

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

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

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

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

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.

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.

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

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

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

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

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

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

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

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

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

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

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

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

of Motor Vehicles.

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

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

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

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

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

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

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

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

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

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

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.

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

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

Adopted by vote of Annual Town Meeting on August 13, 2007.

Filed with the Town Clerk on August , 2007

CERTIFICATION OF TOWN OF SUMNER SHORELAND ZONING ORDINANCE

We, the Selectpersons of the Town of Sumner, do hereby certify that the attached ordinance “Town of Sumner Shoreland Zoning Ordinance” is a true copy of the proposed ordinance posted with the Annual Town Meeting Warrant and submitted to the voters of the Town of Sumner for their approval.

This proposed ordinance was submitted by the Sumner Selectpersons after a public hearing on June 19, 2007, 7:00 PM, at the Sumner Town Office.

8/28/07

Clifford S. McNeil Date

8/28/07

Glenn Hinckley Date

8/28/07

Mark Silber Date

ATTESTATION OF TOWN OF SUMNER SHORELAND ZONING ORDINANCE

Attest: A true copy of an ordinance entitled “Town Of Sumner Shoreland Zoning Ordinance” as certified to me by the municipal officers of Sumner on the 28th day of August, 2007.

Susan C. Runes, Clerk

August 29, 2007

FLOODPLAIN MANAGEMENT ORDINANCE
FOR THE
TOWN OF SUMNER, MAINE

ENACTED: June 23, 2009
Date

EFFECTIVE: June 24, 2009
Date

CERTIFIED BY: Susan C Runes
Susan C. Runes

Susan C. Runes
Clerk, Town of Sumner

Affix Seal

TOWN OF SUMNER
FLOODPLAIN MANAGEMENT ORDINANCE
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ARTICLE I - PURPOSE AND ESTABLISHMENT

Certain areas of the Town of Sumner, Maine are subject to periodic flooding, causing serious damages to properties within these areas. Relief is available in the form of flood insurance as authorized by the National Flood Insurance Act of 1968.

Therefore, the Town of Sumner, Maine has chosen to become a participating community in the National Flood Insurance Program, and agrees to comply with the requirements of the National Flood Insurance Act of 1968 (P.L. 90-488, as amended) as delineated in this Floodplain Management Ordinance.

It is the intent of the Town of Sumner, Maine to require the recognition and evaluation of flood hazards in all official actions relating to land use in the floodplain areas having special flood hazards.

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

The National Flood Insurance Program, established in the aforesaid Act, provides that areas of the Town of Sumner having a special flood hazard be identified by the Federal Emergency Management Agency and that floodplain management measures be applied in such flood hazard areas. This Ordinance establishes a Flood Hazard Development Permit system and review procedure for development activities in the designated flood hazard areas of the Town of Sumner, Maine.

The areas of special flood hazard, Zones A for Town of Sumner, Maine, Oxford County Maine, identified by the Federal Emergency Management Agency in a report entitled "Flood Insurance Study – Oxford County dated July 7, 2009 with accompanying "Flood Insurance Rate Map," Panels:

870, 890, 895, 1060, 1080, 1105

derived from the county wide digital flood insurance rate map entitled "Digital Flood Insurance Rate Map, Oxford County," which are hereby adopted by reference and declared to be a part of this Ordinance.

ARTICLE II - PERMIT REQUIRED

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

ARTICLE III - APPLICATION FOR PERMIT

The application for a Flood Hazard Development Permit shall be submitted to the Planning Board and shall include:

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

- C. A site plan showing location of existing and/or proposed development, including but not limited to structures, sewage disposal facilities, water supply facilities, areas to be cut and filled, and lot dimensions;
 - D. A statement of the intended use of the structure and/or development;
 - E. A statement of the cost of the development including all materials and labor;
 - F. A statement as to the type of sewage system proposed;
 - G. Specification of dimensions of the proposed structure and/or development;
- [Items H-K.2. apply only to new construction and substantial improvements.]
- H. The elevation in relation to the National Geodetic Vertical Datum (NGVD), North American Vertical Datum (NAVD), or to a locally established datum, of the:
 - 1. base flood at the proposed site of all new or substantially improved structures, which in Zone A is determined:
 - a. from any base flood elevation data from federal, state, or other technical sources (such as FEMA's Quick-2 model, FEMA 265/July 1995), including information obtained pursuant to Article VI.J. and VIII.D.;
 - b. from the contour elevation extrapolated from a best fit analysis of the floodplain boundary when overlaid onto a USGS Quadrangle Map or other topographic map prepared by a Professional Land Surveyor or registered professional engineer, if the floodplain boundary has a significant correlation to the elevation contour line(s); or, in the absence of all other data,
 - c. to be the elevation of the ground at the intersection of the floodplain boundary and a line perpendicular to the shoreline which passes along the ground through the site of the proposed building.
 - I. A description of an elevation reference point established on the site of all developments for which elevation standards apply as required in Article VI;
 - J. A written certification by a Professional Land Surveyor, registered professional engineer or architect, that the base flood elevation and grade elevations shown on the application are accurate;
 - K. The following certifications as required in Article VI by a registered professional engineer or architect:
 - 1. a Floodproofing Certificate (FEMA Form 81-65, 01/03, as amended), to verify that the floodproofing methods for any non-residential structures will meet the floodproofing criteria of Article III.H.4.; Article VI.G.; and other applicable standards in Article VI;
 - 2. a Hydraulic Openings Certificate to verify that engineered hydraulic openings in foundation walls will meet the standards of Article VI.K.2.a.;
 - 3. a certified statement that bridges will meet the standards of Article VI.L.;
 - 4. a certified statement that containment walls will meet the standards of Article VI.M.;

- L. A description of the extent to which any water course will be altered or relocated as a result of the proposed development; and,
- M. A statement of construction plans describing in detail how each applicable development standard in Article VI will be met.

ARTICLE IV - APPLICATION FEE AND EXPERT'S FEE

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

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

ARTICLE V - REVIEW STANDARDS FOR FLOOD HAZARD DEVELOPMENT PERMIT APPLICATIONS

The Planning Board shall:

- A. Review all applications for the Flood Hazard Development Permit to assure that proposed developments are reasonably safe from flooding and to determine that all pertinent requirements of Article VI (Development Standards) have been, or will be met;
- B. Utilize, in the review of all Flood Hazard Development Permit applications:
 - 1. the base flood data contained in the "Flood Insurance Rate Map – Oxford County, Maine," as described in Article I;
 - 2. in special flood hazard areas where base flood elevation and floodway data are not provided, the Planning Board shall obtain, review and reasonably utilize any base flood elevation and floodway data from federal, state, or other technical sources, including information obtained pursuant to Article III.H.1.; Article VI.J.; and Article VIII.D., in order to administer Article VI of this Ordinance; and,
 - 3. when the community establishes a base flood elevation in a Zone A by methods outlined in Article III.H.1., the community shall submit that data to the Maine Floodplain Management Program in the State Planning Office.
- C. Make interpretations of the location of boundaries of special flood hazard areas shown on the maps described in Article I of this Ordinance;
- D. In the review of Flood Hazard Development Permit applications, determine that all necessary permits have been obtained from those federal, state, and local government agencies from which prior approval is required by federal or state law, including but not limited to Section 404 of the Federal Water Pollution Control Act Amendments of 1972, 33 U.S.C. 1344;

- E. Notify adjacent municipalities, the Department of Environmental Protection, and the Maine Floodplain Management Program in the State Planning Office prior to any alteration or relocation of a water course and submit copies of such notifications to the Federal Emergency Management Agency;
- F. If the application satisfies the requirements of this Ordinance, approve the issuance of one of the following Flood Hazard Development Permits based on the type of development:
 - 1. A two part Flood Hazard Development Permit for elevated structures. Part I shall authorize the applicant to build a structure to and including the first horizontal floor only above the base flood level. At that time the applicant shall provide the Code Enforcement Officer with an Elevation Certificate completed by a Professional Land Surveyor, registered professional engineer or architect based on the Part I permit construction, “as built”, for verifying compliance with the elevation requirements of Article VI, paragraphs F, G, or H. Following review of the Elevation Certificate data, which shall take place within 72 hours of receipt of the application, the Code Enforcement Officer shall issue Part II of the Flood Hazard Development Permit. Part II shall authorize the applicant to complete the construction project; or,
 - 2. A Flood Hazard Development Permit for Floodproofing of Non-Residential Structures that are new construction or substantially improved non-residential structures that are not being elevated but that meet the floodproofing standards of Article VI.G.1.,2., and 3. The application for this permit shall include a Floodproofing Certificate signed by a registered professional engineer or architect; or,
 - 3. A Flood Hazard Development Permit for Minor Development for all development that is not new construction or a substantial improvement, such as repairs, maintenance, renovations, or additions, whose value is less than 50% of the market value of the structure. Minor development also includes, but is not limited to: accessory structures as provided for in Article VI.I., mining, dredging, filling, grading, paving, excavation, drilling operations, storage of equipment or materials, deposition or extraction of materials, public or private sewage disposal systems or water supply facilities that do not involve structures; and non-structural projects such as bridges, dams, towers, fencing, pipelines, wharves and piers.
- G. Maintain, as a permanent record, copies of all Flood Hazard Development Permit Applications, corresponding Permits issued, and data relevant thereto, including reports of the Board of Appeals on variances granted under the provisions of Article IX of this Ordinance, and copies of Elevation Certificates, Floodproofing Certificates, Certificates of Compliance and certifications of design standards required under the provisions of Articles III, VI, and VII of this Ordinance.

ARTICLE VI - DEVELOPMENT STANDARDS

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

- A. **All Development** - All development shall:
 - 1. be designed or modified and adequately anchored to prevent flotation (excluding piers and docks), collapse or lateral movement of the development resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy;
 - 2. use construction materials that are resistant to flood damage;
 - 3. use construction methods and practices that will minimize flood damage; and,

4. use electrical, heating, ventilation, plumbing, and air conditioning equipment, and other service facilities that are designed and/or located so as to prevent water from entering or accumulating within the components during flooding conditions.
- B. **Water Supply** - All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the systems.
- C. **Sanitary Sewage Systems** - All new and replacement sanitary sewage systems shall be designed and located to minimize or eliminate infiltration of flood waters into the system and discharges from the system into flood waters.
- D. **On Site Waste Disposal Systems** - On site waste disposal systems shall be located and constructed to avoid impairment to them or contamination from them during floods.
- E. **Watercourse Carrying Capacity** - All development associated with altered or relocated portions of a watercourse shall be constructed and maintained in such a manner that no reduction occurs in the flood carrying capacity of the watercourse.
- F. **Residential** - New construction or substantial improvement of any residential structure located within Zone A shall have the lowest floor (including basement) elevated to at least one foot above the base flood elevation utilizing information obtained pursuant to Article III.H.1.; Article V.B; or Article VIII.D.
- G. **Non Residential** - New construction or substantial improvement of any non-residential structure located within Zone A shall have the lowest floor (including basement) elevated to at least one foot above the base flood elevation utilizing information obtained pursuant to Article III.H.1.; Article V.B; or Article VIII.D., or together with attendant utility and sanitary facilities shall:
1. be floodproofed to at least one foot above the base flood elevation utilizing information obtained pursuant to Article III.H.1.; Article V.B; or Article VIII.D., so that below that elevation the structure is watertight with walls substantially impermeable to the passage of water;
 2. have structural components capable of resisting hydrostatic and hydrodynamic loads and the effects of buoyancy; and,
 3. be certified by a registered professional engineer or architect that the floodproofing design and methods of construction are in accordance with accepted standards of practice for meeting the provisions of this section. Such certification shall be provided with the application for a Flood Hazard Development Permit, as required by Article III.K. and shall include a record of the elevation above mean sea level to which the structure is floodproofed.
- H. **Manufactured Homes** - New or substantially improved manufactured homes located within Zone A shall:
1. be elevated such that the lowest floor (including basement) of the manufactured home is at least one foot above the base flood elevation utilizing information obtained pursuant to Article III.H.1.; Article V.B; or Article VIII.D.;
 2. be on a permanent foundation, which may be poured masonry slab or foundation walls, with hydraulic openings, or may be reinforced piers or block supports, any of which support the manufactured home so that no weight is supported by its wheels and axles; and,
 3. be securely anchored to an adequately anchored foundation system to resist flotation, collapse, or lateral movement. Methods of anchoring may include, but are not limited to:

- a. over-the-top ties anchored to the ground at the four corners of the manufactured home, plus two additional ties per side at intermediate points (manufactured homes less than 50 feet long require one additional tie per side); or by,
- b. frame ties at each corner of the home, plus five additional ties along each side at intermediate points (manufactured homes less than 50 feet long require four additional ties per side).
- c. all components of the anchoring system described in Article VI.H.3.a.& b. shall be capable of carrying a force of 4800 pounds.

I. Recreational Vehicles – Recreational Vehicles located within:

1. Zone A shall either:

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

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

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

K. Floodways - Encroachments, including fill, new construction, substantial improvement, and other development shall not be permitted in a floodway which, in Zone A riverine areas, is the channel of the river or other water course and the adjacent land areas to a distance of one-half the width of the floodplain as measured from the normal high water mark to the upland limit of the floodplain, unless a technical evaluation certified by a registered professional engineer is provided demonstrating that the cumulative effect of the proposed development, when combined with all other existing development and anticipated development:

1. will not increase the water surface elevation of the base flood more than one foot at any point within the community; and,
 2. is consistent with the technical criteria contained in Chapter 5 entitled "Hydraulic Analyses," *Flood Insurance Study - Guidelines and Specifications for Study Contractors*, (FEMA 37/ January 1995, as amended).
- L. **Enclosed Areas Below the Lowest Floor** - New construction or substantial improvement of any structure in Zone A that meets the development standards of Article VI, including the elevation requirements of Article VI, paragraphs F, G, or H and is elevated on posts, columns, piers, piles, "stilts," or crawlspaces may be enclosed below the base flood elevation requirements provided all the following criteria are met or exceeded:
1. Enclosed areas are not "basements" as defined in Article XIII;
 2. Enclosed areas shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of flood water. Designs for meeting this requirement must either:
 - a. be engineered and certified by a registered professional engineer or architect; or,
 - b. meet or exceed the following minimum criteria:
 - (1) a minimum of two openings having a total net area of not less than one square inch for every square foot of the enclosed area;
 - (2) the bottom of all openings shall be below the base flood elevation and no higher than one foot above the lowest grade; and,
 - (3) openings may be equipped with screens, louvers, valves, or other coverings or devices provided that they permit the entry and exit of flood waters automatically without any external influence or control such as human intervention, including the use of electrical and other non-automatic mechanical means;
 3. The enclosed area shall not be used for human habitation; and,
 4. The enclosed areas are usable solely for building access, parking of vehicles, or storage.
- M. **Bridges** - New construction or substantial improvement of any bridge in Zone A shall be designed such that:
1. when possible, the lowest horizontal member (excluding the pilings, or columns) is elevated to at least one foot above the base flood elevation utilizing information obtained pursuant to Article III.H.1.; Article V.B; or Article VIII.D.; and
 2. a registered professional engineer shall certify that:
 - a. the structural design and methods of construction shall meet the elevation requirements of this section and the floodway standards of Article VI.J.; and

- b. the foundation and superstructure attached thereto are designed to resist flotation, collapse and lateral movement due to the effects of wind and water loads acting simultaneously on all structural components. Water loading values used shall be those associated with the base flood.

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

1. have the containment wall elevated to at least one foot above the base flood elevation utilizing information obtained pursuant to Article III.H.1.; Article V.B.; or Article VIII.D.
2. have structural components capable of resisting hydrostatic and hydrodynamic loads and the effects of buoyancy; and
3. be certified by a registered professional engineer or architect that the design and methods of construction are in accordance with accepted standards of practice for meeting the provisions of this section. Such certification shall be provided with the application for a Flood Hazard Development Permit, as required by Article III.K.

