

2017

# Town of Damariscotta Maine Ordinances

Damariscotta, Me.

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**THE TOWN OF DAMARISCOTTA  
BOARD OF APPEALS ORDINANCE**

**1. Establishment**

Pursuant to 30-A M.R.S.A. Sections 2691 and 4353, the Town of Damariscotta hereby establishes the Town of Damariscotta Board of Appeals.

**2. Appointment**

- A. Appeals Board members shall be appointed by the Board of Selectmen and sworn by the clerk or other person authorized to administer oaths.
- B. The Board shall consist of five (5) voting members with staggered three (3) year terms. Two (2) alternate members may be appointed.
- C. When there is a permanent vacancy, the municipal officers shall within 60 days of its occurrence appoint a person to serve for the unexpired term. A vacancy shall occur upon the resignation or death of any member, or when a member ceases to be a voting resident of the Town. When a vacancy occurs, the chairman of the Board shall immediately so advise the Town Manager in writing. The Board of Selectmen may remove members of the Board of Appeals by unanimous vote, for cause, after notice and hearing per Article IV Section 4.01 of the Damariscotta Town Charter.
- D. A municipal officer or the spouse of a municipal officer may not be a member.

**3. Training Requirements**

- A. All new Board members must complete an MMA approved training course within one year of appointment, or at the earliest scheduled MMA training session, whichever is earlier.

**4. Organization**

- A. The chairman or his designee shall call meetings of the Board as required. The chairman shall also call meetings of the Board when requested to do so by a majority of the members or by the municipal officers. A quorum of the Board necessary to conduct an official Board meeting must consist of at least a majority of the Board's members. The chairman or his designee shall preside at all meetings of the Board and be the official spokesman of the Board.
- B. Any question of whether a member shall be disqualified from voting on a particular matter shall be decided by a majority vote of the members except the member who is being challenged.
- C. Voting shall be determined by simple majority of those present at any meeting except that at least 3 votes are required for passage of any motion.
- D. The Board shall adopt rules for transaction of business and the secretary shall keep a record of its resolutions, transactions, correspondence, findings and determinations. In the absence of its own adopted rules, Roberts Rules of Order, latest edition, will be used. All records shall be deemed public and may be inspected at reasonable times.
- E. The secretary shall maintain a permanent record of all Board meetings and all correspondence of the Board. The secretary is responsible for maintaining those records which are required as part of the various proceedings which may be brought before the Board. All records to be maintained or prepared by the secretary are public records.

They shall be filed in the municipal clerk's office and may be inspected at reasonable times.

F. The Chairmen of the Appeals Board will vote only when there is a tie.

## 5. **Scope of Authority**

### A. Powers and Duties:

1. **Administrative Appeals.** To hear and decide appeals where it is alleged there is an error in any administrative decision, order, requirement, or determination made by the Code Enforcement Officer or Planning Board. Following such a hearing, the Board of Appeals may reverse the decision of the Code Enforcement Officer or Planning Board only upon a finding that the decision is clearly contrary to specific provisions of the applicable ordinance. To the extent permitted by law, the Board shall not conduct a de novo review, but shall act in a purely appellate capacity, and shall limit its review to the record developed before the Code Enforcement Officer or Planning Board, and to the parties' arguments based on that record.
2. **Variances.** To hear variance requests and authorize variances as provided in Title 30-A MRSA Section 4353. In hearing variance requests, the Board may receive evidence and make findings of fact as provided by statute.
3. **Other Appeals.** To hear and decide such other cases as may by ordinance be appealed to the Board and to conduct such review in accordance with the standards set forth in such ordinances.
4. **Ordinance Interpretation.** To interpret the provisions of any ordinance at issue in any appeal or variance hearing.

B. **Limitations on Variances.** The Board may grant a variance only in accordance with State law (30-A MRSA Section 4353 or as amended). A variance shall not be granted to permit a use otherwise prohibited in a particular district.

C. **Procedures:** Any appeal to the Board of Appeals must be initiated within 30 days of notice of the decision being appealed. For this purpose, the "decision being appealed" shall consist of the final written decision of the Code Enforcement Officer or Planning Board. An applicant for a permit or other approval or decision shall be deemed to have received notice three days after mailing of the final written decision to the applicant. Other interested parties shall be deemed to have received notice three days after a copy of the final written decision has been filed as a public record in the Town Clerk's office.

1. **Fee for public hearing cost:** The fee to be charged shall be set by the Selectmen and may be reviewed and amended from time to time. The Selectmen may, on application in writing and for cause shown, waive or modify the fee downward based on poverty or infirmity or such other grounds as they may deem reasonable and appropriate.

D. **Public Hearing:** Before making a decision on any administrative appeal, the Board shall hold a public hearing, which shall not be a de novo hearing. The hearing shall be held within 30 days after the receipt of the appeal, or within a reasonable time thereafter with the consent of all parties and at the sole discretion of the Chairman of the Board of Appeals, and notice of the same shall be published in a newspaper with local circulation at the applicant's expense, at least 7 days in advance of the hearing.

E. **Evidence in Variance Hearings.** In hearing a variance application, the Board may receive any oral or documentary evidence but shall provide as a matter of policy for the exclusion of irrelevant, immaterial or unduly repetitious evidence. Every party to a variance hearing has the right to present the party's case or defense by oral or documentary evidence, to

submit rebuttal evidence and to conduct any cross-examination that is required for a full and true disclosure of the facts.

- F. Board of Appeals Record; Notice of Decision. The transcript of testimony, if any and exhibits, together with all papers and requests filed in the Board's proceeding, constitute the record. All decisions become a part of the record and must include a statement of findings and conclusions, as well as the reasons or basis for the findings and conclusions, upon any material issues of fact, law or discretion presented and the appropriate order, relief or denial of relief. Notice of any decision shall be mailed or hand delivered to the parties, a party's representative or agent, the Planning Board, agency or office and the municipal officers within 7 days of the Board's decision.
- G. Reconsideration. The Board may reconsider any decision reached under the section within 30 days of its original decision. In reconsidering a variance application, the Board may conduct additional hearings and receive additional evidence and testimony as provided in this subsection.
- H. Appeals. Any party may take an appeal to Superior Court from any order, relief or denial in accordance with the Maine Rules of Civil Procedure, Rule 80B, within the time provided in 30-A M.R.S.A. Section 2691(3)(G), or such other time as may be provided by law.
- I. In all events this Section 4 shall be consistent with State law as amended from time to time, anything herein to the contrary notwithstanding.
- J. Variance from dimensional standards.** The Board of Appeals is authorized to grant a variances from the dimensional standards of the Land Use Ordinance when strict application of the Ordinance to the petitioner and the petitioner's property would cause a practical difficulty and when the following conditions exist:
  - 1. The need for a variance is due to the unique circumstances of the property and not to the general condition of the neighborhood;
  - 2. The granting of a variance will not produce an undesirable change in the character of the neighborhood and will not unreasonably detrimentally affect the use or market value of abutting properties;
  - 3. The practical difficulty is not the result of action taken by the petitioner or a prior owner;
  - 4. No other feasible alternative to a variance is available to the petitioner;
  - 5. The granting of a variance will not unreasonably adversely affect the natural environment; and
  - 6. The property is not located in whole or in part within shoreland areas as described in Title 38, section 435.

As used in this subsection, "dimensional standards" means and is limited to ordinance provisions relating to lot area, lot coverage, frontage and setback requirements.

As used in this subsection, "practical difficulty" means that the strict application of the ordinance to the property precludes the ability of the petitioner to pursue a use permitted in the zoning district in which the property is located and results in significant economic injury to the petitioner.

[Note: Under its home rule authority, Damariscotta may, in an ordinance adopted pursuant to this subsection, adopt additional limitations on the granting of a variance from the dimensional standards of the Land Use Ordinance. An amended land use ordinance also may explicitly delegate to the Planning Board the ability to approve development proposals that do not meet the dimensional standards otherwise required, in order to promote cluster development, to accommodate lots with insufficient frontage or to provide for reduced

setbacks for lots or buildings made nonconforming by municipal zoning. As long as the development falls within the parameters of such an ordinance, the approval is not considered the granting of a variance. This delegation of authority does not authorize the reduction of dimensional standards required under the mandatory shoreland zoning laws, Title 38, chapter 3, subchapter 1, article 2-B.]

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Joshua Pinkham

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Vicki Pinkham

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Richard McLean

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David Wilbur

**Board of Selectmen  
Town of Damariscotta**

Attest: A true copy of an ordinance entitled “Board of Appeals Ordinance Damariscotta, Maine”, as certified to me by the municipal officers of Damariscotta, Maine on the 18<sup>th</sup> day of June, 2008.

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Cheryl Pinkham, Town Clerk  
Damariscotta, Maine

**Chapter 501**  
**CEMETERIES**

**§501-1. Purpose**

This Ordinance governs the use of municipal cemeteries in the Town of Damariscotta.

**§501-2. Effective Date**

This Ordinance shall be in force when adopted at Town Meeting.

**§501-3. Trustees**

As per Town Charter Section 4.04(C)(4)(a), three (3) Cemetery Trustees will be elected from the floor pursuant to Town Meeting article. Cemetery Trustees shall serve staggered three-year terms, without limit to the number of terms served.

**§501-4. Powers and Duties of Trustees**

(a) Cemetery Trustees shall have responsibility for the operation, care and maintenance of the municipal cemeteries and full authority to do and perform whatever may be necessary to carry into full effect the management of Town cemeteries.

(b) The Trustees shall have oversight of the maintenance for the following cemeteries: Hillside Cemetery, Church Street; Bethlehem Cemetery, Back Meadow Road; Walpole Cemetery, Bristol Road; together with any other lots or areas the Town may be required to maintain by law.

(c) The Trustees may recommend a sexton and determine the duties of such sexton, who shall be appointed and/or removed by the Board of Selectmen.

(d) The Trustees shall provide a summary of their official actions and shall include a description of the conditions and needs of the cemeteries in the Damariscotta Annual Report.

**§501-5. Permits and Fees**

(a) The Cemetery Trustees shall periodically review cemetery-related fees and provide the Board of Selectmen with recommendations on any changes to the fee schedule. The Board of Selectmen shall have the authority to set the amount of all fees required by this Ordinance.

(b) Any entity or person opening or causing a grave to be opened must obtain a Permit to Open a Gravesite and pay the applicable fees in advance of opening, whether for burial or disinterment. State laws govern the disinterment of all human remains.

(c) Any entity or person installing or causing a monument to be installed, of any size or type, must obtain a Permit to Install Cemetery Monument and pay the applicable fees in advance of installation of the monument or its foundation.

(d) Any person or entity causing damage within a cemetery will be responsible for the repair cost incurred, plus a 10 percent administrative fee to the Town.

#### **§501-6. Sale of Lots**

(a) Individuals may purchase a cemetery lot after paying in full the cost of the lot, perpetual care, and administrative fee.

(b) All lot sales must be conducted through the Town Office. Transfers will only be recognized when a release is obtained from the owner to the Town, and a new deed is obtained from the Town to the purchaser. There will be no private sales.

#### **§501-7. Abandonment**

The Town has the right to reclaim a lot in accordance with Title 13 M.R.S.A. Section 1381.

#### **§501-8. Rights of Lot Owners**

(a) The owner of a lot shall have the right to erect a monument subject to any restrictions adopted by the Trustees.

(b) Owners may appeal a Trustees' decision to the Selectmen pursuant to and in accordance with the Town of Damariscotta Board of Appeals Ordinance, Section 5(A)(3), Other Appeals.

#### **§501-9. Trusts**

The Town shall manage the funds held in trust and previously accepted by the Town of Damariscotta for care of family or privately owned burial grounds as required by Title 13 M.R.S.A. Section 1222 or other applicable laws.

#### **§501-10. Private and/or Family Burial Grounds**

The Town of Damariscotta will not be responsible for the care of privately owned or family burial grounds except as required by law.

#### **§501-11. Severability**

Each section of this Ordinance shall be deemed independent of all other sections herein. If any provision of this Ordinance be declared invalid, all other sections remain valid and effective.

Board of Selectmen

Robin Mayer  
Robin Mayer

Ronn Orenstein  
Ronn Orenstein

George Parker  
George Parker

James Cosgrove  
James Cosgrove

Mark Hagar  
Mark Hagar

Attest: A true copy of an Ordinance entitled: "Cemeteries." Enacted June 14, 2017, as certified to me by the Municipal Officers of Damariscotta, Maine on the 14<sup>th</sup> day of June, 2017.

Michelle Cameron  
Michelle Cameron, Town Clerk  
Damariscotta, Maine

**Legislative History**

Enacted March 25, 1997, effective March 25, 1997  
Revised June 15, 2011, effective June 15, 2011  
Revised June 15, 2016, effective June 16, 2016  
Revised June 14, 2017, effective June 14, 2017

ATTEST: A TRUE COPY  
Michelle Cameron  
6/15/17 DATE



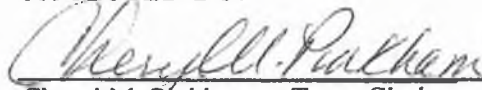


Town of Damariscotta, Maine

**Condominium Conversion Notification  
ORDINANCE**

Enacted at Special Town Meeting on February 6, 2008.

ATTESTED BY:



Cheryl M. Pinkham, Town Clerk

Date: 2-10-2008

**CONDOMINIUM CONVERSION NOTIFICATION ORDINANCE**  
**Town of Damariscotta, Maine**

**Section 1. AUTHORITY**

- A. This Ordinance is enacted pursuant to the authority given the Town in M.R.S.A. Title 30-A, Section 3001. This Ordinance is also enacted pursuant to Section 1604-111(f) of the Maine Condominium Act.
- B. In addition to all the provisions of the Maine Condominium Act, this Ordinance establishes additional notification and timeline requirements for any person who does a condominium conversion of rental dwelling-units into condominium (ownership) dwelling-units pursuant to the Act.

**Section 2. PURPOSE**

The purpose of this Ordinance is to assure that tenants of residential dwelling-units are notified in a timely fashion when a condominium conversion is to happen. This Ordinance also assures that the declarant informs the tenants of their rights under the State Condominium Act and this Ordinance.

**Section 3. APPLICABILITY**

This Ordinance shall apply to all condominium conversion buildings. This Ordinance is in addition to any land use ordinances of the Town of Damariscotta that may also apply to a conversion of residential rental dwelling-units to residential condominium dwelling-units.

**Section 4. EFFECTIVE DATE**

The effective date of this Ordinance is the day after the date it is adopted by a regular or special Town meeting.

**Section 5. AVAILABILITY**

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

**Section 6. 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.

## **Section 7. CONFLICTS WITH OTHER ORDINANCES**

Whenever a specific provision of this Ordinance conflicts with or is inconsistent with another specific provision of this Ordinance or of any specific provision of any other Damariscotta ordinance, State regulation or statute, the more restrictive specific provision shall apply.

## **Section 8. AMENDMENTS**

This Ordinance may be amended by majority vote at any regular or special town meeting of the Town of Damariscotta.

## **Section 9. ADDITIONAL NOTICE REQUIRED**

The notice of conversion described in Title 33 M.R.S.A. Section 1604-111(a) shall be 150 days instead of 120 days. In addition, the notice shall be hand delivered to the unit or sent by certified mail, return receipt requested. In all other respects the provisions of Section 1604-111(a) shall apply.

## **Section 10. ADDITIONAL TIME REQUIRED**

The time for offer and purchase described in Title 33 M.R.S.A. Section 1604-111(b) shall be 90 days instead of 60 days. In all other respects the provisions of Section 1604-111(b) shall apply.

## **Section 11. PROOF OF COMPLIANCE REQUIRED**

Within 30 days after delivery or mailing of the notice required by Section 9, the declarant shall submit proof of compliance with this Ordinance to the Code Enforcement Officer in the form of (1) a copy of each such notice, (2) proof of delivery or mailing of each such notice, and (3) the public offering statement. Within 7 days thereafter, the Code Enforcement Officer shall determine, in writing, whether the declarant has complied with this Ordinance. If the Code Enforcement Officer determines that the declarant has failed to comply, or if the declarant fails to submit proof of compliance as required by this section, a new notice of conversion meeting the requirements of Section 9 is required. The determination of the Code Enforcement Officer may be appealed in writing by any person aggrieved, within the applicable appeal period, to the Board of Appeals, which may reverse the Code Enforcement Officer's determination if it finds that the determination was based on a misinterpretation of this Ordinance.

## **Section 12. CONSTRUCTION PROHIBITED DURING NOTICE PERIOD**

The declarant shall not cause or permit any substantial construction, reconstruction or renovation to occur on the premises during the period of the notice required by Section 9, provided nothing herein shall prohibit routine maintenance or repair of any unit, including, in any vacant unit, the replacement of carpeting, flooring, electrical or plumbing fixtures, or painting.

## **Section 13. ENFORCEMENT**

### **A. Nuisances**

Any violation of this Ordinance shall be deemed to be a nuisance.

## B. Code Enforcement Officer

1. The CEO shall investigate all complaints brought to her/him that state in writing the circumstances of the alleged violations of this Ordinance. The CEO shall keep a complete record of all essential transactions in the office, including copies of public offerings submitted, certified letters to rental tenants, complaints-in-writing, appeals, court actions, violations investigated, violations found and fees collected. If the CEO 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 submittal of required notification documents, discontinuance of illegal use of land, buildings or structures, or work being done, and abatement of nuisance conditions. A copy of such notices shall be submitted to the Municipal Officers and be maintained as a permanent record.
2. The CEO shall be responsible for administering the provisions of this ordinance, including interpreting the provisions hereof. Any person who believes that the CEO has made an error in the interpretation or application of the provisions of this ordinance may appeal, within the time limits for such appeals, such determination to the Board of Appeals as an administrative appeal. If the Appeals Board finds that the CEO erred in her/his interpretation of the ordinance, it shall modify or reverse the action accordingly.

## C. Legal Actions

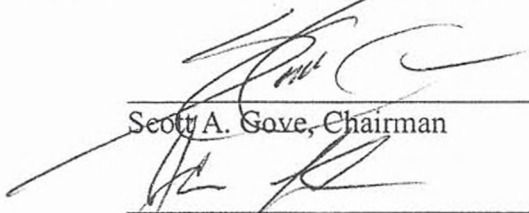
When the above action does not result in the correction or abatement of the violation or nuisance condition, the Municipal Officers, upon notice from the CEO, are hereby directed to institute any and all action and proceedings, either legal or equitable, including seeking injunctions of violations and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

1. **Timeline Start Date.** Any person, including but not limited to a declarant, a landowner, a landowner's agent or a contractor, who orders or conducts any activity in violation of this Ordinance may be penalized by being required to commence the waiting periods specified by this Ordinance (Sections 9 & 10) at the date when all the required submittals (Section 11) have been made, acknowledged and recorded by the CEO.
2. **Fines.** Any person, including but not limited to a declarant, a landowner, a landowner's agent or a contractor, who orders or conducts any activity in violation of this Ordinance may be penalized in accordance with Title 30-A, MRSA, Section 4452.

## Section 14. LANDLORD RIGHTS

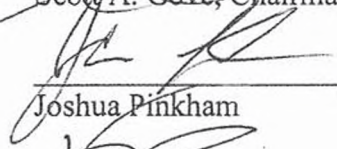
Nothing in this Ordinance shall be construed to prohibit a landlord from terminating a tenancy on any of the grounds identified in 14 M.R.S.A. Section 6002(1) including, but not limited to, an arrearage in the payment of rent or causing substantial damage to the rental premises.

Town of Damariscotta, Condominium Conversion Notification Ordinance, enacted  
February 6, 2008.




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Scott A. Gove, Chairman



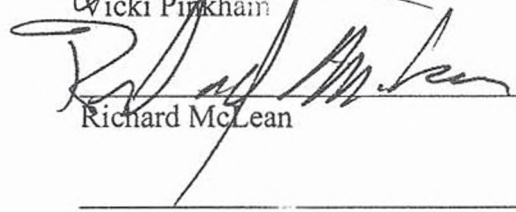
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Joshua Pinkham



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Vicki Pinkham



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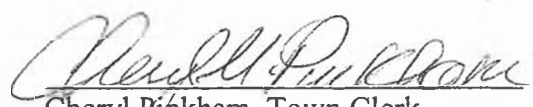
Richard McLean

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David Wilbur

**Board of Selectmen  
Town of Damariscotta**

Attest: A true copy of an ordinance entitled "Condominium Conversion Notification Ordinance," as certified to me by the municipal officers of Damariscotta, Maine on the 6<sup>th</sup> day of February, 2008.



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Cheryl Pinkham, Town Clerk  
Damariscotta, Maine

## Chapter 305

### Loitering – Disturbing the Peace

#### §305-1. Definitions

**LOITERING:** remaining in essentially one location either alone or in concert with others.

**PUBLIC PLACE:** any place to which the general public has access and the right to enter in or upon for business, entertainment or other lawful purposes, and shall include the front or immediate area around any store, shop, restaurant, tavern, or other place of business as well as public grounds, areas, and beaches.

#### §305-2. Prohibited Conduct and Activities

(a) Loitering. It shall be unlawful for any person to loiter in any public place, or in or about any building or dwelling adjacent thereto, in such manner as to:

(1) Obstruct any public street or public place by hindering or impeding, or intending to hinder or impede, an uninterrupted passage of pedestrians or vehicles.

(2) Commit in or upon any public street or public place any act which is an obstruction or interference to the free and uninterrupted use of any property; or with any business being lawfully conducted by anyone in any public place; or which prevents the free and uninterrupted ingress or egress therein, thereon, or thereto.

(b) Disturbing the Peace. No person shall, in any street or public place; or from any vehicle on any street or public place, make any loud, unreasonable noise, either by voice or otherwise; or utter obscene or indecent or profane songs or words; or in any unruly or loud manner disturb the quiet and good order of the Town.


#### §305-3. Enforcement

(a) When any person or persons causes or commits any of the conditions enumerated in this Ordinance, any law enforcement officer shall order the person or persons to stop causing or committing such conditions, and may, if deemed necessary for the preservation of public peace and safety, order that person or persons to move on or disperse. Any person who fails to obey any such order shall be guilty of a violation of this Ordinance.


(b) Any person or party found guilty of violating any of the provisions of this Ordinance shall be fined no less than one hundred dollars (\$100.00) and no more than

three hundred dollars (\$300.00) plus any costs recoverable for the use and benefit of the Town of Damariscotta.

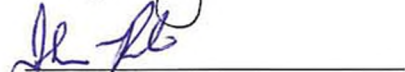
The enactment of this ordinance hereby revises the Loitering-Disturbing the Peace Ordinance for the Town of Damariscotta, Maine as enacted on November 6, 2001.

  
\_\_\_\_\_  
Robin Mayer

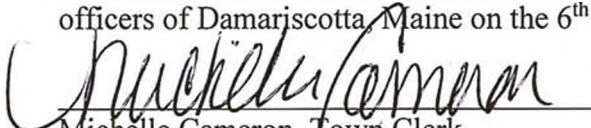
  
\_\_\_\_\_  
Ronn Orenstein

  
\_\_\_\_\_  
George Parker

  
\_\_\_\_\_  
James Cosgrove

  
\_\_\_\_\_  
Joshua Pinkham

Attest: A true copy of an ordinance entitled "Loitering-Disturbing the Peace Ordinance" for the Town of Damariscotta, Maine-June 15, 2016, as certified to me by the municipal officers of Damariscotta, Maine on the 6<sup>th</sup> day of July, 2016.

  
\_\_\_\_\_  
Michelle Cameron, Town Clerk  
Damariscotta, Maine

**Legislative History**

Enacted November 6, 2001

Revised June 15, 2016; Effective Date July 1, 2016



## Chapter 302

### DOG CONTROL

#### §302-1. Purpose

The purpose of this Ordinance is to require that all dogs in the Town of Damariscotta be kept under the control of their owners at all times so that they will not injure persons, damage property, cause unreasonable noise or otherwise create a nuisance.

The provisions which apply to the owner of a dog shall apply equally to any person having its custody or possession.

#### §302-2. Definitions

**AT LARGE:** a dog which is off the premise of the owner and not under the control of any person by means of a chain, rope or cord of sufficient strength to control the action of such dog (or such other personal presence and attention as will reasonably control the conduct of such dog).

**OWNER:** any person or persons, firm, association or corporation owning, keeping, or harboring a dog.

#### §302-3. Dogs to be licensed in accordance with the statutes of the State of Maine

No dog shall be kept within the Town of Damariscotta unless such dog shall have been licensed by its owner in accordance with the statutes of the State of Maine.

The license fee shall be the amount included in the Town's fee schedule. The Board of Selectmen shall determine license fees based on the Town's average administrative cost to process the license. These costs shall reflect the Town's estimated costs associated with the permitted or licensed activity including the administrative time for processing the application, any required initial and follow-up inspections, legal and other professional fees and the cost for public notices.

#### §302-4. Dogs not to be permitted to run at large

It shall be unlawful for the owner of any dog, licensed or unlicensed, to permit such dog to run at large.

#### §302-5. Animals creating a nuisance by noise

(a) Anyone owning, possessing or harboring any dog which barks, howls, or makes other sounds common to its species, continuously for 20 minutes, or intermittently for one hour or more, shall be deemed to constitute a nuisance, except for dogs barking at

trespassers or threatening a trespasser on private property on which dog is situated; or any legitimate cause for provocation.

(b) Any person found violating this provision shall be subject to a fine of not less than \$25 and not more than \$100 for each offense.

### **§302-6. Enforcement**

(a) Any police officer, animal control officer or other duly authorized person within the Town of Damariscotta, shall seize, impound or restrain any dog kept in violation of §302-3, and any dog running at large, and deliver such dog to the person who is duly authorized to have control of impounding. If the owner of such dog is known or can be located within reasonable diligence, then the person who has control of impounding shall personally notify the owner within three days of the receipt of such dog. If the owner of such dog is not known and cannot be located with reasonable diligence, then the person who has control of impounding shall post, within forty-eight hours of the time such person shall have taken such dog into his possession, written notices in three public places in the municipality, giving a description of the dog, stating where it is impounded and the conditions of release. If the owner within seven days after receiving notice, or within seven days after notice has been posted, does not claim such dog, then the person having control of impounding shall dispose of the dog by sale or otherwise, in a proper and humane manner.

(b) The person having control of impounding shall keep a record of every dog disposed of by sale or otherwise. Such record shall include

- (1) a description which identifies the dog with reasonable certainty,
- (2) the manner of disposing of the dog, and
- (3) if the dog was transferred to another person, the name and address of the transferee. In addition, the transferee must sign a statement giving his name, address of the date of delivery or receipt of the dog.

(c) Conditions of release. §302-6(a) provides that the person giving notice shall with such notice give the conditions for the release of the impounded dog. Before such dog may be transferred to another person,

- (1) such dog shall be vaccinated with anti-rabies vaccine, or the transferee shall show proof of vaccination within the previous year,
- (2) such dog must be licensed in accordance with the statutes of the State of Maine, and
- (3) the transferee shall pay to the municipal treasurer the sum of \$5.00, the sum of \$5.00 for vaccination, and the sum of \$1.50 per day for each day, or part thereof, the dog has been impounded.

(d) Penalties. Instead of seizing and impounding the dog, the Town of Damariscotta, may prosecute the owner of any dog running at large, and any person upon conviction thereof shall be fined not less than \$10.00, nor more than \$25.00, plus the costs of prosecution.

(e) Vaccination. It shall be unlawful for the owner of any dog older than four months, less one day, to keep, maintain, or permit to run at large, such dog, unless it has been vaccinated by veterinary surgeon with anti-rabies vaccine, within one year preceding the date on which such dog is kept, maintained or permitted to run at large. Any person found violating this provision shall be fined not less than \$10.00, nor more than \$25.00, plus costs of prosecution.

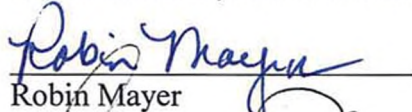
**§302-7. Severability**


Each provision of this Ordinance shall be deemed independent of all other provisions herein. If any provision of this Ordinance be declared invalid all other provisions thereof shall remain valid and enforceable.

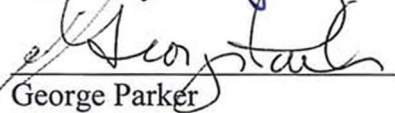
**§302-8. Conflicts with Other Ordinances**

All existing ordinances of the Town of Damariscotta are hereby repealed insofar as they may be inconsistent with the provision of this Ordinance.

The enactment of this ordinance hereby revises the Dog Control Ordinance for the Town of Damariscotta, Maine as enacted on March 23, 1999.

  
Robin Mayer

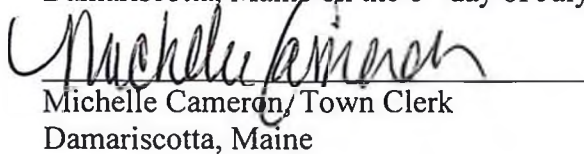
  
Ronn Orenstein

  
George Parker

  
James Cosgrove

  
Joshua Pinkham

Attest: A true copy of an ordinance entitled "Dog Control Ordinance" for the Town of Damariscotta, Maine-June 15, 2016, as certified to me by the municipal officers of Damariscotta, Maine on the 6<sup>th</sup> day of July, 2016.

  
Michelle Cameron, Town Clerk  
Damariscotta, Maine

**Legislative History**

Enacted March 23, 1999; Effective April 21, 1999  
Revised June 15, 2016; Effective July 1, 2016



## Chapter 802

### DRIVEWAYS AND DRIVEWAY ENTRANCES

#### §802-1. Purpose

This Ordinance provides for the review of any driveway and driveway entrance onto a public way for compliance with sound construction and design practices to ensure that traffic safety, drainage, and public improvements are not adversely affected. Provisions shall be made for convenient and safe emergency vehicle access to all buildings and structures at all times. A permit is not required for paving, sealing, or repairs unless the driveway is relocated.

#### §802-2. Effective Date

This Ordinance shall be effective upon adoption by the Town of Damariscotta.

#### §802-3. Permit Required

(a) No driveway, entrance or approach or other improvement within the limits of the right-of-way for any public or approved private road may be constructed, altered or relocated except in accordance with a Driveway and Driveway Entrance Permit issued by the Town of Damariscotta Road Commissioner upon application.

(b) The application fee shall be the amount included in the Town's fee schedule. The Board of Selectmen shall determine the application fees based on the Town's average administrative cost to process permit and license applications. These costs shall reflect the Town's estimated costs associated with the permitted or licensed activity including the administrative time for processing the application, any required initial and follow-up inspections, legal and other professional fees and the cost for public notices.

(c) The driveway/driveway entrance permit shall be valid for a period of twelve months from the date of original issue.

(d) No entrance, approach or other improvement constructed on the right of way shall be relocated or its dimensions altered without a Driveway/Driveway Entrance Permit from the Town.

#### §802-4. Town Held Harmless

The applicant shall hold harmless the Town and its duly authorized agents and employees against any action for personal injury or property damage sustained by reason of the exercise of a Driveway/Driveway Entrance Permit.

**§802-5. Approval Criteria**

(a) General. Driveways and driveway entrances shall be designed and constructed in accordance with the latest Maine Department of Transportation’s Manual for Standard Specifications.

(b) Sight Distance

(1) All entrances shall be so located such that vehicles approaching or using the entrance will be able to obtain adequate sight distance in both directions along the public or private road or to maneuver safely and without interference with traffic.

(2) Measurements to determine sight distance shall be made in the proposed entrance at a point ten feet (10’) from the edge of the shoulder line with the height of eye four feet (4’) above the pavement. The sight distance shall be computed from this point measuring along the roadway to a point where an approaching height of object four feet (4’) is first seen.

(3) Driveway placement shall be such that an exiting vehicle has an unobstructed sight distance according to the following schedule.

Highway Speed (MPH)	Minimum Sight Distance (In feet)
20	155
25	200
30	250
35	305
40	360
45	425
50	570
60	645

(c) Geometry

(1) If the driveway elevates above the traveled way, then the first 25 feet of the driveway shall be sloped to a negative 3 percent, unless otherwise approved by the Road Commissioner, and constructed to prevent run-off onto the traveled way. If the driveway descends from the traveled way, the first 25 feet of driveway shall not exceed -3 percent slope unless approved by the Road Commissioner.

(2) The entrance should intersect the traveled way at a horizontal angle of 90 degrees but in no case shall the horizontal angle be less than 75 degrees without approval from the Road Commissioner. The entrance width at the traveled way shall be wide enough to allow emergency vehicles to enter from either direction. Radii for the edge of the driveway for 90 degree intersections shall be 35 feet. Less than 90 degree intersection, radii shall be 35 feet.

(3) No part of the entrance shall extend beyond the property lot frontage for the lot being served unless approved by the Damariscotta Planning Board.

(4) The entrance shall not be located closer than 75 feet to an un-signalized intersection and 125 feet for a signalized intersection.

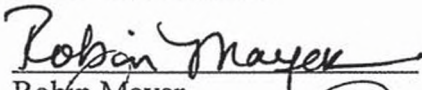
(d) Side Slopes. Driveway side slopes and banks shall not be steeper than a slope of two (2) horizontal to one (1) vertical.

(e) Shared Driveways. Shared driveways shall be encouraged for adjacent sites, in order to minimize the number of driveways along the arterial.

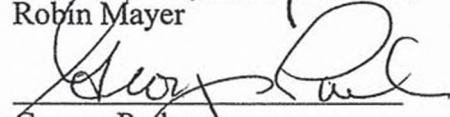
### §802-6. Appeals

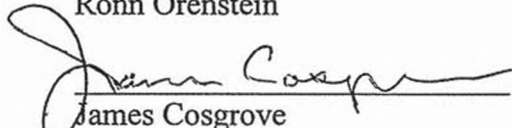
Whenever a person shall deem themselves aggrieved by an order made by the Code Enforcement Officer or Road Commissioner, the person may file an appeal to the Board of Appeals within ten (10) days of the date of the order., and the person shall be afforded a hearing on the matter before the Board of Appeals, and unless by their authority the aggrieved order is revoked, such order shall remain in force and be forthwith complied with by the person.

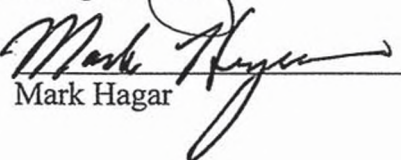
Board of Selectmen

  
Robin Mayer

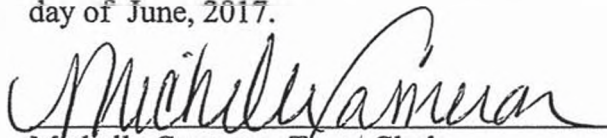
  
Ronn Orenstein


  
George Parker

  
James Cosgrove

  
Mark Hagar

Attest: A true copy of an Ordinance entitled: "Driveways and Driveway Entrances." Enacted June 14, 2017, as certified to me by the Municipal Officers of Damariscotta, Maine on the 14<sup>th</sup> day of June, 2017.

  
Michelle Cameron, Town Clerk  
Damariscotta, Maine

ATTEST: A TRUE COPY  
  
DATE 6/15/17

### Legislative History

Enacted January 21, 2009, effective January 21, 2009  
Revised June 14, 2017, effective June 14, 2017





# **TOWN OF DAMARISCOTTA**

## **ENHANCED 911 ORDINANCE**

### **Section 1. Purpose**

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

### **Section 2. Authority**

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

### **Section 3 Administration**

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

- a. A Damariscotta map for official use showing road names and numbers.
- b. An alphabetical list of all property owners as identified by current assessment records, by last name, showing the assigned numbers.
- c. An alphabetical list of all roads with property owners in order of their assigned numbers.

### **Section 4. Naming System**

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

MARCH 25, 1997

ATTESTED: WARREND. HATCH  
TOWN CLERK

The following criteria shall govern the naming system:

- a. No two roads shall be given the same name (e.g., no Pine Road and Pine Lane).
- b. No two roads should have similar-sounding names (e.g., Beech Street and Peach Street).
- c. Each road shall have the same name throughout its entire length.

### **Section 5. Numbering System**

Numbers shall be assigned every 50 (fifty) feet along both sides of the road, with even numbers appearing on the left side of the road and odd numbers appearing on the right

side of the road, determined by the number origin. (The frontage interval may vary in more densely or lightly populated areas, and it should be so indicated where that particular interval applies.)

The following criteria shall govern the numbering system:

a. All numbers origins shall begin from the designated center of Damariscotta or that end of road closest to the designated center. (The numbering origin does not have to be the town center but could be a border with another community.) For dead end roads, numbering shall originate at the intersection of the adjacent road and terminate at the dead end.

b. The number assigned to each structure shall be that of the numbered interval falling closest to the front door. If the front door cannot be seen from the main road, the number shall be that of the interval falling closest to the driveway of said structure.

c. Every structure with more than one principle use or occupancy shall have a separate number for each use or occupancy. (i.e. duplexes will have two separate numbers; apartments will have one road number with an apartment number, such as 235 Maple Street, Apt. 2).

#### Section 6. Compliance

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

a. Number on the Structure or Residence. Where the residence or structure is within 50 (fifty) feet of the edge of the road right-of-way, the assigned number shall be displayed on the front of the residence or structure near the front door or entry.

MARCH 25, 1997

ATTESTED: WARREN D. HATCH  
TOWN CLERK

b. Number at the Street Line. Where the residence or structure is over 50 (fifty) feet from the edge of the road right-of-way, the assigned number shall be displayed on a post, fence, wall, the mailbox, or on some structure at the property line next to the walk or access drive to the residence or structure.

c. Size and Color of numbers. Numbers shall be located to be visible from the road and shall be at least three (3) inches in height and a color of such contrast to its background that the numbers can be clearly visible to emergency personnel. (example white house black letters; green house/white letters; light gray black letters; etc.)

Residents will be responsible to purchase their own numbers.

d. Every person whose duty is to display the assigned number shall remove any different number that might be mistaken for, or confused with, the number assigned in conformance with this ordinance.

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

#### Section 7. New Construction and Subdivisions

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

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

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

**Section 8. Effective Date**

This ordinance shall become effective on March 25, 1997. Upon completion of the numbering system, it shall be the duty of the Board of Selectmen to notify by mail each property owner and the Post Office of a new address at least 30 (thirty) days before the effective date of its use. It shall be the duty of each property owner to comply with this ordinance, including the posting of new property numbers, within 30 (thirty) days following notification. On new structures, numbering will be installed before final inspection or when the structure is first used or occupied, whichever comes first.

MARCH 25, 1997

ATTESTED: WARREND. HATCH  
TOWN CLERK

## Chapter 303

### Alarms

#### §303-1. Purpose

The purpose of this Ordinance is to establish guidelines for the proper use of emergency alarm systems or devices and to establish a service fee to compensate for the inappropriate use of Town resources in response to false alarms.

#### §303-2. Definitions

**ALARM SYSTEM:** a system including any mechanism, equipment, or device designed to transmit a signal or warning from a private facility or residence to Lincoln County Emergency Communications Center or private security company that features two-way voice communication, or any stand alone audible system.

**DIRECT ALARM:** a device that is designed, or used to transmit an alarm signal directly from the location of the alarm to Lincoln County Emergency Communications Center without the need for two-way voice communication.

**FALSE ALARM:** the transmission of an emergency alarm or warning, whether intentional or unintentional, when a situation of emergency does not in fact exist. This is intended to include, but shall not be limited to; any alarm caused by malfunctioning equipment, or improperly maintained or monitored equipment. For the purposes of this Ordinance, this term is not intended to include transmissions caused by power outage, electrical storm, or other weather-related malfunction. Nor will the transmission be considered a false alarm if the permit holder, or his agent, notifies the appropriate department prior to the dispatch of emergency personnel and equipment.

#### §303-3. Permit Requirements

No person, firm, corporation, partnership, association or any other entity, shall install or operate an alarm system, which automatically transmits a signal or warning, to the Lincoln County Emergency Communications Center or private security company, or any stand alone audible alarm system, without first obtaining a permit.

Existing alarm systems will be grandfathered for a period of one (1) year to start with the adoption of this Ordinance. All initial permit fees will be waived for grandfathered systems.

#### **§303-4. Application for Permit**

(a) An Application for Permit to install, maintain, or operate an alarm system must be filed with the Police and Fire Departments on a form provided by the Department including, but not limited to the name, address, and telephone number of the installer of the system; the owner of the premises on which the system will be installed, and the lessee, if applicable; and description of the system and the location in which it is to be installed.

(b) The application fee shall be the amount included in the Town's fee schedule. The Board of Selectmen shall determine the application fees based on the Town's average administrative cost to process permit and license applications. These costs shall reflect the Town's estimated costs associated with the permitted or licensed activity including the administrative time for processing the application, any required initial and follow-up inspections, legal and other professional fees and the cost for public notices.

#### **§303-5. Approval of Application**

The Chief of Police, Fire Chief or their designee shall approve an application for a permit required by this Ordinance if it is found that the use of the alarm system will not interfere with the orderly conduct of Town business, that the owner of the system agrees to adequately maintain it in order to assure its proper functioning, and the proposed system and method of installation are proper. The Police/Fire Department shall provide a copy of the Alarms Ordinance as it pertains to alarms.

#### **§303-6. Terms of Permit, Transfer**

The permit to install and operate a private alarm system is valid for a period of three (3) years from the date of approval, unless terminated at the request of the holder or revoked as provided in the Ordinance. The permit may be renewed without charge at the request of the holder upon expiration. A permit issued under this Ordinance may not be transferred to another person or property.

#### **§303-7. Certain Information Confidential**

All information provided by the permit holder related to the type and location of the alarm system shall be held confidential to the extent permitted by law.

#### **§303-8. False Alarms**

(a) Any permit holder whose alarm system(s) causes the transmission of a false alarm to Lincoln County Communications Center, and subsequent response by the Police Department or Fire Department, three (3) times in any given calendar year shall pay a service fee of one hundred dollars (\$100.00) for each subsequent false alarm.

(b) When the allowable number of false alarms has been exceeded, for all subsequent false alarms in any calendar year, the Police/Fire Department shall notify the permit holder of the occurrence(s) of a false alarm, and shall inform the holder of the permit of the fee provisions of this section. **§303-9. Billing**

The Police Department will invoice permit holders on a monthly basis when the allowable false alarms have been exceeded. Payment is due within 10 calendar days after the invoice is issued. The invoice will contain at least: the permit holder's name and address, dates & times of occurrences, cause of alarm (if determined), and fee assessed. The invoice will also contain information to contact the Chief of Police or Fire Chief if the permit holder wishes to dispute the invoice.

#### **§303-10. Liability of Town or Others**

Notwithstanding the payment of any fee or the issuance of any permit under this chapter, the Town is under no obligation whatsoever concerning the adequacy, operation, or maintenance of the alarm device so installed. The Town, its agents and employees assume no liability whatsoever for any failure of such an alarm device.

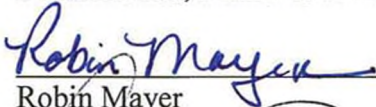
#### **§303-11. Enforcement**

(a) The Chief of Police, Fire Chief or, their designee, shall revoke any permit issued under this Ordinance after reasonable written notice to the permit holder and an opportunity to be heard if it is determined that the alarm system has been installed, maintained, or operated in violation of this Ordinance or any condition of the permit, or who fails to pay any service fee required in §303-8 of this Ordinance within ten days after written notice that it is due and payable.

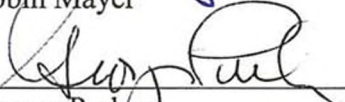
(b) Appeal Process. Upon receipt of the invoice or notice of suspension/revocation, permit holders will have 10 calendar days to appeal the invoice revocation, in writing, to the Chief of Police or Fire Chief. If still in dispute after the appeal, the permit holder can, within five (5) calendar days of meeting with the Chief, appeal, also in writing, to the Town Manager. If the dispute is not settled at this time, the permit holder may request, in writing, a hearing before the Board of Selectmen, to be scheduled by the Town Manager at the next regular Board of Selectmen meeting. The Board of Selectmen will have the final decision in the appeal process. A written decision will be kept on record within the Police Department's records.

(c) Penalty. Any violation of this Ordinance shall be punishable by a civil penalty of not more than one hundred dollars (\$100.00) for the first violation, two hundred dollars (\$200.00) for the second violation, and five hundred dollars (\$500.00) for the third and each subsequent violation.

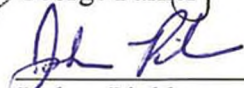
The enactment of this ordinance hereby revises the Alarm Ordinance for the Town of Damariscotta, Maine as revised on March 16, 2011.

  
Robin Mayer

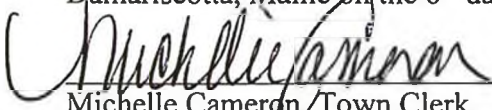
  
Ronn Orenstein

  
George Parker

  
James Cosgrove

  
Joshua Pinkham

Attest: A true copy of an ordinance entitled "Alarm Ordinance" for the Town of Damariscotta, Maine-June 15, 2016, as certified to me by the municipal officers of Damariscotta, Maine on the 6<sup>th</sup> day of July, 2016.

  
Michelle Cameron, Town Clerk  
Damariscotta, Maine

#### **Legislative History**

Enacted June 8, 2005, effective June 8, 2005

Amended March 16, 2011

Revised June 15, 2016; effective July 1, 2016

## Chapter 307

### FIRE DEPARTMENT SERVICE BILLING

#### §307-1. Authority

This Ordinance is adopted pursuant to municipal home rule ordinance authority and Title 30-A M.R.S.A. S3001.

#### §307.2. Purpose

The Town of Damariscotta is engaged in providing fire suppression, fire rescue and fire safety services and organized as a municipality under the laws of the State of Maine; and in consideration of services rendered hereby desires to set the following billing policy for Fire Department services.

#### §307-3. Services

The Town of Damariscotta will seek payment for the cost of services provided by the Town of Damariscotta Fire Department. Services for which the Town of Damariscotta shall seek payment include but are not limited to:

- (a) Scene and safety control at traffic accidents;
- (b) Extrication from vehicles;
- (c) Fluid mitigation at traffic accidents;
- (d) Vehicle Fire;
- (e) Hazard Mitigation Operations;
- (f) Life Flight Assist.

#### §307-4. Fees for Services

Upon adoption of this Ordinance, the Board of Selectmen is authorized to review and set the fees as they deem in the best interest of the Town of Damariscotta.

##### (a) Explanation of Charges

(1) Command & Control Scene Safety. Positioning of fire apparatus and personnel so as to protect the scene from other traffic and deny entry into the scene of unauthorized personnel. Police can move traffic around the area the fire department has deemed as the safe zone for the occupants of the vehicles and the rescuers on the scene. Scene control may also include initial assessment of victims, basic life support, safely staging other incoming agencies responding to



this incident. Prioritizing victim for treatment and transport, and may also include a pulled hose line for protection of people on scene from possible fires and fumes or residue from such things as gasoline and air bag propellants. The most important function is establishing incident command of the scene, which is the fire department's responsibility at emergency incidents of this nature, and to coordinate with other responding agencies for their needs at the scene.

(2) Disentanglement/Extrication. Anytime a person has to be lifted or taken out of an emergency situation or forcible entry is necessary to gain proper access to victims the fire department will assist ambulance or EMS (Emergency Medical Services) personnel in a coordinated effort or on their own. This could include, but is not limited to: car accidents, industrial accidents, below grade rescues, or even high angle rescues to name just a few. Ropes, ladder devices, air monitoring equipment, self contained breathing apparatus, hydraulic equipment, shoring, saws, cribbing air bags are just a few types of equipment used in extrication issues.

(3) Fire Suppression. Fire suppression at a traffic accident is any time fire department personnel have to contain or extinguish a fire. It can also be the laying of hose lines and positioning a hand line for the protection of individuals at the scene because of fire, smoke, or leaking fluids, such as gasoline.

(4) Hazard Mitigation. Anytime fire department personnel have to deal with any hazardous substances via containment or absorption with pads for carbon-based substances like gas or oil, or removal via pads and sand or other means permitted by the DEP (Department of Environmental Protection). This could be a car accident, trucking accident or a fixed facility. The mitigation of all hazardous materials and substances is done in conjunction with the DEP.

(b) Billing Procedures

(1) First billing on or about the 15<sup>th</sup> of each month for all reports submitted for billing in the prior 30-day period. Terms—30 days, with the same billing to all parties involved in the same accident.

(2) Second Notice, if invoice has not been settled in 60 days.

(3) 90 day notice sent by certified mail.

(4) Collection Agency to be contacted.

(c) Considerations for Write Off

(1) When the claim was not paid for a valid reason.

(2) Not covered and failed to pay after 60 day notice.

(3) If all attempts to contact insurance companies and/or individuals failed by any common method available listed above.

(4) Upon written request, the Board of Selectmen is authorized to consider writing off claims due to extenuating circumstances.

**307-5. Severability**

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

**§307-6. Conflicts with Other Ordinances**

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

**§307-7. Administration**

It shall be the duty of the Town Manager/Treasurer to effectively pursue the requirement of this Ordinance for payment of services rendered by the Fire Department as specifically outlined above.

**FEES ESTABLISHED BY THE BOARD OF SELECTMEN.**

Minimum call out fee for rolling to a scene when turned out: **\$200.00**

Minimum rate for Life Flight Assist: **\$400.00**

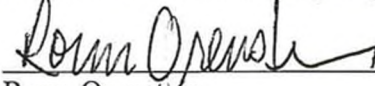
Hourly Rate for Tanker Trucks -	<b>\$200.00</b>
Hourly Rate for Engine Trucks -	<b>\$150.00</b>
Hourly Rate for Rescue Truck -	<b>\$200.00</b>
Hourly Rate for Ladder Truck -	<b>\$200.00</b>
Hourly Rate for Squad Truck -	<b>\$100.00</b>
Hourly Rate for Rescue Boar -	<b>\$100.00</b>
Hourly Rate per man -	<b>\$ 18.00</b>

These charges will be reviewed by the Fire Chief, on Scene Commander or Department officer and forwarded to the Town Office for billing.

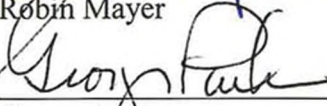
The enactment of this ordinance hereby revises the Fire Department Service Billing Ordinance for the Town of Damariscotta, Maine as enacted on January 21, 2009.



Robin Mayer



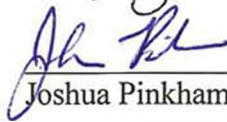
Ronn Orenstein



George Parker

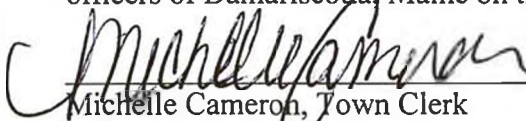


James Cosgrove



Joshua Pinkham

Attest: A true copy of an ordinance entitled "Fire Department Service Billing Ordinance" for the Town of Damariscotta, Maine-June 15, 2016, as certified to me by the municipal officers of Damariscotta, Maine on the 6<sup>th</sup> day of July, 2016.



Michelle Cameron, Town Clerk  
Damariscotta, Maine

### Legislative History

Enacted January 21, 2009; Effective Date January 21, 2009  
Revised June 15, 2016; Effective Date July 1, 2016

## Chapter 304

### FIREWORKS

#### §304-1. Authority

This Ordinance shall be known and may be cited as the “Fireworks Ordinance” of the Town of Damariscotta, Maine. This Ordinance is pursuant to Maine Statute, §1. 8M.R.S.A. §221-A to §237, An Act To Legalize the Sale, Possession and Use of Fireworks.

#### §304-2. Purpose

The purpose of this Ordinance is to further the maintenance of safe and healthful conditions, the general welfare and to prevent injury from the careless use of consumer fireworks.

#### §304-3. Definitions

**CONSUMER FIREWORKS:** shall have the same meaning as provided in Title 8 M.R.S.A. §221-A. The term consumer fireworks does not include toy pistols, toy canes, toy guns or other devices in which paper caps or plastic caps containing 25/100 grains or less of explosive compound are used if they are constructed so that the hand cannot come in contact with the cap when in place for the explosion, toy pistol paper caps or plastic caps that contain less than 20/100 grains of explosive mixture, sparklers that do not contain magnesium chlorates or perchlorates or signal, antique or replica cannons if no projectile is fired.

#### §304-4. Regulation of Sale or Use of consumer Fireworks

(a) No person shall sell, possess with the intent to sell, or offer for sale consumer fireworks within the Town of Damariscotta or from any watercraft within the waters of the Town of Damariscotta.

(b) This Ordinance shall not apply to a person issued a fireworks display permit issued by the State of Maine pursuant to Title 8 M.R.S.A. §227-A.

(c) The use of consumer fireworks is prohibited in the area between School Street (west side of road) and the Damariscotta River from Castner Brook to Chase Point Road (north side of road).

#### §304-5. Severability

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

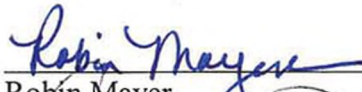
**§304-6. Conflict with Other Ordinances**

This Ordinance shall not repeal, annul, or in any other way impair the necessity of compliance with any other rule, regulation, bylaw or provision of the Federal, State or local government. But where this Ordinance imposes a greater restriction upon the use of materials land, buildings, or structures than other Damariscotta ordinances, this Ordinance shall control.

**§304-7. Amendments**

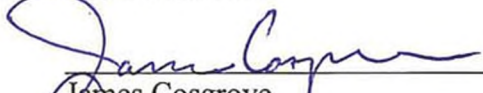
All changes and amendments to this Ordinance must be made at a regular or special Town Meeting of Damariscotta, by a majority of the governing body.

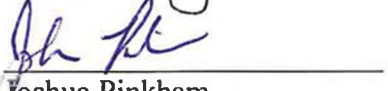
The enactment of this ordinance hereby revises the Fireworks Ordinance for the Town of Damariscotta, Maine as enacted on June 13, 2012.

  
\_\_\_\_\_  
Robin Mayer

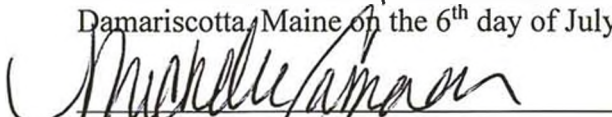
  
\_\_\_\_\_  
Ronn Orenstein

  
\_\_\_\_\_  
George Parker

  
\_\_\_\_\_  
James Cosgrove

  
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Joshua Pinkham

Attest: A true copy of an ordinance entitled "Fireworks Ordinance" for the Town of Damariscotta, Maine-June 15, 2016, as certified to me by the municipal officers of Damariscotta, Maine on the 6<sup>th</sup> day of July, 2016.

  
\_\_\_\_\_  
Michelle Cameron, Town Clerk  
Damariscotta, Maine

**Legislative History**

Enacted June 13, 2012

Revised June 15, 2016; Effective July 1, 2016

**FLOODPLAIN MANAGEMENT ORDINANCE**  
**FOR THE**  
**TOWN OF DAMARISCOTTA, MAINE**

---

ENACTED: 6/15/16  
Date

EFFECTIVE: 7/6/16  
Date

CERTIFIED BY: Michelle Cameron  
Signature

CERTIFIED BY: Michelle Cameron  
Print Name

Town Clerk  
Title



Affix Seal

- 60.3(c coastal)
- Prepared 2/19/15 by DACF/sb
  - Adopted at STM 7/1/15; Revised 6/15/16

# FLOODPLAIN MANAGEMENT ORDINANCE

## CONTENTS

ARTICLE	PAGE
I. PURPOSE AND ESTABLISHMENT.....	2
II. PERMIT REQUIRED .....	2
III. APPLICATION FOR PERMIT .....	2
IV. APPLICATION FEE AND EXPERT'S FEE.....	4
V. REVIEW STANDARDS FOR FLOOD HAZARD DEVELOPMENT PERMIT APPLICATIONS .....	4
VI. DEVELOPMENT STANDARDS .....	6
VII. CONDITIONAL USE REVIEW .....	12
VIII. CERTIFICATE OF COMPLIANCE .....	12
IX. REVIEW OF SUBDIVISIONS AND DEVELOPMENT PROPOSALS .....	13
X. APPEALS AND VARIANCES.....	13
XI. ENFORCEMENT AND PENALTIES .....	15
XII. VALIDITY AND SEVERABILITY .....	16
XIII. CONFLICT WITH OTHER ORDINANCES.....	16
XIV. DEFINITIONS.....	16
XV. ABROGATION .....	21

## **ARTICLE I - PURPOSE AND ESTABLISHMENT**

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

The areas of special flood hazard, Zones A and AE, for the Town of Damariscotta, Lincoln County, Maine, identified by the Federal Emergency Management Agency in a report entitled "Flood Insurance Study – Lincoln County, Maine," dated July 16, 2015 with accompanying "Flood Insurance Rate Map" dated July 16, 2015 with panels: 259D, 266D, 267D, 268D, 269D, 278D, 279D, 286D, 287D, 288D, 289D derived from the county wide digital Flood Insurance Rate Map entitled "Digital Flood Insurance Rate Map, Lincoln County, Maine," are hereby adopted by reference and declared to be a part of this Ordinance.

## **ARTICLE II - PERMIT REQUIRED**

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

## **ARTICLE III - APPLICATION FOR PERMIT**

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

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



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

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

- H. The elevation in relation to the National Geodetic Vertical Datum (NGVD), North American Vertical Datum (NAVD) or to a locally established datum in Zone A only, of the:
  - 1. base flood at the proposed site of all new or substantially improved structures, which is determined:
    - a. in Zones AE from data contained in the "Flood Insurance Study - Lincoln County, Maine," as described in Article I; or,
    - b. in Zone A:
      - (1) from any base flood elevation data from federal, state, or other technical sources (such as FEMA's Quick-2 model), including information obtained pursuant to Article VI.K. and IX.D.;
      - (2) from the contour elevation extrapolated from a best fit analysis of the floodplain boundary when overlaid onto a USGS Quadrangle Map or other topographic map prepared by a Professional Land Surveyor or registered professional engineer, if the floodplain boundary has a significant correlation to the elevation contour line(s); or, in the absence of all other data,
      - (3) to be the elevation of the ground at the intersection of the floodplain boundary and a line perpendicular to the shoreline which passes along the ground through the site of the proposed building.
  - 2. highest and lowest grades at the site adjacent to the walls of the proposed building;
  - 3. lowest floor, including basement; and whether or not such structures contain a basement; and,
  - 4. level, in the case of non-residential structures only, to which the structure will be flood proofed;
- I. A description of an elevation reference point established on the site of all developments for which elevation standards apply as required in Article VI;
- J. A written certification by a Professional Land Surveyor, registered professional engineer or architect, that the base flood elevation and grade elevations shown on the application are accurate;
- K. The following certifications as required in Article VI by a registered professional engineer or architect:
  - 1. a Floodproofing Certificate (FEMA Form 81-65, as amended), to verify that the floodproofing methods for any non-residential structures will meet the floodproofing criteria of Article III.H.4.;

Article VI.G.; and other applicable standards in Article VI;

2. a Hydraulic Openings Certificate to verify that engineered hydraulic openings in foundation walls will meet the standards of Article VI.L.2.a.;
  3. a certified statement that bridges will meet the standards of Article VI.M.;
  4. a certified statement that containment walls will meet the standards of Article VI.N.;
- L. A description of the extent to which any water course will be altered or relocated as a result of the proposed development; and,
- M. A statement of construction plans describing in detail how each applicable development standard in Article VI will be met.

#### **ARTICLE IV - APPLICATION FEE AND EXPERT'S FEE**

The application fee shall be the amount included in the Town's fee schedule. The Board of Selectmen shall determine the application fees based on the Town's average administrative cost to process permit and license applications. These costs shall reflect the Town's estimated costs associated with the permitting or licensed activity including the administrative time for processing the application, any required initial and follow-up inspections, legal and other professional fees and the cost for public notices.

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

#### **ARTICLE V - REVIEW STANDARDS FOR FLOOD HAZARD DEVELOPMENT PERMIT APPLICATIONS**

The Code Enforcement Office shall:

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

3. when the community establishes a base flood elevation in a Zone A by methods outlined in Article III.H.1.b., the community shall submit that data to the Maine Floodplain Management Program.
- C. Make interpretations of the location of boundaries of special flood hazard areas shown on the maps described in Article I of this Ordinance;
  - D. In the review of Flood Hazard Development Permit applications, determine that all necessary permits have been obtained from those federal, state, and local government agencies from which prior approval is required by federal or state law, including but not limited to Section 404 of the Federal Water Pollution Control Act Amendments of 1972, 33 U.S.C. 1344;
  - E. Notify adjacent municipalities, the Department of Environmental Protection, and the Maine Floodplain Management Program prior to any alteration or relocation of a water course and submit copies of such notifications to the Federal Emergency Management Agency;
  - F. If the application satisfies the requirements of this Ordinance, approve the issuance of one of the following Flood Hazard Development Permits based on the type of development:
    1. A two part Flood Hazard Development Permit for elevated structures. Part I shall authorize the applicant to build a structure to and including the first horizontal floor only above the base flood level. At that time the applicant shall provide the Code Enforcement Officer with an Elevation Certificate completed by a Professional Land Surveyor, registered professional engineer or architect based on the Part I permit construction , “as built”, for verifying compliance with the elevation requirements of Article VI, paragraphs F, G, or H. Following review of the Elevation Certificate data, which shall take place within 72 hours of receipt of the application, the Code Enforcement Officer shall issue Part II of the Flood Hazard Development Permit. Part II shall authorize the applicant to complete the construction project; or,
    2. A Flood Hazard Development Permit for Floodproofing of Non-Residential Structures that are new construction or substantially improved non-residential structures that are not being elevated but that meet the floodproofing standards of Article VI.G.1.a., b., and c. The application for this permit shall include a Floodproofing Certificate signed by a registered professional engineer or architect; or,
    3. A Flood Hazard Development Permit for Minor Development for all development that is not new construction or a substantial improvement, such as repairs, maintenance, renovations, or additions, whose value is less than 50% of the market value of the structure. Minor development also includes, but is not limited to: accessory structures as provided for in Article VI.J., mining, dredging, filling, grading, paving, excavation, drilling operations, storage of equipment or materials, deposition or extraction of materials, public or private sewage disposal systems or water supply facilities that do not involve structures; and non-structural projects such as bridges, dams, towers, fencing, pipelines, wharves and piers.

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

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

## ARTICLE VI - DEVELOPMENT STANDARDS

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

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

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

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

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

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

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

F. **Residential** - New construction of any residential structure located within:

1. Tidal water (see definition):

- a. Zone AE shall have the lowest floor (including basement) elevated to at least three feet above the base flood elevation.
- b. Zone A shall have the lowest floor (including basement) elevated to at least three feet above the base flood elevation utilizing information obtained pursuant to Article III.H.1.b.; Article V.B.; or Article IX.D.
- c. Substantial improvement of any residential structure located within Zones AE and A shall have the lowest floor (including basement) elevated to at least one foot above the base flood elevation or to the elevation of the existing lowest floor, whichever is higher, utilizing information pursuant to Article III.H.1.b.; Article V.B.; or Article IX.D.

2. Fresh water (see definition):

- a. Zone AE shall have the lowest floor (including basement) elevated to at least one foot above the base flood elevation.

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

c. Substantial improvement of any residential structure located within Zones AE and A shall have the lowest floor (including basement) elevated to at least one foot above the base flood elevation pursuant to Article III.H.1.b.; Article V.B.; or Article IX.D.

**G. Non Residential** - New construction of any non-residential structure located within:

1. Tidal water:

a. Zone AE shall have the lowest floor (including basement) elevated to at least three feet above the base flood elevation, or together with attendant utility and sanitary facilities shall:

- (1) be flood proofed to at least three feet above the base flood elevation 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 flood proofed.

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

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

c. Substantial improvement of any non-residential structure located within Zones AE and A shall have the lowest floor (including basement) elevated to at least one foot above the base flood elevation or to the elevation of the existing lowest floor, whichever is higher, utilizing information pursuant to Article III.H.1.b.; Article V.B.; or Article IX.D or together with attendant utility and sanitary facilities meet the floodproofing standards of Article VI.G.1.

2. Fresh water:

a. Zone AE shall have the lowest floor (including basement) elevated to at least one foot above the base flood elevation.

b. Zone A shall have the lowest floor (including basement) elevated to at least one foot above

- c. Substantial improvement of any residential structure located within Zones AE and A shall have the lowest floor (including basement) elevated to at least one foot above the base flood elevation pursuant to Article III.H.1.b.; Article V.B.; or Article IX.D.

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

1. Zones AE shall:

a. Tidal water:

- (1) be elevated such that the lowest floor (including basement) of the manufactured home is at least three feet above the base flood elevation;

b. Fresh water:

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

- c. 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,

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

- (1) over-the-top ties anchored to the ground at the four corners of the manufactured home, plus two additional ties per side at intermediate points (manufactured homes less than 50 feet long require one additional tie per side); or by,
- (2) frame ties at each corner of the home, plus five additional ties along each side at intermediate points (manufactured homes less than 50 feet long require four additional ties per side).
- (3) all components of the anchoring system described in Article VI.H.1.d.(1) & (2) shall be capable of carrying a force of 4800 pounds.

2. Zone A shall:

a. Tidal water:

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

b. Fresh water:

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

c. meet the anchoring requirements of Article VI.H.1.d.

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

1. Zones A and AE, shall either:

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

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

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

**K. Floodways** -

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

- a. will not increase the water surface elevation of the base flood more than one foot at any point within the community; and,
  - b. is consistent with the technical criteria contained in FEMA's guidelines and standards for flood risk analysis and mapping.
3. In Zones A and AE riverine areas, for which no regulatory floodway is designated, the regulatory floodway is determined to be the channel of the river or other water course and the adjacent land areas to a distance of one-half the width of the floodplain as measured from the normal high water mark to the upland limit of the floodplain.

L. **Enclosed Areas Below the Lowest Floor** - New construction or substantial improvement of any structure in Zones A and AE that meets the development standards of Article VI, including the elevation requirements of Article VI, paragraphs F, G, or H and is elevated on posts, columns, piers, piles, "stilts," or 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 XIV;
2. Enclosed areas shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of flood water. Designs for meeting this requirement must either:
  - a. be engineered and certified by a registered professional engineer or architect; or,
  - b. meet or exceed the following minimum criteria:
    - (1) a minimum of two openings having a total net area of not less than one square inch for every square foot of the enclosed area;
    - (2) the bottom of all openings shall be below the base flood elevation and no higher than one foot above the lowest grade; and,
    - (3) openings may be equipped with screens, louvers, valves, or other coverings or devices provided that they permit the entry and exit of flood waters automatically without any external influence or control such as human intervention, including the use of electrical and other non-automatic mechanical means;
3. The enclosed area shall not be used for human habitation; and,
4. The enclosed areas are usable solely for building access, parking of vehicles, or storage.

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

1. when possible, the lowest horizontal member (excluding the pilings, or columns) is elevated to at least three feet above the base flood elevation; and
2. a registered professional engineer shall certify that:



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

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

1. Zones A and AE shall:

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

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

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

**P. Coastal Floodplains** -

1. All new construction located within Zones A and AE shall be located landward of the reach of mean high tide except as provided in Article VI.P.2.
2. Conditional Use - Lobster sheds and fishing sheds may be located seaward of mean high tide and shall be exempt from the elevation requirement in Article VI.G. only if permitted as a Conditional Use following review and approval by the Planning Board, as provided in Article VII, and if all the following requirements and those of Article VI.A., VI.K., and VI.L. are met:
  - a. The conditional use shall be limited to low value structures such as metal or wood sheds 200 square feet or less and shall not exceed more than one story.
  - b. The structure shall be securely anchored to the wharf or pier to resist flotation, collapse, and lateral movement due to the effect of wind and water loads acting simultaneously on all building components.

- c. The structure will not adversely increase wave or debris impact forces affecting nearby buildings.
- d. The structure shall have unfinished interiors and shall not be used for human habitation.
- e. Any mechanical, utility equipment and fuel storage tanks must be anchored and either elevated or flood proofed to three feet above the base flood elevation.
- f. All electrical outlets shall be ground fault interrupt type. The electrical service disconnect shall be located on shore above the base flood elevation and when possible outside the Special Flood Hazard Area.

## **ARTICLE VII - CONDITIONAL USE REVIEW**

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

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

- 1. The Flood Hazard Development Permit Application with additional information attached addressing how each of the conditional use criteria specified in the Ordinance will be satisfied, may serve as the permit application for the Conditional Use Permit.
- 2. Before deciding any application, the Planning Board shall hold a public hearing on the application within thirty days of their receipt of the application.
- 3. If the Planning Board finds that the application satisfies all relevant requirements of the ordinance, the Planning Board must approve the application or approve with conditions within 45 days of the date of the public hearing.
- 4. A Conditional Use Permit issued under the provisions of this Ordinance shall expire if the work or change involved is not commenced within 180 days of the issuance of the permit by the Planning Board.
- 5. The applicant shall be notified by the Planning Board in writing over the signature of the Chairman of the Planning Board that flood insurance is not available for structures located entirely over water or seaward of mean high tide.