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

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

ARTICLE VII - CERTIFICATE OF COMPLIANCE

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

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

ARTICLE VIII - REVIEW OF SUBDIVISION AND DEVELOPMENT PROPOSALS

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

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

ARTICLE IX - APPEALS AND VARIANCES

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

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

- A. Variances shall not be granted within any designated regulatory floodway if any increase in flood levels during the base flood discharge would result.
- B. Variances shall be granted only upon:
 - 1. a showing of good and sufficient cause; and,
 - 2. a determination that should a flood comparable to the base flood occur, the granting of a variance will not result in increased flood heights, additional threats to public safety, public expense, or create nuisances, cause fraud or victimization of the public or conflict with existing local laws or ordinances; and,
 - 3. a showing that the issuance of the variance will not conflict with other state, federal or local laws or ordinances; and,

4. a determination that failure to grant the variance would result in "undue hardship," which in this sub-section means:
 - a. that the land in question cannot yield a reasonable return unless a variance is granted; and,
 - b. that the need for a variance is due to the unique circumstances of the property and not to the general conditions in the neighborhood; and,
 - c. that the granting of a variance will not alter the essential character of the locality; and,
 - d. that the hardship is not the result of action taken by the applicant or a prior owner.

- C. Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief, and the Board of Appeals may impose such conditions to a variance as it deems necessary.

- D. Variances may be issued for new construction, substantial improvements, or other development for the conduct of a functionally dependent use provided that:
 1. other criteria of Article IX and Article VI.J. are met; and,
 2. the structure or other development is protected by methods that minimize flood damages during the base flood and create no additional threats to public safety.

- E. Variances may be issued for the repair, reconstruction, rehabilitation, or restoration of Historic Structures upon the determination that:
 1. the development meets the criteria of Article IX, paragraphs A. through D. above; and,
 2. the proposed repair, reconstruction, rehabilitation, or restoration will not preclude the structure's continued designation as a Historic Structure and the variance is the minimum necessary to preserve the historic character and design of the structure.

- F. Any applicant who meets the criteria of Article IX, paragraphs A. through E. shall be notified by the Board of Appeals in writing over the signature of the Chairman of the Board of Appeals that:
 1. the issuance of a variance to construct a structure below the base flood level will result in greatly increased premium rates for flood insurance up to amounts as high as \$25 per \$100 of insurance coverage;
 2. such construction below the base flood level increases risks to life and property; and,
 3. the applicant agrees in writing that the applicant is fully aware of all the risks inherent in the use of land subject to flooding, assumes those risks and agrees to indemnify and defend the municipality against any claims filed against it that are related to the applicant's decision to use land located in a floodplain and that the applicant individually releases the municipality from any claims the applicant may have against the municipality that are related to the use of land located in a floodplain.

- G. Appeal Procedure for Administrative and Variance Appeals
 1. An administrative or variance appeal may be taken to the Board of Appeals by an aggrieved party within thirty days after receipt of a written decision of the Code Enforcement Officer or Planning Board.

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

ARTICLE X - ENFORCEMENT AND PENALTIES

- A. It shall be the duty of the Code Enforcement Officer to enforce the provisions of this Ordinance pursuant to Title 30-A MRSA § 4452.
- B. The penalties contained in Title 30-A MRSA § 4452 shall apply to any violation of this Ordinance.
- C. In addition to any other actions, the Code Enforcement Officer, upon determination that a violation exists, shall submit a declaration to the Administrator of the Federal Insurance Administration requesting a denial of flood insurance. The valid declaration shall consist of;
 1. the name of the property owner and address or legal description of the property sufficient to confirm its identity or location;
 2. a clear and unequivocal declaration that the property is in violation of a cited State or local law, regulation, or ordinance;
 3. a clear statement that the public body making the declaration has authority to do so and a citation to that authority;
 4. evidence that the property owner has been provided notice of the violation and the prospective denial of insurance; and,
 5. a clear statement that the declaration is being submitted pursuant to Section 1316 of the National Flood Insurance Act of 1968, as amended.

ARTICLE XI - VALIDITY AND SEVERABILITY

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

ARTICLE XII - CONFLICT WITH OTHER ORDINANCES

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

ARTICLE XIII - DEFINITIONS

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

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

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

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

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

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

Building - see **Structure**.

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

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

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

Elevated Building - means a non-basement building

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

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

Elevation Certificate - An official form (FEMA Form 81-31, 02/06, as amended) that:

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

Flood or Flooding - means:

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

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

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

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

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

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

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

Floodway - see **Regulatory Floodway**.

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

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

Historic Structure - means any structure that is:

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

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

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

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

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

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

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

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

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

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

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

Recreational Vehicle - means a vehicle which is:

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

Regulatory Floodway -

- a. means the channel of a river or other water course and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one foot, and
- b. in Zone A riverine areas, the floodway is considered to be the channel of a river or other water course and the adjacent land areas to a distance of one-half the width of the floodplain, as measured from the normal high water mark to the upland limit of the floodplain.

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

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

Start of Construction - means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition, placement, substantial improvement or other improvement was within 180 days of the permit date. The actual start means either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as

clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for basement, footings, piers, or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, or modification of any construction element, whether or not that alteration affects the external dimensions of the building.

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

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

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

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

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

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

ARTICLE XIV - ABROGATION


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

TOWN OF SUMNER, MAINE

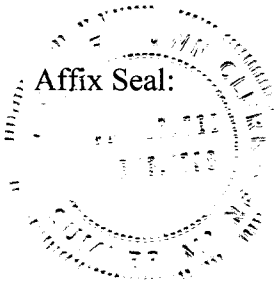
SITE PLAN REVIEW ORDINANCE

ENACTED: August 11, 2008

EFFECTIVE: August 11, 2008

CERTIFIED BY: 
Susan C. Runes, Clerk

Affix Seal:



CERTIFICATION OF TOWN OF SUMNER SITE PLAN REVIEW ORDINANCE

We, the Selectpersons of the Town of Sumner, do hereby certify that the attached ordinance "Town of Sumner Site Plan Review Ordinance" is a true copy of the proposed ordinance to be posted with the Town Meeting Warrant and submitted to the voters of the Town of Sumner for their approval.

This proposed ordinance was submitted by the Sumner Ordinance Update Committee after a public hearing on June 17, 2008, 6:30 PM, at the Sumner Town Office.

Clifford S. McNeil 7/31/08
Clifford S. McNeil Date

Glenn Hinckley 7/31/08
Glenn Hinckley Date

Mark Silber 7/31/08
Mark Silber Date

ATTESTATION OF TOWN OF SUMNER SITE PLAN REVIEW ORDINANCE

Attest: A true copy of an ordinance entitled "Town of Sumner Site Plan Review Ordinance" as certified to me by the municipal officers of Sumner on the 31st day of July, 2008.

Susan C. Runes August 5, 2008
Susan C. Runes, Clerk Date

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SITE PLAN REVIEW ORDINANCE TOWN OF SUMNER, MAINE

Summary Statement:

This Ordinance will provide the Town with a procedure to review development proposals with the intention of encouraging reasonable growth that will add to the existing positive features of Sumner, Maine. It is intended to aid the applicant in presenting a proposal that is well organized and informative, and in achieving a result that contributes to the orderly growth of the Town.

Procedures for Site Plan Review by the Planning Board are delineated, and provision is made for an initial pre-application conference when an applicant and the Planning Board meet to discuss the project informally before any paperwork is begun.

At this meeting the applicant and the Planning Board discuss the proposed site of the project, the nature of its uses, and issues or questions about existing regulations and their applicability to the project. If a Site Plan Review is required, the Planning Board will inform the applicant of the submission requirements. With some Home Occupations, a Site Plan Review may not be required, and the Planning Board will advise the owner.

Processes for Application Review, Public Hearing, Planning Board actions, Final Approval, and Filing are detailed. Associated Costs are listed.

According to responses to a questionnaires received in designing the comprehensive plan, it is important to Sumner residents that the environment and our way of life be preserved and enhanced, therefore the procedures included in the Sumner Site Plan Review Ordinance attempt to assure the continuance of the way of life that makes Sumner special.

Section 1. Purposes

The purposes of this Ordinance are to protect the public health, safety and welfare of the residents and tax payers of the Town of Sumner, to implement the Comprehensive Plan and to insure an orderly growth and development of the Town.

Section 2. Applicability of Site Plan Review

A person who has right, title, or interest in a parcel of land must apply for and obtain site plan approval prior to commencing any of the following applicable activities on the parcel, obtaining a building notification certificate or plumbing permit for the activities, or undertaking any alteration or improvement of the site including grubbing or grading.

A. This Ordinance shall apply to:

All development proposals for new, or substantial enlargements of non-residential (including mineral extractions, commercial, retail, industrial, recreational, institutional, public) structures (or their demolition) or uses;

1. Change in use including new uses of existing structures or land which would employ new materials and /or processes not normally associated with the existing or previous use;
2. Home Occupations (when determined by the Planning Board that Site Plan Review is required);
3. Campgrounds;

4. Development proposals for conversion of single- or two-family dwelling units into any of those uses detailed in **Section 2. A. 1.** above;
5. Land use for any liquid or solid waste disposal either as a primary purpose or as a related aspect of the development (Accessory Use).

B. This Ordinance shall not apply to:

The following activities shall not require site plan approval. (Certain of these activities will, however, require the owner to obtain a building notification certificate, plumbing permit, or other state or local approvals.)

1. The construction, alteration, or enlargement of a detached single family dwelling or two-family dwellings, and customary out-buildings or accessory structures by, and for, the private use of the family(s) residing on the property on which the buildings are to be located.
2. The placement, alteration, or enlargement of a single manufactured housing or mobile home dwelling, including accessory buildings and structures on individually owned lots.
3. Construction of barns, stables, and other agricultural related buildings by and for the private use of families residing on the property on which the building is to be located.
4. All nonstructural uses of land for agricultural or forestry management purposes.
5. Any publicly operated structures or enterprises.
6. Any Home occupation which meets all of the following conditions:
 - a. Is incidental and secondary to the primary residential use of the premises;
 - b. Employs persons who make the residence their permanent home and employs no more than two persons (or their FTE [Full Time Equivalent] at any given time);
 - c. Do not display any exterior sign larger than eight (8) square feet, any exterior indications of the home occupation or variation from the residential character of the principal dwelling or accessory structure.
 - d. Do not generate any nuisance, waste discharge, offensive noise, vibration, smoke, dust, odors, heat, glare/ excessive light, radiation, fumes, or electrical interference detectable to the normal senses or which interferes with normal radio or television reception, legal communication systems (cellular telephones, Ham radios or satellite reception of any kind) or causes other nuisances which extend beyond the limits of the subject property;
 - e. Are likely to generate no objectionable increase over regular daily or seasonal traffic associated with residential uses;
7. Home Occupations which do not meet all of the criteria in **Section 2. B. 6. a-e** above shall comply with this ordinance and shall be subject to Site Plan Review. The Planning Board shall not have the authority to waive this paragraph or any of the provisions of **Section 2. B. 6. a-e** above..

Section 3. Review and Approval Authority

- A. The Planning Board shall administer this ordinance and is authorized to review and act on all site plans for development requiring site plan review as defined in **Section 2. A.** above.
- B. In considering site plans under this provision, the Planning Board may act to approve, disapprove, or approve the project with conditions.
- C. If it is determined that an application is defined as a subdivision by **Title 30-A, M.R.S.A. Section -4401**, the applicant may, at the Planning Board's discretion, be exempt from the provisions of this Ordinance, but must comply with the Town of Sumner's Subdivision Ordinance.

Section 4. Review Procedures

The Planning Board shall observe the following procedures in reviewing applications for site plan review.

A. Pre-application conference Prior to submitting a formal application, the applicant or his/her representative shall request a pre-application conference with the Planning Board. The pre-application conference shall be informal and informational in nature. There shall be no fee for a pre-application review, and such review shall not cause the plan to be a pending application or proceeding under **Title 1 M.R.S.A. §302**. No decision or binding agreements on the substance of the plan shall be made at the pre-application conference.

1. Purpose

The purposes of the pre-application conference are to:

- a. Allow the Planning Board to understand the nature of the proposed use and the issues involved in the proposal;
- b. Avoid future confusion and unnecessary expense to both the town and the person involved in the proposed development;
- c. Allow the applicant to understand the development review process and required submissions;
- d. Identify issues that need to be addressed in future submissions;
- e. Make the applicant aware of any opportunities for coordinating the development with community policies, programs, or facilities.

2. Information Required

The applicant will be prepared to discuss the following with the Planning Board:

- a. The proposed site, including its location, size, and general characteristics;
- b. An accurate sketch plan of the proposed project, consistent with the Building Notification requirements. The sketch plan shall consist of a rough outline or map of the proposed project, a penciled sketch of the parcel showing the proposed layout and dimensions of buildings, parking areas, set-backs, and other features which may aid the Board to understand the project
- c. The nature of the proposed use and potential development,
- d. Any issues or questions about existing municipal regulations and their applicability to the project, and
- e. The Board may request an inspection of the site.

B. The Planning Board, following the pre-application conference, will make a determination as to whether or not the proposed project requires Site Plan Review. The Board’s decision will be in the minutes along with the reasons for its determination. In the case of a proposed Home Occupation the determination will indicate that it complies with all the provisions of **Section 2.B.6.a-e**. If Site Plan Review is required, the Board will inform the applicant of the submission requirements.

Section 5. Application Review

A. Application Submission and Review Procedures by the Planning Board

All applications for Site Plan Review shall be made in writing to the Board on forms provided for that purpose and shall be by the owner of the property or the owner’s agent as designated in writing by the owner. Application forms are available at the Town Office during normal business hours.

The applicant shall prepare and submit a Site Plan Review application, including the development plan and supporting documentation that meets the submission requirements set forth in **Section 6**.

1. At the first meeting at which the application is considered, the Planning Board shall give a dated receipt to the applicant. The Planning Board shall notify the Selectmen, Fire Chief, Road Commissioner and the Plumbing Inspector of the pending application.

2. Within thirty (30) days of the receipt of a fully completed site plan review application, the Planning Board shall review the material and determine whether or not the submission is complete. If the application is determined to be incomplete, the Board shall notify the applicant in writing of this finding, shall specify the additional materials required to make the application complete and shall advise the applicant that the application will not be considered by the Board until the additional information is submitted to the Board. These steps, except the notification requirements, shall be repeated until the application is found to be complete.

3. When the Board determines that the application is complete, the Board shall notify the applicant in writing of this finding, and place the item on the agenda for substantive review within thirty (30) days of this finding.

4. The Planning Board may hold an on-site inspection of the site to review the existing conditions, field verify the information submitted and investigate the development proposal. The Board may schedule this visit either before or after the first meeting at which the application is considered. The Board may decide not to hold an on-site inspection when the site is snow covered. If an application is pending during a period when there is snow cover, the deadline by which the Planning Board shall taken final action on the application as specified in **Section 6**. may be extended, which extension shall not exceed thirty (30) days after the Board is able to conduct an on-site inspection.

B. Public Hearing

The Planning Board shall hold a public hearing within thirty (30) days of having notified the applicant in writing that a complete application has been received and shall cause notice of the date, time and place of such hearing to be given to the applicant, and published in a newspaper of general circulation in Sumner at least two (2) times. The date of the first publication shall be at least seven (7) days prior to the hearing.

Public hearings shall be conducted in accordance with the procedures in **Title 30-A M.R.S.A., Section 2691, Subsection 3 a, b, c, d, and e**.

The Board shall notify all property owners within five-hundred (500) feet of the boundaries of the project parcel of the public hearing by 1st Class mail.

C. Board Action

1. Within thirty (30) days following the public hearing or sixty (60) days of the determination of a complete application, the Board shall either approve the application, approve the application with conditions, or disapprove the application. The time limit for review may be extended by mutual agreement between the Board and the applicant.
2. Within seven (7) days of reaching their decision, the Board shall notify the applicant in writing of any action taken and the reasons for taking such action.
3. The Board may impose conditions on any site plan approval where it finds that such conditions are necessary to insure that the project will comply with the criteria and standards of this Ordinance. All elements and features of the plan and all representations made by the applicant concerning the project and use of the property which appear in the record of the Board proceedings are conditions of approval. No change from the conditions of approval is permitted unless an amended plan is first submitted to and approved by the Board.
4. In issuing its decision, the Planning Board shall make written findings of fact establishing that the proposed development does or does not meet the standards of approval and other requirements of the Town. The Board shall notify the applicant, all town officials who received notice under **Section 5. A. 1**, and all parties who requested to be notified of the action of the Board, including the findings of fact, and any conditions of approval.
5. This notification requirement can be met through the distribution of minutes of the meeting containing the findings of fact, the decision of the Board and any conditions of approval.

All time limits provided for in this section may be extended by mutual agreement of the applicant and Planning Board.