### **B. Expansion of Conditional Uses**

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

## **ARTICLE VIII - CERTIFICATE OF COMPLIANCE**

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

- A. For New Construction or Substantial Improvement of any elevated structure the applicant shall submit to the Code Enforcement Office an Elevation Certificate completed by a Professional Land Surveyor, registered professional engineer, or architect, for compliance with Article VI, paragraphs F, G, or H.
- B. The applicant shall submit written notification to the Code Enforcement Office that the development is complete and complies with the provisions of this ordinance.
- C. Within 10 working days, the Code Enforcement Office 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 IX - REVIEW OF SUBDIVISION AND DEVELOPMENT PROPOSALS**

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

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

#### **ARTICLE X - APPEALS AND VARIANCES**

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

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

- A. Variances shall not be granted within any designated regulatory floodway if any increase in flood levels during the base flood discharge would result.
- B. Variances shall be granted only upon:
  - 1. a showing of good and sufficient cause; and,
  - 2. a determination that should a flood comparable to the base flood occur, the granting of a variance will not result in increased flood heights, additional threats to public safety, public expense, or create nuisances, cause fraud or victimization of the public or conflict with existing local laws or ordinances; and,
  - 3. a showing that the issuance of the variance will not conflict with other state, federal or local laws or ordinances; and,
  - 4. a determination that failure to grant the variance would result in "undue hardship," which in this sub-section means:
    - a. that the land in question cannot yield a reasonable return unless a variance is granted; and,
    - b. that the need for a variance is due to the unique circumstances of the property and not to the general conditions in the neighborhood; and,
    - c. that the granting of a variance will not alter the essential character of the locality; and,
    - d. that the hardship is not the result of action taken by the applicant or a prior owner.
- C. Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief, and the Board of Appeals may impose such conditions to a variance as it deems necessary.
- D. Variances may be issued for new construction, substantial improvements, or other development for the conduct of a functionally dependent use provided that:
  - 1. other criteria of Article X and Article VI.K. are met; and,
  - 2. the structure or other development is protected by methods that minimize flood damages during the base flood and create no additional threats to public safety.
- E. Variances may be issued for the repair, reconstruction, rehabilitation, or restoration of Historic Structures upon the determination that:
  - 1. the development meets the criteria of Article X, paragraphs A. through D. above; and,
  - 2. the proposed repair, reconstruction, rehabilitation, or restoration will not preclude the structure's continued designation as a Historic Structure and the variance is the minimum necessary to preserve the historic character and design of the structure.
- F. Any applicant who meets the criteria of Article X, paragraphs A. through E. shall be notified by the Board of Appeals in writing over the signature of the Chairman of the Board of Appeals that:

1. the issuance of a variance to construct a structure below the base flood level will result in greatly increased premium rates for flood insurance up to amounts as high as \$25 per \$100 of insurance coverage;
2. such construction below the base flood level increases risks to life and property; and,
3. the applicant agrees in writing that the applicant is fully aware of all the risks inherent in the use of land subject to flooding, assumes those risks and agrees to indemnify and defend the municipality against any claims filed against it that are related to the applicant's decision to use land located in a floodplain and that the applicant individually releases the municipality from any claims the applicant may have against the municipality that are related to the use of land located in a floodplain.

#### G. Appeal Procedure for Administrative and Variance Appeals

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

#### **ARTICLE XI - ENFORCEMENT AND PENALTIES**

- A. It shall be the duty of the Code Enforcement Officer to enforce the provisions of this Ordinance pursuant to Title 30-A MRSA § 4452.
- B. The penalties contained in Title 30-A MRSA § 4452 shall apply to any violation of this Ordinance.
- C. In addition to any other actions, the Code Enforcement Officer, upon determination that a violation exists, may submit a declaration to the Administrator of the Federal Insurance Administration requesting a denial of flood insurance. The valid declaration shall consist of;

1. the name of the property owner and address or legal description of the property sufficient to confirm its identity or location;
2. a clear and unequivocal declaration that the property is in violation of a cited State or local law, regulation, or ordinance;
3. a clear statement that the public body making the declaration has authority to do so and a citation to that authority;
4. evidence that the property owner has been provided notice of the violation and the prospective denial of insurance; and,
5. a clear statement that the declaration is being submitted pursuant to Section 1316 of the National Flood Insurance Act of 1968, as amended.

## **ARTICLE XII - VALIDITY AND SEVERABILITY**

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

## **ARTICLE XIII - CONFLICT WITH OTHER ORDINANCES**

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

## **ARTICLE XIV - DEFINITIONS**

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

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

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

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

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

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

**Building** - see **Structure**.

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

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

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

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

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

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

- a. built, in the case of a building in Zones A or AE, 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 three feet above the magnitude of the base flood.

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

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

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

**Flood or Flooding** - means:

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

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

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

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

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

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

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

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

**Floodway** - see **Regulatory Floodway**.

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

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

**Fresh Water** – All water bodies that are inland from the Damariscotta River and the Great Salt Bay that receive run-off from precipitation and not from any tidal water body.

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

**Historic Structure** - means any structure that is:

- a. Listed individually in the National Register of Historic Places (a listing maintained by the Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;
- b. Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary of the Interior to qualify as a registered historic district;
- c. Individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of the Interior; or



- d. Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either:
  1. By an approved state program as determined by the Secretary of the Interior, or
  2. Directly by the Secretary of the Interior in states without approved programs.

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

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

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

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

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

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

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

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

**North American Vertical Datum (NAVD)**- means the national datum whose standard was established in 1988, which is the new vertical datum used by the National Flood Insurance Program (NFIP) for all new Flood Insurance Rate Maps. NAVD is based upon vertical datum used by other North American countries such as Canada and Mexico and was established to replace NGVD because of constant

movement of the earth's crust, glacial rebound, and subsidence and the increasing use of satellite technology.

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

**Recreational Vehicle** - means a vehicle which is:

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

**Regulatory Floodway** -

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

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

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

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

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

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

**Substantial Improvement** - means any reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure before the

start of construction of the improvement. This term includes structures which have incurred substantial damage, regardless of the actual repair work performed. The term does not, however, include either:

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

**Tidal Water** – All water in the Damariscotta River, Great Salt Bay and all their tributaries that receive any tidal flow from the Damariscotta River or Great Salt Bay. These waters may be brackish to a greater or lesser degree.

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

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

**ARTICLE XV - ABROGATION**

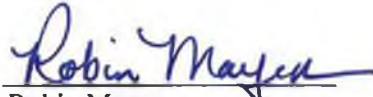
This ordinance repeals and replaces any municipal ordinance previously enacted to comply with the National Flood Insurance Act of 1968 (P.L. 90-488, as amended).

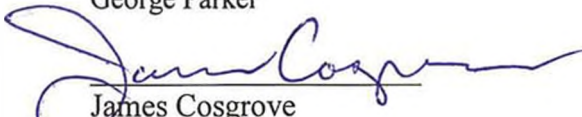
60.3 (c/coastal) Rev. 01/15

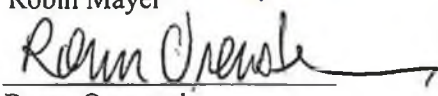
Prepared by DACF/JP

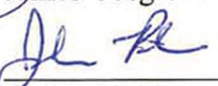
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The enactment of this ordinance hereby revises the Floodplain Management Ordinance for the Town of Damariscotta, Maine, enacted on June 9, 2004.

\_\_\_\_\_  
George Parker

  
\_\_\_\_\_  
Robin Mayer

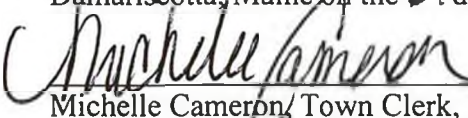
  
\_\_\_\_\_  
James Cosgrove

  
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Ronn Orenstein

  
\_\_\_\_\_  
Joshua Pinkham

Board of Selectmen  
Town of Damariscotta

Attest: A true copy of an ordinance entitled "Floodplain Management Ordinance for the Town of Damariscotta, Maine," enacted June 15, 2016, as certified to me by the municipal officers of Damariscotta, Maine on the 6<sup>th</sup> day of July, 2016. MPC

  
\_\_\_\_\_  
Michelle Cameron, Town Clerk, Damariscotta, Maine

# NEWCASTLE-DAMARISCOTTA HARBOR MANAGEMENT ORDINANCE

&

## INTERLOCAL AGREEMENT

### SECTION 1: PURPOSE

The purpose of this Interlocal Agreement and Ordinance (“Ordinance”) is to insure boater and public safety, provide for consensus among towns bordering the territorial waters of Damariscotta and Newcastle, and to balance the public’s interest in the recreational, commercial, natural and cultural resources and other uses in Damariscotta’s and Newcastle’s waters in the Damariscotta River, Great Salt Bay and the tidal waters of the Sheepscot River.

This ordinance may be terminated by a vote of either Damariscotta or Newcastle upon fourteen days’ notice to the other municipality.

### SECTION 2: AUTHORITY

This Ordinance has been prepared under the authority granted to the Towns by 38 M.R.S.A. § 1-§13, operation of vessels and 30-A MRSA, Chapter 141, § 3001 – 3012, home rule ordinance promulgation and 30-A § 4456

### SECTION 3: APPLICATION

This Ordinance applies in all tidal waters of the Damariscotta River, Great Salt Bay and the Sheepscot River in the Towns of Damariscotta and Newcastle.

### SECTION 4: ADMINISTRATION

Pursuant to 38 M.R.S.A. § 2 through 7, the responsibility for administration of this Ordinance shall be as follows:

4.1 Damariscotta/Newcastle Harbor Committee (Harbor Committee) authorization:

4.2 The Harbor Committee is authorized to:

- a. oversee and plan the general operation of the activities on and in the Damariscotta River Great Salt Bay and the Sheepscot River including defining channels and their boundary lines in harbors and waterways,
- b. provide guidance in assigning suitable portions of harbors and other coastal and tidal waters for anchorages, mooring districts, boating facilities owned by the Towns and aquaculture sites,
- c. establish regulations for uses of the waterways, navigation lanes, anchorage areas, the towns’ boating facilities and mooring districts,

- d. oversee the duties of the Harbor Master in the implementation of the provisions of this Ordinance.
- e. adopt written policies and procedures to facilitate administration of the Ordinance,
- f. make recommendations for balancing the enhancement of harbor usage with the conservation of natural, cultural and aesthetic resources for the long-range benefit of all stakeholders,
- g. assure public participation in deliberations and recommendations to the Boards of Selectmen with four meetings per calendar year, one each quarter, with all meetings open to the public and following due public notice.

#### 4.3 Committee Composition:

- a. The Harbor Committee shall be comprised of six members.
- b. Upon enactment of this Ordinance, the two Towns' Boards of Selectmen shall each designate three members of the public to serve on the Harbor Committee. One member appointed from each Town shall have an initial term of office of one year. One member appointed from each Town shall have an initial term of two years. One member appointed from each Town shall have an initial term of three years.
- c. Thereafter, as normal terms of office expire, appointment to the Committee shall be for three year terms.
- d. The Committee shall annually at the first meeting after the Board of Selectmen has appointed any new members, elect a chairman, a vice-chairman and a secretary from among its own members. Those so elected shall take office at the close of the meeting and shall continue in office until the next annual election. If the chairman's position becomes vacant, the vice-chairman shall succeed to that position and a new Vice Chairman shall be elected.
- e. If any Committee member's position becomes vacant, a replacement shall be appointed by the Board of Selectmen to serve out the remainder of the vacating member's term.
- f. Either Board of Selectmen can, at any time, remove one of their appointed members, with or without cause and initiate replacement.
- g. If a vacancy occurs within three months of a normal term's expiration, the Board of Selectmen that made the initial appointment may either leave the position vacant for the remainder of the term or appoint a new member whose term will fulfill the remainder of the unexpired term.

#### 4.4 Damariscotta River Harbor Master:

A Harbor Master shall be appointed annually by the Boards of Selectmen and receive compensation determined jointly by the Boards of Selectmen. The Harbor Master shall not make arrests or carry a weapon.

The duties of the Harbor Master are to:

- a. determine acceptable locations of uses and uses to insure boater and public safety.
- b. administer and enforce the regulations of this Ordinance.
- c. assign mooring sites; conduct inspections, relocation and/or removal of moorings.  
  
exercise jurisdiction over all moorings in the Harbor Districts of the Damariscotta River, Great Salt Bay and the tidal waters of the Sheepscot River.
- d. ; create, update and maintain waiting lists for moorings.
- e. update annually charts for Harbor Committee review (available at the Town office) depicting Damariscotta River/Great Salt Bay/Sheepscot Harbor Districts, navigation channels, hazard areas, moorings, anchorage areas, public wharves, boat launch facilities, aquaculture sites and marine protected areas.
- f. understand and perform statutory duties and responsibilities as set forth in 38 M.R.S.A. § 1-§13, and mandated by federal statute.
- g. exercise jurisdiction over the entry of any vessel into the harbor districts.
- h. promote safety within the Harbor Districts.
- i. assist local, County, State and Federal authorities in the operation of the Harbor Districts.
- j. attend all Committee meetings and be a non-voting advisor to the Harbor Committee.

#### 4.5 Deputy Harbor Master(s)

The Towns may appoint one or more Deputy Harbor Masters, set their compensation and describe their responsibilities. A Deputy Harbor Master is authorized to exercise the powers and duties of the Harbor Master subject to the provisions of this Ordinance under the direction of the Harbor Master.

#### 4.6 Selectmen

The Selectmen of either Town shall have the authority to approve wharves, and floats within their respective jurisdictions in District 1.

The Board of Selectmen of the Town having jurisdiction over the harbor territory in an appeal shall hear appeals of decisions, orders, rulings or actions taken by the Harbor Master and Deputy Harbor Master pursuant to Section 14 of this ordinance.

#### 4.7 Permits and Records

The administering town shall maintain records of such licenses and permits as requested by the Committee and the administrators and Boards of Selectmen.

### **SECTION 5: PLAN & REGULATIONS ON ALL USES**

A districting plan of designated Damariscotta River, Great Salt Bay and Sheepscot River tidal waters within Damariscotta and Newcastle is established to implement the purposes of this Ordinance. The Plan consists of designated locations and the regulations governing marine activities within them.

5.1 The Harbor Master shall promulgate a Harbor Map in consultation with the Harbor Committee.

#### 5.2 Establishment of Harbor Districts

There shall be five districts as depicted on the map and as follows:

- a. District 1: Inner Harbor - On the Damariscotta River from the western-most point of Lewis Point downstream to the southern-most edge of Walker's Point (Jack's Point) defined by a line across the Damariscotta River to the southern-most edge of Belknap's Point.
- b. District 2: Lower Harbor – On the river from the southern boundary of District 1 (Inner Harbor) downstream to a line connecting the southernmost points of the two town's boundaries.
- c. District 3: Upper Harbor - On the Damariscotta River from the western-most point of Lewis Point upstream into Great Salt Bay to the Marine Protected Area.
- d. District 4: Great Salt Bay – On the water body beginning at the southerly boundary of the Marine Protected Area northerly to the Newcastle Town line.
- e. District 5: Sheepscot River-The body of water within the corporate limits of Newcastle that includes the Sheepscot River and its tidal tributaries including the tidal portion of the Marsh River.

#### 5.3 Navigation Channels

The U.S. Coast Guard (USCG) designates some navigation channels of the Damariscotta River (the River) and Great Salt Bay (the Bay). The Harbor Master and Harbor Committee shall designate additional channels pursuant to 38 M.R.S.A. §2 for the safe and convenient passage of vessels. To obtain approval by the Harbor Master or Selectmen for boating facilities and permanent and seasonal structures in and on waters of the Damariscotta River, Great Salt Bay and the Sheepscot River an applicant must first receive approval from the U.S. Army Corps of Engineers (ACE). These structures are prohibited in navigation

channels except as authorized by the Harbor Master or the Board of Selectmen having jurisdiction.

#### 5.4 Aquaculture Sites

The Harbor Committee or Harbor Master shall depict on maps and charts each Maine Department of Marine Resources (DMR) approved site and indicate type of activity conducted.

#### 5.5 Mooring Districts, Anchorage Areas and Public Wharves and Boat Launch Areas

The Harbor Committee, in consultation with the Harbor Master, the DMR, the USCG and other authorities shall designate on the map and charts: mooring districts, anchorage areas, public wharves and boat launch facilities. The Committee and Harbor Master shall also determine the duration of anchorage allowed and other time limits for use of water facilities.

#### 5.6 Special criteria for Approval of Wharves, and Floats in District 1

Due to greater activity, safety conditions, and other factors, District 1 is considered a special boater and public safety area. Any person wishing to install or erect a wharf, pier, ramp pilings, or float in District 1 shall make application to the Board of Selectmen having jurisdiction. The Selectmen shall consider special criteria for all proposed wharves, boating facilities, and floats in District 1.

Within 30 days of receiving an application, the Selectmen shall give at least 3 days' public notice of the application in a newspaper, published in the town or Lincoln County, and shall designate in the notice a day and time on which they or their designee will meet on or near the premises described, to examine the same and hear all parties interested.

To approve a use in District 1, the Selectmen must make affirmative findings that:

- a. The proposed use will not adversely affect public safety due to the strong tidal currents in District 1 with special consideration of the currents caused by the Damariscotta-Newcastle Bridge.
- b. The proposed use will not adversely affect public safety due to the eddy currents in District 1.
- c. The proposed use and configuration will provide for safe ingress and egress to and from the proposed use location and be designed to prevent accident and public harm.
- d. The proposed use will not adversely affect public access to the water and placement of moorings.
- e. The proposed use will not adversely affect public safety or convenient use of the channels of the District 1 due to the density and proximity of other uses.
- f. The proposed use complies with all other aspects of this ordinance.



If, following such examination, hearing of all parties interested, and in consultation with the Harbor Master the Selectmen decide that such placement, erection or extension will not be an obstruction to navigation or injury to the rights of others, that all required affirmative findings are met, and determine to allow the same, they shall issue a license under their hands to the applicant, authorizing the applicant to make such an erection or extension, and to maintain the same within the limits mentioned in such license. The Selectmen shall, within 10 days after the date of hearing, give written notice by mail of their decision to all parties interested.

## **SECTION 6: MOORINGS, WHARVES, FLOATS & USES**

The Harbor Master is responsible for making all decisions on the location, equipment, duration and rules for acquiring, maintaining, adjusting and removing moorings as set forth below. While mooring gear is owned and maintained by the mooring site assignee; the sites themselves are owned by the State, with permitting and management delegated by the Harbor Committee to the Harbor Master. Mooring registration fees are collected from mooring applicants by the Town office designated by the Boards of Selectmen as the administering town.

### **6.1 Mooring Assignment Permits**

- a. Mooring assignment permits are required for all moorings.
- b. Only one boat may be secured at a mooring at a time without prior approval of the Harbor Master.
- c. Unattended rafting of boats is not permitted.
- d. Mooring assignment permits are not transferable. Mooring equipment may be transferred however, the location of the mooring shall be determined by the Harbormaster
- e. Any rental of the rights to use a mooring must be approved by the Harbor Master. Commercial renting of a mooring requires a separate permit from the Army Corps of Engineers.

### **6.2 Mooring Assignment Application**

- a. Applications are available at the town offices or through the two towns' websites.
- b. Each non-commercial mooring assignment application shall identify the vessel or vessels for which the applicant is requesting a mooring assignment permit. Only vessel owners may apply and receive non-commercial mooring assignment permits. The applicant must provide proof of ownership at the time of application. Completed applications shall be submitted to the Harbor Master for review and approval.
- c. Each commercial mooring assignment application other than applications from commercial fishermen shall identify the commercial enterprise requesting the mooring

assignment, the purposes for which the mooring assignment shall be used, and the maximum vessel size indicated for the mooring assignment. Except in cases of emergency, securing a vessel to a commercial mooring that exceeds the maximum vessel size indicated on the approved permit shall terminate the applicants mooring assignment permit. The applicant must provide an Army Corps of Engineers permit authorizing commercial use at the time of application. Completed applications shall be submitted to the Harbor Master for review and approval.

- d. Permit fees shall be paid in full at the time of submitting a Registration Application, either new or renewal. Permit fees may be changed from time to time as recommended by the Harbor Committee and approved by the Board of Selectmen. No applications will be processed until all related fees, excise taxes, charges, or penalties have been paid in full.

### 6.3 Vacant Moorings

Moorings that are vacant for more than three years become subject to removal following 14 days notice sent by first class mail to the applicant's address indicated on the mooring assignment permit application.

### 6.4 Mooring Assignments

Applicants will be assigned an appropriate mooring site by the Harbor Master on a first come – first serve basis pursuant to the priority guidelines of Section 6.5.

- 6.5 The Harbor Master shall have authority to approve or disapprove a mooring permit application and/or assigning a mooring location to a Commercial Marine Facility only after a public hearing is held on the application, attended by the Harbor Master and Harbor Committee. No mooring permit will be issued or renewed to a Commercial Marine Facility nor will there be an assignment of a mooring location for a Commercial Marine Facility, unless all necessary Army Corps of Engineers permits have been obtained.

### 6.6 Waiting lists

When there are more applicants for a mooring assignment than mooring spaces available, the Harbor Master shall create and maintain a waiting list in accordance with Section 6(5)(a). When a mooring space becomes available it shall be offered in accordance with Section 6(5)(a) to the first applicant on the list for which its configuration is appropriate for the dimensions and weight of the applicant's vessel.

#### a. Priority Guidelines

Moorings shall be assigned in accordance with the sequential priority category list, but subject to the exceptions to priority allocation under 6.6(b).

Sequential Priority Categories are:

1. Shorefront owners with a request for locations immediately adjacent to frontage;
2. Resident commercial vessel owners;

3. Resident pleasure vessel owners;
4. Non-resident commercial vessel owners;
5. Non-resident pleasure vessel owners;
6. Vessel owners with multiple mooring locations.

b. Exceptions to Sequential Priority Allocation

1. If less than 10% of all moorings are currently assigned to non-resident commercial applicants, then the next available space, if suitable, shall be offered to the first such applicant on the list;
2. If less than 10% of all moorings are currently assigned to non-resident pleasure vessel applicants, then the next available space, if suitable, shall be offered to the first such applicant on the list;
3. If neither non-resident commercial or non-resident pleasure vessel applicants currently constitute 10% of moorings assigned, then whichever has the lowest percent shall be offered the first available and suitable space; and
4. Shorefront owners applying for a mooring in front of their property shall not be placed on a waiting list but assigned a mooring space, based only on the suitability of the location, the ownership of a vessel and payment of the fee. If mooring space fronting their property is not suitable they may apply in the usual manner for mooring space in the designated mooring areas

c. Waiting Lists

Applicants may decline a mooring space when offered without losing their position on the list. Waiting list positions may be retained from one year to the next by submitting a new application before April 1st of the following year. Applications not renewed shall be removed from the waiting list on that date.

6.7 Mooring Reassignment

Moorings may be reassigned only by the Harbor Master.

6.8 Mooring Tackle Standards

- a. Minimum mooring weight and type shall be established on a boat by boat basis by the Harbor Master based on the location of the mooring, weight and type of boat.

| <b>GRANITE BLOCK MOORINGS</b>             | <b>BOTTOM CHAIN</b> | <b>TOP CHAIN</b> |
|-------------------------------------------|---------------------|------------------|
| 500 LB GRANITE BLOCK-BOATS TO 1,000 LBS   | ½" CHAIN            | 3/8" CHAIN       |
| 1,000 LB GRANITE BLOCK-BOATS TO 2,500 LBS | 5/8" CHAIN          | 1/2" CHAIN       |
| 2,000 LB GRANITE BLOCK-BOATS TO 7,000 LBS | ¾" CHAIN            | 1/2" CHAIN       |

|                                            |          |            |
|--------------------------------------------|----------|------------|
| 3,000 LB GRANITE BLOCK-BOATS TO 12,000 LBS | ¾" CHAIN | 5/8" CHAIN |
| 4,000 LB GRANITE BLOCK-BOATS TO 24,000 LBS | ¾" CHAIN | 5/8" CHAIN |

| <b>MUSHROOM ANCHORS</b>             | <b>BOTTOM CHAIN</b> | <b>TOP CHAIN</b> |
|-------------------------------------|---------------------|------------------|
| 50 LB MUSHROOM-BOATS TO 250 LBS     | ½" CHAIN            | 3/8" CHAIN       |
| 75 LB MUSHROOM-BOATS TO 400 LBS     | ½" CHAIN            | 3/8" CHAIN       |
| 100 LB MUSHROOM-BOATS TO 800 LBS    | ½" CHAIN            | 3/8" CHAIN       |
| 150 LB MUSHROOM-BOATS TO 1,500 LBS  | 5/8" CHAIN          | 1/2" CHAIN       |
| 200 LB MUSHROOM-BOATS TO 2,500 LBS  | 5/8" CHAIN          | 1/2" CHAIN       |
| 250 LB MUSHROOM-BOATS TO 4,000 LBS  | 5/8" CHAIN          | 1/2" CHAIN       |
| 300 LB MUSHROOM-BOATS TO 8,000 LBS  | ¾" CHAIN            | 5/8" CHAIN       |
| 400 LB MUSHROOM-BOATS TO 14,000 LBS | ¾" CHAIN            | 5/8" CHAIN       |
| 500 LB MUSHROOM-BOATS TO 24,000 LBS | ¾" CHAIN            | 5/8" CHAIN       |

- b. All moorings must have adequate bottom chain to reach the surface at half tide for complete top chain inspection by boat.
- c. All moorings in the Inner Harbor (District 1) must have enough scope for double the water depth at high tide due to limited swinging room.
- d. Boats outside the Inner Harbor must have a scope of three times the water depth at high tide.
- e. All moorings must be equipped with a mooring buoy adequate to support its mooring chain at high tide.

### 6.9 Mooring Markings

Permittees shall conspicuously affix a buoy identification to their buoy stating the owner's name and mooring space number. All mooring markings must comply with USCG regulations.

### 6.10 Transient Moorings

The Towns may provide transient moorings within its territorial jurisdiction on the Damariscotta River, Great Salt Bay and the Sheepscot River.

### 6.11 Change or Addition of Vessel

A non-commercial mooring assignment is valid only for the vessel or vessels indicated on the current application and approved by the Harbor Master. If different or additional vessels are to be secured at a non-commercial mooring assignment a revised application must be submitted to the Harbor Master for approval prior to securing the new vessel. A resubmitted

application does not trigger the waiting list or priority allocation regulations of this ordinance.

#### 6.12 Floats on Moorings

Floats, not to exceed 6 x 18 feet in dimension, may be allowed on moorings but require Harbor Master and Army Corps of Engineers approval to determine mooring size requirements and adequate swinging room. Floats must be marked (routed in or with nameplate) with ownership information including phone number.

#### 6.13 Boats on Moorings, Wharves or Floats

- a. Boats 12 feet or less in length, with the owner's name and telephone number affixed thereon, used to access vessels moored or anchored in one of the designated Harbor Districts may tie up on a continuing basis at certain floats designated by the Harbor Master. Such boats are to be tied by the bow only in designated areas.
- b. A person shall not place moorings, wharves, or floats in navigation channels or hazard zones. The Harbor Master shall treat moorings, wharves, or floats in navigation channels or hazard zones as abandoned watercraft and may order the owner to remove said object.

#### 6.14 Inspection of Moorings

All moorings must be inspected. Inspection shall be the responsibility of the mooring assignee with documentation to the Harbor Master. The mooring gear that can be accessed above the water surface must be inspected annually by a Harbor Master approved mooring inspector. Mooring bottom gear inaccessible from a boat must be inspected every three years by an approved diver. An ongoing record of inspections is maintained by the Harbor Master. When deficiencies are noted, the Harbor Master will issue a written statement to the mooring assignee with appropriate remedies and a time frame for completing them.

#### 6.15 Mooring fees

Mooring fees will be assessed on an annual basis by the Boards of Selectmen with input from the Harbor Committee. Fees will be collected at the town office designated as the administering town by the Boards of Selectmen

#### 6.16 Non-compliance

In response to non-compliance with any provision of this section, the Harbor Master or Deputy Harbor Master may deny a permit application, revoke a permit, or direct mooring tackle to be removed from Damariscotta and Newcastle waters at the owner's expense and be subject to all other penalties under this ordinance.

#### 6.17 Temporary Use of Moorings or Floats

Temporary use of a mooring by a vessel other than the permitted one is allowed for up to 14 days provided the temporary vessel is of the same or smaller size and weight as the permitted vessel. The Harbor Master must approve such use.

#### 6.18 Use of Floating Commercial Wharves

Commercial floats and wharves may be permitted by application to the Harbor Master, if governed by Section 5.5, with design plans that meet generally accepted float and wharf construction standards that are approved by the Army Corps of Engineers, and in consideration of the following criteria and in conformance with all other provisions of this ordinance:

- a. Overall physical location of the proposed project.
- b. The number and size of floats.
- c. The method of attachment, anchoring, mooring or securing the float
- d. Impact on other uses near or adjacent to the proposed project.
- e. Geographic location and overall configuration of the proposed project.

Floats and wharves shall be inspected and registered annually by the Harbor Master with a fee paid by the owner to the administering town. Annual inspections, submitted to the Harbor Master, consist of examination of the general condition of the float and its mooring system or its attachment to shore, and if multiple floats, attachment to each other. If there is access for the public and/or patrons and the floats are attached to the shore or to constructed facilities, the annual inspection is to include gangway, handrails, accessible life rings, and all other equipment required to meet boater and public safety standards.

#### 6.19 Non-conforming Uses of Moorings or Floats or Wharves

##### a. Operation of Moorings or Floats

The on-going use of a mooring, float or wharf in existence before the effective date of this Ordinance that becomes a non-conforming use as a result of the adoption of this Ordinance may continue so long as it meets equipment standards of this Ordinance and its use is not substantially changed. Substantial changes, as determined by the Harbor Master include, but are not limited to, substituting a heavier or longer boat, changing the dimensions, weight, chains or other gear of the mooring, float or wharf or changing the location of the mooring, float or wharf. When a substantial change is proposed, the change shall conform to the regulations of this Ordinance. Nothing in this Subsection precludes the annual inspections of non-conforming moorings, floats or other boating facilities for above-water gear and tri-annual inspections for underwater gear. Nothing in this Subsection precludes the Harbor Master from imposing or enforcing requirements of use to protect the public safety upon non-conforming uses.

- b. A vacated non-conforming mooring or float shall be removed by the assignee within 14 days after notification by the Harbor Master.

#### 6.20 Floating Pump-out Station

The Towns may install and maintain a float for the purpose of collecting and storing sewage from commercial and recreational boaters on a mooring in the harbor. The regulations regarding the dimensions and use of this float shall be determined by the Committee subject to requirements of the Army Corps of Engineers and other federal and state regulatory agencies.

### **SECTION 7: NATURAL AND HISTORIC RESOURCES**

#### 7.1 Aquaculture, Clamming, Worming and Commercial Fishing

Applicants for aquaculture licenses in the Damariscotta River, the Great Salt Bay and the Sheepscot River in the Towns of Damariscotta and Newcastle shall be subject to the regulations and procedures of MRSA Title 12, Chapter 605 §6072 and the Maine Department of Marine Resources. Commercial and recreational clammers, wormers and fishermen shall be subject to the regulations of MRSA Title 12, Chapter 605 §6072 and all pertinent local ordinances and regulations of Newcastle ordinances.

#### 7.2 Wildlife Conservation

- a. In administering this ordinance, the Harbor Master shall consider impacts to wildlife by referring to existing wildlife documentation including, but not be limited to, inventory and information sources available through Maine Inland Fisheries & Wildlife and the Maine Natural Areas Program. The Harbor Master shall also consult with local experts such as the Damariscotta River Association (DRA) and the Darling Marine Center regarding impacts on wildlife.
- b. The Harbor Master shall specifically consider impacts or potential impacts to critical wildlife habitat such as areas important to the migration of fish and other aquatic species, wildlife corridors, horseshoe crab spawning grounds, alewife migratory movements, eel grass beds, bird colonies and eagle nesting sites and any site or area associated with endangered, threatened or rare species.
- c. In siting moorings, floats, wharves and other marine facilities and uses, the Harbor Master shall consider the impact on existing protected lands which serve the public through water access, boat access, beach access, shore fishing, recreational mussel picking and other recreational fishing areas, kayaking and other recreational boating areas.

#### 7.3 Historic and Archeological Resources

The Maine Historic Preservation Commission (MHPC) has identified prehistoric and historic archeological sites below the high water line in the five districts. The Harbor

Committee and Harbor Master shall cooperate with the MHPC in reviewing any conservation measures consistent with MHPC regulations within the designated harbor districts of Section 5. The Harbor Committee and Harbor Master shall cooperate with the MHPC in reviewing development proposals with structures located below the high water line when a MHPC permit is required.

## **SECTION 8: MARINAS**

### 8.1 Marina Requirements

Consistent with the requirements administered by each of the Towns' Planning Boards, including but not limited to the Shoreland Zoning Ordinance, the application, review and consideration for approval of moorings, slips, floats and boating facilities of marinas shall be based on the requirements of Sections 5, 6 and 7 of this Ordinance.

### 8.2 Moorings and Shoreside Vehicle Parking

Marina owners shall provide parking spaces for moorings or slip rental spaces in accordance with each Town's land use and site plan review ordinances

## **SECTION 9: ABANDONED WATERCRAFT, FLOATS, BOUYS, MATERIALS AND FISH SHANTIES**

### 9.1 Prohibition

No person shall abandon or cause to be abandoned any watercraft, fish shanty or related equipment or appurtenances within the waters of the Damariscotta River, Great Salt Bay , Sheepscot River in the Towns of Damariscotta and Newcastle.

### 9.2 Presumption

Watercraft, floats, moorings, rafts and any other gear in the waters of the Damariscotta River, Great Salt Bay and the Sheepscot River. within the Towns of Damariscotta and Newcastle without registration or an approved permit by the Harbor Master or another State or Federal agency shall be declared abandoned.

### 9.3 Procedures

Upon determining that watercraft, floats, moorings, rafts or other gear has been abandoned pursuant to 9.2, the Harbor Master shall take possession of such item and shall make reasonable efforts to identify and notify the owner. If the Harbor Master deems an abandoned item to be a nuisance, a threat to navigation or a safety hazard, it may be impounded until compliance with all procedures pursuant to 25 M.R.S.A. §3501-3507 have been met. All expenses and fines pursuant to 38 M.R.S.A. §12, and the net proceeds of any auction, shall accrue to the Town.

## **SECTION 10: HARBOR USE REGULATIONS**

10.1 Operators of all watercraft will adhere to established and posted 'No-Wake' zones and speed limits.



10.2 No water skiing or "tubing" will be allowed in the Inner harbor/District 1.

10.3 Boat size and tie-up time limits and location at Town Landings shall be observed. This information shall be posted at Town Landings.

10.4 Operators shall observe all regulations of the Marine Protection Act in District 4 The Great Salt Bay.

#### 10.5 Illegal Operations

a. No overnight anchoring is allowed in District 1. No unattended daytime anchoring is allowed in District 1.

b. Whoever operates any watercraft, however propelled, on or in waters of Newcastle or Damariscotta, (1) recklessly, (2) in a manner which endangers any person or property, or (3) while intoxicated or under the influence of any narcotic drug, barbiturate or marijuana shall be guilty of a Class E crime as provided in M.R.S.A. 38 §13.

10.6 Excessive noise is regulated by the Towns' ordinances.

### **SECTION 11: POLLUTION CONTROL**

11.1 Except in case of emergency imperiling life or property or unavoidable accident, collision or stranding, no person shall discharge or suffer or permit the discharge of sewage, garbage, trash or other refuse of any kind, by any method, means or manner into or upon the Towns of Damariscotta and Newcastle, wharves, floats or the waters of the Damariscotta River Great Salt Bay or Sheepscot River.

11.2 No person shall establish a live-aboard use unless 1) the vessel has established and identifiable access to property with shoreline of the Damariscotta River, Great Salt Bay or Sheepscot River which is equipped with wastewater pump-out facilities; 2) sewage holding tanks attached to each marine toilet; and 3) the vessel's sewage system shall not be equipped with "Y" valves to permit overboard discharge.

11.3 No person shall establish a live-aboard use for more than fourteen (14) days on any type of watercraft, float, or wharf within the Harbor Districts without prior approval of the Harbor Master. Any live-aboard use longer than 14 days constitutes a continuing live aboard use. Any live aboard use 14 days or less shall constitute a temporary live aboard use.

11.4 Upon request from the Harbor Master, a person maintaining a live-aboard use shall provide proof of each of the elements listed in Section 11 to the Harbor Master's satisfaction.

### **SECTION 12: SHORELINE PUBLIC ACCESS**

12.1 To insure that the town landing facilities of the Towns of Newcastle and Damariscotta are available for use by the general public, the Town's wharves and floats shall be used only for loading and unloading as posted.

- 12.2 Boats 12 feet or less in length and used exclusively to access vessels moored or anchored in one of the Harbor Districts may tie-up on a continuing basis at specific sides of certain floats designated by the Harbor Master for that purpose.
- 12.3 Swimming and recreational fishing from town landings are permitted provided they do not cause litter, disturb the peace or interfere with the docking, loading or unloading of vessels. The public shall use town landings at their own risk.
- 12.4 EQUIPMENT: No person shall place or maintain on town landing facilities any boats, barrels, boxes, gear, traps, pots, nets, sails, equipment or any other materials longer than necessary for the prompt loading or unloading of the same, subject to the exception stated in 12.2.
- 12.5 TYING TO PUBLIC FLOATS: No person shall leave any vessel tied to the ends or fronts of any public float of the Towns of Damariscotta or Newcastle for any purpose, including fueling, loading or unloading of supplies, for longer than the posted period except for emergencies or with the approval of the Harbor Master.
- 12.6 BLOCKAGE OF PUBLIC RAMPS/FACILITIES: No person shall place or cause to be placed any vessel, boat cradle, trailer, vehicle or other object on a town ramp, wharf, parking lot or other town harbor facility in such a way that it blocks or impedes access by other users.
- 12.7 BAIT: No person shall place or maintain on public facilities any fish or other bait, except for immediate delivery to a vessel ready to receive same, without written permission from the Harbor Master.

### **SECTION 13: ENFORCEMENT**

- 13.1 It shall be the duty of the Harbor Master to enforce the provisions of this ordinance and the watercraft laws of the State of Maine on the jurisdictional waters of Damariscotta and Newcastle. If he finds that any party is violating the provisions of this ordinance, he shall notify in writing the person responsible for such violation, indicate the nature of the violation and order the action necessary to correct such violation.
- 13.2 The Harbor Master and his deputies shall conduct on-site inspections to ensure compliance with all applicable laws and conditions attached to permit approvals. The Harbor Master shall also investigate all complaints of alleged violations of this Ordinance.
- 13.3 When the above action does not result in the correction or abatement of the violation or nuisance condition, the Harbor Master with approval of the Selectmen having jurisdiction or the Selectmen on their own motion may institute any and all actions and proceedings including holding hearings, imposing fines, or seeking court ordered imposition of injunctions or fines that may be necessary to enforce the provisions of this Ordinance in the name of the municipality.

## **SECTION 14: VIOLATIONS**

- 14.1 A person is guilty of failure to obey an order of the Harbor Master or a Deputy Harbor Master if the person fails to obey any lawful order of the Harbor Master authorized by this Ordinance pursuant to 38 M.R.S.A. Chapter 1. Failure to obey an order of a Harbor Master is a Class E crime and subject to imprisonment and/or fines to be recovered on complaint by the Harbor Master before the District Court.
- 14.2 A person may also be subject to fines and injunctive action under this ordinance pursuant to 30-A M.R.S.A. § 4452.

## **SECTION 15: APPEALS**

- 15.1 The Board of Selectmen of the Town having jurisdiction shall hear an appeal by any aggrieved person affected directly or indirectly by a decision, order, rule, act or failure to act by the Harbor Master or his or her deputies. Appeal must be made within 30 days of such administrative action
- 15.2 An appeal shall be submitted to the Town Clerk on a form provided by the Board of Selectmen of the Town having jurisdiction, and shall describe the complaint and the relief sought. The original appeal form shall be kept on file at the Town Office of the Town having jurisdiction. A copy shall be forwarded to the Chairman of the Board of Selectmen in that Town.
- 15.3 The Board of Selectmen of the Town having jurisdiction shall act on any appeal within forty-five (45) days of its receipt by the Town. An extension of the forty-five (45) day requirement may be mutually agreed in writing between the applicant and the Town. The Board of Selectmen shall set a hearing date taking into consideration the schedules of the applicant and Board of Selectmen members. Notice of the hearing shall be posted at the Town Office not less than seven (7) days prior to the hearing. In its decision, the Board of Selectmen shall grant or deny relief from any order, rule, act or failure to act by the Harbor Master or his or her deputies, except that in no instance shall its decision violate State or Federal regulations, or this Ordinance. Any failure by the Board of Selectmen to issue a written decision within the time limits above shall constitute a denial.
- 15.4 At the hearing, the Board of Selectmen shall hear any oral or documentary evidence that is relevant and material. Appellants, defendants or their agents shall have the right to present oral and documentary evidence, to submit rebuttal evidence, and to conduct reasonable cross-examinations.
- 15.5 The minutes of the hearing, together with all documentary evidence presented in the proceeding, shall constitute the official record of the appeal. The record shall include a written statement of the Board of Selectmen's findings and conclusions and its decision, and shall be filed at the Town Office. Notice of the decision shall be mailed or hand delivered to appellants and defendants or their agents within seven (7) days of a decision, and copied to the Harbor Master. Any failure by the Board of Selectmen to issue a written notice or decision within the time limits above shall constitute a denial.

15.6 An appeal to Superior Court may be made within thirty (30) days from any act or decision of the Board of Selectmen.

## **SECTION 16: CONFLICT OF REGULATIONS**

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

Where this ordinance conflicts with the Harbor Ordinance of either Town, the Harbor Ordinance of the Town shall control.

## **SECTION 17: SEVERABILITY**

If any section, subsection, clause, phrase or word of this Ordinance is for any reason held to be invalid, such decision shall not affect the validity of any other section, subsection, paragraph, sentence, clause, phrase or word of this Ordinance.

## **SECTION 18: EFFECTIVE DATE AND POSTING**

18.1 The effective date of this ordinance is the date of enactment.

18.2 A copy of this Ordinance certified by the Town Clerks shall be retained in the Town's files.

## **SECTION 19: AMENDMENT**

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

## **SECTION 20: BUDGET & COSTS**

The Towns of Newcastle and Damariscotta shall jointly and equally fund all costs of the Harbor Committee including enforcement costs. All fees shall be paid as described elsewhere in this ordinance.

## **SECTION 21: DEFINITIONS**

In general all words and terms used in this Ordinance shall have their customary dictionary meanings. More specifically, certain words and terms are defined below as they are used in this Ordinance.

**Administering Town.** The town office designated by both Boards of Selectmen as the office that shall process the licenses and permits required by this ordinance and as otherwise empowered in this ordinance.

**Anchoring.** To secure a vessel to the bottom within a body of water by dropping an anchor(s) or other ground tackle, which is carried aboard a vessel when underway as regular equipment.

**Army Corps of Engineers (ACE) Permit.** Permit issued by the Army Corps of Engineers that is required for floats, rental moorings and commercial moorings.

**Channel.** Areas of the Harbor kept open for navigation or other purposes by rule or regulation of the Towns Harbor Master, the Harbor Committee, the Army Corps of Engineers, the U.S. Coast Guard, or other regulatory or legislative body.

**Commercial Vessel.** Watercraft that generate income by their use and operation.

**Float.** A movable floating platform that in the normal course of its use is secured to a wharf, pier or mooring and not designed for self-propelled navigation. Floats include but are not limited to lobster cars, fisherman work floats and upwellers.

**Live-Aboard Use.** The residential use of watercraft, floats, or other boating facilities.

**Marina.** A shorefront facility providing one or more of the following services: boat berthing, boat launching, boat storage, boat repair and servicing, sale of marine supplies and/or fuel, sale and/or servicing of marine equipment and accessories, and wastewater pump-out facilities.

**Mooring.** All equipment and methods used to secure a watercraft to a specific location on the water, other than those that are connected to the shore.

**Commercial mooring.** A mooring assigned to a commercial enterprise involved in sales, service, storage, construction, repair or operation of vessels for hire or used to moor watercraft which are serviced by the business or used as a maneuvering device for leaving or entering a berth, which may be used by a suitable sized vessel with the permission of such commercial enterprise to which the mooring is assigned.

**Non-commercial mooring.** Any mooring that is not a commercial mooring.

**Transient mooring.** Town designated mooring for temporary use by visitors.

**Mooring Assignment.** A specific location on, in, and under the waters governed by this ordinance, selected by the Harbor Master, for placement of mooring gear and tackle to allow a vessel to be secured to that location through the use of a mooring.

**Mooring Assignment Permit.** A permit required for use of a specific mooring assignment, granted by the Harbor Master pursuant to this ordinance.

**Non-resident.** For the purposes of this Ordinance, a non-resident is a person who does not qualify under the definition of resident.

**Rafting.** The act of securing one vessel to another, or the act of allowing two vessels to remain secured to each other.

**Rental mooring.** Mooring site assigned to an individual or business, the use of which is rented or leased.

**Resident.** For purposes of this Ordinance, a resident shall mean any person who resides or owns residential property in the Towns of Damariscotta, Newcastle or Nobleboro.

**Shorefront owner.** An owner of a parcel of land that borders upon the waters governed by this Ordinance.

**Watercraft.** Any mobile floating apparatus.

**Wharf.** A permanent platform contiguous with the shoreline used to berth, load and unload vessels including piers.

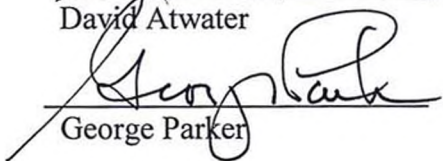
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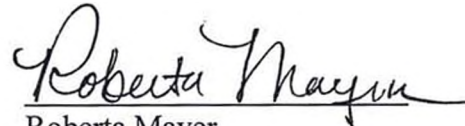
Ronn Orenstein, Chairman



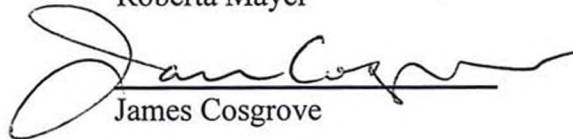
David Atwater



George Parker



Roberta Mayer

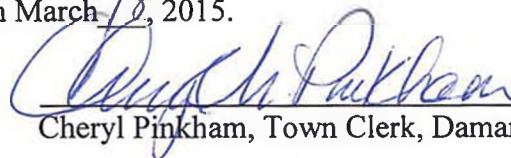


James Cosgrove

Board of Selectmen

Town of Damariscotta

Attest: A true copy of an ordinance entitled "Newcastle-Damariscotta Harbor Management Ordinance and Interlocal Agreement", as certified to me by the municipal officers of Damariscotta, Maine on March 18, 2015.



Cheryl Pinkham, Town Clerk, Damariscotta, Maine

**LAND USE ORDINANCE**  
**DAMARISCOTTA, MAINE**  
Revised June 15, 2016

**ARTICLE 1 - GENERAL**

**A. TITLE**

This ordinance shall be known and may be cited as the "Land Use Ordinance" of the Town of Damariscotta, Maine.

**B. PURPOSE**

The purpose of this Ordinance is to further the maintenance of safe and healthful conditions and the general welfare, to prevent and control water pollution, to protect wildlife, to control building sites and location of structures and land uses, and to conserve Shoreland areas, at the same time providing the greatest possible latitude in individual choices of land use. The Ordinance is intended to preserve the character and objectives of the community as determined by its citizens and outlined in its Comprehensive Plan. This ordinance is designed to implement the purposes included in the Maine Revised Statutes for Municipal Land Use plans.

**C. CONFLICT WITH OTHER ORDINANCES**

1. This Ordinance shall not repeal, annul, or in any other way impair the necessity of compliance with any other rule, regulation, bylaw or provision of the Federal, State or local government including Damariscotta's Shoreland Zoning Ordinance. Where this Ordinance imposes a greater restriction upon the use of land, buildings, or structures than the State or Federal regulations, this Ordinance shall control.

**D. VALIDITY AND SEVERABILITY**

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

**E. CHANGES AND AMENDMENTS**

1. All changes and amendments to this Ordinance must be made at a regular or special Town Meeting of Damariscotta, by a majority of the governing body.

**F. EFFECTIVE DATE**

1. The effective date of this Ordinance is 1 April 1998 and revisions as of 2/23/2002, 6/12/2002, 7/10/2002, 12/4/03, 11/10/04, 3/21/06 6/11/08,1/21/09, 3/18/15, 3/10/15 and June 15, 2016.

**ARTICLE 2 - DEFINITIONS**

Except where specifically defined, all words used in this ordinance shall carry their customary meanings. The Word "shall" is always mandatory. The word "may" is always permissive. For the purposes of this Ordinance, the following words or terms shall have the following meanings, unless the context clearly indicates otherwise.

**Accessory Use or Structure:** A use of structure of a nature incidental and subordinate to those of the principal use or structure.

**Alteration:** Any change, addition or modification in construction, or change in the structural members of a building, such as bearing walls, columns, beams, and girders.

**Apartment Building:** A building containing dwelling units arranged, intended, or designed to be occupied by 3 or more families living independently of each other.

**Building:** A structure for the support, shelter, or enclosure of persons, animals, goods, or property of any kind.

**Building Height:** The building height shall be the height measured from the mean ground level at the foundation line to the highest point of the roof. Features of buildings and structures, such as chimneys, towers, ventilators, and spires shall not be considered as part of the roof. Buildings within the Shoreland zone shall meet the definition of that ordinance.

**Campground:** Any area or tract of land used to accommodate two or more groups of people, in temporary living quarters, including tents, travel trailers or other temporary shelters.

**Code Enforcement Officer:** A person appointed by the Board of Selectmen to administer and enforce this Ordinance. Reference to the Code Enforcement Officer may be construed to include Building Inspector, Electrical Inspector, and the like, where applicable.

**Conditional Use:** A conditional use of land or buildings is a use that would not be appropriate in the land use district for which it is proposed, except with certain restrictions and controls, it will meet the intentions and purposes of this Ordinance. Except for Home Occupations, conditional uses are permitted only after review and approval by the Planning Board for conformance with the Site Review Ordinance.

**Condominium:** A building containing dwelling units arranged, intended or designed to be individually owned by their occupants under Maine State Law prevailing.

**Dwelling:** A building designed or used as the permanent or seasonal living quarters for one or more families.

**Dwelling Unit:** a room or group of rooms designed and equipped exclusively for use as permanent, seasonal, or temporary living quarters for only one family. The term shall include mobile homes, but not recreational vehicles or motels, hotels and other similar facilities not equipped with a kitchen.

**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 and livestock from the threat of destruction or injury.

**Excavation:** Any removal of earth or earth material from its original position.

**Family:** One or more persons living together as a single household under a unified management with obligations of mutual support.



**Forest Management Activities:** Activities designed and intended to manage timber resources, including timber cruising and other forest resources evaluation activities, management planning activities, insect and disease control, timber stand improvement, pruning, timber harvesting, and other harvesting, rejuvenation of forest stands, and other similar associated activities, not including the construction of roads.

**Frontage:** The length of a lot bordering on a street, road, or right-of-way. For a lot fronting on public waters, the length in a straight line measured between the intersections of the side lot lines with the shoreline at normal high water elevation. For a corner lot, the frontage shall be on the way most traveled, as determined by the Code Enforcement Officer.

**Gallery:** An establishment that displays and sells works of art.

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

**Medical Facilities:** Hospital and related uses shall include acute care, intermediate care, adult day care facilities, physician's offices, clinics, and other related uses.

**Light manufacturing:** Businesses manufacturing, assembling or storing products where there is no exterior effect of the manufacturing use, including no exterior noise, odors, or air pollution, as defined in the site review ordinance. It may include laboratory or research facilities, printing or publishing plants, warehousing, wholesale business or storage, building materials, contractor's offices, dry batch concrete plants, trade shops, (including cabinetry, carpentry, plumbing, electrical or finishing); and related exterior equipment and product storage for those uses. It shall not include heavy manufacturing or industrial uses such as asphalt and wet batch mixing plants, rock crushing or processing or chemical reprocessing and storage.

**Lot:** A single parcel of land, described on a deed, plot, or other similar legal document.

**Lot Coverage:** The ratio of the total area of all structures on a lot divided by the area of the lot.

**Marina:** A shore front commercial facility with provisions for one or more of the following: boat storage, boat launching, or the sale of supplies and services for watercraft and their equipment and accessories.

**Mobile Homes:** A prefabricated self-contained dwelling unit manufactured on a permanent chassis and transported as a single unit to the site where it is to be occupied.

**Mobile Home Park:** A lot on which 2 or more mobile home sites are to be rented.

**Modular Home:** A prefabricated self-contained dwelling unit which is manufactured and transported in 2 or more sections to the site where it is to be occupied, and there joined together and set on a permanent foundation.

**Motel:** A building or facility of more than 10 lodging rooms with each room having its own

private bathroom and each room having its own entrance. For the purpose of determining land area requirements, 3 lodging rooms shall require the same land area as one dwelling unit.

**Multi-family Dwellings:** Three or more dwelling units in single or multiple buildings on a single lot.

**Non-conforming Use:** A building, structure, or use of land, or portion thereof, existing at the effective date of adoption or amendment of this Ordinance which does not conform to all applicable provisions of this Ordinance.

**Non-combustible:** A material that, in the form in which it is used and under the conditions anticipated, will not aid combustion or add appreciable heat to an ambient fire. Materials, where tested in accordance with ASTM E136, Standard Test Method for Behavior of Materials in a Vertical Tube Furnace at 750 degrees C, shall be considered as noncombustible.

**Planned Unit Development:** A concept of planned development to allow maximum variations of design provided that required residential densities are not exceeded. The development must be planned as a whole according to comprehensive and detailed plans including street, utilities, lots or building sites, design of all buildings to be constructed, and other uses and improvements on the land.

**Principal Building:** The building in which the primary use of the lot is conducted.

**Professional Office:** Offices for the practice of the professions of medicine, law architecture, engineering, accounting, and dentistry, and other commonly accepted professions.

**Public Utility:** Any person, firm, corporation, municipal department, board or commission authorized to furnish gas, steam, electricity, waste disposal, communication facilities, transportation or water to the public, and subject to regulations by the Public Maine Utilities Commission.

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

**Retail Business:** Business establishment for the sale of merchandise to the public.

**Rooming & Bed and Breakfast Houses:** A building of up to 10 rooms in which lodging or boarding and lodging capabilities are provided to the public for compensation.

**Service Establishment:** Profit and non-profit business whose function it is to provide service to the public.

**Setback:** The minimum horizontal distance from a lot line to the nearest part of a building.

**Sewered:** Connected to the municipal sewer system.

**Structure:** Anything constructed or erected, except a boundary wall or fence, the use of which requires location on the ground or attachment to something on the ground.

**Two-family Dwelling:** A single building containing two separate dwelling units separated by a common wall or on separate levels.

**Wholesale Business:** Business established for the sale or distribution of products to retail businesses.

**Water supply Standpipe:** A structure associated with municipal utility that is a large water container on top of a tower usually 35 feet or more above ground to store water and to facilitate gravity flow, e.g. water pressure, to customers in buildings in the service area of a municipal water supply utility.

**Wireless Telecommunications facility or facilities-** any structure, antenna, tower, or other device which provides radio/television transmission, commercial mobile wireless services, unlicensed wireless services, cellular phone services, specialized mobile radio communications (SMR), common carrier wireless exchange phone services, specialized mobile radio communications (SMR), common carrier wireless exchange access services, and personal communications service (PCS) or pager services.

**Yard:** The area of land on a lot not occupied by the principal building or accessory structure.

**Yard, Front:** The area of land between the front lot line and the front line of any building, and extending the full width of the lot.

**Yard, Side:** The area of land between the side lot line and the side line of any building, and extending from the front yard to the rear yard. Any yard area not a front yard or rear yard, shall be deemed a side yard.

**Yard, Rear:** The area of land between the rear lot line and the rear line of any building, and extending the full width of the lot. A corner lot has no rear yard.

### ARTICLE 3 - DISTRICTS

- A. To implement the provisions of this Ordinance, the Town of Damariscotta is hereby divided into the following Land Use Districts:
1. General Residential
  2. Commercial
    - a. (C1) Downtown
    - b. (C2) Other Commercial
  3. Rural
  4. Wireless Communication- This district is an overlay district within portions of the C2 and Rural districts. All wireless telecommunication facilities are limited to this area. All standards and procedures for permitting these facilities are contained in the Site Review Ordinance.
  5. Municipal

The Shoreland area is controlled by the existing Damariscotta Shoreland Zoning Ordinance and shall be considered an "overlay" district. In other words, in the Shoreland areas the Shoreland Use requirements and permit procedures of the Shoreland Ordinance shall be in effect in addition to the requirements of this Land Use Ordinance.

**B. MAP**

1. The location and boundaries of the above districts are hereby established on the map entitled "Land Use Map of the Town of Damariscotta," dated January 23, 1998, filed with the Town Clerk, which map is hereby made a part of this Ordinance. And, as amended June 10, 2015 on the map entitled "Damariscotta Maine – June 10, 2015 - Zoning Map" filed with the Town Clerk.
2. Where uncertainty exists with respect to district boundaries as shown upon such map the following rules shall apply:
  - a. Unless otherwise indicated, district boundary lines are the center lines of roads, streets or rights of way.
  - b. Where discrepancy exists between the map and written description of each district, the written word shall prevail.
  - c. Where discrepancy exists between physical features existing on the ground and the official map and/or written district description, the Board of Appeals shall interpret the district boundaries.

**C. DISTRICT DESCRIPTIONS**

**1. GENERAL RESIDENTIAL DISTRICT**

- a. Land South of Business Route One.

Beginning at the intersection of Bristol Road and the town line of Bristol and Damariscotta; thence easterly along the town line 2700 feet; thence North to the Northeast Corner of Lot 14-19 of Map 1; thence westerly along the southerly bound of Lot 19, Map 1 to a point 500 feet east of the center line of Bristol Road; thence northeasterly parallel to the center line of Bristol Road and School Street, 500 feet east of each to a point making the southeast corner of Lot 25, Map 10; thence northwesterly along the easterly line of Lot 25 to a point 500 feet from the center line of Business Route 1; thence westerly parallel to and 500 feet from the center line of Business Route 1 until converging at the southerly corner of Lot 30, Map 9; thence along the easterly and northerly lines of Lot 31A to the intersection with the westerly line of Lot 31, Map 9; thence northwesterly to the southwest corner of Lot 119, Map 6; thence northerly along the easterly lines of Lots 122, 121, and 120 of Map 6 to the intersection with the center line of Business Route 1; thence northwesterly along Business Route 1 to its intersection with the Bristol Road Extension; thence southwest along the center line of the Bristol Road Extension to the Bristol Road; thence southeasterly along the center line of Bristol Road to the intersection with Cross Street; thence westerly along Cross Street to the northeast corner of Lot 128, Map 6; thence southerly to the southeast corner of Lot 128; thence westerly to the northwest corner of Lot 125; thence southerly to the southeast corner of Lot 134; thence westerly along the northerly bound of Lot 134A to the center line of Water Street; thence northerly along Water Street to the northeast corner of Lot 3, Map 6; thence westerly along the northerly bound of Lot 3 to the shore and water of the Day's Cove; thence following the shore and water of Day's Cove to the southwest corner of Lot 3, Map 9; thence following the northerly, easterly, bounds of Lot 63, Map, the easterly bounds of Lots 29, 30 of Map 11, and the easterly and southerly bound of map 27, Map 11 to the Shore of the Damariscotta River; thence following the shore south to the Bristol Town line; thence easterly to the point of the beginning.

b. Land westerly of Business Route 1.

Beginning at the shore of Cottrill's Cove at the Northeast corner of Lot 41, Map 6; thence southeasterly along the sideline of Lot 41 to the centerline of Elm Street; thence along Elm Street to the Northeast corner of lot 70; thence following the easterly line of Lot 70, and the northerly and easterly lines of Lot 83 to Business Route 1, thence along Business Route 1 to the intersection of Vine Street and Business Route 1; thence easterly along Vine Street to lot 112, Map 6; thence follow the westerly bound of Lot 112 to the Southeast corner of Lot 95; thence to the southwest corner of Lot 94; thence easterly to the southeast corner of Lot 90; thence along the westerly bound of Lot 90 to the centerline of Chapman Street; thence along Chapman Street to the southwest corner of Lot 11 Map 7; thence north along sideline of Lot 11 100 feet; thence easterly to the southeast corner of Lot 18A. Northerly along the East bound of Lot 18A to the centerline of Church Street; thence easterly along Church Street to the Northeast corner of Lot 13; thence along the west, south and east lines of Lot 16 to the southeast corner of Lot 15; thence easterly along the north bound of Lot 13, crossing School Street and along the south bound of Lot 49, Map 7 to the centerline of the "Crick"; thence south along the stream to the southwest corner of Lot 48; thence following the southerly line of Lot 48 to its intersection with Lot 23, Map 8; thence continuing to a point of intersection with a line 200 feet from and parallel to Business Route 1; thence easterly along this line to its intersection with Lot 21; thence westerly to the centerline of Church Street; thence along Church Street to the southwest corner of Lot 7, map 8; thence along the west line of Lot 7 and across Lot 6 to the intersection of the north line of Lot 6 and 500 feet from the centerline of Business Route 1; thence northerly along this line 500 feet from and parallel to the centerline of said road to Lot 17, Map3; thence westerly to the shore of the Damariscotta River; thence southerly following the shoreline to the point of beginning.

## 2. COMMERCIAL

a. Downtown Commercial (C1)

Beginning at the shore of Day's Cove and the north bound of Residential I; thence easterly along the northerly line of Residential I to its intersection with Business Route 1 and Bristol Road; thence to the southwest corner of Lot 84, Map 6; thence along the easterly and northerly lines of Lot 83 and the east line of Lot 70 to the center line of Elm Street; thence west along Elm Street to the southeast corner of Lot 41; thence northerly along the sideline of Lot 41 to Cottrill's Cove; thence westerly along the shore to the point of beginning.

b. Other Commercial (C2)

Beginning at the intersection of Business Route 1 and Main Street; thence northerly along the boundary of the C1 District to the northeast corner of lot 83, Map 6; thence along the western and southern and eastern boundary of General Residential district (west of Business Route 1 to Lot 17, Map 3; thence continuing 500 feet west of Business Route 1 to the intersection with the southerly bound of Lot 32, Map 3; thence westerly along the southern bound of Lot 32, Map 3; thence northerly along the western bound of Lot 32, Map 3 to a point 500 feet south of the centerline of Belvedere Road; thence westerly 500 feet south of the centerline and parallel to Belvedere Road

to the intersection with the eastern bound of Lot 33-1, Map 3; thence northerly to a point 500 feet north of Belvedere Road; thence easterly to the intersection with the western bound of Route 1; thence northerly following Route 1 to the intersection with the eastern side of the Midcoast Road; thence following Midcoast Road and the Center Street to the northwest corner of Lot 64E, Map 3; thence easterly to the northeast corner of Lot 64E; thence south to the intersection with lot 64C, thence easterly to a point 500 feet easterly of the centerline of Route 1; thence south following a line 500 feet from the centerline and parallel to Route 1 to its intersection with Business Route 1; thence southerly following a line 500 feet east of and parallel to Business Route 1 to the northerly bound of lot 14, Map 3, thence easterly to the northeast corner of lot 14; thence southerly following the easterly bound of lot 14 to the southwest corner of lot 12B, Map3; thence easterly in a straight line parallel to the northerly bound of lot 10, Map 3, crossing lot 7 Map 3 to the northeast corner of Lot 8, Map 3 (which is also the southwestern corner of Lot 12-4 Map 3), thence northerly along the eastern boundary of Lot 7, Map 3 (which is also the western boundary of Lot 12-4 Map 3) to the northeasterly corner of Lot 12-4, thence easterly along the northerly boarder of Lot 12-4, Map 3 to a point about 325 feet to the east, thence southerly along a straight line (approximately parallel to the eastern boundary of Lot 7, Map 3) to the northeastern corner of Lot 8, Map 3 and then following the northerly bound of Lot 7-1, Map 3 to a point 200 feet east of the southwest corner of Lot 9, Map 3; thence southerly to a point 500 feet south of Biscay Road; thence westerly (parallel to and 500 feet from Biscay Road) to the easterly bound of Lot 67, Map1; thence southerly along the easterly bound of Lot 67, Map 1 to the southerly bound of Lot 67, Map 1; thence westerly along the southerly bound of Lot 67, Map 1 to the center line of Heater Road; thence southerly to the southeast corner of Lot 59, Map 1; thence westerly to the intersection with the point 1000 feet east of Business Route 1; thence southerly following a line 1000 feet east of and parallel to Business Route 1 to the intersection of the general Residential District (south of Business Route 1); thence westerly following the northerly bound of the Residential District to the point of beginning. Also included are the Lots 63, 64, 65 and 66 of map 9 and Lots 27, 29 and 30 of Map 11. Excluded from the C-2 District is the new lot 13A, Map 7 created by the gift of land given to the Town and defined in the new Municipal District.

### **3. RURAL DISTRICT**

Beginning at the westerly shore of Biscay Pond at the Bristol Town line; thence westerly along the town line to a point of intersection with the General Residential District (south of Business Route 1);thence northerly following the boundary of the General Residential District to its intersection with the southerly bound of District C2; Thence along the boundary of C2 north to it northerly terminus; thence westerly and southerly following the westerly boundary of C2 to its intersection with the northerly bound of General Residential District at Lot 17, Map3; thence westerly to the shore of the Damariscotta River; thence northerly following the shore of the Damariscotta River and Oyster Creek to the intersection with the Nobleboro town line; thence easterly along the town line to its intersection with the shore of Pemaquid Lake; thence southerly following the western shores of Pemaquid Lake and Biscay Pond to the point of beginning.

### **4. WIRELESS COMMUNICATIONS DISTRICT**

Beginning at the intersection of Route 1 and the northerly town line, proceed easterly along

the town line a distance of 1000 feet; thence southerly parallel to and 1000 feet from Route 1 to the intersection of the northerly bound of Lot 10, Map 3; thence easterly along the north boundary of the C2 district to its easterly extent; thence southerly to the centerline of Biscay Road; thence westerly along Biscay road to the intersection of Business Route 1; thence north following Business Route 1 and Route 1 to the point of beginning.

**5. MUNICIPAL DISTRICT**

Beginning at the Southeast corner of Lot 13A, Map 7, of the Town Tax Maps, 2003, proceed northerly along the easterly boundary of Lot 13A, Map7, to the northeast corner of the lot, thence westerly along the northerly boundary to the northwest corner of the lot and thence southerly along the west boundary to its intersection with Chapman street, thence easterly to the point of beginning.

**ARTICLE 4 - GENERAL RESIDENTIAL DISTRICT**

**A. Purpose**

To preserve the physical, aesthetic, and social quality of Damariscotta's developed residential areas and to provide for areas within the Town for residential growth.

**B. Permitted Uses**

1. Single Family Dwellings
2. Two Family Dwellings
3. Mobile Homes
4. Accessory buildings and uses

**C. Conditional Uses**

1. Home occupations
2. Professional offices
3. Multi-family dwelling units and condominiums
4. Rooming houses
5. Planned unit development
6. Antique Shops and Galleries

**D. Standards**

1. The following standards shall apply to all uses in the district.
2. The following minimum land area per dwelling unit shall apply unless modified by requirements of Article 7 herein or Article 15A of the Shoreland Zoning Ordinance.

|              |                    |
|--------------|--------------------|
| Sewered:     | 10,000 square feet |
| Non-Sewered: | 40,000 square feet |

Setback Requirements:

|              |         |
|--------------|---------|
| *Front Yard: | 20 feet |
| Side Yard:   | 15 feet |
| Rear Yard:   | 15 feet |

Minimum Street Frontage:

|              |          |
|--------------|----------|
| Sewered:     | 75 feet  |
| Non-Sewered: | 100 feet |

Maximum Building Height: 35 feet

\* or the average of existing setbacks of abutting properties

## ARTICLE 5 - COMMERCIAL DISTRICTS

### A. Purpose

To provide general retail sales, service, and business space within the Town of Damariscotta in locations capable of conveniently servicing community wide and/or regional trade areas. To preserve the scale character, and economy of the Downtown in accordance with the Comprehensive Plan by implementing a 35,000 square foot size cap on retail development in all commercial districts, effective November 1, 2005.

### B. Downtown Commercial District (C1)

#### 1. Permitted Uses

a. All uses permitted in the General Residential District.

#### 2. Conditional Uses

- a. All conditional uses allowed in General Residential District except Planned Unit development.
- b. Retail and wholesale businesses and services establishments with no outside storage of materials.
- c. Rooming house, motels, hotels, and restaurants.
- d. Clubs and movie theaters.
- e. Banks.
- f. Service station garages.
- g. Accessory buildings and uses.
- h. Public buildings such as schools, recreational facilities, utility structures, and other community related uses.

#### 3. Standards:

a. The following standards shall apply to all uses in the District.

b. Space Standards:

Minimum land area: 10,000 square feet or as required by Shoreland Zoning Ordinance Standards.

Setback Requirements: Front Yard:

- (1) Except for requirements under the Shoreland Zoning Ordinance Standards, for those lots with existing buildings, front yard setbacks shall be the same or greater than the setback of existing buildings on that lot. If a structure is removed as part of the project, the location of that structure may be considered as an existing building provided the permit for new construction remains valid.
- (2) For those lots with no existing buildings, the setback shall be the average setback of buildings on abutting properties.

Side and Rear Yard:



- (a) If walls adjacent to side lot lines on buildings on both the applicants and adjacent property are of noncombustible construction as defined in this ordinance, the setback from the property lines may be reduced to 0 feet.
- (b) If the conditions stated in 1) above are not met, then a minimum 10-foot buffer strip to the side or rear lot lines or a 20-foot separation distance to adjacent building shall be maintained.
- (c) Yards abutting other districts shall be at least 15 feet deep and have a landscaped buffer strip.