D. Final Approval and Filing

Upon completion of the requirements of Sections 5 and 6 an approval vote by the majority of the Planning Board, the application shall be deemed to have final approval and the site plan shall be signed by a majority of the members of the Board and must be filed with the Code Enforcement Officer.

E. Waivers

1. The Applicant shall submit requests for waivers in writing at the time of the submission of the application and its documentation.
2. The Board may grant waivers in circumstances:
 - a. Where the Board finds that extraordinary and unnecessary hardships may result from strict compliance with this Ordinance;
 - b. where there are special circumstances of a particular project.
3. With the exception of **Section 2.B. 6. a-e** and **Section 2. B.7.** above, the Board may waive any provision of this Ordinance provided that:
 - a. the information is not required to determine compliance with the standards;
 - b. such waivers have no adverse impact on the Town of Sumner; and
 - c. such waivers will not have the effect of nullifying the purpose of this Ordinance, the Town of Sumner Comprehensive Plan, or any other town ordinance or state law.
4. In granting any waiver, the Board shall require such conditions as will, in its judgment, secure substantially the objectives of the requirements so waived. In the minutes of the meeting the Planning Board shall state the reasons it is granting any waiver.

F. Fees

1. Application Fee. An application for site plan approval shall be accompanied by a fee of \$100.00 plus \$5.00 per 1,000 square feet or portion thereof of gross floor area, parking and storage areas. For mining operations and outdoor-based uses such as but not limited to golf course, recreation areas and campgrounds and for structures without floor areas such as communication towers, there shall be a fee of \$150.00. This application fee shall be paid by check payable to the Town of Sumner, Maine. This fee shall not be refundable.

2. Review escrow account

\$150.00 per 2,000 square feet or portion thereof of gross floor area, parking and storage area, for mining operations and outdoor-based uses such as but not limited golf courses, recreation areas and campgrounds and for structures without floor areas such as communication towers, there shall be a payment of \$500.00, deposited in an escrow account established by the Town, which monies may be used by the Board to pay for professional reviews and advice related to the developer's application as it deems necessary. The Board shall provide the applicant with notice of its intent to spend any portion of this account which notice shall specify the purpose for the proposed expenditures. If the balance in the applicant's portion of the Board Review Escrow Account shall be drawn down by 75%, the Board shall require that an additional 50% of the original review escrow account fee be deposited by the applicant. Those monies deposited by the applicant and not spent by the Board in the course of its review shall be returned to the applicant within thirty (30) days after the Board renders its final decision on the application.

Section 6. Submission Requirements

Applications for site plan review must be submitted on application forms provided by the Town of Sumner. The complete application form, evidence of payment of the required fees, and the required plans and related information must be submitted to the Chair of the Planning Board at one of its regular meeting. The submission must contain at least the following exhibits and information unless specifically waived in writing. The Planning Board may waive submission requirements as outlined in **Section 5.E**.

All applications for site plan review must contain the following information:

- (1) A fully executed and signed copy of the application for site plan review.
- (2) Evidence of payment of the application and technical review fees.
- (3) Seven (7) copies of written materials plus seven (7) sets of maps or drawings containing the information listed below. The written materials must be contained in a bound report. The maps or drawing must be at a scale sufficient to allow review of the items listed under the approval standards and criteria, but in no case shall be more than fifty (50) feet to the inch for that portion of the tract of land being proposed for development:

A. General Information

1. Record owner's name, address, and phone number and applicant's name, address and phone number if different.
2. The location of all required building setbacks, yards, and buffers.
3. Names and addresses of all property owners within five hundred (500) feet of any and all property boundaries, including those across a road or street. Both the mailing address and the physical location address must be included. An addressed, postage paid envelope with certified mailing and return receipt request must be provided for each abutter.

4. Sketch map showing general location of the site within Sumner.
5. Boundaries of all contiguous property under the total or partial control of the owner or applicant regardless of whether all or part is being developed at this time.
6. The tax map and lot number of the parcel or parcels on which the project is located.
7. A perimeter survey of the parcel made and certified by a Professional Land Surveyor pursuant to **Rule 12, Standards of Practice, by the State Board of Regulation of Land Surveyors**. This survey shall relate to reference points showing magnetic north, graphic scale, corners of parcel and date of survey and total acreage. It shall include the bearings and length of all property lines of the property to be developed and the source of this information. It shall also include areas within 250 feet of the proposed development site.
8. Existing and proposed topography of the site at contour intervals of not more than 10 feet in elevation unless otherwise specified by the Planning Board if major changes to the existing topography are proposed.
9. A copy of the deed to the property (Book Number and page from the Registry of Deeds), an option to purchase the property or other documentation to demonstrate right, title or interest in the property on the part of the applicant.
10. The name, registration number, and seal of the person who prepared the plan, if applicable.
11. Evidence of the applicant's technical and financial capability to carry out the project as proposed.

B. Existing Conditions (Shown on a map provided by the applicant)

1. Location and size of any existing culverts and drains, on-site sewage disposal systems, wells, underground tanks or installations, and power and telephone lines and poles on the property to be developed, on abutting streets, or land that may serve the development, and an assessment of their adequacy and condition to meet the needs of the proposed use. Appropriate elevations must be provided as necessary to determine the direction of flow.
2. Location, names, and present widths of existing public and/or private streets and rights-of-way within or adjacent to the proposed development.
3. The location, dimensions and ground floor elevation of all existing buildings on the site.
4. The location and dimensions of existing driveways, parking and loading areas, walkways, and sidewalks on or immediately adjacent to the site.
5. Location of intersecting roads or driveways within two hundred (200) feet of the site.
6. The location of open drainage courses, wetlands, stone walls, graveyards, fences, stands of trees, and other important or unique natural areas and site features, including but not limited to, floodplains, deer wintering areas, significant wildlife habitats, fisheries, scenic areas, habitat for rare and endangered plants and animals, unique natural communities and natural areas, sand and gravel aquifers, and historic and/or archaeological resources, together with a description of such features.
7. The direction of existing surface water drainage across the site.
8. The location, front view, dimensions, and lighting of existing signs.

9. Location and dimensions of any existing easements and copies of existing covenants or deed restrictions.
10. The location of the nearest dry hydrant or other water supply for fire protection.

C. Proposed Development Activity (Shown on an overlay at same scale as map for Existing conditions)

1. A general description of the proposed use or activity including: products to be manufactured, description of and volume of manufacturing by-products and wastes (and the plans for disposal of these by-products and wastes), types of products to be warehoused and types of products to be sold.
2. Estimated demand for water supply and sewage disposal together with the location and dimensions of all provisions for water supply and wastewater disposal, including soils test pit data if on-site sewage disposal is proposed. Evidence of adequate ground water supply and quantity shall be submitted by a well driller or a hydro geologist familiar with the area.
3. The direction of proposed surface water drainage across the site and from the site, with an assessment of impacts on downstream properties.
4. Method for handling all solid wastes, including hazardous and special wastes and the location and proposed screening of any on-site collection or storage facilities.
5. The location, dimensions, and materials to be used in the construction of proposed driveways, parking and loading areas, and walkways and any changes in traffic flow onto or off-site.
6. Proposed landscaping and buffering.
7. The location, dimensions, total floor area and ground floor coverage, and ground floor elevation of all proposed buildings or building expansion proposed on the site. This is to include percentages of lot covered by each building or structure.
8. Location, front view, materials, and dimensions of proposed signs together with the method for securing the sign.
9. Location and type of exterior lighting, describing the direction and intensity, so as to minimize the effects on neighboring properties and roadways.
10. The location of all utilities, including fire protection systems.
11. An estimate of the peak hour and daily traffic to be generated by the project.
12. Storm water calculations and a control plan designed to accommodate the 100-year storm.
13. An erosion and sedimentation control plan, and water quality and/or phosphorous export management provisions, if the project requires a storm water permit from the Maine Department of Environmental Protection or if the Planning Board determines that such information is necessary based upon the scale of the project or the existing conditions in the vicinity of the project.

D. Approval Block

Space must be provided on the plan drawing for the signatures of the Planning Board members and date together with the following words, "Approved: Town of Sumner Planning Board."

E. Narrative Statement

A written, narrative statement by the applicant that supplies the following information and is substantiated by the relevant documents as listed on the application is included.

1. The mailing address to which all correspondence from the Board should be sent.
2. Evidence by the applicant of right, title or interest in the property for which the application covers.
3. A copy of the existing and/or proposed easements, restrictions and covenants placed on the property.
4. Statement of financial capacity which should include the names and sources and dollar amounts of the financing parties including banks, government agencies, private corporations, partnerships, and limited partnerships and whether these sources of financing are for construction loans or long-term mortgages or both.
5. The nature and type of any air emissions that could result in air pollution and the plan to control them.
6. The applicant shall provide a municipal service impact analysis that includes a list of construction and maintenance items, with both capital and annual operating cost estimates, that must be provided or financed by the Town of Sumner or quasi-municipal districts. This list shall include but not be limited to: street reconstruction, maintenance, and snow removal; solid waste disposal; ambulance service and fire protection. The applicant shall provide an estimate of the net increase in taxable assessed valuation from the project.
7. A statement from the Fire Chief as to the availability of dry hydrants and/or fire ponds or provisions of fire protection services including issues of adequate ingress and egress, turn-around space for emergency vehicles and a determination as to whether or not the site meets state and town requirements regarding percentage of slope/grade to allow access for emergency vehicles, especially during icy road conditions.
8. An estimate of the date when construction will start, when uses(s) will begin and when the project will be completed.
9. A description of the current or most recent use of the building or land including type of products(s) sold or manufactured, operating hours, nature and number of patrons served on a daily basis, peak hours, and other items as the Planning Board may find necessary.
10. Traffic data shall include the following when required by the Planning Board:
 - a. the estimated peak hour and average daily traffic to be generated by the proposal;
 - b. existing traffic counts on surrounding roads;
 - c. traffic accident data covering the most recent three-year period for which such data is available.
11. Maine Department of Transportation Driveway/Entrance Permit if the project will have access to Routes 219, 140 and / or Greenwoods Road.
12. The type, size, and location of all machinery likely to generate appreciable noise at the lot lines.
13. A phosphorus impact analysis and control plan when located in the direct watershed of a great pond.
14. Other local, State or Federal permits as required. The Board may require the applicant to submit

letters from appropriate State and Federal agencies indicating all applicable requirements will be met.

15. Waivers requested accompanied by reasons and justification. The Planning Board may waive any of the submission requirements when the Planning Board makes written finding of fact included in the minutes of the Planning Board meeting and determines that the scale of the project is of such magnitude as to make the information unnecessary.

F. Informational Sign

1. Upon submission of the application the applicant shall install in a conspicuous location on the project parcel a 4' x 4' sign that is legible and has a professional quality. The sign shall have a white background with contrasting lettering. The minimum lettering size shall be four (4) inches in height. The sign shall contain the following information.

**Proposed Development Site
Project Name
Name and Address of Applicant
For Application Information Contact-
Town of Sumner
388-2866**

2. Within seven (7) days after final action the applicant shall remove the sign.

Section 7. Approval Standards and Criteria

The following criteria shall be used by the Planning Board in reviewing applications for site plan review and shall serve as minimum requirements for approval of the application. The site plan review application shall be approved unless, in the judgment of the Planning Board, the applicant has failed to meet one or more of these standards. In all instances, the burden of proof shall be on the applicant who must produce evidence sufficient to warrant a finding that all applicable criteria have been met.

- A. **Preserve and Enhance the Landscape:** The landscape shall be preserved in its natural state, insofar as practicable, by minimizing tree removal, disturbance of soil, and retaining existing vegetation during construction. After construction is completed, landscaping shall be designed and planted that will define, soften or screen the appearance of off-street parking areas from the public right-of-way and abutting properties and/or structures in order to enhance the physical design of the building(s) or site, and to minimize the encroachment of the proposed use on neighboring land uses. All new construction at the site shall be at least 35 feet away from all property lines to allow appropriate landscape buffering of the site from all abutting properties.
- B. **Utilization of the Site:** The plan for the development must reflect the natural capabilities of the site to support development. Buildings, lots, and support facilities must be clustered in those portions of the site that have the most suitable conditions for development. Environmentally sensitive areas, including but not limited to, wetlands, steep slopes, floodplains, significant wildlife habitats, fisheries, scenic areas, habitat for rare and endangered plants and animals, unique natural communities and natural areas, and sand and gravel aquifers must be maintained and preserved to the maximum extent. Natural drainage areas must also be preserved to the maximum extent. The development must include appropriate measures for protecting these resources, including but not limited to, modification of the proposed design of the site, timing of construction, and limiting the extent of excavation.
- C. **Relationship of the Proposed Buildings to the Environment:** Proposed structures shall be related harmoniously to the terrain and to existing buildings in the vicinity which have a visual relationship to the

proposed buildings so as to have a minimally adverse affect on the environment and the aesthetic qualities of the developed and neighboring areas. The Board shall consider the following criteria:

1. Architectural style is not restricted. Evaluation of the appearance of a project shall be based on the quality of its design and relationship to surroundings.
2. Buildings shall have good scale and be in harmonious conformance with permanent neighboring development.
3. Mechanical equipment or other utility hardware excluding communication devices on roofs, ground, or buildings shall be screened from public view with materials harmonious with the building, or they shall be located so that visibility from any public way is minimized.

D. Municipal Services: The development will not have an adverse impact on the municipal services including municipal road systems, fire department, law enforcement, solid waste program, schools, open spaces, recreational programs and facilities, and other municipal services and facilities.

E. Conformance with the Sumner Comprehensive Plan: The proposed project is in conformance with the Sumner Comprehensive Plan and other applicable ordinances. In addition, environmentally sensitive areas which include fresh water wetlands, significant wildlife habitat, unique natural areas shall be conserved as described in the Sumner Comprehensive Plan.

F. Historic and Archaeological Resources: If any portion of the site has been identified as containing historic or archaeological resources, the development must include appropriate measures for protecting these resources, including but not limited to, modification of the proposed design of the site, timing of construction, and limiting the extent of excavation.

1. Archaeological Resources: Any proposed development 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, shall be submitted by the applicant to the Maine Historic Preservation Commission for review and comment, at least 20 days prior to action being taken by the Board. The Board shall consider comments and recommendations to minimize impacts on such archaeological resources received from the Commission prior to rendering a decision on the application.
2. Historic Locations: The Board shall consider the proposed project's impacts on historic buildings and sites as identified in the Sumner Comprehensive Plan. When a proposed project will include a historic building or site the applicant will design the project to minimize the impacts on the historic building or site.

G. Air Quality: The project will be designed to protect air quality. Should an Air Emission License be required from the Maine Department of Environmental Protection a copy of the approved license will be submitted.

H. Water Quality Protection. All aspects of the project must be designed so that:

1. No person shall locate, store, discharge, or permit the discharge of any treated, untreated, or inadequately treated liquid, gaseous, or solid materials of such nature, quantity, obnoxiousness, toxicity, or temperature that may run off, seep, percolate, or wash into surface or ground waters so as to contaminate, pollute, or harm such waters or cause nuisances, such as objectionable shore deposits, floating or submerged debris, oil or scum, color, odor, taste, or unsightliness or be harmful to human, animal, plant, or aquatic life.
2. All storage facilities for fuel, chemicals, chemical or industrial wastes, and biodegradable raw materials, must meet the standards of the Maine Department of Environmental Protection and the State Fire Marshall's Office.
3. If the project is located within the direct watershed of [North Pond is the only water body most at risk from new development.] a 'body of water most at risk from development' or 'a

sensitive or threatened region or watershed' as identified by the Maine Department of Environmental Protection (DEP), and is of such magnitude as to require a storm water permit from the DEP, the project must comply with the standards of the DEP with respect to the export of total suspended solids and/or phosphorous.

4. Phosphorus, a natural nutrient, stimulates algal growth that causes a significant decline in water quality. The primary source of new and increasing phosphorus loads in Maine lakes is development-residential, commercial, and industrial. Its impact on water quality is extremely long term. The following phosphorus control measures were created and designed to address this concern.

Projects proposed within the direct watershed of a lake or pond listed below shall be designed to limit phosphorus runoff to the levels defined below.

Post Project Phosphorous Export by Watershed

Lake Name	Lake Protection Level	Lake Load Allocation (lbs/ppb/yr) ¹	Allowable Phosphorus Export Per Acre(Pounds)
Abbott Pond	Medium	1.67	0.056
Cushman Pond	Medium	0.85	0.064
Labrador Pond	Medium	15.76	0.041
Little Labrador Pond	Medium	5.95	0.036
Moose Pond	Medium	12.01	0.042
North Pond	High	10.98	0.060
Pleasant Pond	Medium	19.31	0.104
Shagg Pond	Medium	0.68	?
Washburn Pond	Medium	0.59	0.055

¹ The pounds per year of phosphorus from the watershed that would produce an increase in phosphorus concentration by more than 1.0 parts per billion.

- (1) Phosphorus export from a proposed project shall be calculated according to the procedures defined in "Phosphorus Control in Lake Watersheds: A Technical Guide for Evaluating New Development" (Maine DEP et.al., September 1989 with revision in 1992 and as may be amended). Copies of all worksheets and calculations shall be submitted to the Board.
- (2) Phosphorus control measures shall meet the design criteria contained in "Phosphorus Control in Lake Watersheds: A Technical Guide for Reviewing Development" (Maine DEP et al., September 1989 with revisions in 1992 or as may be amended). The Board shall require the reasonable use of vegetative buffers, limits on clearing, and minimizing street lengths, and shall encourage the use of other nonstructural measures prior to allowing the use of high-maintenance structural measures such as infiltration systems and wet ponds.

- I. **Utilities:** The development must be provided with electrical, telephone, and telecommunication service adequate to meet the anticipated use of the project. New utility lines and facilities must be screened from view to the extent feasible. If the service in the street or on adjoining lots is underground, the new service must be placed underground.
- J. **Adequacy of Road System:** The proposed site layout shall provide for safe access and egress from public and private roads by providing adequate location, numbers and control of access points including site distances, turning lanes, traffic signalization, when required by existing and projected traffic flow on the municipal road systems.
- K. **Parking and Circulation:** The layout and design of all means of vehicular and pedestrian circulation including walkways, interior streets, drives, and parking areas shall provide for safe general circulation, separation of pedestrian and vehicular traffic, service traffic, loading areas, and the arrangement and use of parking areas.
- L. **Advertising Features:** The size, location, design, lighting, and materials of all exterior signs and outdoor advertising structures or features shall not detract from the design of proposed buildings and structures and the surrounding properties and shall not interfere with or obstruct pedestrian or vehicular traffic.
- M. **Exterior Lighting:** All exterior lighting shall be designed to minimize adverse impact on neighboring properties and to insure the safe flow of pedestrian or vehicular traffic, and shall not be of an offensive nature.
- N. **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.
- O. **Water Supply:** The development must be provided with a system of water supply that provides each use with an adequate supply of water and will not cause an unreasonable burden on an existing private water supply.
- P. **Sewage Disposal:** The development must be provided with a method of disposing of sewage which is in compliance with the State Plumbing Code. If provisions are proposed for on-site waste disposal, all such systems must conform to the Subsurface Wastewater Disposal Rules.
- Q. **Solid Waste Management:** The proposed development must provide for adequate disposal of solid wastes. All solid waste must be disposed of at a licensed disposal facility having adequate capacity to accept the project's wastes.
- R. **Endangered or Threatened Species:** The Board shall consider the existence of endangered or threatened species as may be identified by the Maine Natural Areas Program. As a condition of approval the Board may require the applicant to undertake protective measures as recommended by the Maine Natural Areas Program.
- S. **Ground Water:** The proposed project shall not adversely impact either the quality or quantity of ground water available to abutting properties or to public water supplies. Applicants whose projects involve on-site water supply or sewage disposal systems with a capacity of 2,000 gallons per day or greater must demonstrate that the ground water at the property lines will comply, following project development, with the Primary and Secondary Standards for Drinking Water established by the Maine Department of Human Services.
- T. **Floodplain Protection:** - If any portion of the proposed site is located within a special flood hazard area as identified by the Federal Emergency Management Agency, all use and development of that portion of the site must be consistent with the Sumner's Floodplain Management Ordinance.

- U. Shoreland Areas:** The proposed Project will be in compliance with the Shoreland Zoning Ordinance of the Town of Sumner. The proposed project will not adversely affect the quality of any water body or the shoreline of such body of water.
- V. Storm water Management:** Adequate provisions must be made for the collection and disposal of all storm water that runs off from proposed streets, parking areas, roofs and other surfaces, through a storm water drainage system and maintenance plan (i.e., ditches, swales, culverts, underdrains, and/or storm drains), which must not have adverse impacts on abutting or downstream properties.
1. All components of the storm water management system shall be designed to meet the criteria of a 100-year storm.
 2. Outlets shall be stabilized against soil erosion by stone riprap or other suitable materials to reduce storm water velocity.
- W. Erosion and Sedimentation Control:** Erosion soil and sedimentation of watercourse and water bodies shall be minimized. The following measures shall be included, where applicable, as part of project review and approval.
1. Stripping of vegetation, regrading or other development shall be done in such a way as to minimize erosion.
 2. Development shall keep cut-fill operations to a minimum and ensure conformity with topography so as to create the least erosion potential and so as to adequately handle surface water runoff.
 3. The disturbed area and the duration of exposure of the disturbed area shall be kept to a practical minimum.
 4. Disturbed soils shall be stabilized as quickly as practical. Temporary mulch will be placed on all disturbed areas where seeding or other construction or stabilization activities will not take place for over 14 consecutive days.
 5. Temporary vegetation or mulching shall be used to protect exposed critical areas during development.
 6. The permanent (final) vegetation and structural erosion control measures shall be installed in the time periods contained in the erosion and sediment control plan.
 7. 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.
 8. Whenever sedimentation is caused by stripping vegetation, regrading 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 or her expense.
 9. 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.
 10. The standards set forth in the Maine Erosion and Sediment Control Handbook for Construction, Best Management Practices (March 1991 and as amended) shall be employed.

- X. Hazardous, Special, and Radioactive Materials:** The handling, storage, and use of all materials identified by the standards of a federal or state agency as hazardous, special or radioactive must be done in accordance with the standards of these agencies and provide documentation that they are in compliance with state or federal standards.

No flammable or explosive liquids, solids or gases shall be stored in bulk above ground unless they are located at least seventy-five (75) feet from any lot line, or forty (40) feet in the case of underground storage. All materials must be stored in a manner and location which is in compliance with appropriate rules and regulations of the Maine Department of Public Safety and other appropriate federal, state, and local regulations.

- Y. Noise:** When the Planning Board determines, based on the project's characteristics and location, that noise will be a concern the following standards shall apply:

1. The proposed development shall not raise noise levels to the extent that abutting and or nearby residents are adversely affected. The Planning Board shall use the standards contained in **Chapter 375. 10. C., Sound level limits**, of the Maine Department of Environmental Protection Rules and as amended to make a determination of "adversely affected."
2. Uses and activities identified in **Chapter 375 10C (5)** in the above mentioned rules shall be exempt from the sound-pressure level regulations.

- Z. Odors:** The proposed project will not produce offensive or harmful odors perceptible beyond the lot lines, either at ground level or habitable elevation.

AA. The proposed project will not generate any nuisance, waste discharge, vibration, smoke, dust, heat, glare or excessive light, radiation, fumes or electrical interference detectable to the normal senses or which interferes with normal radio or television reception or the use of cellular telephones or satellite reception of any kind or the use of Ham Radio (amateur radio communications), or cause any other nuisances which extend beyond the limits of the subject property.

Section 8. Special Provisions

A. Projects Located on Sand and Gravel Aquifers

The Board shall utilize the following standards in addition to the other criteria contained in this Section in reviewing projects located on a mapped sand and gravel aquifer.

1. The boundaries of the sand and gravel aquifers shall be delineated on the Sand and Gravel Aquifer Maps prepared by the Maine Geological Survey labeled Map 15 dated 1983. When boundaries of the sand and gravel aquifer are disputed due to the lack of sufficient detail on the available maps, the applicant, or applicant's agent may submit hydrological evidence prepared by a geologist, certified in the State of Maine, which identifies actual field locations of the aquifer boundaries within the project area.
2. No use shall dispose of other than normal domestic waste water on site without approval of the Department of Environmental Protection. Disposal of waste water shall be in strict compliance with the Maine Subsurface Wastewater Disposal Rules and other relevant State and local laws, rules, and ordinances.
3. Indoor use or storage facilities where hazardous materials, wastes, or other liquids with the potential to threaten groundwater quality are used or stored shall be provided with containment

which is impervious to the material being stored and have the capacity to contain 10 percent of the volume of the containers or 110 percent of the volume of the largest container, whichever is larger.

4. Petroleum and other hazardous material storage and transfer. A Spill Prevention and Countermeasure Plan meeting the standards of the Maine Department of Environmental Protection shall be submitted.
5. In those areas identified as sand and gravel aquifers as defined in subsection A above, the following newly established land uses are prohibited unless the Board finds that no discharges will occur such that water quality at the property line will fall below State Drinking Water Standards and all provisions of this Ordinance will be met.

- | | |
|--|---|
| 1. dry cleaners | 12. chemical reclamation facilities |
| 2. photo processors | 13. industrial waste disposal/impoundment areas |
| 3. printers | 14. automobile graveyards |
| 4. auto washes | 15. chemical manufacturing |
| 5. Laundromats | 16. pesticide/herbicide stores |
| 6. meat packers/slaughter houses | 17. metal platters |
| 7. salt piles/sand-salt piles | 18. concrete/asphalt/coal companies |
| 8. wood preservers | 19. crematorium |
| 9. leather tanning | 20. cemetery |
| 10. electrical equipment manufacturers | |
| 11. plastic/fiberglass fabricating | |

Section 9. Post Approval Activities

A. Incorporation Of Approved Plan: One copy of the approved site plan must be included with the application for the Building Notification Certificate for the project and all construction activities must conform to the approved plan, including any conditions of approval and minor changes approved by the Code Enforcement Officer to address field conditions.

B. Performance Bond

1. Performance Bond Required

Prior to approval, the Board shall require that the applicant file with the Board a performance guarantee in an amount sufficient to defray all expenses of the proposed public improvements. This may be tendered in the form of a certified check payable to the Town of Sumner, or a performance bond running to the Town of Sumner and issued by a surety company acceptable to the Town of Sumner. The conditions and amount of such certified check or performance bond shall be determined by the Board with the advice of the various municipal officers concerned. In addition, prior to approval of any commercial telecommunications tower or wind power generating structure 100 feet in height or higher, the Board shall require the developer or installer to file with the Town a bond in an amount adequate to defray the costs of removing the facility together with any structures or equipment appurtenant thereto and of returning the site to its condition prior to such installation. This performance bond shall remain on file with the Town and shall not be released unless the installation has been decommissioned, dismantled and removed.

2. Extension

The Board may recommend a maximum extension of twelve (12) months to the guaranteed performance period

when the applicant can demonstrate, to the satisfaction of the Board and the municipal officers, good cause for such extension. Such recommendation shall be referred to the Board of Selectmen for official action.

3. Release

Before an applicant may be released from any obligation requiring a guarantee of performance, the Board will require certification from the various municipal officers (Inspecting Official, Selectmen, Road Commissioner, Fire Chief) to the effect that all improvements have been satisfactorily completed in accordance with all applicable standards (state, federal and local codes, ordinances, laws and regulations).

C. Changes and Amends to Approvals

1. Minor Changes to Approved Project Plan

Minor changes to approved projects necessary to address field conditions may be approved by the Planning Board provided that such change does not affect the compliance with the standards of this Ordinance, conditions of approval or alter the essential nature of the project. Any such change must be endorsed in writing on the approved plan by the Code Enforcement Officer.

2. Amendments to Approved Project Plan

Approvals of site plans are dependent upon and limited to the proposals and plans contained in the application and supporting documents submitted and affirmed to by the applicant. Any variation from the plans, proposals, and supporting documents, except minor changes that do not affect approval standards, is subject to review and approval by the Planning Board.

Section 10. Enforcement

A. Notice of Violation

The Code Enforcement Officer shall act in all cases of violations of this Ordinance by notifying, in writing, the owner or lessor of the project and the Selectmen of the nature of the violation and the correction of the same, if possible. Notification shall be deemed to have been made when sent to the owner or lessor by certified mail.

B. Legal Action

The Selectmen are charged with the prosecution for all violations of the provisions of the Ordinance. In cases where such notices referred to in **Section 10. A.** above, are not promptly complied with after receipt of said notices, the Selectmen shall make such complaints to the courts as, in their judgment, are proper, or may institute such actions or proceedings at law or in equity as are proper to restrain, correct, remove or punish such violations.

C. Fines

Any person or corporation who shall violate any of the provisions of this Ordinance or fail to comply with any of the requirements thereof, shall be fined not less than \$100.00 nor more than \$2,500.00 as provided by State law **Title 30-A MRSA Section 4452**. Each day on which the violation shall continue shall constitute a separate offense.

Section 11. Expiration of Approval

All Site Plan approvals shall expire two (2) years after the date of approval unless substantial construction there under has commenced. If work is not fully completed within three (3) years from the date of approval, the approval lapses and a new application, with all required fees and submissions, must be made and approved. The Board may grant up to a twelve (12) month extension to these time periods upon request by the applicant and a showing that the time periods cannot be complied with due to circumstances beyond the control of the applicant.

Section 12. Appeals

An appeal may be taken within thirty (30) days from the Planning Board's final decision by any party to the Superior Court in accordance with **Rule 80B of the Maine Rules of Civil Procedure**.

Section 13. Authority

- A. This Ordinance is adopted pursuant to **Article VIII Part 2 Section 1 of the Maine Constitution and Title 30-A M.R.S.A. Section 3001** (Home Rule).
- B. This Ordinance shall be known as the "Town of Sumner, Maine Site Plan Review Ordinance."

Section 14. Validity and Separability, Conflict with other Ordinances and Effective Date

- A. Should any section or provision of this Ordinance be declared by any court to be invalid, such decision shall not invalidate any other section or provision of the Ordinance.
- B. Whenever the requirements of this Ordinance are inconsistent with the requirements of any other ordinance, code or statute, the more restrictive requirements shall apply.
- C. The effective date of this Ordinance is _____, the date of its adoption at a town meeting.

Section 15. Amendments

This Ordinance may be amended by a majority vote of the annual or special town meeting. Amendments may be initiated by a majority vote of the Planning Board or by request of the Board of Selectmen to the Board or on a written petition of a number of voters equal to at least 10% of the number of votes cast in the last gubernatorial election in the Town. The Board shall conduct a public hearing on any proposed amendment. Fees can be changed by the Board of Selectmen or a Town Meeting.

Section 16. Definitions

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

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

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

Building: Any structure having a roof or partial roof supported by columns or walls used for shelter or enclosure of person, animals, goods or property of any kind.

Campground: A tract or parcel of land intended for the placement of recreational vehicles, tents and utility and service buildings.

Change in Use: The conversion of a building or parcel of land from one type of nonresidential use to any other type of nonresidential use. By way of example, the change from retail to office or retail to a restaurant.

Commercial: Connected with the buying or selling of goods or services or the provision of facilities for a fee,

exclusive of rental or residential buildings and/or dwelling units.

Direct Watershed of Lake or Pond: Any land area that contributes stormwater runoff either by direct surface water or subsurface flow to a great pond without such runoff traveling through another great pond.

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

Family: One or more persons occupying a premises and living as a single housekeeping unit.

Full-time equivalent (FTE): a way to measure a worker's involvement in a project. An FTE of 1.0 means that the person is equivalent to a full-time worker, while an FTE of 0.5 signals that the worker is only half-time.

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

Fresh Water Wetland: Means fresh water swamps, marshes, bogs and similar areas which are:

1. Inundated or saturated by surface or ground water at a frequency and for a duration sufficient to support, and which under normal circumstances do support, a prevalence of wetland vegetation typically adapted for life in saturated soils; and
2. Not considered part of great pond, river, stream or brook. These areas may contain small stream channels or inclusions of land that do not conform to the criteria.

Historic Building/Site: Building and sites on the National Register of Historic Places or identified as of historic importance in the Sumner Comprehensive Plan.

Home Occupation: An occupation or profession which-results in a product or service and is conducted in whole or in part in a residential structure, accessory structure to a residential use or property

Impervious Surface: The area of land covered by buildings, structures and paved and gravel surfaces.

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

Institutional: A building devoted to some public, governmental, education, charitable, medical or similar purpose.

Mineral Extraction: Any operation which within any twelve (12) successive month period removes more than 5,000 cubic yards of soil, topsoil, loam, sand, gravel, clay, peat, or other like material from its natural location, and to transport the product removed away from the extraction site.