Minimum Street Frontage: none, other than Shoreland Zoning Ordinance Standards

Maximum Building Height: 40 feet

No single retail store whether located in a single building, a combination of buildings, single tenant space, and/or combination of tenant spaces shall exceed 35, 000 gross square feet of floor area in the aggregate. This size restriction shall apply to new retail stores and expansion of existing retail stores, effective November 1, 2005.

c. Parking Standards

The Parking standards of the Site Review Ordinance as amended for this District shall apply.

**C. Other Commercial District (C2)**

- 1. Permitted uses:
  - a. All uses permitted in Downtown (C1) District.
- 2. Conditional uses:
  - a. All required to be conditional use in Downtown (C1) District except that Retail, wholesale and Service establishments may have outside storage within limits set by the Site Review Ordinance.
  - b. Light manufacturing.
  - c. All medical and medical related uses.
  - d. Planned Unit Development
  - e. Wireless Communication Facilities (within bounds of the wireless communication district)
  - f. Adult Entertainment Establishments
- 3. Standards.
  - a. The following standards shall apply to all uses in the district.
  - b. Space Standards:

The following minimum land area per principal building or dwelling unit shall apply unless modified by requirements of Article 7 herein or requirements of Article 15A of the Shoreland Zoning Ordinance.

|                          |                                                                                                            |
|--------------------------|------------------------------------------------------------------------------------------------------------|
| Sewered:                 | 10,000 square feet for the first dwelling unit and 6,000 square feet thereafter.                           |
| Non-Sewered:             | 40,000 square feet                                                                                         |
| Setback Requirements:    |                                                                                                            |
| *Front Yard:             | 20 feet                                                                                                    |
| Side and Rear Yards:     | 15 feet (Except abutting the Municipal District they shall be 0 feet.)                                     |
| Minimum Street Frontage: | 100 feet                                                                                                   |
|                          | * or the average of existing setbacks of abutting properties.                                              |
| Maximum Building Height: | 40 feet, except for wireless communication facilities which may be a maximum of 190 feet above the ground. |

- c. Adult Entertainment Establishment Standards – See Article 12 for additional performance standards for these establishments.

Setbacks for Wireless Communication facilities. See Article 7, Wireless Communication District for setback requirements for those facilities.

No single retail store whether located in a single building, a combination of buildings, single tenant space, and/or combination of tenant spaces shall exceed 35, 000 gross square feet of floor area in the aggregate. This size restriction shall apply to new retail stores and expansion of existing retail stores, effective November 1, 2005.

## **ARTICLE 6 - RURAL DISTRICT**

### **A. Purpose**

To allow a maximum diversity of uses, while still maintaining the essential rural character of this area.

### **B. Permitted Uses**

1. All uses permitted in the General Residential District
2. Agricultural and gardening businesses
3. Forest management activities
4. Accessory buildings and uses

### **C. Conditional Uses**

1. All conditional uses in the General Residential District.
2. Campgrounds.
3. Mobile Home Parks.
4. Uses related to Environmental Study and Education.
5. Veterinary hospital stables.
6. Wireless Communication Facilities (within the bounds of the wireless communication district).
7. Structures associated with municipal utilities.

### **D. Standards**

- a. The following standards shall apply to all uses in the district.

b. Space Standards:

Minimum land area per principal building or dwelling unit:

Sewered: 10,000 square feet

Non-Sewered: 80,000 square feet

or article 15A of the Shoreland Zoning Ordinance

c. . Setback Requirements:

Front Yard: 20 feet

Side Yard: 15 feet

Rear Yard: 15 feet

Setbacks for Wireless Communication facilities. See Article 7, Wireless Communication District for setback requirements for those facilities.

d. . Minimum Street Frontage:

200 feet

Maximum Building Height:

35 feet, except for wireless communication facilities which may be a maximum of 190 feet above the ground or water supply standpipes for water supply utilities, which may be 100 feet above the ground.

## ARTICLE 7- WIRELESS COMMUNICATION DISTRICT

### A. Purpose

To provide an area in Town for wireless communication facilities that does not have an adverse effect on the character of the community. This district is an overlay district encompassing portions of the C2 and Rural Districts. See those Districts for specific requirements.

### B. Conditional Uses

- a. Wireless Communication Facilities

### C. Standards

- a. The standards of the specific district (C2 or Rural) will apply except for the following requirements:
  - 1.) Setbacks. A new or expanded wireless telecommunications facility must comply with the setback requirements for the zoning district in which it is located, or be set back one hundred five percent (105%) of its height from all property lines, whichever is greater. The setback may be satisfied by including the areas outside the property boundaries if secured by an easement. The following exemptions apply:
    - 2.) The setback may be reduced by the Planning Board upon a showing by the applicant that the facility is designed to collapse in a manner that will not harm other property.
    - 3.) An antenna is exempt from the setback requirement if it extends no more than five (5) feet horizontally from the edge of the structure to which it is attached, and it does not encroach upon an abutting property.

## ARTICLE 8 - MUNICIPAL DISTRICT

### A. Purpose

To allow a maximum use of the land by the Town of Damariscotta for the purpose of Municipal offices.

### B. Permitted Uses

1. All occupancies and uses to serve the Municipal services of the Town. All occupancies and uses shall be subject to the Site Review Requirements of the Town.

### C. Standards

- a. The following standards shall apply to all uses in the district.

- b. Space Standards:

Minimum land area per principal building:

Sewered: 10,000 square feet

Non-Sewered: 40,000 square feet

Setback Requirements:

Front Yard: 20 feet

Side Yard: 0 feet

Rear Yard: 0 feet

Minimum Street Frontage: 200 feet

Maximum Building Height: 40 feet, except for wireless communication facilities which may be a maximum of 190 feet above the ground.

## ARTICLE 9 - GENERAL PROVISIONS

### A. Conformance

1. All buildings or structures hereinafter erected, altered, enlarged, or moved, and all uses the real property in the Town of Damariscotta shall be in conformity with the provisions of this Ordinance. No building, structure, land or water area shall be used for any purpose or in any manner except as permitted within the district in which such building, structure, land or water area is located. The lawful use of real property existing at the time of the adoption of this Ordinance or any subsequent amendment may be continued as provided in this Ordinance.

- a. Non-conforming uses shall be subject to the following provisions:

- 1.) A non-conforming building or structure may be repaired, maintained, and improved, provided that there is no expansion of the non-conforming use.

- 2.) The purchaser of property that is a lawful non-conforming use may continue that use.

- 3) A non-conforming use may not be enlarged, or extended except as follows:

- a. Expansion shall be limited to 30 % of the existing Building floor area or volume whichever is less building floor area and volume shall be as defined in the Damariscotta Shoreland Zoning Ordinance.

- 4) Whenever a non-conforming use is changed to a permitted use, such use shall not revert to a non-conforming status notwithstanding any other provisions of this Ordinance.
- 5) Any non-conforming use shall be presumed extinguished if it is abandoned or not used for a period of one year. The Board of Appeals may find this presumption does not apply because of extenuating circumstances beyond the control of the applicant or undue hardship.

**b. Undersized lots shall conform to the following criteria:**

- 1) A single lot of record, which at adoption of this Ordinance does not meet the area or width requirements, may be built upon provided that such a lot is at least 10,000 square feet in a sewerred area of town or 20,000 square feet in other areas of town, adheres to the Maine State Plumbing code as far as sewage disposal is concerned and structures must be in compliance with setbacks and other requirements as designated for the area by this and other ordinances.
- 2) Except for an approved subdivision, two or more contiguous lots in single ownership at the time of adoption of this Ordinance shall be considered a single parcel.



3. Multi family dwelling units

a. Multi-family (3 or more) dwelling units shall meet all of the following criteria:

1). Lot area shall be equal to the following minimum requirements:

a). For lots, other than those in the C2 District, served by a private central collection system, the minimum area for 3 units shall be 60,000 square feet and an additional 10,000 square feet per dwelling unit for each unit thereafter.

b). For lots in the C2 District, the minimum area shall be as specified in Article 5.C.3.b, sewerage.

2). Lots for multi-family dwelling units shall meet all other dimensional requirements for single-family dwellings.

3). . No building shall contain more than ten (10) dwelling units, except housing for the elderly associated with extended care facilities, which shall contain no more than 45 dwellings.

4). . Multi family dwelling units shall submit and comply with the requirements of the Damariscotta Site Review Ordinance.

**G. Planned Unit Development**

1. Purpose

The purpose of these provisions is to allow for new concepts of housing development where maximum variations of design may be allowed, provided that the net residential density shall be no greater than is permitted in the District in which the development is proposed.

2. Basic requirements

Planned unit developments and cluster developments shall meet all of the following criteria:

a. All planned unit and cluster developments shall meet all requirements for a residential subdivision.

b. The minimum area of land in a planned unit development or cluster development shall be 10 acres.

c. Any lot abutting a public road shall have a frontage and area no less than normally required in the District. On other than public roads, lot area and road frontage may be reduced by not more than 30% from the requirements of the District in which the proposed development is located provided that:

1) No building lot shall have an area of less than 10,000 square feet.

2) All lots except those abutting a circular turn-around shall have a minimum frontage of 75 feet. The frontage of lots abutting a circular turn-around may be reduced to 50 feet, provided that the minimum lot width at the face of the building shall be 75 feet.

d. In no case shall shore frontage be reduced below the minimum shore frontage normally required in the District.

e. Lots in the planned unit development or cluster development shall meet all other dimensional requirements for the District in which they are located.

f. The total area of common land within the development shall equal or exceed the sum of the areas by which any building lots are reduced below the minimum lot area normally required in the District.

g. Every building lot that is reduced in area below that amount normally required

shall about such common land for a distance of at least fifty (50) feet.

- h. All common land for recreational or conservation purposes only shall be owned jointly or in common by the owners of the building lots, by a trust or association or by the Town which has as its principal purpose the conservation or preservation of land in essentially its natural condition.
- i. Further subdivision of common land or its use for other than non-commercial recreation or conservation, except for easements for underground utilities, shall be prohibited. Structures and buildings accessory to non-commercial recreational conservation uses may be erected on the common land.

## **H. Home Occupations**

The following provisions apply to Home Occupations:

1. The occupation or profession shall be carried on wholly within the principal building or within a building or structure accessory thereto.
2. There shall be no exterior display, no exterior storage of materials and no other exterior indication of the home occupation or variation from the residential character of the principal building.
3. No nuisance shall be operated, including but not limited to offensive noise, vibration, smoke, dust, odors, heat, or glare as defined in the Damariscotta Site Review Ordinance.
4. Bed and Breakfasts and other rooming houses are not considered home occupations.

## **I. Businesses and Service Establishments shall meet the requirements of the Site Review Ordinance.**

## **J. Campgrounds**

The following provisions apply to campgrounds:

1. An applicant for a campground permit must furnish specific information to the Planning Board concerning the campground, including a site plan illustrating the location and design of the sewage disposal and water supply systems, the means of firefighting, and the type and location of roads proposed within the campground as well as other documentation submitted to the State for their Review.
2. In all other regards, the campground shall comply with the provisions of State law governing campgrounds.

## **K. Professional Offices**

In the General Residential District, the following provisions shall apply:

1. Offices shall exist within the conversion of existing buildings without substantial exterior alterations where practical Additions shall be compatible with the existing structure.
2. The maximum number of separate offices shall be three (3).
3. Offices shall comply with Site Review Ordinances.

## **L. Rooming & Bed and Breakfast Houses**

In the General Residential District, the following provisions apply:



1. No parking shall be located within the setback areas.
2. For the purposes of these standards, 2 rooms shall be deemed to be one dwelling unit.

Lot area per dwelling unit shall be equal to the following minimum requirements.

- a. Sewered 10,000 square feet
  - b. Non-Sewered 20,000 square feet
3. Rooming houses shall meet all other requirements for single family dwellings.
  4. One bathroom shall be provided for at least every 2 rooms of rent.
  5. Provide one parking space for each unit.
  6. Meet requirements of Site Review Ordinance.

**M. Outdoor Sale and Storage**

1. All outdoor sales and storage shall be stored in a neat and orderly manner.
2. Where this use abuts residential properties, materials shall be screened from ordinary view of occupants of these properties by a suitable fence, wall, or plantings.

**N. Corner Lots**

In districts where yards are required: Buildings located at the intersection of two streets shall meet the front yard requirements of both streets and the rear yard shall meet the side yard requirement of the side street.

**O. Conditional Use Standards**

Shall meet the requirements of the Site Review Ordinance and Shoreland Ordinance, in addition to any specific requirement of this ordinance.

**P. Wireless Communication Facilities**

Shall meet all the standards contained in the Site Review Ordinance in addition to the requirements of this ordinance.

**ARTICLE 10 - ADMINISTRATION**

**A. Jurisdictions**

1. The Board of Selectmen shall administer and enforce the provisions of this Ordinance and coordinate all actions of the Code Enforcement Officer, the Planning Board and Board of Appeals to maintain a documented trail of their actions on matters reviewed by them to substantiate proof for legal review.

**B. Administration**

1. The Board of Selectmen shall annually, following the Town Meeting appoint a Code Enforcement Officer.

**C. Powers and Duties of the Code Enforcement Officer**

1. The Code Enforcement Officer (CEO) shall have the following duties:
  - a. Examine preliminary plans
  - b. Act upon building permit applications received by the Town Office.

- c. Refer permits requiring Site Review, Conditional Use, Flood and Shoreland approved to the Planning Board as required.
  - d. Inspect sites where building permits have been issued to insure compliance with this Ordinance.
  - e. Investigate complaints and report violations.
  - f. Keep written inspection reports and thorough records stored in the Town Office.
  - g. Issue violation notices.
  - h. Appear in court when necessary.
  - i. Offer advice upon request.
  - j. Participated in appeals procedures.
  - k. All powers conferred by state statute.
2. When there is a question concerning interpretation of this Ordinance, the Code Enforcement Officer shall refer to the Board of Appeals for interpretation.

#### **D. Violations**

1. If the Code Enforcement Officer believes a violation of this Ordinance has occurred, he shall notify by certified mail the person(s) responsible for such violations indicating the nature of the violation and ordering the necessary action to correct it. He shall order discontinuance of illegal use of land, buildings, or structures, or of any unpermitted additions, alterations, of structural changes thereto; or discontinuance of any illegal activity.

#### **E. Fines**

1. Any person, firm, or corporation violating a provision of this Ordinance shall be fined not more than \$100.00 for each day such violation exists. All fines shall inure to the benefit of the Town of Damariscotta

#### **F. Building Permits**

1. Applicability. The provisions of this section apply to all structure(s) constructed, reconstructed, enlarged, relocated or moved in the Town of Damariscotta. This Ordinance does not require permits for maintenance and repair, or for accessory structure(s) or addition(s) of less than 100 square feet. Except that, all accessory structure(s) or addition(s) of less than 100 square feet within the Shoreland Zone shall obtain permits.

The provisions of this Section shall apply to any change in ownership of any commercial enterprise within the Town of Damariscotta.

2. Permits Required. The owner of the property shall obtain a permit issued by the Code Enforcement Officer for all structure(s) constructed, reconstructed, enlarged, relocated in or moved to the Town of Damariscotta, prior to the fact.
  - a. Application. The application for the permit shall be in writing on a form available from the Municipal Office, and shall contain:
    - i. a description of any structure(s) prior to their construction, reconstruction, enlargement, or relocation in or movement to the Town of Damariscotta is contemplated;

- ii. a description of the establishment of any commercial business in the Town of Damariscotta or change in a business establishment, regardless of the size of the floor area;

Each application shall contain a drawing of the structure(s) and a plan of the site shall accompany the application. The drawing shall include project dimensions, distances to property lines, names of abutters, roads, streets and bodies of water, location of sewer disposal and water supply. When required by the State Plumbing Code, the Code Enforcement Officer shall require evidence of adequate capacity of the septic system to support the structure(s) contemplated.

- b. **Permit Approval.** The Code Enforcement Officer, after receipt of the application, shall either issue the requested permit or transmit notice of refusal to the applicant within a reasonable time, not to exceed five (5) working days for residential applicants, and fifteen (15) working days for commercial applicants. The application shall be approved if all relevant ordinance requirements have been met. Notice of any refusal shall be in writing and shall state the reason therefore. All other permits required for the proposal shall be obtained prior to issuance of the permit.
- c. **Modifications.** Any modifications to the description, drawing, or site plan required in Section 6 (a) of the proposed structure(s) shall require a revised permit application and a permit prior to beginning the work.
- d. **Appeals.** An appeal to the Board of Appeals may be taken from an order issued by the Code Enforcement Officer or from his refusal to grant a permit. Such appeal shall be filed within thirty (30) days of the date of the order being appealed, accompanied by the fee set by the Board of Selectmen. The board may reverse the decision, or failure to act, of the Code Enforcement Officer only upon a finding that the decision, or failure to act, was clearly contrary to specific provisions of this Ordinance or unsupported by weight of the evidence in the record.
- e. **Duration of Permit.** All building permits shall be void unless there is substantial completion of the project within three (3) years of the date of the permit. Construction authorized by a permit and which is not completed within three (3) years of the effective date of the permit shall not continue until another permit is obtained.
- f. **Conditional Use Permit.** In cases where the CEO believes that a Conditional Use Permit is required, the CEO shall also provide a copy of his decision to the Planning Board.
- g. **Records.** Applications for permits with their accompanying plans and Building Permits shall be maintained as a permanent record by the Municipal Officers and the Code Enforcement Officer.
- h. **Other Permits.** Where plumbing or septic work is required to make a building

habitable, no Building Permit shall be issued unless a Plumbing Permit has been previously obtained. All sewerage and water connections and systems must comply with the regulations of the Maine State Plumbing Code.

3. Fees. The application fee shall be the amount included in the Town's fee schedule. The Board of Selectmen shall determine the application fees based on the Town's average administrative cost to process permit and license applications. These costs shall reflect the Town's estimated costs associated with the permitting or licensed activity including the administrative time for processing the application, any required initial and follow-up inspections, legal and other professional fees and the cost for public notices.
4. Proof of Compliance. No building shall be occupied after its construction, reconstruction, enlargement, or relocation in or movement to the Town of Damariscotta until a Certificate of Occupancy has been issued by the Code Enforcement Officer. The Code Enforcement Officer shall issue said Certificate after proper examination shows that all work performed is in compliance with the provisions of all State and Local codes.

## **ARTICLE 11 - APPEALS AND CONDITIONAL USES**

### **A. Authority**

1. All Appeals or applications for conditional Use Permits shall be based upon a written decision of the Code Enforcement Officer or the Planning Board.
2. Board of Appeals Authorization:
  - a. The Board of Appeals as established in the Town of Damariscotta Board of Appeals Ordinance shall hear and decide applications for variances and appeals in accordance with State law and the provisions of that Ordinance.
  - b. The Planning Board shall hear and approve, approve with modifications or conditions, or deny an application for a Conditional Use Permit. A Conditional Use Permit shall not be issued unless specific provision for such conditional Use is made in this Ordinance.
  - c. On request of the Board of Appeals, the Planning Board shall prepare an informational report on pending requests for a variance.

### **B. Procedure**

1. Application
  - a. These procedures and limitations apply to all appeals and requests for variances or conditional use permits. In all cases, a person aggrieved by a decision shall commence his appeal within 30 days after that decision is made. The appeal shall be filed with the Board of Appeals on forms approved by the Board, and shall specifically set forth the grounds for the appeal.
  - b. A person informed by the Code Enforcement Officer that he requires a Conditional Use Permit shall file an application for the Permit with the Planning Board on forms provided by the Town of Damariscotta. In order to describe the conditions adequately the applicant may be requested by the Code Enforcement Officer or the Planning Board to supply the following

information.

- 1) Detailed information to demonstrate compliance with the applicable standards or criteria.
- 2) Plans showing location of new and existing buildings, parking areas, traffic access, driveways, landscaping, open spaces.

## 2. Notification

- a. Publication: Within 30 days of the filing of an appeal or application for a variance, the Board of Appeals shall hold a public hearing in accordance with Section 4.D of the Board of Appeals Ordinance. The Board shall notify the Code Enforcement Officer and, in the case of an appeal, the Planning Board, at least 20 days in advance, of the time and place of the hearing. It shall publish notice of the hearing at least 10 days in advance of it in a newspaper of general circulation in the county.
- b. Notification of abutters: The Board of Appeals shall notify by certified mail, the appellant or applicant at least 10 days in advance of the hearing. The appellant or applicant shall be responsible for notifying all abutting property owners and owners of property within 500 feet of the property involved (even if the property is on the other side of the road) of the nature of the hearing and the time and place of the hearing. For the purpose of this section, abutting property owners shall include properties directly across a street from the property involved.
- c. The owners of property shall be determined on the basis of town tax records. Failure of any property owner to receive a notice of public hearing shall not necessitate another hearing or invalidate any action by the Board of Appeals.

## 3. Hearing:

- a. At any hearing, a party may be represented by agent or attorney. Hearings may be continued for good cause.
- b. The Code Enforcement Officer shall attend all hearings and may present to the Board all plans, photographs, or other material he deems appropriate for an understanding of the appeal.
- c. The hearing shall proceed according to the By-Laws of the Board of Appeals.

## 4. Decision:

- a. A decision shall require an affirmative vote of a majority of the members in accordance with Section 3 of the Board of Appeals Ordinance.
- b. The Board of Appeals shall reach a decision at the initial or continued public hearing and shall inform, in writing, the appellant or applicant, the Code Enforcement Officer, the Planning Board (on appeals) and the Municipal Officers of its decision with the conditions of the approval, or reasons for its denial.
- c. Upon notification of the decision of the Board of Appeals, the Code

Enforcement Officer, as instructed, shall immediately issue or deny a permit, with or without conditions, as prescribed by the Board of Appeals.

**C. Standards**

1. Variance

- a. A variance may be granted in accordance with Title 30-A Section 4353 by the Board of Appeals only where strict application of the ordinance, or a provision thereof, to the petitioner and his property would cause undue hardship. The words "undue hardship" as used are defined in accordance with Title 30-A Section 4353.
- b. A variance is not justified unless all elements are present in the case.
- c. As used in this Ordinance, a variance is authorized only for height, area, parking requirements and size of structures or size of yards or open spaces. Establishment of a use otherwise prohibited shall not be allowed by a variance. Financial hardship shall not constitute grounds for granting a variance.
- d. Variances for dimensions are not allowed within the Shoreland Zone.

2. Conditional Uses:

- a. The Planning Board may grant a conditional use upon presentation by the applicant of proof of the following:
  - 1) Certain Requirements Met: That the use requested meets the requirements of this Ordinance as set forth in Articles 1 through 8 and the requirements for the Damariscotta Site Review Ordinance.
  - 2) Effect not adverse: That the use requested will not have an adverse effect on the health, safety, or general welfare of the residents of the area or the general public. In making this determination, the Planning Board shall take into consideration the potential effect of the use on the environment from air, water, or soil pollution, noise, traffic, congestion, soil erosion, the burden on the sewage disposal, or water supply systems or other municipal facilities, services, or public ways, and any other relevant factors as set forth in Articles 1 through 8.
  - 3) Conditions attached to Conditional Uses: The Planning Board may attach such conditions as necessary to ensure that the above requirements are met.

**ARTICLE 12: ADULT ENTERTAINMENT ESTABLISHMENT DEFINITIONS AND STANDARDS:**

**A. DEFINITIONS:**

**ADULT AMUSEMENT STORE** means the same as **ADULT BOOKSTORE**.

**ADULT ARCADE** means any place to which the public is permitted or invited wherein coin operated or slug-operated or electronically, electrically, or mechanically controlled still or motion picture machines, projectors, videos, or other image-producing devices are maintained to show images to five or fewer persons per machine at any one time, and where the images so displayed are distinguished or characterized by the depicting or describing of “specified sexual activities” or “specified anatomical areas.”

**ADULT BOOKSTORE or ADULT VIDEO STORE** means a commercial establishment that utilizes at least 15% of the establishment’s floor space for display, sale, or rental, for consideration any one or more of the following: books, magazines, periodicals or other printed matter, or photographs, films, motion picture, video cassettes or video reproductions, slides, or other visual representations that are distinguished or characterized by the depicting or describing of “specified sexual activities” or “specified anatomical areas;” or instruments, devices, or paraphernalia that are designed for use in connection with “specified sexual activities.”

**ADULT CABARET** means a nightclub, bar, restaurant, café, or similar commercial establishment that regularly, commonly, habitually, or consistently features:

- a. persons who appear in a state of semi-nudity; or
- b. live performances that are distinguished or characterized by the exposure of “specified anatomical areas” or by “specified sexual activities”; or
- c. films, motion pictures, video cassettes, slides, photographic reproductions, or other image producing devices that are distinguished or characterized by the depiction or description of “specified sexual activities” or “specified anatomical areas”; or
- d. persons who engage in “exotic” or erotic dancing or performances that are intended for the sexual interests or titillation of an audience or customers.

**ADULT ENTERTAINMENT ESTABLISHMENT** means the operation of adult amusement stores, adult video stores, adult bookstores, adult novelty stores, adult motion picture theaters, on-site video screening establishments, adult arcades, adult entertainment nightclubs or bars, adult spas, establishments featuring strippers or erotic dancers, escort agencies or other sexually oriented businesses.

**ADULT ENTERTAINMENT NIGHTCLUB OR BAR** means the same as ADULT CABARET.

**ADULT MOTEL** means a hotel, motel or similar commercial establishment that:

- a. offers accommodation to the public for any form of consideration and provides patrons with closed-circuit television transmissions, films, motion pictures, video cassettes, slides, or other photographic reproductions that are distinguished or characterized by the depiction or description of “specified sexual activities” or “specified anatomical areas;” and has a sign visible from the public right of way that advertises the availability of this adult type of photographic reproductions; or
- b. offers a sleeping room for rent for a period of time that is less than twenty-four (24) hours; or

- c. allows a tenant or occupant of a sleeping room to sub rent the room for a period of time that is less than twenty-four (24) hours.

**ADULT MOTION PICTURE THEATER** means a commercial establishment where, for any form of consideration, films, motion pictures, video cassettes, slides, or similar photographic reproductions are regularly, commonly, habitually, or consistently shown that are distinguished or characterized by the depiction or description of “specified sexual activities” or “specified anatomical areas.”

**ADULT NOVELTY STORE** means the same as ADULT BOOKSTORE.

**ADULT THEATER** means a theater, concert hall, auditorium, or similar commercial establishment that regularly, commonly, habitually, or consistently features persons who appear, in person, in a state of nudity and/or semi-nudity, and/or live performances that are distinguished or characterized by the exposure of “specified anatomical areas” or by “specified sexual activities.”

**ADULT VIDEO STORE** means the same as ADULT BOOKSTORE.

**EMPLOYEE** means a person who performs any service on the premises of an adult entertainment establishment on a full time, part time, contract basis, or independent basis, whether or not the person is denominated an employee, independent contractor, agent, or otherwise, and whether or not the said person is paid a salary, wage, or other compensation by the operator of said business. “Employee” does not include a person exclusively on the premises for repair or maintenance of the premises or equipment on the premises, or for the delivery of goods to the premises, nor does “employee” include a person exclusively on the premises as a patron or customer.

**ESCORT** means a person who, for consideration, agrees or offers to act as a companion, guide, or date for another person, or who agrees or offers to privately model lingerie or to privately perform a striptease for another person.

**ESCORT AGENCY** means a person or business association who furnishes, offers to furnish, or advertises to furnish escorts as one of its primary business purposes for a fee, tip, or other consideration.

**ESTABLISHMENT** means and includes any of the following:

- a. the opening or commencement of any adult entertainment establishment as a new business;
- b. the conversion of an existing business, whether or not an adult entertainment establishment, to any adult entertainment establishment;
- c. the additions of any adult entertainment establishment to any other existing adult entertainment establishment; or
- d. the relocation of any adult entertainment establishment; or
- e. an adult entertainment establishment or premises on which the adult entertainment establishment is located.



**ESTABLISHMENTS FEATURING STRIPPERS OR EROTIC DANCERS** means the same as ADULT CABARET.

**NUDE MODEL STUDIO** means any place where a person who appears in a state of nudity or displays “specified anatomical areas” is provided to be observed, sketched, drawn, painted, sculptured, photographed, or similarly depicted by other persons for consideration.

**NUDITY or a STATE OF NUDITY** means the appearance of a human anus, pubic area, male genitals, or female genitals with less than a fully opaque covering; or a female breast with less than a fully opaque covering of any part of the areola; or human male genitals in a discernibly turgid state even if completely and opaquely covered.

**ON-SITE VIDEO SCREENING ESTABLISHMENT** means the same as ADULT ARCADE.

**PERSON** means an individual, proprietorship, partnership, corporation, association, or other legal entity.

**PREMISES** means the real property upon which the adult entertainment establishment is located, and all appurtenances thereto and buildings thereon, including, but not limited to, the adult entertainment establishment, the grounds, private walkways, and parking lots and/or parking garages adjacent thereto, under the ownership, control, or supervision of the owner or operator of the adult entertainment establishment.

**SEXUAL ENCOUNTER CENTER** means a business or commercial enterprise that, as one of its principal business purposes, offers for any form of consideration:

- a. physical contact in the form of wrestling or tumbling between persons of the opposite sex; or
- b. activities between persons of the opposite sex and/or persons of the same sex when one or more of the persons is in a state of nudity or semi-nudity. A principal business purpose exists if the services offered are intended to generate business income.

**SEXUALY ORIENTED BUSINESS** means an adult arcade, adult bookstore or adult video store, adult cabaret, adult motel, adult motion picture theater, adult theater, escort agency, nude model studio, or sexual encounter center.

**SPECIFIED ANATOMICAL AREAS** means:

- a. the human male genitals in a discernibly turgid state, even if fully and opaquely covered;
- b. less than completely and opaquely covered human genitals, pubic region, buttocks, or a female breast below a point immediately above the top of the areola.

**SPECIFIED SEXUAL ACTIVITIES** means and includes any of the following:

- a. the fondling or other erotic touching of human genitals, pubic region, buttocks, anus, or female breasts, whether covered or uncovered;

- b. sex acts, normal or perverted, actual or simulated, including intercourse, oral copulation, or sodomy;
- c. masturbation, actual or simulated; or
- d. excretory functions as part of or in connection with any of the activities set forth in (a) through (c) above.

**SUBSTANTIAL ENLARGEMENT** of an adult entertainment establishment means the increase in floor areas occupied by the business by more than twenty-five (25%) percent, as the floor areas existed on the date of enactment of this ordinance

## **B. STANDARDS:**

Adult Entertainment Establishments shall meet all of the standards contained in the Land Use Ordinance, Conditional Use Standards, Site Review Ordinance as applicable, and Additional Standards specific to Adult Entertainment Establishments as set forth below:

### **1. Purpose.**

It is the purpose of this ordinance to regulate adult entertainment establishments and related activities to promote the health, safety, and general welfare of the citizens of the municipality, and to establish reasonable and uniform regulations to prevent the deleterious location and concentration of adult entertainment establishments within the Town of Damariscotta. The provisions of this ordinance have neither the purpose nor effect of imposing a limitation or restriction on the content of any communicative materials, including sexually oriented materials. Similarly, it is not the intent nor effect of this ordinance to restrict or deny access by adults to sexually oriented materials protected by the First Amendment, or to deny access by the distributors and exhibitors of sexually oriented entertainment to their intended market. Neither is it the intent nor effect of this ordinance to condone or legitimize the distribution of obscene materials.

The Town hereby finds that adult amusement stores in communities in Maine and elsewhere are associated with a wide variety of deleterious secondary effects including, without limitation, personal and property crimes, prostitution, potential spread of disease, public lewdness and indecency, obscenity, illicit drug use and trafficking, negative impacts on the condition and value of closely-situated surrounding properties, urban blight, litter, and sexual assault and exploitation. The location of adult amusement stores in proximity to residences, schools, daycares, places of worship, recreational and other public parks, liquor licensees, and other incompatible land uses are of particular concern. These findings are supported by research and studies by municipalities and others across the Nation, reflected in a substantial published literature on the subject, including materials provided by Town Counsel for the Legislative body's review and consideration, which materials are incorporated herein by reference as part of the record of the adoption of the following regulations for adult amusement stores.

The Town further finds that preventing the deleterious secondary effects associated with adult

amusement stores through the adoption of content-neutral regulations of the times, places, and manner in which such establishments may be operated falls within the Town of Damariscotta's inherent police power as a municipal corporation and subdivision of the State of Maine, and its home rule authority granted by the Legislature pursuant to Title 30-A, Maine Revised Statutes, Section 3001, and serves the substantial governmental interest in preventing such deleterious effects. Finally, the proposed regulation is intended to be no greater than is necessary to achieve the purpose of preventing the deleterious secondary effects associated with adult amusement stores, and to allow for reasonable locations in the Town for such establishments.

## **2. Location Restrictions**

Adult entertainment establishments shall be a conditional use in accordance with Article V of the Town of Damariscotta Land Use Ordinance Section C and also provided that:

A. The adult entertainment establishment may not be permitted or operated within:

1. 1,500 feet of a church, synagogue, mosque, temple or building which is used primarily for religious worship and related religious activities;

2. 1,500 feet of a public or private educational facility including but not limited to child care facility, nursery schools, preschools, kindergartens, elementary schools, private schools, intermediate schools, junior high schools, middle schools, high schools, vocational schools, secondary schools, continuation schools, special education school, junior colleges, and universities; school includes the school ground, but does not include the facilities used primarily for another purpose and only incidentally as a school;

3. 1,500 feet of a public park or recreational area or private recreational facility which has been designated for park or recreational activities, including, but not limited to, a park, playground, nature trails, swimming pool, reservoir, athletic field, basketball or tennis courts, skating rink, pedestrian/bicycle paths, wilderness areas, or other similar public land within the Town which is under the control, operation, or management of the Town park and recreation authorities or a private entity;

4. 1,500 feet of another adult entertainment establishment.

B. An adult entertainment establishment may not be operated in the same building, structure, or portion thereof, containing another adult entertainment establishment.

C. For the purpose of this ordinance, measurement shall be made in a straight line, without regard to intervening structures or objects, from the nearest portion of the building or structure used as a part of the premises where an adult entertainment establishment is conducted, to the nearest property line of the premises of a church, synagogue, regular place of worship, or public or private elementary or secondary school, or to the nearest boundary of an affected recreational facility or licensed child care facility.

D. For purposes of subsection (C) of this section, the distance between any two adult entertainment establishments shall be measured in a straight line, without regard to intervening structures or objects, from the closest exterior wall of the structure in which each business is located.