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

Public Improvement: Roads, drainage and stormwater systems, common water and sewer systems whether public or private.

Radiation: The emission of atomic particles or rays by the nucleus of an atom.

Retail: Connected with the sale of goods to the ultimate consumer for direct use and consumption, and not for trade.

Sign: Any device, fixture, placard or structure that uses any color, form, graph, illumination, symbol, or writing to advertise, announce the purpose of, or identify the purpose of a person or entity, or to communicate information of any kind to the public.

Structure: Anything constructed, erected or placed on the ground which is permanent, temporary, or mobile. Structure(s) include, but are not limited to: building(s), mobile homes, recreational vehicles, and processing facilities. Boundary walls, fences and flag poles are not considered structures.

Substantial Construction: Completion of thirty (30) percent of a permitted structure or use measured as a percentage of the total estimated cost.

Substantial Enlargement: An expansion by 20 percent or greater feet of new gross floor area or 20 percent or greater of new impervious surface area provided such expansion involves at least 500 square feet within any five-year period.

Use: Any purpose for which a building or other structure or a tract of land may be designed, arranged, intended, maintained, or occupied; also any activity, occupation, business or operation carried on or intended to be carried on in a building or other structure or on a tract of land.



TOWN OF SUMNER

INDUSTRIAL WIND ENERGY FACILITY ORDINANCE

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Town of Sumner Industrial Wind Energy Facility Ordinance

Section I - Title

This ordinance shall be known as the Town of Sumner Industrial Wind Energy Facility Ordinance.

Section II – Principle and Purpose

The purpose of this ordinance is to protect the health, safety, and general welfare of the Citizens of Sumner by establishing reasonable and uniform regulations for the development of Industrial Wind Energy Facilities (IWEFs). This ordinance is to be liberally construed.

Licensing Authority

The Planning Board shall be the licensing authority for IWEFs in the Town of Sumner, responsible for all IWEF related construction permits, temporary operational license and/or operational licenses.

Expert Consultants and Specialists

The Planning Board may, with notice to the Applicant, hire expert Consultants or Specialists as deemed necessary to carry out the provisions of this ordinance including but not limited to: legal counsel, qualified independent acoustical experts, licensed Maine surveyors, licensed Maine engineers, biologists, zoologists, etc. All regulatory fees, costs, and expenses incurred by any such experts or specialists shall be paid by the applicant.

Extensions of Time Limits

The Planning Board and the applicant may, by mutual written agreement, extend any time limits required in this ordinance, except where otherwise noted.

Documentation

Applicant shall provide at least ten (10) hardcopies of all written and other materials required for submission to the Board, including any maps, photographs or drawings, with one electronic copy of all such materials in a digital format acceptable to the Board. Each hardcopy shall be bound.

Section III – Authority

This ordinance is adopted pursuant to the enabling provisions of Article VIII, Part 2, Section 1 of the Maine Constitution (Municipal Home Rule), the provisions of Title 30-A M.R.S.A. Section 3001 (Home Rule), and the provisions of the Planning and Land Use Regulation Act, Title 30-A M.R.S.A. Section 4312, et. seq. (Comprehensive Planning and Land Use Regulation, or “Growth Management Act”), as these laws may be amended from time to time, and consistent with the Town of Sumner’s Comprehensive Plan of 2006.

Whenever a provision of this ordinance conflicts with, or is inconsistent with, another provision of this ordinance or any other Town of Sumner ordinance, State of Maine or Federal statute or regulation, the more restrictive provision shall control.

Section IV – Applicability: Construction Permit and Operational License

This ordinance applies to all IWEFs proposed to be constructed or operated on or after the effective date of the ordinance.

This ordinance includes Sections I through XV, together with the Appendix.

It shall be unlawful and a violation of this ordinance to begin construction, modification and/or operation of an IWEF in Sumner without appropriate permits and licenses required under local, state and federal law and regulations.

The burden of proof of compliance with all aspects of this ordinance is on the Applicant and/or the Owner/Operator of an IWEF.

Section V – Definitions

Acoustical Hazard – annoyance, nuisance and/or potential threat of harm to the health of humans and animals living near IWEFs, with a resulting threat of a decline in nearby property values, all owing to noise, both audible and inaudible, produced by an IWEF.

Ambient Sound – includes all sound present in a given environment. It includes intermittent sounds, such as aircraft, barking dogs, wind gusts, mobile farm or construction machinery, and vehicles traveling along a nearby road. It also includes insect and other nearby sounds from birds, animals or people. Ambient sound is not considered part of the long-term background sound.

Amplitude Modulation – unpredictable fluctuations in noise, both audible and inaudible, which often characterize sound emitted from IWTs and which may cause an acoustical hazard.

ANSI-American National Standards Institute.

Applicant –See definition of Owner/Operator.

Application/Reports (A/R) – a written request, which conforms to all of the requirements of this ordinance, by an Applicant or Owner/Operator, for a Construction Permit or to expand an IWEF or for an initial or renewed Operational License regarding an IWEF, or for any other matter for which the Applicant or Owner /Operator is seeking any kind of approval from the Town Planning Board.

A-Weighted Sound Level (dBA) – is one measure of the overall sound level. This measure is designed to reflect the response of the human ear, which does not respond equally to all frequencies. Lower frequency sounds are given less weight than those in the mid-range of human perception. The resulting measure is said to be A- weighted and the units are dBA.

Background Sound (L90) – refers to the sound level present at least 90% of the time. Background sounds are those heard during lulls in the ambient sound environment. That is, when transient sounds from flora, fauna, and wind are not present. Background sound levels vary during different times of the day and night. Because IWEFs are intended to operate continuously over a period of decades, the background sound levels of interest are those during the quieter periods which are often the evening and night. Sounds from the IWEF of interest, near-by birds and animals or people must be excluded from the background sound test data. Nearby electrical noise from streetlights, transformers and cycling air conditioning units and pumps etc. must also be excluded from the background sound test data.

Background sound level [dBA and dBC (as L90)] is the sound level present 90% of the time during a period of observation that is representative of the quiet time for the soundscape under evaluation and with duration of ten (10) continuous minutes. Several contiguous ten (10) minute tests may be performed in one hour to determine the statistical stability of the sound environment.

Blade Passage Frequency (BPF) – the frequency at which the blades of a turbine pass a particular point during each revolution (e.g. lowest point or highest point in rotation) in terms of events per second. A three bladed turbine rotating at 28 rpm would have a BPF of 1.4 Hz. [e.g. (3 blades times 28rpm)/60 seconds per minute= 1.4 Hz BPF]

Blade Reflection – the intermittent reflection of the sun off the surface of the blades of an IWT.

CEO – means Town of Sumner Code Enforcement Officer for matters relating to Industrial Wind Energy Facilities.

Construction Permit – final written permission to construct an IWEF.

C-Weighted Sound Level (dBC) – is similar to the A-weighted sound level (dBA), but it does not de-emphasize low frequencies to the extent that A-weighting does. For sounds with a significant low-frequency component, dBC is a more accurate measure of the energy of the sound waves than dBA.

Days- Refers to Calendar days.

Debris Hazard – Hazard owing to the possibility that the parts of an IWEF, or material (ice or other debris) accumulated on its rotating elements, could be dislodged and fall or be thrown some distance onto surrounding property.

Decibel (dB) – refers to a dimensionless quantity, which is proportional to the logarithm (base 10) of a ratio of two quantities that are proportional to the power, energy or intensity of sound. One of these quantities is a reference level relative to which all other levels are measured.

DEP Certification – a certification issued by the Department of Environmental Protection pursuant to Title 35-A M.R.S.A. §3456, as may be amended from time to time, for an IWT that is subject to this ordinance.

Emission – Sound energy transmitted by an IWT to a receiver.

Essential Wildlife Habitat – means areas identified by the Commissioner, Maine Department of Inland Fisheries and Wildlife, in accordance with the provisions of 12 M.R.S.A., Chapter 925, Subchapter 3, and any Department of Inland Fisheries and Wildlife rules implementing those provisions.

Extraordinary Events – includes, but is not limited to, tower collapse, catastrophic turbine failure, fires, leakage of hazardous materials, unauthorized entry to the tower base, thrown blade or hub, any injury to an IWEF worker or other person that requires emergency medical treatment, or other event that impacts the health and safety of the Town or its residents.

Frequency – The number of oscillations or cycles per unit of time. Acoustical frequency is usually expressed in units of Hertz (Hz) where one Hz is equal to one cycle per second.

Height -means the total distance measured from the grade of the property as it existed prior to the construction of an IWEF, tower, turbine, or related facility at the base to its highest point. In the case of an IWT, this includes the length of the blade at its highest possible point.

IEC –International Electrotechnical Commission.

Immission– Noise received at a defined point after being transmitted from an IWT.

Immission Spectra Imbalance– The spectra are not in balance when the C-weighted sound level is more than 20 dB greater than the A-weighted sound level. For the purposes of this requirement, the A-weighted sound level is defined as the long-term background sound level (LA90) + 5 dBA.

Industrial Wind Energy Facility (IWEF) – means all of the following—any wind energy installation:

1. consisting of one or more IWTs with a combined tower and blade height of more than 150 feet (from ground to blade tip at its highest point); and
2. with a nameplate capacity of more than 100 kilowatts per IWT; and
3. requiring a Site Location of Development permit from the Maine Department of Environmental Protection pursuant to Title 35-A M.R.S.A §3456, as may be amended from time to time; and
4. the purpose of which facility is to generate electricity using ambient wind as a source of motive power in order to primarily supply electricity to off-site customers; and
5. includes, but is not limited to, any associated installations structures and facilities such as meteorological towers, substations and any other accessory structures, cables/wires, generator leads lines, fences, lighting systems, access roads, parking lots, turnout locations, temporary staging areas, together with maintenance and all power collection and transmission systems, and any areas in which the soil is in any way disturbed.

Industrial Wind Turbine (IWT) - an energy system that converts wind energy into electricity and which meets the height, nameplate capacity and other criteria cited in the definition of an IWEF above.

Infrasound – sound like waves having a frequency below the audible range, that is, below 20 hertz.

Land Survey – the practice of determining the boundaries, area, location and elevation of land, features and structures on the earth’s surface by means of measuring angles and distances, using the techniques of geometry and trigonometry, by a Maine Professional Land Surveyor (MPLS).

LAeq – means the energy-equivalent sound pressure level measured in decibels with a sound level meter set for A-weighting, “Fast” response over a measurement period; expressed as LAeq or Leq in dBA.

LCeq – means the energy-equivalent sound pressure level measured in decibels with a sound level meter set for C-weighting, “Fast” response over a measurement period; expressed as LCeq or Leq in dBC.

Low Frequency Noise (LFN) – refers to sounds with energy in the lower frequency range of 20 to 200 Hz.

Ls- margin of error shall be one (1) dBA unless otherwise authorized by the Town Planning Board, to account for variations in meter total instrument response.

Lw – manufacturer’s Guaranteed Maximum Sound Power level, in dBA re 1pW, under any operating conditions, including high winds, yawing, furling and power outages, whether electrically loaded or unloaded.

L10– the level of sound exceeded for no more than 10% of the monitoring period.

Measurement Point – refers to a location where sound and/or vibration are measured.

Meteorological Tower (MET Tower) – structure used for the measurement of wind force and speed and constructed as a tower to mount instruments at one or more heights above grade for the purpose of collecting wind or other meteorological data.

Mitigation Waiver – means a legally enforceable, written agreement between the Applicant and a Non- participating Landowner in the Town of Sumner for which the landowner waives certain protections afforded in this ordinance.

Nameplate Capacity – the electrical power rating of an individual IWT as certified by the manufacturer and the National Renewable Energy Laboratory and normally expressed in watts, kilowatts (kW), or megawatts (MW).

Non-Participating Parcel – a parcel of real estate that is neither a Project Parcel nor a Participating Parcel.

Notice – a written communication sent by certified mail "return receipt requested", or a major messenger service such as FedEx or UPS.

Occupied Building – any structure that is, or could, reasonably be occupied by persons or livestock. This includes, but is not limited to dwellings, places of business, places of worship, schools, and barns.

Operational License (OL) – License or renewal of a license issued by the Planning Board to operate an IWEF in accordance with this ordinance.

Owner/Operator - the person(s) or entity(s) with legal ownership or control of the property on which the IWEF is located or proposed to be located, including successors and assigns, that either had, has or is attempting to obtain, permission from the town of Sumner to build, operate on a daily basis, expand, decrease, change the use of, or decommission an IWEF. An Owner/Operator is the entity which has full legal authority to represent and bind itself to fulfill all of the provisions of this ordinance. This term is interchangeable with the “Applicant.”

Parcel -A contiguous quantity of land in the possession of an owner.

Participating Parcel - means a parcel of real estate that is not a Project Parcel, but is subject to a Mitigation Waiver.

Planning Board - For the purpose of this document, the Town of Sumner Planning Board shall herein after be

referred to as "Board".

Professional Land Surveyor - Professional Land Surveyor means a person licensed by the Department of Professional and Financial Regulation to perform any service or work involving the application of special knowledge for the purpose of determining property boundaries, determining area and volume, platting of land and subdivisions and other services as defined by law (reference 32 M.R.S.A. Section 13901 "Definitions").

Project Parcel – any property in which the developer has an ownership interest either whole or in part, including leases, easements or Rights-of-Way.

Project Boundary - means the boundaries of the IWEF as shown on the construction plan.

Property Line - means the legally recognized and mapped property boundary line.

Public Way - means any road capable of accommodating motor vehicles, including, but not limited to, any state highway, municipal road, county road, or other road dedicated to the public.

Qualified Independent Acoustical Consultant – refers to a person with qualifications under this ordinance for conducting baseline and other sound measurements, reviews and studies. Those qualifications include, at a minimum, demonstration of competence in the specialty of community sound testing and full and current Board Certified Membership in the Institute of Noise Control Engineers (INCE). (Certifications such as Professional Engineer (P.E.) do not test for competence in acoustical principles and measurement and are thus not, without further qualification, appropriate for work under this ordinance.)

Scenic or Special Resource - means a scenic resource of state or national significance, as defined in Title 35-A M.R.S.A. Section 3451(9), as may be amended from time to time, any site registered in the National Registry of Historic Places, or a scenic or special resource of local significance identified as such in the Sumner Comprehensive Plan of 2006.

Setback- the minimal fixed distance required from the base of each IWT and the closest point on any property line of any non-participating property owner and/or public way as measured on a horizontal basis.

Shadow Flicker- alternating changes in light intensity caused by the movement of wind turbine blades casting shadows on the ground or a stationary object or occupied building.

Significant Wildlife Habitat - as defined under Maine's Natural Resources Protection Act (NRPA) and Administered by the Maine Department of Environmental Protection and Department of Inland Fisheries and Wildlife.

Structure - regarding IWEFs, the total constructed aspects and footprint of all of the physical attributes of the entire IWEF as defined in Title 38 M.R.S.A. § 482, as may be amended from time to time.

Town of Sumner - For the purpose of this document, the Town of Sumner shall herein after be referred to as "Town".

Section VI- Escrows

1. The Applicant shall reimburse the Town for all regulatory costs and expenses incurred due to, for example, the evaluation, processing of applications and complaints. There shall be separate escrow amounts required for Met Towers, Construction Permits, Licensing and re-Licensing, and for decommissioning. At the end of each of distinct period, as determined by the Board, the funds in the Escrow Account will be returned to the Owner/Operator. All interest accruing to the escrow account shall be paid to the Applicant on a yearly basis, with a deduction for any money needed to replenish. The Board may require one continuous escrow account funded at different levels for the periods described above, or it may require that a separate escrow account be opened and closed for each of such periods.
2. To fund the costs of reviewing the application for the Construction Permit and decommissioning plan, the Applicant or Owner/Operator will open an Escrow Account at a financial institution approved by the Board, in

the name of the Town, to be managed by the Town Treasurer, depositing one-half of one percent (1/2 of 1%) of the estimated project costs coincident with the submission of an application for a Construction Permit and approval of decommissioning plan. Failure to provide notice and proof of deposit to the Town Escrow Account shall cause the application to be deemed withdrawn.