**3. Adult Entertainment Establishment Signage.**

- A. All signs shall be in accordance with any Ordinances or Regulations of the Town of Damariscotta relative to Signs.
- B. Notwithstanding anything to the contrary, an Adult Entertainment Establishment shall not be permitted more than one (1) sign advertising its business, which shall be an on-premise free-standing or attached wall sign only. No such sign shall:
  - 1. Be placed in any window, except that one sign no larger than one (1) sq. ft. may be placed on the door to state only the store's hours of operation and that admittance is for adults only;
  - 2. Be neon or internally-illuminated or contain any flashing lights, moving elements, or mechanically changing messages;
  - 3. Contain any depiction of the human form or any part thereof, whether by photograph, painting, drawing, silhouette, or pictorial representation;
  - 4. Contain any sexually explicit or suggestive language such as "nude dancing";
  - 5. Be located off-site;
  - 6. Have more than two display surfaces; or;
  - 7. Exceed twenty (20) sq. ft.
- C. Any sign located on the premises of a multi-unit commercial center such as a shopping center or plaza and identifying one or more of the businesses that comprise the center shall also comply with this subsection if such sign identifies an Adult Entertainment Establishment on the premises.


**4. Amortization of Existing Adult Entertainment Establishments.**

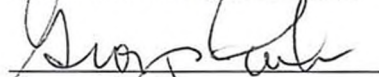
- A. Any Adult Entertainment Establishment lawfully operating upon the adoption of this Ordinance that is in violation of this Ordinance shall be deemed to be a nonconforming use. This nonconforming use shall be permitted to continue for a period of twenty-four (24) months from the effective date of this Ordinance, unless sooner terminated for any reason or voluntarily discontinued for a period of 30 days or more. Such nonconforming use may not be increased, enlarged, extended, or altered except that the use may be changed to a conforming use.
  - B. An Adult Entertainment Establishment lawfully operating as a conforming use as of the effective date of this ordinance, shall not be rendered a nonconforming use by the subsequent location of a church, synagogue, or other house of religious worship, public or private elementary or secondary school, recreational facility, or municipal facility, within the distance limitations of this ordinance.
5. **Conflicts.** Notwithstanding the foregoing, if there is any conflict between this Section 12 and other Damariscotta Codes and Ordinances, the more stringent provisions shall apply.
6. **Severability.** If any section, phrase, sentence, or portion of this Section 12 is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct, and independent provision, and such holding shall not affect the validity of the remaining portions thereof.
7. **Retroactivity.** The provisions set forth in this Section shall be effective, to the maximum extent permitted by law but subject to the severance clause herein, and shall be applied to all proceedings


or applications not pending, and business activities not commenced, established, located or operating within the Town, as of August 20, 2014.

**ARTICLE 13: REPEAL OF EXISTING ORDINANCES:**


The enactment of this ordinance hereby repeals the Minimum Lot Size ordinance enacted April 28, 1988, amended June 16, 1997 and repeals the Earth Change Notification Ordinance, enacted April 1, 1994 and amends the Land Use Ordinance of June 10, 2015.

  
Ronn Orenstein, Chairman

  
George Parker

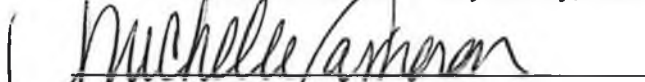
  
Joshua Pinkham

  
Roberta Mayer

  
James Cosgrove

Board of Selectmen  
Town of Damariscotta

Attest: A true copy of an ordinance entitled "Alarm Ordinance" for the Town of Damariscotta, Maine-June 15, 2016, as certified to me by the municipal officers of Damariscotta, Maine on the 6<sup>th</sup> day of July, 2016.

  
Michelle Cameron, Town Clerk  
Damariscotta, Maine

**Legislative History: Revised 3/23/98**

Revised 2/23/2000: Article 2 - Definition of Light Manufacturing and Article 3. C.2.b Other Commercial (C2)

Revised June 12, 2002: Wireless Communication

Revised July 10, 2002

Revised December 4, 2003: Article 10 – Building Permits, Article 3 – Districts, Article 5 – Commercial Districts, Article 8 – Municipal District; renumbered several sections for clarity.

Revised November 10, 2004: Article 9 F (3)

Revised March 21, 2006: Article 5-Commercial Districts A; B(3)3; C(3); Article 9-General Provisions F(3) a.1.a & b

Revised June 11, 2008 – Revisions to Board of Appeals: Article 11

Revised January 21, 2009 – Revisions to Article 6 – Rural district and Article 2 - Definitions

Revised March 18, 2015-Revisions to -Adult Entertainment, Article 5(C)(2) Conditional Uses, Article 5(C)(3) Standards, Article 12 Adult Entertainment Establishment Definitions and Standards

Revised June 10, 2015: Art. 3.C.2.b - Change to Comm. C2 boundary near Biscay Rd.

Revised June 15, 2016: Art. 3.C.2.b – Change from Rural to C2 District, Lots 1/67 & 3/32

Effective Date June 16, 2016

TOWN OF DAMARISCOTTA, MAINE  
MORATORIUM ORDINANCE REGARDING RETAIL RECREATIONAL MARIJUANA

WHEREAS, the legislative body of the Municipality of Damariscotta (the "Municipality") makes the following findings:

1. The Marijuana Legalization Act (the "Act") was approved by Maine voters in November 2016 and has been codified in the Maine Revised Statutes in Title 7, chapter 417; and
2. The unregulated location and operation of "Retail Marijuana Establishments" and "Retail Marijuana Social Clubs," as defined in 7 M.R.S.A chapter 417, as well as other types of retail recreational marijuana activity within the Municipality raises legitimate and substantial questions about the impact of such activity, establishments and social clubs on the Municipality, including questions as to compatibility with existing land uses and developments in the municipality; potential adverse health and safety effects on the community; the possibility of illicit sale and use of marijuana and marijuana products to and by minors; and the possibility of unlawful use of marijuana and marijuana products, and;
3. As a result of the foregoing issues, retail recreational marijuana activity, and the location and operation of Retail Marijuana Establishments and Retail Marijuana Social Clubs within the Municipality, have potentially serious implications for the health, safety and welfare of the Municipality and its residents; and
4. The Municipality currently has no regulations governing retail recreational marijuana activities, Retail Marijuana Establishments and Retail Marijuana Social Clubs, and existing ordinances are insufficient to prevent serious public harm that could result from the unregulated development of Retail Marijuana Establishments and Retail Marijuana Social Clubs and from other types of retail recreational marijuana activity; and
5. An overburdening of public facilities and resources, including public safety resources, is a reasonably foreseeable result of Retail Marijuana Establishments and Retail Marijuana Social Clubs locating in the Municipality and/or other types of retail recreational marijuana activity in the Municipality; and
6. The state's regulatory structure is unknown at this time as the Maine Legislature and state agencies have not developed final legislation or regulations governing Retail Marijuana Establishments and Retail Marijuana Social Clubs, and legislation amending the Act is pending; and
7. In the judgment of the legislative body of the Municipality, the foregoing findings and conclusions constitute an emergency within the meaning of 30-A M.R.S.A. § 4356 requiring immediate legislative action.

NOW THEREFORE, pursuant to 30-A M.R.S.A. § 4356, be it ordained by the Municipality as follows:

#### Section 1. Moratorium.

The Municipality does hereby declare a moratorium on all retail recreational marijuana activity, and the location, operation or licensing of any and all “Retail Marijuana Social Clubs” and “Retail Marijuana Establishments” as defined in 7 M.R.S.A. chapter 417, including but not limited to, retail marijuana stores, retail marijuana cultivation facilities, retail marijuana products manufacturing facilities, and retail marijuana testing facilities within the municipality. No person or organization shall engage in any retail recreational marijuana activity or develop or operate a Retail Marijuana Establishment or Retail Marijuana Social Club within the Municipality on or after the effective date of this Ordinance. During the time this moratorium ordinance is in effect, no officer, official, employee, office, administrative board or agency of the Municipality shall accept, process, approve, deny, or in any other way act upon any application for a license, building permit, any other type of land use approval or permit and/or any other permits or licenses related to a Retail Marijuana Establishment, Retail Marijuana Social Club or retail recreational marijuana activities.

#### Section 2. Pending Proceedings.

Notwithstanding 1 M.R.S.A. § 302 or any other law to the contrary, this Ordinance shall govern any proposed retail recreational marijuana activity and Retail Marijuana Establishments or Retail Marijuana Social Clubs for which an application for a building permit, certificate of occupancy, site plan or any other required approval has been submitted to the Municipality, whether or not a pending proceeding, prior to the enactment of this Ordinance.

#### Section 3. Medical Marijuana Act.

This Ordinance will not limit the privileges or rights afforded by the Maine Medical Use of Marijuana Act (22 M.R.S.A. §§ 2421-2430-B) to qualifying patients, primary caregivers, or registered dispensaries, including cultivation facilities associated with any of those classifications.

#### Section 4. Conflicts/Savings Clause.

Any provisions of the Municipality’s ordinances that are inconsistent or conflicting with the provisions of this Ordinance are hereby repealed to the extent applicable for the duration of this moratorium. If any section or provision of this Ordinance is declared by any court of competent jurisdiction to be invalid, such a declaration shall not invalidate any other section of provision.

#### Section 5. Violations.

If any retail recreational marijuana activity is conducted, or Retail Marijuana Establishment or Retail Marijuana Social Club is established, in violation of this Ordinance, each day of any continuing violation shall constitute a separate violation of this Ordinance and the Municipality shall be entitled to all rights available to it pursuant to 30-A M.R.S.A. § 4452, including, but not

limited to, fines and penalties, injunctive relief, and its reasonable attorney's fees and costs in prosecuting any such violations.

6. Effective Date.

This Ordinance shall be effective upon the date of an affirmative vote of the legislative body to enact said Ordinance or in the event that an affirmative vote of the legislative body occurs after January 31, 2018, the retroactive effective date shall be January 31, 2018. A Marijuana Moratorium Ordinance was discussed at several meetings of the Board of Selectmen during the year 2017. This Ordinance shall remain in full force and effect from the effective date for a period of 180 days thereafter, unless extended pursuant to law or until a new and revised set of regulations is adopted by the Municipality, whichever shall first occur.

Given unto our hands this 17 day of January, 2018

Robin Mayer  
Robin Mayer, Selectman

Ronn Orenstein  
Ronn Orenstein, Selectman

Mark Hagar  
Mark Hagar, Selectman

Amy Leshure  
Amy Leshure, Selectman

Louis Abbotoni  
Louis Abbotoni, Selectman

21 School Street

Posted at: Damariscotta, Maine  
(Location)

Time: 8:00

Date: 1/17/18

Attest: Michelle Cameron  
Michelle Cameron, Damariscotta Town Clerk

ATTEST: A TRUE COPY!  
Michelle Cameron  
1/18/18 DATE



## Chapter 602

### PROPERTY ASSESSED CLEAN ENERGY

#### §602-1. Authority

The Town enacts this Ordinance pursuant to Public Law 2009, Chapter 591 of the 124<sup>th</sup> Maine State Legislature, "An Act To Increase the Affordability of Clean Energy for Homeowners and Businesses," also known as "the Property Assessed Clean Energy Act" or "the PACE Act" (codified at 35-A M.R.S.A. Section 10151, *et seq.*).

#### §602-2. Purpose

The establishment of a program to enable Damariscotta's citizens to participate in a Property Assessed Clean Energy (PACE) program so that owners of qualifying property can access financing for energy saving improvements to their properties located in the Town of Damariscotta (the Town).

#### §602-3. Effective Date

This Ordinance shall be effective upon adoption by the Town of Damariscotta.

#### §602-4. Definitions

Except as specifically defined below, words and phrases used in this Ordinance shall have their customary meanings.

**ENERGY SAVING IMPROVEMENT:** An improvement to qualifying property that is new and permanently affixed to qualifying property and that:

(a) Will result in increased energy efficiency and substantially reduced energy use and:

(1) Meets or exceeds applicable United States Environmental Protection Agency and United States Department of Energy "Energy Star" program or similar energy efficiency standards established or approved by the Trust; or

(2) Involves air sealing, insulating, and other energy efficiency improvements of residential, commercial or industrial property in a manner approved by the Trust; or

(b) Involves a renewable energy installation or an electric thermal storage system that meets or exceeds standards established or approved by the Trust.

**PACE AGREEMENT:** An agreement between the owner of qualifying property and the Trust that authorizes the creation of a PACE mortgage on qualifying property and that is approved in writing by all owners of the qualifying property at the time of the agreement, other than mortgage holders.

**PACE ASSESSMENT:** An assessment made against qualifying property to repay a PACE loan.

**PACE DISTRICT:** The area within which the Town establishes a PACE program hereunder, which is all that area within the Town's boundaries.

**PACE LOAN:** A loan, secured by a PACE mortgage, made to the owner(s) of a qualifying property pursuant to a PACE program to fund energy saving improvements.

**PACE MORTGAGE:** A mortgage securing a loan made pursuant to a PACE program to fund energy saving improvements on qualifying property.

**PACE PROGRAM:** A program established under State statute by the Trust or a Town under which property owners can finance energy savings improvements on qualifying property.

**QUALIFYING PROPERTY:** Real property located in the PACE district of the Town.

**RENEWABLE ENERGY INSTALLATION:** A fixture, product, system, device or interacting group of devices installed behind the meter at a qualifying property, or on contiguous property under common ownership, that produces energy or heat from renewable sources, including, but not limited to, photovoltaic systems, solar thermal systems, biomass systems, landfill gas to energy systems, geothermal systems, wind systems, wood pellet systems and any other systems eligible for funding under federal Qualified Energy Conservation Bonds or federal Clean Renewable Energy Bonds.

**TRUST:** The Efficiency Maine Trust established in 35-A M.R.S.A. Section 10103 and/or its agent(s), if any.

#### **§602-5. Pace Program**

(a) Establishment; funding. The Town hereby establishes a PACE program allowing owners of qualifying property located in the PACE district who so choose to access financing for energy saving improvements to their property through PACE loans administered by the Trust or its agent. PACE loan funds are available from the Trust in municipalities that do all of the following:

- (1) adopt a PACE Ordinance,
- (2) adopt and implement a local public outreach and education plan,
- (3) enter into a PACE administration contract with the Trust to establish the terms and conditions of the Trust's administration of the municipality's PACE program,
- (4) agree to assist and cooperate with the Trust in its administration of the municipality's PACE program.

(b) Amendment to PACE program. In addition, the Town may from time to time amend this Ordinance to use any other funding sources made available to it or appropriated by it for the express purpose of its PACE program, and the Town shall be responsible for administration of loans made from those other funding sources.

#### **§602-6. Conformity with the Requirements of the Trust**

Standards adopted; Rules promulgated; model documents. If the Trust adopts standards, promulgates rules, or establishes model documents subsequent to the Town's adoption of this Ordinance and those standards, rules or model documents substantially conflict with this Ordinance, the Town shall take necessary steps to conform this Ordinance and its PACE program to those standards, rules, or model documents.

#### **§602-7. Program Administration**

(a) PACE Administration Contract. Pursuant to 35-A M.R.S.A. Section 10154(2)(A)(2) and (B), the Town will enter into a PACE administration contract with the Trust to administer the functions of the PACE program for the Town. The PACE administration contract with the Trust will establish the administration of the PACE program including, without limitation, that:

- (1) The Trust will enter into PACE agreements with owners of qualifying property in the Town's PACE district.
- (2) The Trust, or its agent, will create and record a Notice of the PACE agreement in the appropriate County Registry of Deeds to create a PACE mortgage.
- (3) The Trust, or its agent, will disburse the PACE loan to the property owner.
- (4) The Trust, or its agent, will send PACE assessment statements with payment deadlines to the property owner.
- (5) The Trust, or its agent, will be responsible for collection of the PACE assessments.
- (6) The Trust, or its agent, will record any lien, if needed, due to nonpayment of the assessment.
- (7) The Trust, or its agent on behalf of the Town, promptly shall record the discharges of PACE mortgages upon full payment of the PACE loan.

(b) Adoption of Education and Outreach Program. In conjunction with adopting this Ordinance, the Town shall adopt and implement an education and outreach program so that citizens are made aware of home energy saving opportunities, including the opportunity to finance energy saving improvements with a PACE loan.

(c) Assistance and Cooperation. The Town will assist and cooperate with the Trust in its administration of the Town's PACE program.

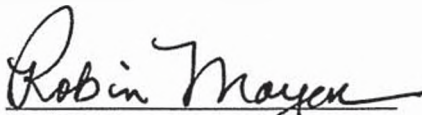
(d) Assessments Not a Tax. PACE assessments do not constitute a tax but may be assessed and collected by the Trust in any manner determined by the Trust and consistent with applicable law.

**§602-8. Liability of Town Officials; Liability of Town**

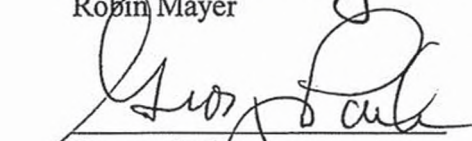
(a) Notwithstanding any other provision of law to the contrary, Town officers and Town officials, including, without limitation, tax assessors and tax collectors, are not personally liable to the Trust or to any other person for claims, of whatever kind or nature, under or related to a PACE program, including, without limitation, claims for or related to uncollected PACE assessments.

(b) Other than the fulfillment of its obligations specified in a PACE administration contract with the Trust entered into under Section 602-7(1)(A) above, the Town has no liability to a property owner for or related to energy savings improvements financed under a PACE program.

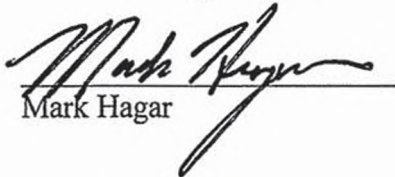
Board of Selectmen

  
Robin Mayer

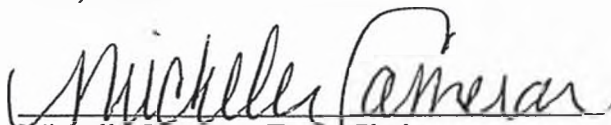
  
Ronn Orenstein

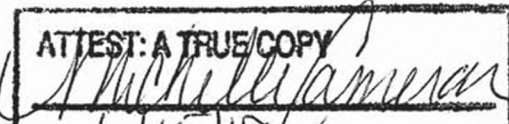
  
George Parker

  
James Cosgrove

  
Mark Hagar

Attest: A true copy of an ordinance entitled: "Property Assessed Clean Energy." Enacted June 14, 2017, as certified to me by the Municipal Officers of Damariscotta, Maine on the 14th day of June, 2017.

  
Michelle Cameron, Town Clerk  
Damariscotta, Maine

ATTEST: A TRUE COPY  
  
6/15/17 DATE

**Legislative History**

Enacted November 16, 2011, effective November 16, 2011  
Revised June 14, 2017, effective June 14, 2017

## Chapter 201

### PROPERTY MAINTENANCE

#### §201-1. Authority

This Ordinance is enacted pursuant to Title 30-A M.R.S.A. Section 3001.

#### §201-2. Purpose

The purpose of this Ordinance is to set a minimum standard for the maintenance of the grounds of property in order to protect public health, public safety, and to prevent nuisance conditions.

#### §201-3. Applicability

This Ordinance shall apply to all residential properties.

#### §201-4. Effective Date

This Ordinance shall be effective upon adoption by the Town of Damariscotta.

#### §201-5. Definitions

**CASUALTY:** Any unforeseeable, unintended accident affecting a property.

**CAUSE OR CONTRACT:** For this Ordinance, "cause or contract" includes the initiation of an insurance claim (as opposed to resolution), the contracting of a construction/repair business, or the substantial preparation for self-repair work.

**GARBAGE:** The animal or vegetable waste resulting from handling, preparing, cooking and consumption of food.

**GROUNDS:** The part of a property not covered by structures, including driveways, pathways, flowers, trees, and lawn.

**NUISANCE CONDITION:** The erection, continuance or use of a building or place which, by noxious exhaust, offensive smells, or other annoyances, are injurious and dangerous to the health, comfort or property of individuals, or of the public; corrupting or rendering unwholesome or impure the water of a river, stream, pond or aquifer; unlawfully diverting it from its natural course or state, to the injury or prejudice of others; and places where three or more unregistered or un-inspected motor vehicles or parts thereof, are gathered together, kept, deposited or allowed to accumulate.

**OCCUPANT:** Any person living, sleeping, or having actual possession of a dwelling unit or rooming unit.

**OPERATOR:** Any person who has charge, care or control of a dwelling or property, or a part thereof, whether with or without the knowledge and consent of the Owner.

**OWNER:** Any person who, alone or jointly or severally with each other, shall have legal or equitable title to any property (land or structures), with or without accompanying actual possession thereof, or shall have charge or control of any dwelling unit as Owner or agent of the Owner or as fiduciary including but not limited to executor, administrator, trustee, receiver or guardian of the estate or as a mortgagee in possession, regardless of how such possession was obtained.

**RUBBISH:** Combustible and non-combustible waste materials except garbage. The term shall include but is not limited to the residue from burning wood, coal, coke and other combustible materials, paper, rags, cartons, cardboard, plastic, boxes, wood, rubber, leather, tin cans, metals, mineral matter, glass, plastic crockery and other similar materials.

**STRUCTURE:** Anything built or constructed and permanently affixed on a property that cannot be considered grounds or landscaping.

**UNSERVICEABLE:** Not ready to use or presently unusable.

#### **§201-6. Maintenance Standards**

The grounds of all residential property shall be kept in good repair and free of unsafe, unsanitary or nuisance conditions. Examples of items which create such conditions include: garbage, rubbish, junk, debris, tires, scrap lumber or metal, inoperable machinery or parts thereof, unused and inoperable appliances, worn and unused furniture, and three or more unserviceable, uninspected or unregistered vehicles.

#### **§201-7. Maintenance after Casualty Damage**

(a) Within a period of 90 days after casualty damage to property grounds or structures, the Owner shall cause or contract for the repair or restoration of damaged areas and the demolition of any areas not to be repaired and the removal of all debris connected therewith.

(b) Violators may submit a written request to the CEO (CEO) a one time extension of time to correct the violation/s. The CEO may grant one special extension per Owner/per violation of up to 180 days under certain hardship or extenuating circumstances. If a violation is discovered during winter months (November 1 - April 1) and if winter weather prevents the correction of a violation, an extension may be given.

Cases of disability or financial hardship shall also be grounds for the consideration of an extension. Violators requesting an extension for financial hardship shall be required to prove hardship through financial documentation such as tax returns and proof of expenses. These extensions for seasonal, disability, or financial hardship shall be at the reasonable discretion of the CEO, and such discretion shall be exercised consistently in all instances. The CEO shall issue a written decision stating the factual basis for his/her decision to grant or deny an extension.

#### **§201-8. Responsibilities**

Owners, operators, and occupants of properties in violation of this Ordinance shall be jointly and severally liable for violations and for corrective actions required.

#### **§201-9. Enforcement & Penalties**

The CEO shall enforce the provisions of this Ordinance. If the CEO 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. The CEO may initiate 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. Any person, including but not limited to an Owner or the Owner's agent or contractor who orders or conducts any activity in violation of this Ordinance shall be penalized in accordance with Title 30-A M.R.S.A. Section 4452.

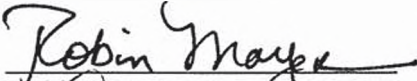
#### **§201-10. Appeal**

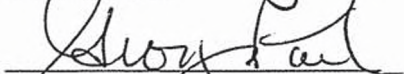
The Board of Appeals shall have jurisdiction to hear and decide appeals brought pursuant to the enforcement of this Ordinance according to its authority as set forth in Board of Appeals Ordinance Section 5(A)(1). Any person aggrieved by the action of the CEO or any other municipal official in their administration of this Ordinance shall have the right of appeal to the Board of Appeals. Such appeal shall be taken pursuant to the procedures set forth in the Board of Appeals Ordinance. The Board of Appeals shall sit in its capacity as an appellate board, utilizing and applying its procedures as set forth in Section 5 and such other rules and procedures of the Board as they may apply. Any person aggrieved by the decision of the Board of Appeals shall have the right to appeal to Superior Court.

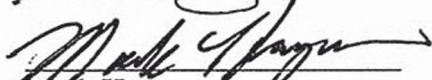
#### **§201-11. Severability**

Each provision of this Ordinance shall be deemed independent of all other provisions herein. If any provision of this Ordinance is declared invalid all other provisions thereof shall remain valid and enforceable.

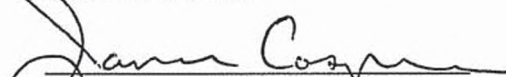
Board of Selectmen

  
Robin Mayer

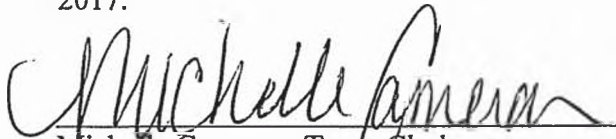
  
George Parker

  
Mark Hagar

  
Ronn Orenstein


  
James Cosgrove

Attest: A true copy of an Ordinance entitled: "Property Maintenance." Enacted June 14, 2017, as certified to me by the Municipal Officers of Damariscotta, Maine on the 14<sup>th</sup> day of June, 2017.

  
Michelle Cameron, Town Clerk  
Damariscotta, Maine

**Legislative History**

Enacted June 12, 2013, effective June 12, 2013  
Revised June 14, 2017, effective June 14, 2017

ATTEST: A TRUE COPY  
  
6/15/17 DATE



## Chapter 801

### Restricted Vehicle Weight on Posted Ways

#### §801-1. Authority

This Ordinance is adopted pursuant to M.R.S.A. 30-A Section 3009 and M.R.S.A. 29-A Sections 2395 and 2388.

#### §801-2. Purpose

The purpose of this Ordinance is to prevent damage to Town ways and bridges in the Town of Damariscotta which may be caused by vehicles of excessive weight, to lessen safety hazards and risk of injury to the traveling public, to extend the life expectancy of Town ways and bridges, and to reduce the public expense of road and bridge maintenance and repair.

#### §801-3. Effective Date

This Ordinance shall take effect immediately upon enactment by the Selectmen at any properly noticed meeting.

#### §801-4. Definitions

The definitions contained in M.R.S.A. 29-A shall govern the construction of words contained in this Ordinance. Any words not defined therein shall be given their common and ordinary meaning.

#### §801-5. Restrictions and Notices

(a) The Selectmen may, either permanently or seasonally, impose such restrictions on the gross registered weight of vehicles which may, in their judgment, be necessary to protect the traveling public and prevent abuse of the highways, and designate the Town ways and bridges to which the restrictions shall apply.

(b) When notice has been posted as provided herein, no person may operate any vehicle with a gross registered weight in excess of the restricted weight during the applicable time period on any way or bridge so posted, unless otherwise exempt as provided herein.

(c) The notice shall contain, at a minimum, the following information:

- (1) the name of way or bridge
- (2) the gross registered weight limit
- (3) the time period during which the restriction applies
- (4) the date on which the notice was posted
- (5) the signatures of the Selectmen or their designees.

(d) The notice shall be conspicuously posted at each end of the restricted portion of the way or bridge in a location clearly visible from the traveled way.

(e) Whenever a restriction expires or is lifted, the notices shall be removed from wherever posted. Whenever a restriction is revised or extended, existing notices shall be removed and replaced with the new notices. NO person may remove, obscure or otherwise tamper with any notice so posted except as provided herein.

#### **§801-6. Exemptions**

(a) Vehicles that are exempt from the Maine Department of Transportation's (MDOT) "Rules and Regulations Restricting Heavy Loads on Closed Ways" dated December 31, 1996 and amended March 4, 1998, as may be amended from time to time, a copy of which is attached hereto and hereby incorporated as part of this Ordinance, are exempt from this Ordinance.

(b) Vehicles delivering home heating fuel and operating in accordance with a permit issued by the MDOT under M.R.S.A. 29-A Section 2395(4) are exempt from this Ordinance.

(c) When necessary during a period of drought emergency declared by the Governor, and when operating in accordance with a permit issued by MDOT under M.R.S.A. 29-A Section 2395(4)(A), vehicles transporting well-drilling equipment for the purpose of drilling a replacement well or for improving an existing well on property where that well is no longer supplying sufficient water for residential or agricultural purposes, are exempt from this Ordinance.

#### **§801-7. Permit**

(a) Owners or operators of any vehicle not otherwise exempt as provided herein may apply in writing to the Selectmen for a permit to operate on a posted way or bridge notwithstanding the restriction. The Selectmen may issue a permit only upon all of the following findings:

(1) no other route is reasonably available to the applicant,

(2) it is a matter of economic necessity and not mere convenience that the applicant use the way or bridge, and

(3) applicant has tendered cash, a bond or other suitable security running to the municipality in an amount sufficient, in their judgment, to repair any damage to the way or bridge which may reasonable result from the applicant's use of same.

(b) Even if the Selectmen make the foregoing findings, they need not issue a permit if they determine the applicant's use of the way or bridge could reasonably be expected to create or aggravate a safety hazard or cause substantial damage to a way or bridge maintained by the municipality. They may also limit the number of permits issued or outstanding as may, in their judgment, be necessary to preserve and protect the highways and bridges.

(c) In determining whether to issue a permit, the Selectmen shall consider the following:

- (1) the gross registered weight of the vehicle
- (2) the current and anticipated condition of the way or bridge
- (3) the number and frequency of vehicle trips proposed
- (4) the cost and availability of materials and equipment for repairs
- (5) the extent of use by other exempt vehicles, and
- (6) such circumstances as may, in their judgment, be relevant

(d) The Selectmen may issue permits subject to reasonable conditions, including but not limited to restrictions on the actual load weight and number or frequency of vehicle trips, which shall be clearly noted on the permit.

#### **§801-8. Administration and Enforcement**

Unless otherwise determined by the Selectmen, this Ordinance shall be administered by the Town's Road Commissioner and may be enforced by the Damariscotta Police Department.

#### **§801-9. Penalties**

Any violation of this Ordinance shall be a civil infraction subject to a fine of not less than \$250.00 nor more than \$1000.00. Each violation shall be deemed a separate offense. In addition to any fine, the municipality may seek restitution for the cost of repairs to any damaged way or bridge and reasonable attorney fees and costs. Prosecution shall be in the name of the Town and shall be brought in the Maine District Court.

#### **§801-10. Amendments**


This Ordinance may be amended by the Selectmen at any properly noticed meeting.

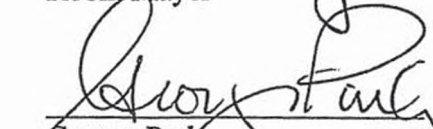
#### **§801-11. Severability**

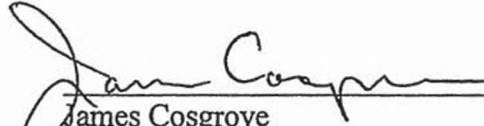
In the event any portion of this Ordinance is declared invalid by a court of competent jurisdiction, the remaining portions shall continue in full force and effect.

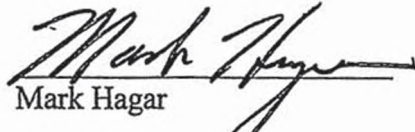
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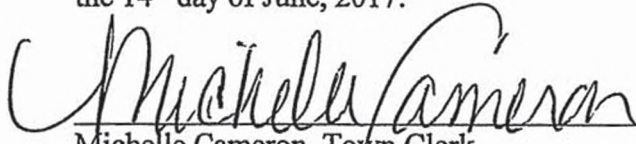
  
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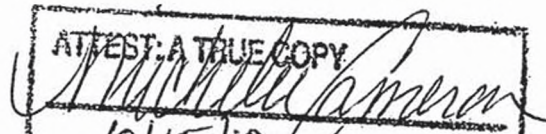
  
George Parker

  
James Cosgrove

  
Mark Hagar

Attest: A true copy of an Ordinance entitled: "Restricted Vehicle Weight on Posted Ways."  
Enacted June 14, 2017, as certified to me by the Municipal Officers of Damariscotta, Maine on  
the 14<sup>th</sup> day of June, 2017.

  
Michelle Cameron, Town Clerk  
Damariscotta, Maine

ATTEST: A TRUE COPY  
  
06/15/17 DATE

**Legislative History**

Enacted June 14, 2006; effective June 14, 2016  
Revised June 14, 2017, effective June 14, 2017

Shoreland Zoning Ordinance for the  
Town of Damariscotta, Maine  
June 14, 2017

*June 16, 1997*  
REV. June 12, 2002, July 10, 2002,  
June 9, 2010, June 11, 2014,  
September 17, 2014, June 10, 2015  
June 15, 2016, November 16, 2016  
June 14, 2017\*

\*{amendments on pages 3, 7, 13-14, 26-33, 39, 44-53}

TABLE OF CONTENTS

Section 1. Purposes .....3

Section 2. Authority ..... 3

Section 3. Applicability ..... 3

Section 4. Effective Date .....3

Section 5. Availability .....4

Section 6. Severability .....4

Section 7. Conflicts with Other Ordinances ..... 4

Section 8. Amendments ..... 4

Section 9. Districts and Zoning Map ..... 4

Section 10. Interpretation of District Boundaries .....5

Section 11. Land Use Requirements ..... 5

Section 12. Non-conformance ..... 5

Section 13. Establishment of Districts .....10

Section 14. Table of Land Uses ..... 12

    Table 1. Land Use Table .....13

Section 15. Land Use Standards .....15

Section 16. Administration ..... 30

Section 17. Definitions ..... 37

## **Section 1. Purposes**

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

## **Section 2. Authority**

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

## **Section 3. Applicability**

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

- normal high-water line of any great pond or river,
- upland edge of a coastal wetland, including all areas affected by tidal action, or
- upland edge of a freshwater wetland,
- and all land areas within 75 feet, horizontal distance, of the normal high-water line of a stream.

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

## **Section 4. Effective Date**

- A. Effective Date of Ordinance and Ordinance Amendments.** This Ordinance, which was adopted by the municipal legislative body on June 14, 2017, 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. Upon approval of this Ordinance, the shoreland zoning ordinance previously adopted on June 16, 1997 and revised June 12 and July 10, 1992 is hereby repealed.

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

- B. Sections 15(O) and 15(O-1).** Section 15(O) is repealed on the statutory date established under 38 M.R.S.A. Section 438-B(5), at which time Section 15(O-1) shall become effective. Until such time as Section 15(O) is repealed, Section 15(O-1) is not in effect. Upon repeal, Section 15(O) shall read: "Repealed on June 10, 2015 in accordance with 38 MRSA Section 438-B(5)."

**Section 5. Availability**

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

**Section 6. Severability**

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

**Section 7. Conflicts with Other Ordinances**

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

**Section 8. Amendments**

This Ordinance may be amended by majority vote of the legislative body. Copies of amendments, attested and signed by the Damariscotta Clerk, shall be submitted to the Commissioner of the Department of Environmental Protection following adoption by the Damariscotta 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.

**Section 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. Stream Protection
2. Resource Protection
3. Residential
4. Limited Commercial "A"
5. Limited Commercial "B"
6. Commercial
7. Medical Facility

**B. Scale of Map**

The Official Shoreland Zoning Map shall be drawn at a scale of not less than: 1 inch = 1000 feet. District boundaries shall be clearly delineated and a legend indicating the symbols for each district shall be placed on the map.

**C. Certification of Official 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.



#### **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.

#### **Section 10. Interpretation of District Boundaries**

- A. Unless otherwise set forth on the Official Shoreland Zoning Map, district boundary lines are property lines, the centerline of streets, roads and right-of-ways, 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.
- B. The depiction of the boundaries of the Shoreland Area on this Official Shoreland Zoning Map is merely illustrative of their general location. The exact boundaries of the zone shall be determined by on-site inspection and measurement from the normal high water line or upland edge of a wetland.

#### **Section 11. Land Use Requirements**

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

#### **Section 12. Non-conformance**

##### **A. Purpose**

It is the intent of this Ordinance to promote land use conformities, except that non-conforming conditions that existed before the effective date of this Ordinance or amendments thereto shall be allowed to continue, subject to the requirements set forth in this 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 'b' and 'c' 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 unless it is in conformance with Sections 12.C.1b. and c. following.
- b. Expansion of any portion of a structure within 25 feet of the normal high-water line of a water body or tributary stream or upland edge of a wetland is prohibited, even if the expansion will not increase nonconformity with the water body or wetland setback requirement. Expansion of an accessory structure that is located closer to the normal high-water line of a water body or tributary stream or upland edge of a wetland than the principal structure is prohibited, even if the expansion will not increase nonconformity with the water body or wetland setback requirement.
  - (1) Notwithstanding this paragraph, if a legally existing nonconforming principal structure is entirely located less than 25 feet from the normal high-water line of a water body or tributary stream or upland edge of a wetland, that structure may be expanded as follows, as long as all other applicable standards of land use adopted by the municipality are met and the expansion is not prohibited by paragraph C.1.
    - (a) The maximum total footprint for the principal structure may not be expanded to a size greater than 800 square feet or 30% larger than the footprint that existed on January 1, 1989, whichever is greater. The maximum height of the principal structure may not be made greater than 15 feet or the height of the existing structure, whichever is greater.
- c. All other legally existing nonconforming principal and accessory structures that do not meet the water body or tributary stream or wetland setback requirements may be expanded or altered as follows, as long as other applicable standards of land use adopted by the municipality are met and the expansion is not prohibited by paragraph C.1. b.
  - (1) For structures located less than 75 feet from the normal high-water line of a water body or tributary stream or upland edge of a wetland, the maximum combined total footprint for all structures may not be expanded to a size greater than 1,000 square feet or 30% larger than the footprint that existed on January 1, 1989, whichever is greater. The maximum height of any structure may not be made greater than 20 feet or the height of the existing structure, whichever is greater.
  - (2) For structures located less than 100 feet from the normal high-water line of a great pond classified as GPA or a river flowing to a great pond classified as GPA, the maximum combined total footprint for all structures may not be expanded to a size greater than 1,500 square feet or 30% larger than the footprint that existed on January 1, 1989, whichever is greater. The maximum height of any structure may not be made greater than 25 feet or the height of the existing structure, whichever is greater. Any portion of those structures located less than 75 feet from the normal high-water line of a water body or tributary stream or upland edge of a wetland must meet the footprint and height limits in subparagraph C.(1).
  - (3) In addition to the limitations in subparagraphs (1) and (2), for structures that are legally nonconforming due to their location within the Resource Protection District when located at less than 250 feet from the normal high-water line of a water body or tributary stream or the upland edge of a wetland, the maximum combined total footprint for all structures may not be expanded to a size greater than 1,500 square

feet or 30% larger than the footprint that existed at the time the Resource Protection District was established on the lot, whichever is greater. The maximum height of any structure may not be made greater than 25 feet or the height of the existing structure, whichever is greater, except that any portion of those structures located less than 75 feet from the normal high-water line of a water body or tributary stream or upland edge of a wetland must meet the footprint and height limits in subparagraph C.(1).

- d. A plan approved by the municipal permitting authority for an expansion of a nonconforming structure must be recorded by the applicant with the Lincoln County Registry of Deeds within 90 days of approval. Plans must include, at a minimum:
  - (1) The method of expansion (whether the applicant utilized the thirty (30) percent or the footprint expansion option);
  - (2) The existing and proposed footprint of the structure, in addition to the footprint of other non-conforming structures on the parcel;
  - (3) The existing and proposed structure height;
  - (4) A scaled drawing showing the location of the structure and other structures on the lot, in relation to the water body, tributary stream or wetland.
2. **Foundations.** Whenever a new, enlarged, or replacement foundation is constructed under a non-conforming structure, the structure and new foundation must be placed such that the setback requirement is met to the greatest practical extent as determined by the Planning Board or its designee, basing its decision on the criteria specified in Section 12(C)(3) Relocation, below.; If that 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 front floor sill), it shall not be considered to be an expansion of the structure.
- f. No structure which is less than the required setback from the normal high-water line of a water body, tributary stream, or upland edge of a wetland shall be expanded toward the water body, tributary stream, or wetland.
3. **Relocation:** A non-conforming structure may be relocated within the boundaries of the parcel on which the structure is located provided that the site of relocation conforms to all setback requirements to the greatest practical extent as determined by the Planning Board or its designee, and provided that the applicant demonstrates that the present subsurface sewage disposal system meets the requirements of State law and the State of Maine Subsurface Wastewater Disposal Rules (Rules), or that a new system can be installed in compliance with the law and said Rules. In no case shall a structure be relocated in a manner that causes the structure to be more non-conforming.

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

compensate for the destroyed vegetation. In addition, the area from which the relocated structure was removed must be replanted with vegetation. Replanting shall be required as follows:

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

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

- b. Where feasible when a structure is relocated on a parcel the original location of the structure shall be replanted with vegetation which may consist of grasses, shrubs, trees or a combination thereof.

4. Reconstruction or Replacement: Any non-conforming structure which is located less than the required setback from a water body, tributary stream, or upland edge of a 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 as to increase its non-conformity. If the reconstructed or replacement structure is less than the required setback, it shall not be any larger than the original structure, except as allowed pursuant to Section 1(C)(1) above, as determined by the non-conforming floor area and volume of the reconstructed or replaced structure in 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.

5. Change of Use of a Non-conforming Structure: The use of a non-conforming

structure may not be changed to another use unless the Planning Board, after receiving a written application, determines that the new use will have no greater adverse impact on the water body, tributary stream or wetland, or on the subject or adjacent properties and resources than the existing use.

In determining that no greater adverse impact will occur, the Planning Board shall require written documentation from the applicant regarding the probable effects on public health and safety, erosion and sedimentation, water quality, fish and wildlife habitat, vegetative cover, visual and actual points of public access to waters, natural beauty, flood plain management, archaeological and historic resources, and commercial fishing and maritime activities and other functionally water-dependent uses.

#### **D. Non-conforming Uses**

1. **Expansions:** Expansions of non-conforming uses are prohibited, except that non-conforming residential uses may, after obtaining a permit from the Planning Board, be expanded within existing residential structures or within expansions of such structures as permitted 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 Commercial 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 two or more contiguous lots, at least one of which is nonconforming, owned by the same person or persons on June 29, 1992 and recorded in the Lincoln County Registry of Deeds, if the lot is served by a public sewer or can accommodate a subsurface sewage disposal system in conformance with the *State of Maine Subsurface Wastewater Disposal Rules*, and:

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

### **Section 13. Establishment of Districts**

#### **A. 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 saltwater body or within two hundred and fifty (250) feet, horizontal distance, of the upland edge of a freshwater or coastal wetland. Where a stream and its associated shoreland area is located within two-hundred and fifty (250) feet, horizontal distance, of the above water bodies or wetlands, that land area shall be regulated under the terms of the shoreland district associated with that water body or wetland.

The Stream Protection District includes the following:

1. Cranmeadow Brook from Wetland #123 to Oyster Creek
2. Leading out of Paradise Pond, Wetland #128 North to Wetland #103.
3. From Little Pond to Wetland #100.
4. Castner Brook from confluence of two tributary streams to the Damariscotta River.

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**NOTE:** The Natural Resources Protection Act (NRPA) requires a 75 foot setback of all structures from the high water line of all streams defined in the NRPA Statute as a stream (38 MRSA 480-B, Chapter 305). These streams include small ones that are NOT defined as streams in the Shoreland Zoning Statute.

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#### **B. 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 Commercial, Limited Commercial, Districts 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) as of December 31, 2008. For purposes of this paragraph, "wetlands associated with great ponds or rivers" shall mean areas characterized by non-forested wetland vegetation and hydric soils that are contiguous with a 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. Flood plains along rivers and flood plains along artificially formed great ponds along rivers, defined by the 100 year flood plain as designated on the Federal Emergency Management Agency's (FEMA) Flood Insurance Rate Maps or Flood Hazard Boundary Maps, or the flood of record, or in the absence of these, by soil types identified as recent flood plain soils. This district shall also include 100 year flood plains adjacent to tidal waters as shown on FEMA's Flood Insurance Rate Maps or Flood Hazard Boundary Maps.
3. Areas of two or more contiguous acres with sustained slopes of 20% or greater.
4. Areas of two (2) or more contiguous acres supporting wetland vegetation and hydric soils, which are not part of a freshwater or coastal wetland as defined, and which are not surficially connected to a water body during the period of normal spring high water.
5. Land areas along rivers subject to severe bank erosion, undercutting, or river bed movement and lands adjacent to tidal waters which are subject to severe erosion or mass movement, such as steep coastal bluffs.

**C. Residential District**

The 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 Districts, the Commercial District or the Medical Facilities District.

**D. Limited Commercial District, "A"**

The Limited Commercial District "A", includes areas of mixed, office and residential uses, exclusive of the Stream Protection District, which should not be developed as intensively as the Commercial District. This district is devoted to a mix of residential and low intensity uses within structures previously utilized as residences and includes those portions of the following lots within the Shoreland district of Wetland #125. Those portions of the following properties within the shoreland zone are identified as lots 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 15, 30, 31, 31-1, 35, 62, 37, 36, 36-1, 68, 38, 39 and 40 of Map 9. Retail and Industrial uses are prohibited.

**E. Limited Commercial District "B"**

The Limited Commercial District "B" includes areas of mixed, light commercial and residential uses, exclusive of the Stream Protection District, which should not be developed as intensively as the Commercial District. This district is devoted to a mix of residential and low intensity business and commercial uses and includes those portions of the following lots within the Shoreland District of Wetland #125. The properties are identified as 7, 7-1, 8, 9 of Map 3 and Lots, 49-1, 49-3, 49-2, 48-10, 48-11 of Map 2. Industrial uses are prohibited.

**F. Commercial District**

The Commercial District includes mixed, commercial and residential uses, exclusive of the Stream Protection District and includes the area of the Downtown Business District as follows:

Beginning at and including Map 6, Lot 4 (including Lot 5) continues around the Municipal Parking area, north passed the Bridge and terminating at and including Map 6, Lot 38 (Colby and Gale) and Lots 40 and 41.

The District includes the following types of areas:

Areas devoted to retail service activities or other commercial activities and marine related activities.

**G. Medical Facility District**

This district includes the properties not in Resource Protection identified as Lots 63, 64, 65, 66 on the Damariscotta Town Tax Map 9; lots 29 and 30, on Map 11 and shall be known as the Medical Facility District. The District comprises the hospital, nursing home, congregate housing facility, Professional medical offices and facilities, and other such related uses and structures as is appropriate.

**Section 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 - Requires Allowed with permit issued by the Planning Board

CEO - Requires Allowed with permit issued by the Code Enforcement Officer

LPI - Requires Allowed with permit issued by the Local Plumbing Inspector

**Abbreviations:**

SP - Stream Protection

RP - Resource Protection

R - Residential

LCA - Limited Commercial District A

LCB - Limited Commercial District B

C- Commercial

MF- Medical Facility



**Table 1** (Revised:, 2017)

**DAMARISCOTTA SHORELAND ZONING ORDINANCE - LAND USE TABLE**

| <u>LAND USES</u>                                                                                   | <u>DISTRICTS</u> |                  |                  |            |                  |          |           |
|----------------------------------------------------------------------------------------------------|------------------|------------------|------------------|------------|------------------|----------|-----------|
|                                                                                                    | <u>SP</u>        | <u>RP</u>        | <u>R</u>         | <u>LCA</u> | <u>LCB</u>       | <u>C</u> | <u>MF</u> |
| 1. Non-intensive recreational uses not requiring structures such as hunting, fishing and hiking    | yes              | yes              | yes              | yes        | yes              | yes      | yes       |
| 2. Motorized vehicular traffic on existing roads and trails                                        | yes              | yes              | yes              | yes        | yes              | yes      | yes       |
| 3. Clearing or removal of vegetation for activities other than timber harvesting                   | CEO              | CEO <sup>1</sup> | yes              | yes        | yes              | yes      | yes       |
| 4. Fire prevention activities                                                                      | yes              | yes              | yes              | yes        | yes              | yes      | yes       |
| 5. Wildlife management activities                                                                  | yes              | yes              | yes              | yes        | yes              | yes      | yes       |
| 6. Soil and water conservation practices                                                           | yes              | yes              | yes              | yes        | yes              | yes      | yes       |
| 7. Mineral exploration                                                                             | no               | yes <sup>2</sup> | yes <sup>2</sup> | no         | yes <sup>2</sup> | no       | no        |
| 8. Mineral extraction including sand & gravel extraction                                           | no               | PB <sup>3</sup>  | PB               | no         | PB               | no       | yes       |
| 9. Surveying and resource analysis                                                                 | yes              | yes              | yes              | yes        | yes              | yes      | yes       |
| 10. Emergency operations                                                                           | yes              | yes              | yes              | yes        | yes              | yes      | yes       |
| 11. Agriculture                                                                                    | yes              | PB               | yes              | yes        | yes              | yes      | yes       |
| 12. Aquaculture                                                                                    | PB               | PB               | PB               | yes        | yes              | yes      | yes       |
| 13. Principal structures and uses                                                                  |                  |                  |                  |            |                  |          |           |
| A. One and 2-family residential, including driveways                                               | PB <sup>4</sup>  | PB <sup>9</sup>  | CEO              | CEO        | CEO              | CEO      | CEO       |
| B. Multi-unit residential                                                                          | no               | no               | PB               | PB         | PB               | PB       | PB        |
| C. Commercial                                                                                      | no               | no <sup>10</sup> | no <sup>10</sup> | PB         | PB               | PB       | PB        |
| D. Industrial                                                                                      | no               | no               | no               | no         | no               | no       | no        |
| E. Governmental and Institutional                                                                  | no               | no               | no               | PB         | PB               | PB       | PB        |
| F. Small non-residential facilities for educational, scientific or natural interpretation purposes | PB <sup>4</sup>  | PB               | CEO              | CEO        | CEO              | PB       | PB        |
| 14. Structures accessory to allowed uses                                                           | PB <sup>4</sup>  | PB               | CEO              | CEO        | CEO              | PB       | PB        |

SP RP R LCA LCB C MF

|                                                                                                                                          |                   |                   |                   |                   |                   |                   |                   |
|------------------------------------------------------------------------------------------------------------------------------------------|-------------------|-------------------|-------------------|-------------------|-------------------|-------------------|-------------------|
| 15. Piers, docks, wharves, bridges and other structures and uses extending over or below the normal high-water line or within a wetland: |                   |                   |                   |                   |                   |                   |                   |
| A. Temporary                                                                                                                             | CEO <sup>11</sup> | CEO <sup>11</sup> | CEO <sup>11</sup> | CEO <sup>11</sup> | CEO <sup>11</sup> | CEO <sup>11</sup> | CEO <sup>11</sup> |
| B. Permanent                                                                                                                             | PB                | PB                | PB                | PB                | PB                | PB <sup>5</sup>   | PB <sup>5</sup>   |
| 16. Conversion of seasonal residences to year-round residences                                                                           | LPI               | LPI               | LPI               | LPI               | LPI               | LPI               | no                |
| 17. Home occupations                                                                                                                     | PB                | PB                | PB                | CEO               | CEO               | CEO               | no                |
| 18. Private sewage disposal systems for allowed uses                                                                                     | LPI               | LPI               | LPI               | LPI               | LPI               | LPI               | LPI               |
| 19. Essential services                                                                                                                   | PB6               | PB6               | PB                | PB                | PB                | PB                | PB                |
| A. Roadside distribution lines (34.5 kV and lower)                                                                                       | CEO <sup>6</sup>  | CEO <sup>6</sup>  | yes <sup>12</sup> | yes <sup>12</sup> | yes <sup>12</sup> | yes <sup>12</sup> | yes <sup>12</sup> |
| B. Non-roadside or cross-country lines involving ten poles or less in the shoreland zone                                                 | PB <sup>6</sup>   | PB <sup>6</sup>   | CEO               | CEO               | CEO               | CEO               | CEO               |
| C. Non-roadside or cross-country lines involving eleven or more poles in the shoreland zone                                              | PB <sup>6</sup>   | PB <sup>6</sup>   | PB                | PB                | PB                | PB                | PB                |
| D. Other essential services                                                                                                              | PB <sup>6</sup>   | PB <sup>6</sup>   | PB                | PB                | PB                | PB                | PB                |
| 20. Service drops, as defined, to allowed uses                                                                                           | yes               | yes               | yes               | yes               | yes               | yes               | yes               |
| 21. Public and private recreational areas involving minimal structural development                                                       | PB                | PB                | PB                | CEO               | CEO               | CEO <sup>5</sup>  | CEO <sup>5</sup>  |
| 22. Individual, private campsites                                                                                                        | CEO               | CEO               | CEO               | CEO               | CEO               | CEO               | CEO               |
| 23. Campgrounds                                                                                                                          | no                | no <sup>7</sup>   | PB                | no                | no                | no                | no                |
| 24. Road construction                                                                                                                    | PB                | no <sup>8</sup>   | PB                | PB                | PB                | PB                | PB                |
| 25. Parking facilities                                                                                                                   | no                | no <sup>7</sup>   | PB                | PB                | PB                | PB                | PB                |
| 26. Marinas                                                                                                                              | PB                | no                | PB                | PB                | PB                | PB                | PB                |
| 27. Filling and earth moving of <10 cubic yards                                                                                          | CEO               | CEO               | yes               | yes               | yes               | yes               | yes               |
| 28. Filling and earth moving of >10 cubic yards                                                                                          | PB                | PB                | CEO               | CEO               | CEO               | CEO               | CEO               |
| 29. Signs                                                                                                                                | yes               | yes               | yes               | yes               | yes               | yes               | yes               |
| 30. Uses similar to allowed uses                                                                                                         | CEO               | CEO               | CEO               | CEO               | CEO               | CEO               | CEO               |
| 31. Uses similar to uses requiring CEO permit                                                                                            | CEO               | CEO               | CEO               | CEO               | CEO               | CEO               | CEO               |
| 32. Uses similar to uses requiring PB permit                                                                                             | PB                | PB                | PB                | PB                | PB                | PB                | PB                |

FOOTNOTES - Table 1: Damariscotta Shoreland Zoning Ordinance Land Use Table

- <sup>1</sup> In RP not allowed within 75 feet horizontal distance of the normal high-water line of great ponds except to remove safety hazards.
- <sup>2</sup> Requires permit from the Codes Enforcement Officer if more than 100 square feet of surface area, in total, is disturbed.
- <sup>3</sup> In RP not allowed in areas so designated because of wildlife value.
- <sup>4</sup> Provided that a variance from the setback requirement is obtained from the Board of Appeals.
- <sup>5</sup> Functionally water-dependent uses and uses accessory to such water-dependent uses only
- <sup>6</sup> See further restrictions in Section 15(L)(2).
- <sup>7</sup> Except when area is zoned for resource protection due to floodplain criteria in which case a permit is required from the PB.
- <sup>8</sup> Except as provided in Section 15(H)(3).
- <sup>9</sup> Single-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.
- <sup>10</sup> Except for commercial uses otherwise listed in this Table, such as marinas or campgrounds, that are allowed in the respective district.
- <sup>11</sup> Excluding bridges and other crossings not involving earthwork, in which case no permit is required.
- <sup>12</sup> Permit 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 Maine Department of Environmental Protection (DEP) pursuant to 38 MRSA, 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 in them:

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

**Section 15. Land Use Standards**

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

**A. Minimum Lot Standards**

- 1. All lots within the Commercial District shall have a minimum lot size of 10,000 square feet per dwelling unit for residential use and principal structure for commercial use and a minimum shore frontage shall be 100 feet. All other districts shall be as shown below.

|                                                          | <u>Minimum Lot Area (Square Feet)</u> |             | <u>Minimum Shore Frontage and Lot width (feet)</u> |
|----------------------------------------------------------|---------------------------------------|-------------|----------------------------------------------------|
|                                                          | Sewered                               | Non-sewered |                                                    |
| <b>2. Area/ Frontage Requirements</b>                    |                                       |             |                                                    |
| <u>Residential per Dwelling Unit</u>                     |                                       |             |                                                    |
| a. Within the Shoreland Zone adjacent to Tidal Areas     | 30,000                                | 80,000      | 150                                                |
| b. Within the Shoreland Zone adjacent to Non-Tidal Areas | 40,000                                | 80,000      | 200                                                |

Governmental, Institutional, Commercial  
or Industrial per principal structure

|                                                          |        |        |     |
|----------------------------------------------------------|--------|--------|-----|
| a. Within the Shoreland Zone adjacent to Tidal Areas     | 40,000 | 80,000 | 200 |
| b. Within the Shoreland Zone adjacent to Non-Tidal Areas | 60,000 | 80,000 | 300 |

Public and Private Recreational Facilities

|                                                                    |        |        |     |
|--------------------------------------------------------------------|--------|--------|-----|
| a. Within the Shoreland Zone adjacent to Tidal and Non-Tidal Areas | 40,000 | 80,000 | 200 |
|--------------------------------------------------------------------|--------|--------|-----|

3. 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.
4. 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.
5. 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.
6. If more than one residential dwelling unit, or more than one 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, or principal structure or use.

**B. Principal and Accessory Structures**

1. All new principal and accessory structures shall be set back at least one hundred (100) feet, horizontal distance, from the normal high-water line of great ponds classified GPA (Little, Muddy {aka Paradise}, Biscay and Pemiquid Ponds) and rivers that flow to great ponds classified GPA, and seventy-five (75) feet, horizontal distance, from the normal high-water line of other water bodies, tributary streams or the upland edge of a wetland, except that (i) in the Commercial District the setback from the normal high-water line shall be at least twenty-five (25) feet horizontal distance and (ii) in the Medical Facility District the setback shall be the closer to the high water line or upland edge of a wetland of seventy-five (75) feet or portions of the waterside edge of structures which, as of enactment of this Ordinance amendment (2002), are located closer than seventy-five (75) feet, but in any event not closer than twenty-five (25) feet, to the high waterline or upland edge of a wetland. For the Medical Facility District, unless otherwise allowed by this Ordinance, those portions of structures located between twenty-five (25) and seventy-five (75) feet may be expanded up, down, sideways and away from the high water line or upland edge of a wetland. See Damariscotta Shoreland Zoning Map for existing structures and setback line concerning Medical Facility District to be incorporated. In the Resource Protection District the setback requirement shall be 250 feet, horizontal distance, except for structures, roads, parking spaces or other regulated objects specifically allowed in that district in which case the setback requirements specified above shall apply.

In addition:

- a. The water body, tributary stream or wetland setback provision shall neither apply to structures which require direct access to the water body or wetland as an operational necessity, such as piers, docks and retaining walls, nor to other functionally water-dependent uses.
- b. All principal and accessory structures within lots abutting that part of the Damariscotta River known as Great Salt Bay from the Route One bridge to the Nobleboro town line shall have a combined frontage and setback from the normal high water line totaling at least 500 feet; be setback a minimum of one hundred and twenty-five (125) feet, horizontal distance from the high-water line; and shall be screened from the river by existing vegetation. This provision does not apply to structures related to hydropower facilities.
- c. For principal structures, water and wetland setback measurements shall be taken from the top of a coastal bluff that has been identified on Coastal Bluff maps as being “highly unstable” or “unstable” by the Maine Geological Survey pursuant to its “Classification of Coastal Bluffs” and published on the most recent Coastal Bluff map. If the applicant and the permitting official(s) are in disagreement as to the specific location of a “highly unstable” or “unstable” bluff, or where the top of a bluff is located, the applicant may at his or her expense, employ a Maine Registered Professional Engineer, a Maine Certified Soil Scientist, a Maine State Geologist or other qualified individual to make a determination. If agreement is still not reached, the applicant may appeal the matter to the board of Appeals.
- d. On a non-conforming lot of record on which only a residential structure exists and it is not possible to place an accessory structure meeting the required water body, tributary stream or wetlands setback, the Codes 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.

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

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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, wind power generating facilities, antennas, and similar structures having no floor area.
3. It is the intention that limited commercials uses in the Limited Commercial 'A' District be accommodated within the existing structure where practicable. Expansions of existing structures and new structures constructed in the Limited Commercial 'A' District Shall be compatible with the existing structure.
4. a. The lowest floor elevation or openings of all buildings and structures including basements shall be elevated at least three feet 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 floodplain soils.

- b. In tidal water, all **substantial improvements** shall be 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 floodplain soils.
  - c. In fresh water, the lowest floor elevation or openings of all new buildings and structures including basements and **substantial improvements** 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 floodplain soils.
5. The total footprint area of all structures, parking lots and other non-vegetated surface 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 Commercial District, where lot coverage shall not exceed seventy (70) percent, in the Limited Commercial Districts A, and B , where lot coverage shall not exceed thirty five (35) percent and in the Medical Facilities District, where the lot coverage may not exceed fifty (50) percent.
6. 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:
    - (1) 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;
    - (2) Vegetation plantings must be in quantities sufficient to retard erosion and provide for effective infiltration of stormwater runoff;
    - (3) Only native species may be used to establish the buffer area;

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

(5) A foot path not to exceed the standards in Section 15(P)(2)(a) may traverse the buffer.

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**NOTE:** If the wall and associated soils disturbance occurs within 75 feet, horizontal distance, of a water body, tributary stream or coastal wetland, a permit pursuant to the Natural Resources Protection Act (NRPA) is required from the Maine DEP.

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7. 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, MRSA., Section 480-C); and that the applicant demonstrates that no reasonable access alternative exists on the property.

**C. Piers, Docks, Wharfs, Bridges and Other Structures and Uses Extending Over or Beyond 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 existing conditions, uses and character of the area. A temporary pier, dock or wharf in non-tidal waters shall not be wider than six feet for non-commercial uses.
5. No new structure shall be built on, over or abutting a pier, wharf, dock or other structure extending beyond the normal high-water line of a water body or within a wetland unless the structure requires direct access to the water body or wetland as an operational necessity.
6. New permanent piers and docks on non-tidal waters shall not be permitted unless it is clearly demonstrated to the Planning Board that a temporary pier or dock is not feasible and a permit has been obtained from the Department of Environmental Protection pursuant to the Natural Resources Protection Act.
7. No existing structures built on, over or abutting a pier, dock, wharf or other structure extending beyond the normal high-water line of a water body or within a wetland shall be converted to residential dwelling units in any district.
8. Except in the Commercial District, structures built on, over or abutting a pier, wharf, dock or other structure extending beyond the normal high-water line of a water body or within a wetland shall not exceed twenty (20) feet in height above the pier, wharf, dock or other structure. New permanent structures projecting into or over water bodies shall require a permit from the Department of Environmental Protection pursuant to the Natural Resources Protection Act, 38 M.R.S.A., Section 480-C. Permits may also be required from the Army Corps of Engineers if located in navigable waters.

#### **D. Campgrounds**

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

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

#### **E. Individual - Private Campsites**

Individual-private campsites not associated with campgrounds are allowed provided the following conditions are met:

1. One campsite per lot existing on the effective date of this Ordinance, or thirty thousand (30,000) square feet of lot area within the shoreland zone, whichever is less, may be permitted.
2. Campsite placement on any lot, including the area intended for a recreational vehicle or tent platform, shall be set back one hundred (100) feet, horizontal distance, from the normal high-water line of a great pond classified GPA or river flowing to a great pond classified GPA, and seventy-five (75) feet, horizontal distance, from the normal high-water line of other water bodies, tributary streams, or the upland edge of a wetland.
3. Only one recreational vehicle shall be allowed on a campsite. The recreational vehicles shall not be located on any type of permanent foundation except for a gravel pad, and no structure(s) 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, except that in the Commercial District parking areas shall be set back at least twenty-five (25) feet, horizontal distance, from the shoreline. The setback requirement for parking areas serving public boat launching facilities, in Districts other than the Commercial District shall be reduced to no less than fifty (50) feet, horizontal distance, from the shoreline or tributary stream normal high-water line or upland edge of a wetland if the Planning Board finds that no other reasonable alternative exists further from the shoreline or tributary stream.
2. Parking areas shall be adequately sized for the proposed use and shall be designed to prevent stormwater runoff from flowing directly into a water body, tributary stream or wetland and where feasible, to retain all runoff on-site.
3. In determining the appropriate size of proposed parking facilities, the following shall apply:
  - (a) Typical parking space: Approximately ten (10) feet wide and twenty (20) feet long, except that parking spaces for a vehicle and boat trailer shall be forty (40) feet long and except that up to 50% of parking spaces may be for smaller cars sized 9 feet wide by 18 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 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 its 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 short segments of less than two hundred (200) feet.
6. In order to prevent road and driveway surface drainage from directly entering water bodies, roads shall be designed, constructed, and maintained to empty onto an unscarified buffer strip at least (50) feet plus two times the average slope, in width between the outflow point of the ditch or culvert and the normal high-water line of a water body, tributary stream, or upland edge of a wetland. Road 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.

| <u>Grade<br/>(Percent)</u> | <u>Spacing<br/>(Feet)</u> |
|----------------------------|---------------------------|
| 0 - 2                      | 250                       |
| 3 - 5                      | 200 - 135                 |
| 6 - 10                     | 100 - 80                  |
| 11 - 15                    | 80 - 60                   |

16 - 20  
21+

60 - 45  
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 road sections having slopes greater than ten (10) percent, ditch relief culverts shall be placed across the road 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 or 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, 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 Commercial District and the Limited Commercial Districts 'A' and 'B', 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) feet in area.
- 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.
- 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 stormwater.
- 2. Storm water runoff control systems shall be maintained as necessary to ensure proper functioning.

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

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

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#### **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 roadside distribution lines, is not allowed in a Resource Protection or Stream Protection District, except to provide services to a permitted use within said district, or except where the applicant demonstrates that no reasonable alternative exists. Where allowed, such structures and facilities shall be located so as to minimize any adverse impacts on surrounding uses and resources, including visual impacts.
3. Damaged or destroyed public utility transmission and distribution lines, towers and related equipment may be replaced or reconstructed without a permit.

#### **M. Mineral Exploration and Extraction**

Mineral exploration to determine the nature or extent of mineral resources shall be accomplished by hand sampling, test boring, or other methods which create minimal disturbance of less than one hundred (100) square feet of ground surface. A permit from the Code Enforcement Officer shall be required for mineral exploration which exceeds the above limitation. All excavations, including

test pits and holes, shall be immediately capped, filled or secured by other equally effective measures to restore disturbed areas and to protect the public health and safety.

Mineral extraction may be permitted under the following conditions:

1. A reclamation plan shall be filed with, and approved by, the Planning Board before a permit is granted. Such plan shall describe in detail procedures to be undertaken to fulfill the requirements of Section 15(M)(3) below.
2. No part of any extraction operation, including drainage and runoff control features shall be permitted within one hundred (100) feet, horizontal distance, of the normal high-water line of a great pond classified GPA or a river flowing to a great pond classified GPA, and within seventy-five (75) feet, horizontal distance, of the normal high-water line of any other water body, tributary stream, or the upland edge of a wetland. Extraction operations shall not be permitted within fifty (50) feet 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.

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

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- 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 resided 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 *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.

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(Assistance in preparing a conservation plan may be available through the local Soil and Water Conservation District office.)

4. There shall be no new tilling of soil within one-hundred (100) feet, horizontal distance, of the normal high-water line of a great pond classified GPA; within seventy-five (75) feet, horizontal distance, from other water bodies and coastal wetlands; nor within twenty-five (25) feet, seventy-five (75) feet of any property line, without written permission of the owner of such adjacent property.
5. Newly established livestock grazing areas shall not be permitted within one hundred (100) feet, horizontal distance, of the normal high-water line of a great pond classified GPA; within seventy-five (75) feet, horizontal distance of other water bodies and coastal wetlands, nor; within twenty-five (25) feet, horizontal distance, of tributary streams and freshwater wetlands. Livestock grazing associated with ongoing farm activities, and which are not in conformance with the above setback provisions may continue, provided that such grazing is conducted in accordance with a conservation plan.

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NOTE: 17 M.R.S.A. section 2805(4) requires a municipality to provide the Commissioner of Agriculture, Food and Rural Resources with a copy of any proposed ordinance that impacts farm operations. The law further requires the Commissioner to review the proposed ordinance and advise the municipality if the proposed ordinance would restrict or prohibit the use of best management practices. A copy of a shoreland zoning ordinance that regulates no more restrictively than contained in these Guidelines need not be provided to the Commissioner of Agriculture, Food and Rural Resources.

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#### **O. Timber Harvesting**

Repealed on June 10, 2015 in accordance with 38 MRSA Section 438-B(5). Timber harvesting is now under the jurisdiction of the Maine Forest Service.

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

1. In a Resource Protection District abutting a great pond, there shall be no cutting of vegetation within the strip of land extending 75 feet, horizontal distance, inland from the normal high-water line, except to remove 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 Paragraph 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 to 1.5 feet Above

| <u>Ground Level (inches)</u> | <u>Points</u> |
|------------------------------|---------------|
| 2 - < 4 in.                  | 1             |
| > 4 - < 8 12 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.

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Note: As an example, adjacent to a great pond, if a 25-foot x 50-foot plot contains four (4) trees between 2 and 4 inches in diameter, two trees between 4 and 8 inches in diameter, two trees between 8 and 12 inches in diameter, and two trees over 12 inches in diameter, the rating score is:  
 $(4 \times 1) + (2 \times 2) + (2 \times 8) = 36$  points

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

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The following shall govern in applying this point system:

- (1) The 25-foot by 50-foot rectangular plots must be established where the landowner or lessee proposes clearing within the required buffer;
- (2) Each successive plot must be adjacent to, but not overlap, a previous plot;
- (3) Any plot not containing the required points must have no vegetation removed except as otherwise allowed by this Ordinance;
- (4) Any plot containing the required points may have vegetation removed down to the minimum points required or as otherwise allowed by this Ordinance;

- (5) 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 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) above ground level for each 25-foot by 50-foot rectangle area. If five saplings do not exist, no woody stems less than two (2) inches in diameter can be removed until 5 saplings have been recruited into the plot.