3. If the Construction Permit/Decommissioning Escrow Account falls below fifty (50) percent of the original required deposit amount, full replenishment is required within thirty (30) days of notice by the Town to the Applicant regarding the account deficiency. Failure by the applicant to provide to the Town notice and proof of deposit to the Town Escrow Account for such replenishment shall cause the application to be deemed withdrawn.
4. The Escrow funding level for the MET Tower and entire period of licensing and renewals of licensing shall be \$10,000 and shall be replenished within thirty (30) days as used.

Section VII – The IWEF Application Process

Review Process

The Steps of the IWEF application Process are:

- ❖ Pre-Application Meeting
- ❖ Preliminary Plan
- ❖ Meteorological Tower (MET)
- ❖ Construction Permit/Initial Operational Permit
- ❖ Operational License-Renewal, New Owner/Operator, Amended

Pre-Application Meeting with the Board

1. Description and Purpose: This is an informal, informational, non-binding discussion with the Board so all parties fully understand what is being proposed and what is required by law.
2. Requirements: The applicant must attend the pre- application meeting and is expected to have read the Town's IWEF ordinance in advance. Any written materials the applicant wishes to provide to the Board shall conform to the A/R requirements of this ordinance.

Application Procedures and Requirements for Preliminary Plan

1. Preliminary Plan Fee of \$1,000 (Non Refundable)
 - a. The Applicant shall be billed for all Planning Board costs associated with the evaluation of the Preliminary Plan.
2. Preliminary Plan Procedures: After meeting informally with the Board an applicant will submit a Preliminary Plan as detailed in the Preliminary Plan requirements below to the town clerk to be placed on the Board agenda within forty-five (45) days of receipt.

A dated receipt will be issued to the applicant and the applicant will be notified no less than ten (10) days prior to the Board meeting which includes the IWEF preliminary Plan on its agenda. The Board will review all Preliminary Plans received on a first come, first served basis.

Within forty-five (45) days from the date that the Board began the review process of the Preliminary Plan the applicant will be notified whether the Plan is complete. If incomplete, the Board will specify additional information or material(s) needed to complete the plan.

3. Preliminary Plan Requirements:
 - a. The Applicant, Owner/Operator and Construction Company's name, address and phone number.

- b. A narrative describing the proposed IWEF, including an overview of the project, the project location, the size and number of turbines, and the maximum generating capacity and expected megawatt production of each proposed IWT.
- c. Evidence of the Applicant's technical and financial ability to implement the projects proposed, including a history of the Applicant/Owner/Operator's previous wind facility projects or associations with such projects.
- d. An overview map that includes the extent of the entire Town, showing all roads, together with the location of all IWTs, access roads, power transmission lines, and any other features of the IWEF deemed to be relevant by the Planning Board.
- e. The names, addresses and available phone numbers of all owners of parcel(s) within one (1) mile of the project parcel.
- f. The distance between each IWT.
- g. A phased project plan, if phasing is sought.
- h. Written list of specific Community Benefits where applicable.
- i. Applicant shall submit a standard boundary survey of the subject property stamped by a Professional Land Surveyor licensed in the State of Maine. Survey shall also include existing land features including, but not limited to, existing roads, water courses, structures and utilities.
- j. For any Project Parcel that is not owned by the Applicant, a copy of any Agreement(s) between the owner of the Project Parcel and the Applicant and/or Owner/Operator, excepting financial information.
- k. Once the Preliminary Plan is complete and accepted by the Board, all landowners identified in subsection (e) will be notified in writing. The Board shall be responsible for the notification of landowners. The public shall have access to the Preliminary Plan in the town office during regular office hours. The public will have forty- five (45) days from the date of notification to provide written comments to the Board concerning the proposed IWEF.

MET Tower Permit Submission Criteria

A continuous MET study of no less than one (1) year and no more than two (2) years is a requirement. The removal of the MET must be completed within three (3) months of the test completion and the land restored to its previous condition.

The application for a MET permit for shall include the following information:

1. Application Fee of \$1,000 (Non Refundable)
2. Applicant and property owner name address and contact information.
3. Engineering drawings of
 - ❖ Proposed tower structure, instrument package, and guy system, if any
 - ❖ Proposed tower base
 - ❖ tower location showing property lines and setback requirements (as specified in this Ordinance)
4. A survey by a licensed Maine Professional Land Surveyor indicating tower location
5. Any building, use or construction permits required by other authorities

6. Period of data collection shall be at least one year but not more than two years. Decommissioning of the Met Tower shall be completed within 180 days of completion of data collection. Requirements for decommissioning of the entire IWEF shall also apply to MET Tower decommissioning.
7. Plans for mitigation of Environmental Hazards
8. Permit for the MET tower will expire eighteen (18) months after the date of issue. If the applicant has not commenced construction of the Met Tower within that period, the applicant must reapply.
9. A report of all data collected by the MET will be provided to the Board on a quarterly basis.
10. Decommissioning Plan
11. Failure to comply with the criteria of this ordinance relative to a MET application will result in the denial of the application.
12. Within 30 days of the Board's receiving a Meteorological Tower (MET) application the Board shall notify the Applicant in writing that the application is complete or, if the application is incomplete, shall inform the Applicant of the specific additional material needed to complete the application.
13. Within forty-five (45) days of the board having determined that the MET application is complete, the Board shall approve the application, approve the application with conditions or disapprove the application. The time limit for review may be extended by mutual agreement between the Board and the Applicant.
14. A post-construction inspection of the Met Tower shall be conducted by the Board's experts to ensure structural integrity and full compliance with this ordinance. If such inspection reveals issues of non-compliance, the CEO shall take appropriate enforcement measures.

Construction Permit Application Procedures and Requirements

1. Construction Permit Procedures:
 - a. Construction Permit Application Fee \$5,000 (Non Refundable)
 - b. Applications for an IWEF construction permit shall be submitted to the Board at least forty-five (45) days prior to a Planning Board meeting. This submission must occur within six (6) months of acceptance of the Preliminary Plan as complete. The application for an IWEF Construction Permit shall include all of the information, documents, plans, escrow deposits and other items required to be submitted with an application under Section VIII, and a preliminary cost agreement with fees referred to in Section VI, together with all other instances where this ordinance outline financial obligations of the Applicant, Permittee, Owner/Operator and Licensee. The original plan shall be suitable for permanent recording in the Oxford County Registry of Deeds.
 - c. Within ninety (90) days of the Board receiving an application, the Board shall, with assistance from such staff, consultants, committees as it deems appropriate, notify the Applicant in writing either that the application is a complete application or, if the application is incomplete, that specific additional material is needed to make a complete application.
 - d. The Board shall hold a public hearing within forty-five (45) days of the date of determination of a complete application. The Board shall publish the time, date, and place of the hearing at least two (2) times, the date of the first publication to be at least seven (7) days prior to the hearing in a newspaper of area wide circulation. The Board shall send notice of the hearing to landowners

within the one (1) mile setback of the hearing. Public hearings by the Board shall be conducted according to the procedures outlined in 30-A M.R.S.A. Section 2691, Subsection 3 (A), (B), (C), (D), and (E), as may be amended from time to time.

- e. After the Board determines that an application is complete, the Board shall determine whether the application meets all requirements of this ordinance. In determining whether the application meets the requirements of this ordinance, the Board may obtain assistance from such staff and consultants, as it deems appropriate.
- f. Within ninety (90) days of the public hearing the Board shall approve the application, approve the application with conditions or disapprove the application. The time limit for review may be extended by mutual agreement between the Board and the Applicant.
- g. The Board shall make findings of fact and conclusions relative to the application's approval, approval with conditions or disapproval. The reasons for approval with conditions shall be clearly stated in the findings of fact conclusions. The findings of fact and conclusions shall be in the written record of the Board.
- h. An aggrieved party may appeal the decision of the Board on the application under this ordinance within thirty (30) days from the date of the decision to the Board of Appeals.
- i. Any significant modification of the approved IWEF such as, but not limited to, the number of IWTs, tower height, tower locations, turbine design and specifications shall require the Applicant to obtain an amended Construction Permit pursuant to this ordinance. The application procedures and permit requirements and standards for amending a Construction Permit are the same as for an initial application.

2. Construction Permit Requirements Including Engineering Drawings as Applicable:

- a. All requirements listed under the Preliminary Plan (Section VII)
- b. Proof of all liability insurance requirements (Section VIII)
- c. An overview map that includes the extent of the entire Town, showing all roads, together with the location of all IWTs, access roads, power transmission lines, and any other features of the IWEF deemed to be relevant by the Board.
- d. A tax map and lot number of all Project Parcels.
- e. For any Project Parcel that is not owned by the Applicant, a copy of any agreement(s) between the owner of the Project Parcel and the Applicant and/or the Owner/Operator.
- f. The boundaries of all Project Parcels, surveyed by a licensed Maine Professional Land Surveyor, with name, registration number and seal of the surveyor provided.
- g. The boundaries of all Participating Parcels.
- h. The boundaries of all Non-Participating Parcels located within one (1) mile of any proposed IWTs, together with the distance to, and bearing to, all boundary lines relative to each proposed IWT, as measured from the nearest point of the property line to the IWT. A licensed Maine Professional Land Surveyor shall provide this information.
- i. The names, addresses and available phone numbers of the owners of all Project Parcels, Participating Parcels, and Non-Participating Parcels located within one (1) mile of any proposed IWT, with each property owner's status indicated (Project Parcel, Participating Parcel or Non- Participating Parcel), including the book and page reference of the identified owner's interest as recorded in the Oxford County Registry of Deeds.
- j. Color photographs showing aerial perspectives of all project parcels, participating parcels, and all non-participating parcels within one (1) mile of any proposed IWT.

- 1. Color Photographs will also depict the preconstruction condition of the entire IWEF site.

2. Each color aerial photograph shall be accompanied by a duplicate onto which is superimposed an accurately scaled representation of the proposed IWEF to include any tree cover or vegetation to be removed.
- k. The location of all components of the IWEF, including but not limited to the IWTs, access roads, control facilities, meteorological towers, turnout locations, substation(s), ancillary equipment, buildings, structures, and temporary staging areas, together with maintenance and all power collection and transmission systems.
 - l. The location and description of all structures located on Project Parcels, and all occupied buildings located on Participating and Non- Participating Parcels located within one (1) mile of any proposed IWEF.
 - m. Dimensional representation and sizes of the structural components of each IWT tower construction including the base, footings, tower, and blades. Further, the total footprint of the proposed IWEF shall be expressed in acres.
 - n. The distance between each IWT tower and each of the following shall be shown on the construction plan: those structures listed in (M), above-ground utility lines, telephone lines, towers, and public ways located within one (1) mile of any proposed IWT.
 - o. Schematics of electrical systems associated with the proposed IWEF including all existing and proposed electrical connections.
 - p. Manufacturer's installation and operating instructions and remote control systems. Maximum generating capacity of each IWT, manufacturer's specifications to include design, make, model, sound power levels(Lw) for each 1/3 octave band from 6.3 Hz to 10,000 Hz, type of overspeed control, capabilities of automated brake systems and specifications of all other safety devices.
 - q. The direction of proposed surface water drainage across and from Project Parcels and Participating Parcels, with an assessment of impacts on downstream properties and water resources, including, but not limited to, streams and wetlands.
 - r. The location of any of the following found within one (1) mile of any proposed IWT: open drainage courses, wetlands, and other important natural areas and site features, including, but not limited to, floodplains, deer wintering areas, Essential Wildlife Habitats, Significant Wildlife Habitats, Scenic or Special Resources, habitat of rare and endangered plants and animals, unique natural areas, sand and gravel aquifers and historic and/or archaeological resources, together with a description of such features.
 - s. Pre-construction and post-construction field studies shall be conducted using the most advanced techniques available. If the pre-construction field studies demonstrate significant adverse effect to birds, bats, game animals or habitat fragmentation, the Board, the Owner/Operator and the Maine Department of Inland Fisheries and Wildlife (MDIFW) shall develop an appropriate mitigation plan. In determining the nature and effectiveness of such mitigation plans, the Board will be guided by its own consultants, the MDIFW, and applicable state laws and regulations. The Owner/Operator will be responsible for the full cost of implementing the mitigation plan under the supervision of MDIFW and the Board. After implementation, the Board will review the mitigation plan to determine its effectiveness. Should the Board find the mitigation efforts inadequate the Applicant/Owner/Operator will be given an additional one-hundred and eighty (180) days to resolve the deficiencies. In the absence of a successful resolution the Town shall have the right to pursue license revocation thru court proceedings.
 - t. Provisions made for handling all solid wastes, including hazardous and special wastes and the location and proposed screening of any on-site collection or storage facilities.
 - u. The location, dimensions and materials to be used in the construction of proposed roads, driveways, parking areas and loading areas, together with an assessment of any changes to traffic flow.

- v. The size and scale of maps and diagrams shall be as determined by the Board, and shall include a north arrow, the date, the scale, and date and seal of a Maine Licensed Land Surveyor.
- w. The construction plan shall include such additional information as may be deemed required by the Board in light of the specific conditions of the property or surrounding areas, provided such information directly relates to the standards of approval for IWEFs set forth in this ordinance.
- x. A phased project plan that indicates how the IWEF will comply with the Construction Permit Standards and Requirements identified in Section VIII.
- y. The Board, CEO or other authorized representative of the Town shall be allowed access to the site during reasonable hours, after notice, for the purpose of evaluating the IWEF proposal. The CEO or other authorized representative shall be given access to the site during reasonable hours, after notice, to review the progress of work or to determine compliance with the conditions of any construction permit or other requirement of this ordinance.
- z. An Application for an IWEF Construction Permit shall include a road and property use and risk assessment plan containing the following information and meeting the following requirements.
 - 1. A description and map of all public ways, and other property in the Town to be used or affected in connection with the construction of the IWEF, including a description of how and when such ways and property will be used or affected.
 - 2. A description of the type and length of vehicles and type, weight and length of loads to be conveyed on all public ways in the Town.
 - 3. A complete assessment of the proposed use of public ways in the Town in connection with the construction of the IWEF, including the adequacy of turning radii; the ability of the public ways to sustain loads without damage; the need to remove or modify (permanently or temporarily) signs, trees, utilities, or anything else; any reasonably foreseeable damage to public ways or other property, public or private; any reasonably foreseeable costs that the Town may incur in connection with the use of property in the Town, including but not limited to, costs relating to traffic control, public safety, or damage to public ways, or to other public or private property.
 - 4. A traffic control and safety plan relating to the use of public ways in the Town in connection with the construction of the IWEF
- aa. The applicant shall submit a design plan that meets the Design Standards set forth in Section VIII.
- bb. The application shall include a statement from the Federal Aviation Administration that the proposed IWEF will not pose a hazard to aircraft. The Applicant must also provide memoranda from the Maine Department of Inland Fisheries and Wildlife (MDIFW) Environmental Coordinator and from the Maine natural Areas Program (MNAP) outlining any concerns that these bodies may have with the proposed IWEF. In the absence of any such concerns, the Applicant must provide copies of correspondence with these bodies showing that no such concerns exist.
- cc. The application shall include a detailed shadow flicker assessment model and an estimate of the expected amount of flicker. The study shall include a paint sample that demonstrates the color, texture and gloss of the proposed surface coating and that the proposed surface coating will not create a reflective surface.
- dd. An application for an IWEF Construction Permit shall include a sign plan meeting the requirements set forth in Section VIII.
- ee. An application for an IWEF Construction Permit shall include reports of stray voltage analyses in accordance with this section. The Applicant shall conduct and include a report of a preconstruction stray voltage test on all buildings located within a one (1) mile radius of the Project Parcels. An investigator, approved by the Board, using a testing protocol which is approved by the Board, shall perform the tests. A report of the tests shall be provided with the IWEF Construction Permit application and shall be provided to the owners of all property included in the study area. The

applicant shall seek written permission from property owners prior to conducting testing on such owners' property. The applicant shall not be required to perform testing on property where the owners have refused to grant permission to conduct the testing.

- ff. The Application shall include a security plan that contains the information and meets the requirements of Section VIII.
- gg. The application shall include a fire prevention and emergency response plan containing the information and meeting the requirements of this section. The plan shall describe the potential fire and emergency scenarios related to an IWEF that may require a response from fire, emergency medical services, police or other emergency responders. The plan shall designate the specific agencies that would respond to potential fire or other emergencies, shall describe all IWEF related emergency response training and equipment needed to respond to a fire or other emergency, shall include an assessment of the training and equipment available to the designated agencies. The study shall be conducted at the Applicant's expense and shall be certified by both the Chief of the Sumner Volunteer Fire Department and the Town's Emergency Management Director.
- hh. An application shall include an emergency shutdown plan. The plan shall describe the circumstances under which an emergency shutdown may be required to protect public safety, and shall describe the procedures that the Town and the Owner/Operator and Licensee will follow in the event an emergency shutdown is required.
- ii. Any additional relevant information that the Board may request relating to the use of public ways or other effects on public and private property that may occur in connection with the construction and operation of the IWEF.
- jj. IWEF Construction Permit applications will be accepted by the Board on a first-come first-serve basis.
- kk. If at any time it appears necessary or desirable to modify the approved plans before or during construction of the IWEF, the CEO is authorized to approve minor modifications due to unforeseen circumstances such as encountering hidden outcrops of bedrock, natural springs, etc. The CEO shall issue any approval under this section in writing and shall transmit a copy of the approval to the Board of Selectpersons and Planning Board. Revised plans shall be filed with the Planning Board for the record.
- ll. All construction activities must conform to the approved construction permit, including any conditions of approval and minor changes approved by the Inspecting Official and/or Board to address field conditions.
- mm. Upon completion of the project, the Applicant/Owner/Operator must provide the Board with a set of construction plans showing the structures as actually constructed. These "as-built" plans must be submitted within thirty (30) days of completion of the IWEF, and before commencement of operation of the IWEF.

Section VIII – Construction Permit Standards and Requirements/Initial Operational Permit

Mitigation Waivers

1. Owners of any non-participating parcel in Sumner may waive any of the setbacks, sound or shadow flicker restrictions in this section, except the Setback to Public Ways. This can only be accomplished with a written Mitigation Waiver, legally enforceable as a contract between the owner of the Non-Participating parcel and the applicant, and conforming to the requirements of this ordinance. The property subject to the Mitigation Waiver thereby becomes a Participating Parcel. No other provisions of this ordinance may be so waived.
2. Such mitigation waivers shall specify which provision(s) of setback, noise or shadow flicker are waived by the property owner shall provide a legal description of the property subject to the waiver and shall be recorded with the Oxford County Registry of Deeds. Any subsequent deeds shall advise all later owners that the property is so burdened.
3. The property owner shall provide a notarized, complete copy of such filing and recording to the Board within thirty (30) days of signing the waiver. Until the Board receives such a copy, the mitigation waiver shall

have no legal force under this ordinance. The applicant shall include, as part of the IWEF application, a complete list of all parcels subject to a Mitigation Waiver including the names and mailing addresses of the landowners.

Setback Requirements

An IWEF shall comply with the following setback requirements, which shall apply in addition to the construction requirements found elsewhere in this ordinance. If more than one (1) setback requirement applies, the greater setback distance shall be met.

1. All parts of an IWEF shall comply with all applicable setback requirements in the Town's ordinances.
2. A Minimal Fixed Distance of one (1) mile (5,280 ft.) is required from the outer edge of the base of each IWT to the closest point on any property line of any non-participating property in Sumner.
3. This distance shall be measured horizontally between the outer edges of the base of each IWT within the IWEF and the closest point on any non- participating Property Line.
4. IWTs shall be spaced, within rows and between rows, a minimum of ten (10) rotor diameters apart, using the largest proposed or existing rotor diameter for the spacing calculation. This distance can be lengthened but not shortened, if deemed necessary by the Planning Board to prevent harmful turbulence, on the advice of an independent acoustical consultant of the Boards' choice.
5. Setback to Public Ways – All IWTs shall be set back from any public way in Sumner a distance of no less than one thousand seven hundred fifty feet (1,750 ft.), measured horizontally from the outer edge of the base of each IWT within the IWEF to any point on the center line of such public way, any above-ground electrical power lines or telephone lines that are not part of the proposed IWEF, except that a lesser setback from power or telephone lines shall be permitted if the utility agrees in writing and this agreement is approved by the Board.
6. Setback to Scenic or Special Resource Areas -- All IWTs shall be setback a minimum of three thousand feet (3,000 ft.) from any scenic or special resource, as indicated in the Town of Sumner's Comprehensive Plan of 2006.

Sound Restriction Requirements

All acoustical instrumentation and sound measurement protocol conducted under the ordinance shall meet all the requirements of the following ANSI and IEC Standards cited in the Appendix.

See Appendix (A)

See Appendix for details regarding scientific and technical terms concerning sound measurements

1. Audible Sound Restrictions
 - a. No IWEF shall be allowed to operate if, it exceeds (35) dBA day or night, anywhere in the Town, or the pre-construction L90A+5dB whichever is more restrictive. Background Sound Level L90 results are valid when L10 results are no more than 15 dBA above L90 for the same time period. Pre-construction background noise studies for audible noise shall be conducted by a qualified independent acoustical consultant selected by the Board for all properties any part of whose property lines are located within two (2) miles of an IWT. Such background noise studies shall also be conducted before a new Owner/operator's application is approved by the Board and every three years during the operational life of the IWEF, unless such a study has already been conducted during the previous twelve (12) months.
2. Low Frequency Sound Restrictions
 - a. Sumner baseline background noise levels (separate dBA numbers measured for day and night) plus fifteen (15) equals the maximum dBC levels allowed, but never exceeding 50 dBC anywhere in the Town. If the day or night dBC levels are lower than 50 dBC, the most restrictive of these noise levels shall control.

- b. No IWEF or individual IWT shall be approved if pre-construction sound modeling and studies indicate, by a preponderance of the evidence, that to do so would cause any of the above noise restrictions to be exceeded.
 - c. Pre-construction background noise studies for infra and low frequency sound shall be conducted by a qualified independent acoustical consultant selected by the Board for all properties any part of whose property lines are located within two (2) miles of any IWT. Such background noise studies shall also be conducted before a new Owner/Operator's application for an operational license is approved by the Board and every three years during the operational life of the IWEF, unless such a study has already been conducted during the previous twelve (12) Months.
3. Post-Construction Sound Measurements/Testing
- a. The Owner/Operator shall continually collect sound level and MET data at several key locations on the turbines and around the perimeter of the IWEF as determined by the Board with consultation from an acoustical engineer of their choice. Such data collection, to continue throughout the full life time of the IWEF, will be transmitted in a form, frequency, format and distribution acceptable to the Board.
 - b. Summary reports of any and all exceedances or complaints, with explanations as to what they were, why they happened and what action occurred to correct the problem(s) must be sent to the Board on a monthly basis. All sound/Met data, in a format acceptable to the Board, must be sent to the Board quarterly and when requested for complaint resolution(s).
 - c. Sound measurement studies conducted by an independent acoustical consultant selected by the Board will determine sound levels immediately after construction of the IWEF, first with all IWTs operating and then with all IWTs shut down. Such tests will be repeated on multiple days and during different weather conditions until the consultant is satisfied that sufficient and representative data has been obtained. The results of these studies shall be compared with those conducted prior to construction of the IWEF and reported in writing to the Board for its consideration of noise compliance. These studies shall be conducted for each application for a Permit/Operational License.
 - d. The IWEF Applicant and/or Owner/Operator shall provide all technical information required by the Board or acoustical consultant before, during, and/or after any acoustical studies required by this document.

Risk Assessment for Road and Property Use

1. If the Applicant requires the temporary closure of any public way, the Board may require the Applicant to enter into an agreement relating to the use of the public way.
2. The Applicant shall be responsible for paying for any damage to any public way. If the risk assessment anticipates damage to any public way, the Board shall require the Applicant to provide a surety in an amount that the Board determines appropriate to secure any obligations under the agreement including, but not limited to, any obligation relating to alterations, damages or modifications to public ways made in connection with the Applicant's activities.

Design Safety Certification

The design of each IWT shall conform to applicable industry standards, including those of the American National Standards Institute, (ANSI) and shall comply with standards promulgated by Underwriters Laboratories, Det Norske Veritas, Germanischer Lloyd Wind Energies or other similar certifying organizations appropriate for the turbines' size and classification.

Design Requirements

The design plan shall meet the following requirements:

1. The total height of any IWT shall not exceed four hundred-fifty (450) feet above grade, as measured to the blade tips at their maximum distance above grade.
2. IWTs shall be painted a non-reflective, non-obtrusive color.
3. The design of the buildings shall, to the extent reasonably feasible, use materials; colors,

textures, screening and landscaping that will blend with and be compatible with the natural setting and the existing environment.

4. IWTs shall not be artificially lighted, except to the extent required by law, using only red lights. Strobe or other intermittent lights are prohibited unless required by law. The minimum number of IWTs will be illuminated, per FAA rules. Lighting shall be shielded from ground view to FAA maximum standards.
5. No advertising or display shall be permitted, other than identification of the manufacturer or operator of the IWTs or IWEF.
6. Electrical controls and control wiring and power-lines must be wireless or below ground, except where the IWEF's collector wiring is brought together for connection to the utility grid.
7. The clearance between the ground and the IWT blades shall be not less than twenty-five (25) feet.

Additional Protection Requirements

The Applicant must demonstrate that the proposed IWEF will not have an undue adverse effect on the proposed sites geological stability, rare, threatened, or endangered wildlife, Significant Wildlife Habitat, Essential Wildlife Habitat, Raptor Habitat, threatened or endangered plants and rare and exemplary natural plant communities and ecosystems.

Blasting Plan Requirements

Blasting shall be performed only after approval has been given to the Applicant for such operations and must comply with the following provisions set forth by Title 38, § 490-Z (14).

1. All equipment used in construction on the facility site shall comply with applicable federal noise regulations and shall include environmental noise control devices in proper working condition, as originally provided with the equipment by its manufacturer.
2. An IWEF Applicant shall not commence blasting without notifying the CEO and submitting a blasting plan that meets the latest Maine Department of Environmental Protection standards for quarry blasting, except as specifically modified by this section. The Applicant must execute this plan, and bears sole responsibility for all costs associated with its execution. The blasting plan shall be reviewed and approved by the CEO within ten (10) days of receipt before any blasting takes place.
3. A pre-blast survey is required and must extend a minimum radius of one (1) mile (measured horizontally) from the blast site. The information gathered by the survey must be satisfactory to the Board. Pre-blast surveys shall include both the interior and exterior of each structure. The pre-blast survey must document any pre-existing damage to structures and buildings and any other physical features within the survey radius that could reasonably be affected by blasting. Assessment of features such as pipes, cables, transmission lines and wells and other water supply systems may be limited to surface conditions and other readily available data, such as well yield and water quality. The pre-blast survey must be conducted prior to the initiation of blasting. The contractor or subcontractor shall retain a copy of all pre-blast surveys for at least one (1) year from the date of the last blast on the development site.
4. The Applicant shall notify that blasting will occur to all property owners of structures to be surveyed at least ten (10), but not more than thirty (30), days prior to commencement of blasting. The results of the pre-blast survey must be provided to the property owner no later than the date on which this notification is given.
5. The contractor or the subcontractor is not required to conduct a pre-blast survey on properties for which the Applicant or Owner/Operator documents the rejection of an offer by registered letter, return receipt requested, to conduct a pre-blast survey. Any person owning a building within a pre-blast survey radius may voluntarily waive the right to a survey.
6. Blasting timeframes shall be coordinated with the local emergency responders, or as otherwise

restricted by the local Fire Department. Blasting shall not occur between the hours of 7:00 p.m. and 7:00 a.m. No blasting shall be done on weekends or holidays.

Signal Interference Requirements

The IWEF shall not cause any disruption or loss of radio, telephone, television or similar signals. The Applicant shall provide a statement from the Federal Communications Commission (FCC) that the proposed IWEF will not cause any disruption of licensed radio, television, satellite, and cellular or similar signals.

Shadow Flicker

1. IWEFs may not cause an unreasonable adverse shadow flicker effect at any occupied structure on a Non-Participating Landowner's property. For the purpose of this section, "unreasonable adverse shadow flicker" means shadow flicker occurring for three (3) days or more in any one (1) month that, if annualized, would total more than twelve (12) hours of flicker per year. The application will not be approved if the study estimates that the duration of the flicker will be such that there are more than twelve (12) hours of flicker per year at any occupied structure located on a Non-Participating Parcel.
2. Property owners may waive the shadow flicker restrictions in this ordinance with a written mitigation waiver that conforms to the requirements of this ordinance. Such mitigation waivers must be recorded with the Oxford County Registry of Deeds. The property owner must provide a notarized copy of such recording to the Board within thirty (30) days of the of the recording date of the waiver. Until such a copy is provided the mitigation waiver shall have no legal force under this ordinance.

Sign Plan Requirements

1. The plan shall provide signage at the IWEF, identifying the Project Parcels as being part of the IWEF and providing appropriate safety notices and warnings.
2. No advertising material or signage other than warning, equipment information or indicia of ownership shall be allowed on the IWTs. This prohibition shall include the attachment of any flag, decorative sign, streamers, pennants, ribbons, spinners or waving, fluttering or revolving devices, but not including weather devices.
3. The address and phone number of the Owner/Operator and Licensee shall be posted on all access points from public roads.

Stray Voltage Assessment and Requirements

1. Following construction of the IWEF and within one (1) year after commencing operation, the Applicant shall conduct a post-construction stray voltage test on all buildings located within a one (1) mile radius of the Project Parcels. An investigator, approved by the Board, using a testing protocol which is approved by the Board, shall perform the tests. A report of the tests shall be provided to the Board and to the owners of all property included in the study area. The Applicant shall seek written permission from property owners prior to conducting testing on private property. The Applicant shall not be required to perform testing on property where the owners have refused to grant permission to conduct the testing.
2. The Owner/Operator shall provide neutral isolation devices to property owners where testing reveals neutral-to-earth voltages in excess of zero point five (0.5) volts caused by the IWEF.
3. The Owner/Operator shall be responsible for all costs incurred with the pre- and post-construction test.

Security Plan and Requirements

The Application shall include a security plan that contains the information and meets the requirements in this section:

1. A Wind Tower shall not be climbable up to fifteen (15) feet above-ground surface.
2. All ground-mounted electrical and control equipment and all access doors to a Wind Turbine shall be labeled and secured to prevent unauthorized access.
3. Clearly visible warning signs concerning voltage must be placed and maintained at the base of all pad-mounted transformers and substations. A warning sign must also be placed at the base of each turbine.
4. All motor vehicle access points to the Industrial Wind Facility from public roads shall be locked and gated.

Fire Prevention and Emergency Response Requirements

Access to the IWEF and construction area(s) shall be constructed and maintained following a detailed erosion control plan in a manner designed to control erosion and to provide maneuverability for service and emergency response vehicles and must also meet all local safety and emergency requirements.

Emergency Shutdown Plan Requirements

1. An application for an IWEF Construction Permit shall include an emergency shutdown plan. The plan shall describe the circumstances under which an emergency shutdown may be required to protect public safety, and shall describe the procedures that the Town and the Owner/Operator and Licensee will follow in the event an emergency shutdown is required.
2. The IWEF Permittee, Owner/Operator and/or Licensee, as applicable, shall notify the Sumner Emergency Management Director and Sumner Fire Chief of any extraordinary event immediately and in no case more than twelve (12) hours after the event.

Re-commissioning & Decommissioning

1. The Owner/Operator shall at its own expense either re-commission or decommission the IWEF at the end of its useful life. The "end of useful life" is defined as: thirty (30) days after the Owner/Operator decides to cease generating electricity or one-hundred eighty (180) days after the IWEF has stopped generating electricity for any reason. The Board may consider alternative timelines based on a written request from the Owner/Operator.
2. Decommissioning shall include removal of IWTs and foundations to a depth of twenty-four (24) inches. All buildings, cabling, electrical components, roads, and any other associated facilities shall be removed unless, at the end of the IWT or IWEF's useful life, as determined in accordance within this ordinance, the Applicant provides written evidence of plans for continued beneficial use of these components of the IWEF, and this evidence is approved by the Planning Board.
3. Except as otherwise provided elsewhere within this ordinance, disturbed earth shall be graded and re-seeded, unless the Participating Landowner of the affected land requests otherwise in writing.

Failure to Perform

If the Owner/Operator fails to complete the re-commissioning or decommissioning within established timelines the Town may use the Performance Bond to complete the work.

Inspections

IWTs shall be inspected after construction is completed but before becoming operational, and at least every two (2) years thereafter, for structural and operational integrity by a Maine Licensed Professional Engineer, and the Owner/Operator and/or Licensee shall submit a copy of the inspection report to the Board. If such report recommends that repairs or maintenance be conducted, then the Owner/Operator and/or Licensee shall provide the Board with a written schedule for the repairs or maintenance. Failure to complete the repairs or maintenance in accordance with the schedule shall be

deemed a violation of this ordinance. Additional inspections by a Maine Licensed Professional Engineer will be required following an operational failure.

Liability Insurance

The Applicant or Owner /Operator will maintain a current general liability (GL) policy for the IWEF in an amount commensurate to the potential liability of the IWEF. It will cover, but not be limited to, bodily injury, property damage or loss, or business interruption. The Town shall be listed as an "ADDITIONAL INSURED" on said policy. The insurance company must be approved by the Board and must have an A.M. Best insurance Rating of at least A to A-.

The costs of said policy shall be borne entirely by the Applicant or Owner/Operator who shall provide a "Certificate of Insurance" to the Board at least sixty (60) days prior to all renewals of the policy.

Notice shall be given to the Town by the policy provider in the case of cancellation or policy change no less than sixty (60) days before such cancellation or change.

Performance Bond

1. The Applicant shall provide a Performance Bond for the life of the IWEF naming the Town as beneficiary prior to the issuance of the Construction Permit. The Performance Bond shall cover all costs associated with each stage of the IWEF lifecycle from evaluation to construction through commissioning, operations, re-commissioning and decommissioning. An independent licensed Professional Engineer, selected by the Board, will be retained to help the Board establish the amount of the Performance Bond for each stage of the IWEF's lifecycle, an amount to be established when the Construction Permit is issued and every other year thereafter.
2. The Board shall review the financial stability of the financial institution providing the Performance Bond initially and coincident with each valuation. The financial institution shall have a minimum AM Best rating of "A to A-"(excellent). Within thirty (30) days of receiving the valuation the Applicant or Owner/Operator must make any necessary adjustments to the Performance Bond. Failure to do so will cause the Construction Permit or Operating License to be rescinded.
3. In the event the Applicant or Owner/Operator is unable to secure a Performance Bond due to no underwriting entities existing, the Board may consider accepting a 100% funded Escrow Account as an alternative. The Escrow Account would be opened by the Applicant or Owner/Operator at a financial institution approved by the Board, in the name of the Town, to be managed by the Town Treasurer.

Construction Codes

1. All wiring shall be installed underground according to the State of Maine's applicable electrical requirements.
2. All construction shall be conducted in accordance with the Maine Uniform Building and Energy Code.

Project Phasing Plan

The IWEF shall be designed and developed according to the approved Project Phasing Plan. The Project Phasing Plan will include the following:

1. Construction plans and narrative that sets forth how the IWEF will be developed to comply with the individual standards.
 - a. The area to be cleared of vegetation, grubbed and excavated shall not exceed the land necessary for an IWEF that reasonably can be completed within twelve (12) months from the date of start of any clearing of vegetation, grubbing and/or excavation.
 - b. Each subsequent phase of the Project Phasing Plan may begin upon certification that the previous plan has been constructed as approved by the CEO.
2. The Board may, for good cause shown, grant a one (1) time extension of up to twelve (12) months for completion of construction of any phase provided such request is submitted

prior to the lapse or expiration of the Construction Permit.

Public Inquiries and Complaints

1. The Applicant or its designee shall maintain a phone number and identify a responsible person for the public to contact with inquiries and complaints throughout the life of the IWEF.
2. The Applicant or its designee shall within thirty (30) days respond to the public's inquiries and complaints and shall provide written copies of all complaints and the company's resolutions or response to the CEO upon request.

Community Benefits

The applicant shall enter into a community benefit agreement with the Town under the terms of 35-A M.R.S.A. § 3454, as may be amended from time to time, including the payment of real and personal property taxes if the property is not otherwise exempt from taxation.

Initial Construction/Operational Permit

1. Fee: \$5,000.00 (Non Refundable)
2. Performance Bond (Section VIII)
3. The initial Construction/Operational Permit allows for one (1) year of operation.
4. An inspection report certifying the structural and operational integrity of the IWEF is required. This report shall be signed by a Maine Licensed Professional Engineer chosen by the Board and the costs shall be borne by the Owner/Operator of the IWEF.

Section IX- Operational License(s)

1. Fee \$5,000.00 (Non Refundable)
2. A renewal of the initial operational license and a new owner operational license(s) are effective for three (3) years. If not renewed they shall automatically lapse.
3. Applications shall be submitted to the Board at least ninety (90) days prior to the expiration date and shall include the following in accordance with the requirements of this ordinance.
 - a. Updated evidence of the new Owner/Operator's technical and financial ability to operate the IWEF in accordance with the requirements of this ordinance or to update evidence of the current Owner/Operator's financial ability.
 - b. Copies of any new agreements or any agreements that a new Owner/Operator has entered into involving any project parcel, not owned by the applicant, or any participating parcel.
 - c. Updated Security Plan.
 - d. Updated Fire Prevention and Emergency Response Plan.
 - e. Updated Emergency Shutdown Plan.
 - f. Updated Decommissioning Plan.
 - g. Updated General Liability Insurance Policy.
 - h. Updated sound/test studies in accordance with this ordinance.
4. An amended license automatically terminates an existing Permit/License and reverts back to the Construction Permit/License requirements.

Section X - Expiration of Construction Permit

If an approved IWEF and/or phase of an IWEF are not substantially [at least fifty (50) percent or

more] completed within six months of the date of approval by the Board, then the Construction Permit shall expire, and the Applicant must reapply. The Planning Board may, for good cause shown, and proof of no harm to the Town, grant extensions of up to twelve (12) months for either start of construction or substantial completion of construction, provided such a written request is submitted prior to the lapse or expiration of the Construction Permit. The Board may grant more than one extension only if there is pending litigation challenging the approval of the IWEF.

Section XI – Complaints, Enforcement and Penalties

Complaint Process

All complaints shall be made in writing to the CEO, who shall provide copies to the Owner/Operator. Complaints involving IWEF sound, vibrations or other possible disturbances related to sound pressure require a written description of the event(s) to include date, time and subjective/objective intensity. Residents or landowners in Sumner may file such complaints.

1. After receipt of a complaint, the CEO shall, in an expeditious manner, and in the order complaints are received, contact the complainant and the Owner/Operator, visit the site of the alleged violation, conduct other investigation he deems appropriate, and, within a reasonable period of time, submit a written report to the Board of Selectmen. The CEO's report shall include his findings of fact and reasons for those findings with a recommendation to the Board of Selectmen as to the merits of the complaint.
2. If the Board of Selectmen and the CEO decide the complaint is without merit, it will be dismissed. If the Board of Selectmen and the CEO decide the complaint(s) has merit, involves sound, and has not been corrected within ten (10) days, the following will ensue:
 - a. Appropriate summary reports of all IWEF sound meter/MET data collected during the date(s) and time(s) of the complaint and for one (1) month prior and one (1) subsequent to the complaint will be requested from the IWEF.
 - b. Relevant monthly exceedance reports involving the IWEF will be reviewed.
 - c. All sound meter/MET data collected during the dates and times under inspection may be requested.
3. Findings of the summary reports and other data revealing evidence for a significant exceedance(s) related to sound pressure, as determined by the CEO, who may hire a qualified independent acoustical consultant of the Board's choice, will be:
 - a. Sent to the Owner/Operator with evidence of receipt sent to the Board of Selectmen
 - b. Sent to the complainant.
4. Significant sound pressure exceedances constitute a violation of this ordinance. The Owner/Operator shall submit a response with an explanation and a mitigation plan within fifteen (15) days of receipt of the CEO's findings.
5. Failure to respond to the CEO within one (1) month and to delineate and implement a correction acceptable to the CEO and the Board of Selectmen will initiate one of the following protective orders which shall remain in effect until the Board determines it would not disturb or harm the public health, safety or welfare to alter or terminate them:
 - a. Limitation of the time, speed, manner, and/or circumstances, in which the entire IWEF or one (1) or more IWTs may operate.
 - b. Shutdown of the entire IWEF or one (1) or more of the IWTs.
 - c. Imposition of other conditions the Board considers necessary.

6. If a complaint related to sound pressure should continue after appropriate corrections have been made by the Owner/Operator, and which have been agreed upon by the Board of Selectmen with expert advice, the CEO shall visit the site for further information. If the continuing complaint is found to have merit, the CEO will continue the investigation and a qualified independent acoustical consultant will be hired by the Board to begin appropriate sound level measurements as deemed reasonable and in accordance with the requirements of this ordinance.
7. If the complaint is deemed to have merit, but concerns issues other than sound, the CEO shall hire appropriate, independent, qualified experts to address the matter and conduct any needed tests or investigations. The general procedure for resolving sound issues will likewise apply.

Emergencies

1. The Owner/Operator shall shut down the IWEF in the event of any emergency or extraordinary event. This shutdown shall continue in effect until the CEO determines that it is safe to resume operations and the CEO approves the resumption of IWEF operations, either in part or in full.
2. The Owner/Operator shall immediately report to the Sumner Emergency Management (EMA) Director, Town Fire Chief and the Oxford County Regional EMA Director and the Maine State Police/Oxford County Sheriff, all extraordinary and/or emergency events. The Owner/Operator shall respond to any signal interference by the IWEF with Town, Oxford County or other Emergency Communications within twenty-four (24) hours, and eliminate such interference within forty-eight (48) hours.

Enforcement

1. It shall be the duty of the Code Enforcement Officer or other person (appointed by the Board of Selectmen) charged with enforcement of municipal laws to enforce the provisions of this ordinance.
2. In addition to the provisions set forth above, if the CEO finds that provisions of this ordinance are being violated, he or she shall notify personally or in writing, if necessary by certified mail return receipt requested, the person responsible for such violation indicating the nature of the violation, and ordering the action necessary to correct it. In addition to penalties provided herein, the Town may bring an action in the Superior Court or District Court to enjoin violators of this ordinance, for collection of penalties, for injunctive relief, and for such other relief as may be provided by law.

Penalties

Any person, including, but not limited to an Owner/Operator, an Owner/Operator's agent, or contractor who orders or conducts any activity in violation of this ordinance shall be penalized in accordance with 30-A M.R.S.A. § 4452, as may be amended from time to time. For the purposes of enforcement, a separate offense shall be deemed to be committed on each day during which a violation occurs or continues to occur. Such non-compliance shall include failure by the violator to eliminate, by the end of a reasonable period of time established by the CEO or the Board of Selectmen, the causes of any complaints found by the Board to have merit.

Records of Complaints

The Town shall maintain a permanent record of all complaints, CEO investigations, reports by consultants and outcomes. The Owner/Operator shall designate a representative and method to receive complaints by telephone call, email and other digital communications via the internet and to make an initial response to non-emergency complaints within a reasonable time throughout the Operational Life of the IWEF.

Section XII - Miscellaneous Requirements

Maintenance

An IWEF shall be constructed, operated, maintained, and repaired in accordance with the approved Construction Permit and other provisions of this ordinance. Where a standard or requirement is not provided by either this ordinance or the IWEF Construction Permit the IWEF and Owner/Operator shall comply with

manufacturer's recommended maintenance practices.

All components of an IWEF project shall conform to applicable local, state and national building codes.

Other Permits Required

Approval of an IWEF Permit under this ordinance does not exempt an Applicant from obtaining other applicable permits from the Town, such as building, electrical, plumbing and shore-land zoning permits, Site Plan Review as applicable or any applicable state or federal permit.

Section XIII – Effective Date and Amendment

This ordinance shall take effect immediately upon passage by a majority of those voting at a Town meeting.

Amendment Process- This ordinance may be amended by a majority vote of the annual or special town meeting. Amendments may be initiated by a majority vote of the Planning Board or by request of the Board of Selectmen to the Planning Board or on a written petition meeting the requirements of 30-A M.S.R.A §2522, as may be amended from time to time. The Board shall conduct a public hearing on any proposed amendment.

Section XIV – Appeals

The Board of Appeals shall have the power to hear and decide 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. The governing law shall be the "Board of Appeals Bylaws for the Town of Sumner" adopted January 1st, 1990 including any subsequent amendments in effect at the time of the appeal.

Section XV – Incorporation of Appendix

The following Appendix is hereby incorporated by reference into the main body of this ordinance as binding requirements.

APPENDIX "A"

Sound and Noise Measurement Standards

1. The following technical requirements will ensure that critical sound measurements are conducted in an accurate and scientific manner. The American National Standards Institute (ANSI) and the International Electrotechnical Commission (IEC) cooperate in setting standards for many technical issues, including sound measurement protocols.
2. All sound and noise measurements and reporting of same, required by this ordinance, whether conducted by the applicant or by the Town, shall be carried out in strict compliance with the specific ANSI and IEC technical standards as listed, and in some cases, dated and modified, below. The following specific ANSI and IEC standards, with any noted modifications, are adopted by reference as part of this ordinance.
3. Specific options provided for in ANSI S12.9 Part 3 (1993, Revised 2008) shall be followed along with any additional requirements included below:

5.2 Background Sound: Use definition (1): long term

5.2 long term background sound: The L90 excludes short term background sounds

5.3 basic measurement period: Ten (10) minutes L90

5.6 Sound Measuring Instrument: Type 1 Precision meeting ANSI S1.43 or IEC 61672"1. The sound level meter shall cover the frequency range from 6.3 Hz to 20k Hz and simultaneously measure dBA LN and dBC LN. The instrument must also be capable of accurately measuring low level background sounds down to 20 dBA.

6.5 Windscreen: Required

6.6(a) an anemometer accurate to $\pm 10\%$ at 2m/s to full scale accuracy. The anemometer shall be located 1.5 to 2 meters (m.) above the ground and orientated to record maximum wind velocity. The maximum wind velocity, wind direction, temperature and humidity shall be recorded for each ten (10) minute sound measurement period observed within 5 m. of the measuring microphone.

7.1 Long term background sound

7.2 Data collection Methods: Second method with observed samples to avoid contamination by short term sounds (purpose: to avoid loss of statistical data)

8. Source(s) Data Collection: All requirements in ANSI S12.18 Method #2, Precision to the extent possible while still permitting testing of the conditions that lead to complaints. The meteorological requirements in ANSI S12.18 may not be applicable for some complaint tests.

For sound measurements in response to a complaint, the compliance sound measurements should be made under conditions that replicate the conditions that caused the complaint without exceeding instrument and windscreen limits and tolerances.

8.1(b) Measuring microphone with windscreen shall be located 1.2m to 1.8m (1.5 preferred) above the ground and greater than 8 m. from large sound reflecting surface.

8.3(a) All meteorological observations required at both (not either) microphone and nearest 10 m. weather reporting station.

8.3(b) for a ten (10) minute background sound measurement to be valid the wind velocity shall be less than 2m/s (4.5 mph) measured less than 5m/s. from the microphone. Compliance sound measurements shall be taken when winds are less than 4m/s at the microphone.

8.3(c) In addition to the required acoustic calibration checks, the sound measuring instrument internal noise floor, including microphone, must also be checked at the end of each series of ten minute measurements and no less frequently than once per day. Insert the microphone into the acoustic calibrator with the calibrator signal off. Record the observed dBA and dBC reading on the sound level meter to determine an approximation of the instrument self- noise. Perform this test before leaving the background measurement location. The calibrator covered microphone must demonstrate that the results of this test are at least five (5) dB below the immediately previous ten (10) minute acoustic test results, for the acoustic background data to be valid. This test is necessary to detect undesired increase in the microphone and sound level meter internal self-noise. As a precaution sound measuring instrumentation should be removed from any air conditioned space at least one (1) hour before use. Nighttime measurements are often performed very near the meteorological dew point. Minor moisture

condensation inside a microphone or sound level meter can increase the instrument self-noise and void the measured background data.

8.4 The remaining sections, starting at 8.4 in ANSI S12.9 Part 3 Standard do not apply.

4. All procedures and standards shall be followed in ANSI S12.18 -- (1994 reaffirmed: 2009) Procedures for Outdoor Measurement of Sound Pressure Level.
5. All of the Standardized acoustical instrumentation and sound measurement protocols conducted under this ordinance shall meet all the requirements of the following ANSI Standards in their most recent, updated, official ANSI version:
 - a. ANSI S1.43 Integrating Averaging Sound Level Meters: Type-1 (or IEC 61672-1)
 - b. ANSI S1.11 Specification for Octave and One-third Octave-Band Filters (or IEC 61260)
 - c. ANSI S1.40 Verification Procedures for Sound Calibrators