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

- c. In order to protect water quality and wildlife habitat, existing vegetation under three (3) feet in height and other ground cover, including leaf litter and the forest duff layer, shall not be cut, covered or removed, except to provide for a footpath or other permitted uses as described in Section 15(P) paragraphs 2 and 2a. above.
- d. Pruning of tree branches, on the bottom one-third 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 Commercial District.

4. Legally existing nonconforming cleared openings may be maintained, but shall not be enlarged, except as allowed by this Ordinance.
5. Fields and other cleared openings which have reverted to primarily shrubs, trees, or other woody vegetation shall be regulated under the provisions of Section 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 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 riprap.
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. Drainage ways shall be designed and constructed in order to carry water from a twenty five (25) year storm or greater, and shall be stabilized with vegetation or lined with rip-rap.

## **R. Soils**

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

## **S. Water Quality**

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

## **T. Archeological Sites**

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

## **Section 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 MRSA 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 being 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 water course.
2. A permit is not required for an archeological excavation as long as the excavation is conducted by an archeologist listed on the State House 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 ordinances.

### **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 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 flood plain 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 floodplain 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 three feet above the 100-year floodplain elevation; and the development is otherwise in compliance with any applicable municipal floodplain ordinance.

And for **substantial improvements** of existing buildings in tidal water 100 year floodplains and in fresh water 100 year floodplains, all buildings, including basements, are elevated at least one foot above the 100 year floodplain elevation; and the development is otherwise in compliance with any applicable municipal floodplain 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 floodplain.

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 floodplain, 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 ~~no~~ 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. Following installation of service, the company or district shall forward the written authorization to the municipal officials, indicating that installation has been completed.

#### **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 to 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:
    - (1) 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

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

- (a) That the land in question cannot yield a reasonable return unless a variance is granted;
- (b) That the need for a variance is due to the unique circumstances of the property and not to the general conditions in the neighborhood;
- (c) That the granting of a variance will not alter the essential character of the locality; and
- (d) That the hardship is not the result of action taken by the applicant or a prior owner.

- d. Notwithstanding Section 16(H)(2)(c)(2), 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 of 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 a 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 of 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

- (1) An administrative or variance appeal may be taken to the Board of Appeals by an aggrieved party from any decision of the Code Enforcement Officer or the Planning Board, 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.
- (2) Applications for appeals shall be made by filing with the Board of Appeals a written notice of appeal which includes:
  - (a) A concise written statement indicating what relief is requested and why the appeal or variance should be granted.
  - (b) A sketch drawn to scale showing lot lines, location of existing buildings and structures and other physical features of the lot pertinent to the relief sought.
- (3) Upon receiving an application for an administrative appeal or a variance, the Code Enforcement Officer or Planning Board, as appropriate, shall transmit to the Board of Appeals all of the papers constituting the record of the decision appealed from.
- (4) The Board of Appeals shall hold a public hearing on an administrative appeal or a request for a variance within thirty-five (35) days of its receipt of a complete written application, unless this time period is extended by the parties.

##### b. Decision by Board of Appeals

- (1) A majority of the full voting membership of the Board shall constitute a quorum for the purpose of deciding an appeal..
- (2) The person filing the appeal shall have the burden of proof.
- (3) The Board shall decide all administrative appeals and variance appeals within thirty five (35) days after the close of the hearing, and shall issue a written decision on all appeals.
- (4) The Board of Appeals shall state the reasons and basis for its decision, including a statement of 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 vote to reconsider and the action 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, MRSA Section 4452.

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NOTE: Current penalties (2008) 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 MRSA Section 4452).

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### Section 17. Definitions

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

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

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

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

**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 (before development) ground level.

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

**Bureau** - State of Maine Department of Conservation's Bureau of Forestry.

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

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

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

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

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**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.

**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 lots 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.

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

**Footprint** – The entire area of ground covered by the structures on a premises, including cantilevered or similar overhanging extensions, as well as unenclosed structures, such as patios and decks.

**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 and inland waters and which cannot be located away from these waters. The uses include, but are not limited to commercial and recreational fishing and boating facilities (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 aides, basins and channels, industrial uses dependent upon water-borne transportation or requiring large volumes of cooling or processing water and which cannot reasonably be located or operated at an inland site, and uses which primarily provide general public access to marine or tidal 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 Title 38 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, pine needles and twigs and the partially decayed organic matter of the forest floor.

**Height of a structure** - the vertical distance between the mean original grade at the downhill side of the structure and the highest point of the structure, excluding chimneys, steeples, antennas, and similar appurtenances which 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 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 the water body, tributary stream or wetland. Included in this allowance are expansions which in-fill irregularly shaped structures.

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

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

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

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

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

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

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

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

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

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

**Native** - indigenous to the local forests.

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

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

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

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

**Non- Sewered** - Lots not served by the Municipal Sewer System and requiring a subsurface disposal system.

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

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

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

**Piers, docks, wharfs, 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 flood plain 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 flood plain wetlands from that point at which it provides drainage for a watershed of twenty five (25) square miles to its mouth.

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

**Salt marsh** - Areas of coastal wetland (most often along coastal bays) that support salt tolerant species, and where at average high tide during the growing season, the soil is irregularly inundated by tidal waters.

The predominant species is saltmarsh cordgrass (*Spartina alterniflora*). More open areas often support widgeon grass, eelgrass, and Sago pondweed.

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

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

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

**Sewered** - Lots serviced by the Great Salt Bay Sanitary District.

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

**Shoreland zone** - the land area located within two hundred and fifty (250) feet, horizontal distance, of the normal high-water line of any great pond or river within 250 feet, horizontal distance, of the upland edge of a coastal wetland, including all areas affected by tidal action; within 250 feet of the upland edge of a freshwater wetland; or within seventy-five (75) feet, horizontal distance, of the normal high-water line of a stream.

**Shoreline** - the normal high-water line or upland edge of a freshwater or coastal wetland.

**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 temporarily or permanently located, built, constructed or erected 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 waster 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; pre-treatment filter; piping or any other fixture, mechanism or apparatus used for those purposes; does not include any discharge system licensed under 38 M.R.S.A. Section 414, any surface waste water disposal system or any municipal or quasi-municipal sewer or waste water treatment system.

**Sustained slope** - a change in elevation where the referenced percent grade is substantially maintained or exceeded throughout the measured area.

**Tidal waters** - all waters affected by tidal action during the maximum spring tide.

**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 presence of a bed, devoid of topsoil, containing waterborne deposits on or exposed soil, parent material or bedrock; and which is connected hydrologically with other water bodies. "Tributary stream" does not include rills or gullies forming because of accelerated erosion in disturbed soils where the natural vegetation cover has been removed by human activity.

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

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

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

**Velocity zone** - an area of special flood hazard extending from offshore to the inland limit of the primary frontal dune along an open coast and any other area subject to high velocity wave action from storms or seismic sources.

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

**Water body** - any great pond, river or stream.

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

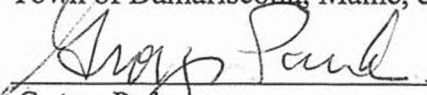
**Wetland** - a freshwater or coastal wetland.

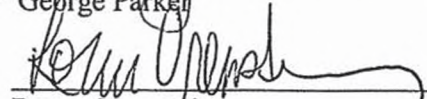


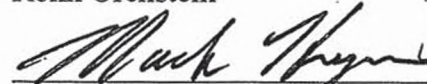
Woody vegetation - live trees or woody, non-herbaceous shrubs.

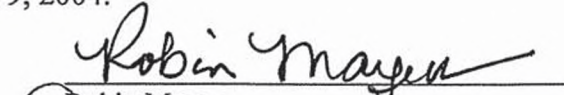
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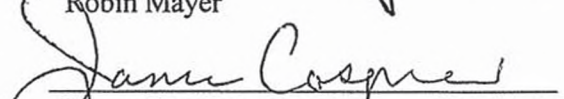
The enactment of this ordinance hereby revises the Floodplain Management Ordinance for the Town of Damariscotta, Maine, enacted on June 9, 2004.

  
George Parker

  
Ronn Orenstein

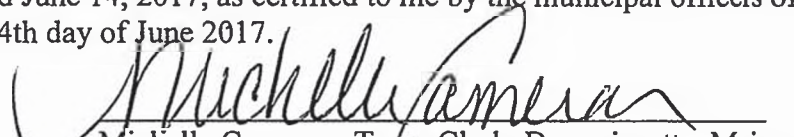
  
Mark Hagar

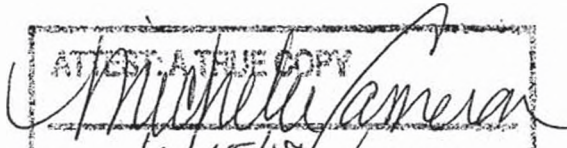
  
Robin Mayer

  
James Cosgrove

Board of Selectmen  
Town of Damariscotta

Attest: A true copy of an ordinance entitled “Floodplain Management Ordinance for the Town of Damariscotta, Maine,” enacted June 14, 2017, as certified to me by the municipal officers of Damariscotta, Maine on the 14th day of June 2017.

  
Michelle Cameron, Town Clerk, Damariscotta, Maine

ATTEST: A TRUE COPY  
  
6/15/17 DATE



**Shoreland Zoning Ordinance for the  
Town of Damariscotta, Maine  
March 21, 2018**

June 16, 1997  
REV. June 12, 2002, July 10, 2002,  
June 9, 2010, June 11, 2014, September 17, 2014,  
June 10, 2015, June 15, 2016, November 16, 2016,  
June 14, 2017, March 21, 2018

## TABLE OF CONTENTS

|                                                         |    |
|---------------------------------------------------------|----|
| Section 1. Purposes .....                               | 3  |
| Section 2. Authority .....                              | 3  |
| Section 3. Applicability .....                          | 3  |
| Section 4. Effective Date .....                         | 3  |
| Section 5. Availability .....                           | 4  |
| Section 6. Severability .....                           | 4  |
| Section 7. Conflicts with Other Ordinances .....        | 4  |
| Section 8. Amendments .....                             | 4  |
| Section 9. Districts and Zoning Map .....               | 4  |
| Section 10. Interpretation of District Boundaries ..... | 5  |
| Section 11. Land Use Requirements .....                 | 5  |
| Section 12. Non-conformance .....                       | 5  |
| Section 13. Establishment of Districts .....            | 10 |
| Section 14. Table of Land Uses .....                    | 12 |
| Table 1. Land Use Table .....                           | 13 |
| Section 15. Land Use Standards .....                    | 15 |
| Section 16. Administration .....                        | 30 |
| Section 17. Definitions .....                           | 37 |

## **Section 1. Purposes**

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

## **Section 2. Authority**

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

## **Section 3. Applicability**

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

- normal high-water line of any great pond or river,
- upland edge of a coastal wetland, including all areas affected by tidal action, or
- upland edge of a freshwater wetland,
- and all land areas within 75 feet, horizontal distance, of the normal high-water line of a stream.

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

## **Section 4. Effective Date**

**A. Effective Date of Ordinance and Ordinance Amendments.** This Ordinance, which was adopted by the municipal legislative body on June 14, 2017, 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. Upon approval of this Ordinance, the shoreland zoning ordinance previously adopted on June 16, 1997 and revised June 12 and July 10, 1992 is hereby repealed.

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

**B. Sections 15(O) and 15(O-1).** Section 15(O) is repealed on the statutory date established under 38 M.R.S.A. Section 438-B (5), at which time Section 15(O-1) shall become effective. Until such time as Section 15(O) is repealed, Section 15(O-1) is not in effect. Upon repeal, Section 15(O) shall read: "Repealed on June 10, 2015 in accordance with 38 MRSA Section 438-B (5)."

## **Section 5. Availability**

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

## **Section 6. Severability**

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

## **Section 7. Conflicts with Other Ordinances**

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

## **Section 8. Amendments**

This Ordinance may be amended by majority vote of the legislative body. Copies of amendments, attested and signed by the Damariscotta Clerk, shall be submitted to the Commissioner of the Department of Environmental Protection following adoption by the Damariscotta 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.

## **Section 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. Stream Protection
2. Resource Protection
3. Residential
4. Limited Commercial "A"
5. Limited Commercial "B"
6. Commercial
7. Medical Facility

### **B. Scale of Map**

The Official Shoreland Zoning Map shall be drawn at a scale of not less than: 1 inch = 1000 feet. District boundaries shall be clearly delineated and a legend indicating the symbols for each district shall be placed on the map.

### **C. Certification of Official 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.

### **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.

## **Section 10. Interpretation of District Boundaries**

- A. Unless otherwise set forth on the Official Shoreland Zoning Map, district boundary lines are property lines, the centerline of streets, roads and right-of-ways, 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.
- B. The depiction of the boundaries of the Shoreland Area on this Official Shoreland Zoning Map is merely illustrative of their general location. The exact boundaries of the zone shall be determined by on-site inspection and measurement from the normal high water line or upland edge of a wetland.

## **Section 11. Land Use Requirements**

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

## **Section 12. Non-conformance**

### **A. Purpose**

It is the intent of this Ordinance to promote land use conformities, except that non-conforming conditions that existed before the effective date of this Ordinance or amendments thereto shall be allowed to continue, subject to the requirements set forth in this 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 'b' and 'c' 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 unless it is in conformance with Sections 12.C.1b. and c. following.
  - b. Expansion of any portion of a structure within 25 feet of the normal high-water line of a water body or tributary stream or upland edge of a wetland is prohibited, even if the expansion will not increase nonconformity with the water body or wetland setback requirement. Expansion of an accessory structure that is located closer to the normal high-water line of a water body or tributary stream or upland edge of a wetland than the principal structure is prohibited, even if the expansion will not increase nonconformity with the water body or wetland setback requirement.
    - (1) Notwithstanding this paragraph, if a legally existing nonconforming principal structure is entirely located less than 25 feet from the normal high-water line of a water body or tributary stream or upland edge of a wetland, that structure may be expanded as follows, as long as all other applicable standards of land use adopted by the municipality are met and the expansion is not prohibited by paragraph C.1.
      - (a) The maximum total footprint for the principal structure may not be expanded to a size greater than 800 square feet or 30% larger than the footprint that existed on January 1, 1989, whichever is greater. The maximum height of the principal structure may not be made greater than 15 feet or the height of the existing structure, whichever is greater.
  - c. All other legally existing nonconforming principal and accessory structures that do not meet the water body or tributary stream or wetland setback requirements may be expanded or altered as follows, as long as other applicable standards of land use adopted by the municipality are met and the expansion is not prohibited by paragraph C.1. b.
    - (1) For structures located less than 75 feet from the normal high-water line of a water body or tributary stream or upland edge of a wetland, the maximum combined total footprint for all structures may not be expanded to a size greater than 1,000 square feet or 30% larger than the footprint that existed on January 1, 1989, whichever is greater. The maximum height of any structure may not be made greater than 20 feet or the height of the existing structure, whichever is greater.
    - (2) For structures located less than 100 feet from the normal high-water line of a great pond classified as GPA or a river flowing to a great pond classified as GPA, the maximum combined total footprint for all structures may not be expanded to a size greater than 1,500 square feet or 30% larger than the footprint that existed on January 1, 1989, whichever is greater. The maximum height of any structure may not be made greater than 25 feet or the height of the existing structure, whichever is greater. Any portion of those structures located less than 75 feet from the normal high-water line of a water body or tributary stream or upland



edge of a wetland must meet the footprint and height limits in subparagraph C.(1).

(3) In addition to the limitations in subparagraphs (1) and (2), for structures that are legally nonconforming due to their location within the Resource Protection District when located at less than 250 feet from the normal high-water line of a water body or tributary stream or the upland edge of a wetland, the maximum combined total footprint for all structures may not be expanded to a size greater than 1,500 square feet or 30% larger than the footprint that existed at the time the Resource Protection District was established on the lot, whichever is greater. The maximum height of any structure may not be made greater than 25 feet or the height of the existing structure, whichever is greater, except that any portion of those structures located less than 75 feet from the normal high-water line of a water body or tributary stream or upland edge of a wetland must meet the footprint and height limits in subparagraph C. (1).

d. A plan approved by the municipal permitting authority for an expansion of a nonconforming structure must be recorded by the applicant with the Lincoln County Registry of Deeds within 90 days of approval. Plans must include, at a minimum:

(1) The method of expansion (whether the applicant utilized the thirty (30) percent or the footprint expansion option);

(2) The existing and proposed footprint of the structure, in addition to the footprint of other non-conforming structures on the parcel;

(3) The existing and proposed structure height;

(4) A scaled drawing showing the location of the structure and other structures on the lot, in relation to the water body, tributary stream or wetland.

2. **Foundations.** Whenever a new, enlarged, or replacement foundation is constructed under a non-conforming structure, the structure and new foundation must be placed such that the setback requirement is met to the greatest practical extent as determined by the Planning Board or its designee, basing its decision on the criteria specified in Section 12(C)(3) Relocation, below.; If that 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 front floor sill), it shall not be considered to be an expansion of the structure.

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

3. **Relocation:** A non-conforming structure may be relocated within the boundaries of the parcel on which the structure is located provided that the site of relocation conforms to all setback requirements to the greatest practical extent as determined by the Planning Board or its

designee, and provided that the applicant demonstrates that the present subsurface sewage disposal system meets the requirements of State law and the State of Maine

Subsurface Wastewater Disposal Rules (Rules), or that a new system can be installed in compliance with the law and said Rules. In no case shall a structure be relocated in a manner that causes the structure to be more non-conforming.

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

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

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

- b. Where feasible when a structure is relocated on a parcel the original location of the structure shall be replanted with vegetation which may consist of grasses, shrubs, trees or a combination thereof.

4. Reconstruction or Replacement: Any non-conforming structure which is located less than the required setback from a water body, tributary stream, or upland edge of a 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 as to increase its non-conformity. If the reconstructed or replacement structure is less than the required setback, it shall not be any larger than the original structure, except as allowed pursuant to Section 1(C)(1) above, as determined by the non-conforming floor area and volume of the reconstructed or replaced structure in 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.

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

In determining that no greater adverse impact will occur, the Planning Board shall require written documentation from the applicant regarding the probable effects on public health and safety, erosion and sedimentation, water quality, fish and wildlife habitat, vegetative cover, visual and actual points of public access to waters, natural beauty, flood plain management, archaeological and historic resources, and commercial fishing and maritime activities and other functionally water-dependent uses.

#### **D. Non-conforming Uses**

1. Expansions: Expansions of non-conforming uses are prohibited, except that non-conforming residential uses may, after obtaining a permit from the Planning Board, be expanded within existing residential structures or within expansions of such structures as permitted 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 Commercial 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 two or more contiguous lots, at least one of which is nonconforming, owned by the same person or persons on June 29, 1992 and recorded in the Lincoln County Registry of Deeds, if the lot is served by a public sewer or can accommodate a subsurface sewage disposal system in conformance with the *State of Maine Subsurface Wastewater Disposal Rules*, and:

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

## **Section 13. Establishment of Districts**

### **A. 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 saltwater body or within two hundred and fifty (250) feet, horizontal distance, of the upland edge of a freshwater or coastal wetland. Where a stream and its associated shoreland area is located within two-hundred and fifty (250) feet, horizontal distance, of the above water bodies or wetlands, that land area shall be regulated under the terms of the shoreland district associated with that water body or wetland.

The Stream Protection District includes the following:

1. Cranmeadow Brook from Wetland #123 to Oyster Creek
2. Leading out of Paradise Pond, Wetland #128 North to Wetland #103.

3. From Little Pond to Wetland #100.
4. Castner Brook from confluence of two tributary streams to the Damariscotta River.

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**NOTE:** The Natural Resources Protection Act (NRPA) requires a 75 foot setback of all structures from the high water line of all streams defined in the NRPA Statute as a stream (38 MRSA 480-B, Chapter 305). These streams include small ones that are NOT defined as streams in the Shoreland Zoning Statute.

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## **B. 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 Commercial, Limited Commercial, Districts 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) as of December 31, 2008. For purposes of this paragraph, "wetlands associated with great ponds or rivers" shall mean areas characterized by non-forested wetland vegetation and hydric soils that are contiguous with a 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. Flood plains along rivers and flood plains along artificially formed great ponds along rivers, defined by the 100 year flood plain as designated on the Federal Emergency Management Agency's (FEMA) Flood Insurance Rate Maps or Flood Hazard Boundary Maps, or the flood of record, or in the absence of these, by soil types identified as recent flood plain soils. This district shall also include 100 year flood plains adjacent to tidal waters as shown on FEMA's Flood Insurance Rate Maps or Flood Hazard Boundary Maps.
3. Areas of two or more contiguous acres with sustained slopes of 20% or greater.
4. Areas of two (2) or more contiguous acres supporting wetland vegetation and hydric soils, which are not part of a freshwater or coastal wetland as defined, and which are not surficially connected to a water body during the period of normal spring high water.
5. Land areas along rivers subject to severe bank erosion, undercutting, or river bed movement and lands adjacent to tidal waters which are subject to severe erosion or mass movement, such as steep coastal bluffs.

## **C. Residential District**

The 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 Districts, the Commercial District or the Medical Facilities District.

#### **D. Limited Commercial District, "A"**

The Limited Commercial District "A", includes areas of mixed, office and residential uses, exclusive of the Stream Protection District, which should not be developed as intensively as the Commercial District. This district is devoted to a mix of residential and low intensity uses within structures previously utilized as residences and includes those portions of the following lots within the Shoreland district of Wetland #125. Those portions of the following properties within the shoreland zone are identified as lots 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 15, 30, 31, 31-1, 35, 62, 37, 36, 36-1, 68, 38, 39 and 40 of Map 9. Retail and Industrial uses are prohibited.

#### **E. Limited Commercial District "B"**

The Limited Commercial District "B" includes areas of mixed, light commercial and residential uses, exclusive of the Stream Protection District, which should not be developed as intensively as the Commercial District. This district is devoted to a mix of residential and low intensity business and commercial uses and includes those portions of the following lots within the Shoreland District of Wetland #125. The properties are identified as 7, 7-1, 8, 9 of Map 3 and Lots, 49-1, 49-3, 49-2, 48-10, 48-11 of Map 2. Industrial uses are prohibited.

#### **F. Commercial District**

The Commercial District includes mixed, commercial and residential uses, exclusive of the Stream Protection District and includes the area of the Downtown Business District as follows:

Beginning at and including Map 6, Lot 4 (including Lot 5) continues around the Municipal Parking area, north passed the Bridge and terminating at and including Map 6, Lot 38 (Colby and Gale) and Lots 40 and 41.

The District includes the following types of areas:

Areas devoted to retail service activities or other commercial activities and marine related activities.

#### **G. Medical Facility District**

This district includes the properties not in Resource Protection identified as Lots 63, 64, 65, 66 on the Damariscotta Town Tax Map 9; lots 29 and 30, on Map 11 and shall be known as the Medical Facility District. The District comprises the hospital, nursing home, congregate housing facility, Professional medical offices and facilities, and other such related uses and structures as is appropriate.

### **Section 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 - Requires Allowed with permit issued by the Planning Board

CEO - Requires Allowed with permit issued by the Code Enforcement Officer

LPI - Requires Allowed with permit issued by the Local Plumbing Inspector

**Abbreviations:**

SP - Stream Protection

RP - Resource Protection

R - Residential

LCA - Limited Commercial District A

LCB - Limited Commercial District B

C- Commercial

MF- Medical Facility

**Table 1** (Revised: 2017)

**DAMARISCOTTA SHORELAND ZONING ORDINANCE - LAND USE TABLE**

| <u>LAND USES</u>                                                                                | <u>DISTRICTS</u> |                  |                  |            |                  |          |           |
|-------------------------------------------------------------------------------------------------|------------------|------------------|------------------|------------|------------------|----------|-----------|
|                                                                                                 | <u>SP</u>        | <u>RP</u>        | <u>R</u>         | <u>LCA</u> | <u>LCB</u>       | <u>C</u> | <u>MF</u> |
| 1. Non-intensive recreational uses not requiring structures such as hunting, fishing and hiking | yes              | yes              | yes              | yes        | yes              | yes      | yes       |
| 2. Motorized vehicular traffic on existing roads and trails                                     | yes              | yes              | yes              | yes        | yes              | yes      | yes       |
| 3. Clearing or removal of vegetation for activities other than timber harvesting                | CEO              | CEO <sup>1</sup> | yes              | yes        | yes              | yes      | yes       |
| 4. Fire prevention activities                                                                   | yes              | yes              | yes              | yes        | yes              | yes      | yes       |
| 5. Wildlife management activities                                                               | yes              | yes              | yes              | yes        | yes              | yes      | yes       |
| 6. Soil and water conservation practices                                                        | yes              | yes              | yes              | yes        | yes              | yes      | yes       |
| 7. Mineral exploration                                                                          | no               | yes <sup>2</sup> | yes <sup>2</sup> | no         | yes <sup>2</sup> | no       | no        |
| 8. Mineral extraction including sand & gravel extraction                                        | no               | PB <sup>3</sup>  | PB               | no         | PB               | no       | yes       |
| 9. Surveying and resource analysis                                                              | yes              | yes              | yes              | yes        | yes              | yes      | yes       |
| 10. Emergency operations                                                                        | yes              | yes              | yes              | yes        | yes              | yes      | yes       |
| 11. Agriculture                                                                                 | yes              | PB               | yes              | yes        | yes              | yes      | yes       |
| 12. Aquaculture                                                                                 | PB               | PB               | PB               | yes        | yes              | yes      | yes       |
| 13. Principal structures and uses                                                               |                  |                  |                  |            |                  |          |           |
| A. One and 2-family residential, including driveways                                            | PB <sup>4</sup>  | PB <sup>9</sup>  | CEO              | CEO        | CEO              | CEO      | CEO       |
| B. Multi-unit residential                                                                       | no               | no               | PB               | PB         | PB               | PB       | PB        |
| C. Commercial                                                                                   | no               | no <sup>10</sup> | no <sup>10</sup> | PB         | PB               | PB       | PB        |
| D. Industrial                                                                                   | no               | no               | no               | no         | no               | no       | no        |
| E. Governmental and Institutional                                                               | no               | no               | no               | PB         | PB               | PB       | PB        |
| F. Small non-residential facilities for educational,                                            |                  |                  |                  |            |                  |          |           |

|                                                                                                                                          |                             |                   |                   |                   |                   |                   |                   |
|------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------|-------------------|-------------------|-------------------|-------------------|-------------------|-------------------|
| scientific or natural interpretation purposes                                                                                            | PB <sup>4</sup>             | PB                | CEO               | CEO               | CEO               | PB                | PB                |
| 14. Structures accessory to allowed uses                                                                                                 | PB <sup>4</sup>             | PB                | CEO               | CEO               | CEO               | PB                | PB                |
|                                                                                                                                          | <u>SP RP R LCA LCB C MF</u> |                   |                   |                   |                   |                   |                   |
| 15. Piers, docks, wharves, bridges and other structures and uses extending over or below the normal high-water line or within a wetland: | CEO <sup>11</sup>           | CEO <sup>11</sup> | CEO <sup>11</sup> | CEO <sup>11</sup> | CEO <sup>11</sup> | CEO <sup>11</sup> | CEO <sup>11</sup> |
| A. Temporary                                                                                                                             | PB                          | PB                | PB                | PB                | PB                | PB <sup>5</sup>   | PB <sup>5</sup>   |
| B. Permanent                                                                                                                             |                             |                   |                   |                   |                   |                   |                   |
| 16. Conversion of seasonal residences to year-round residences                                                                           | LPI                         | LPI               | LPI               | LPI               | LPI               | LPI               | no                |
| 17. Home occupations                                                                                                                     | PB                          | PB                | PB                | CEO               | CEO               | CEO               | no                |
| 18. Private sewage disposal systems for allowed uses                                                                                     | LPI                         | LPI               | LPI               | LPI               | LPI               | LPI               | LPI               |
| 19. Essential services                                                                                                                   | PB <sup>6</sup>             | PB <sup>6</sup>   | PB                | PB                | PB                | PB                | PB                |
| A. Roadside distribution lines (34.5 kV and lower)                                                                                       | CEO <sup>6</sup>            | CEO <sup>6</sup>  | yes <sup>12</sup> | yes <sup>12</sup> | yes <sup>12</sup> | yes <sup>12</sup> | yes <sup>12</sup> |
| B. Non-roadside or cross-country lines involving ten poles or less in the shoreland zone                                                 | PB <sup>6</sup>             | PB <sup>6</sup>   | CEO               | CEO               | CEO               | CEO               | CEO               |
| C. Non-roadside or cross-country lines involving eleven or more poles in the shoreland zone                                              | PB <sup>6</sup>             | PB <sup>6</sup>   | PB                | PB                | PB                | PB                | PB                |
| D. Other essential services                                                                                                              | PB <sup>6</sup>             | PB <sup>6</sup>   | PB                | PB                | PB                | PB                | PB                |
| 20. Service drops, as defined, to allowed uses                                                                                           | yes                         | yes               | yes               | yes               | yes               | yes               | yes               |
| 21. Public and private recreational areas involving minimal structural development                                                       | PB                          | PB                | PB                | CEO               | CEO               | CEO <sup>5</sup>  | CEO <sup>5</sup>  |
| 22. Individual, private campsites                                                                                                        | CEO                         | CEO               | CEO               | CEO               | CEO               | CEO               | CEO               |
| 23. Campgrounds                                                                                                                          | no                          | no <sup>7</sup>   | PB                | no                | no                | no                | no                |
| 24. Road construction                                                                                                                    | PB                          | no <sup>8</sup>   | PB                | PB                | PB                | PB                | PB                |
| 25. Parking facilities                                                                                                                   | no                          | no <sup>7</sup>   | PB                | PB                | PB                | PB                | PB                |
| 26. Marinas                                                                                                                              | PB                          | no                | PB                | PB                | PB                | PB                | PB                |
| 27. Filling and earth moving of <10 cubic yards                                                                                          | CEO                         | CEO               | yes               | yes               | yes               | yes               | yes               |
| 28. Filling and earth moving of >10 cubic yards                                                                                          | PB                          | PB                | CEO               | CEO               | CEO               | CEO               | CEO               |
| 29. Signs                                                                                                                                | yes                         | yes               | yes               | yes               | yes               | yes               | yes               |
| 30. Uses similar to allowed uses                                                                                                         | CEO                         | CEO               | CEO               | CEO               | CEO               | CEO               | CEO               |
| 31. Uses similar to uses requiring CEO permit                                                                                            | CEO                         | CEO               | CEO               | CEO               | CEO               | CEO               | CEO               |
| 32. Uses similar to uses requiring PB permit                                                                                             | PB                          | PB                | PB                | PB                | PB                | PB                | PB                |



FOOTNOTES - Table 1: Damariscotta Shoreland Zoning Ordinance Land Use Table

- <sup>1</sup> In RP not allowed within 75 feet horizontal distance of the normal high-water line of great ponds except to remove safety hazards.
- <sup>2</sup> Requires permit from the Codes Enforcement Officer if more than 100 square feet of surface area, in total, is disturbed.
- <sup>3</sup> In RP not allowed in areas so designated because of wildlife value.
- <sup>4</sup> Provided that a variance from the setback requirement is obtained from the Board of Appeals.
- <sup>5</sup> Functionally water-dependent uses and uses accessory to such water-dependent uses only
- <sup>6</sup> See further restrictions in Section 15(L)(2).
- <sup>7</sup> Except when area is zoned for resource protection due to floodplain criteria in which case a permit is required from the PB.
- <sup>8</sup> Except as provided in Section 15(H)(3).
- <sup>9</sup> Single-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.
- <sup>10</sup> Except for commercial uses otherwise listed in this Table, such as marinas or campgrounds, that are allowed in the respective district.
- <sup>11</sup> Excluding bridges and other crossings not involving earthwork, in which case no permit is required.
- <sup>12</sup> Permit 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 Maine Department of Environmental Protection (DEP) pursuant to 38 MRSA, 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 in them:

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

**Section 15. Land Use Standards**

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

**A. Minimum Lot Standards**

- 1. All lots within the Commercial District shall have a minimum lot size of 10,000 square feet per dwelling unit for residential use and principal structure for commercial use and a minimum shore frontage shall be 100 feet. All other districts shall be as shown below.

|                                      | <u>Minimum<br/>Lot Area<br/>(Square Feet)</u> | <u>Minimum Shore<br/>Frontage and<br/>Lot width (feet)</u> |
|--------------------------------------|-----------------------------------------------|------------------------------------------------------------|
| 2. Area/ Frontage Requirements       | Sewered                                       | Non-sewered                                                |
| <u>Residential per Dwelling Unit</u> |                                               |                                                            |

|                                                          |        |        |     |
|----------------------------------------------------------|--------|--------|-----|
| a. Within the Shoreland Zone adjacent to Tidal Areas     | 30,000 | 80,000 | 150 |
| b. Within the Shoreland Zone adjacent to Non-Tidal Areas | 40,000 | 80,000 | 200 |

Governmental, Institutional, Commercial or Industrial per principal structure

|                                                          |        |        |     |
|----------------------------------------------------------|--------|--------|-----|
| a. Within the Shoreland Zone adjacent to Tidal Areas     | 40,000 | 80,000 | 200 |
| b. Within the Shoreland Zone adjacent to Non-Tidal Areas | 60,000 | 80,000 | 300 |

Public and Private Recreational Facilities

|                                                                    |        |        |     |
|--------------------------------------------------------------------|--------|--------|-----|
| a. Within the Shoreland Zone adjacent to Tidal and Non-Tidal Areas | 40,000 | 80,000 | 200 |
|--------------------------------------------------------------------|--------|--------|-----|

3. 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.
4. 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.
5. 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.
6. If more than one residential dwelling unit, or more than one 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, or principal structure or use.

**B. Principal and Accessory Structures**

1. All new principal and accessory structures shall be set back at least one hundred (100) feet, horizontal distance, from the normal high-water line of great ponds classified GPA (Little, Muddy {akaParadise}, Biscay and Pemiquid Ponds) and rivers that flow to great ponds classified GPA, and seventy-five (75) feet, horizontal distance, from the normal high-water line of other water bodies, tributary streams or the upland edge of a wetland, except that (i) in the Commercial District the setback from the normal high-water line shall be at least twenty-five (25) feet horizontal distance and (ii) in the Medical Facility District the setback shall be the closer to the high water line or upland edge of a wetland of seventy-five (75) feet or portions of the waterside edge of structures which, as of enactment of this Ordinance amendment (2002), are located closer than seventy-five (75) feet, but in any event not closer than twenty-five (25) feet, to the high waterline or upland edge of a wetland. For the Medical Facility District, unless otherwise allowed by this Ordinance, those portions of structures located between twenty-five (25) and seventy-five (75) feet may be expanded up, down, sideways and away from the high water line or upland edge of a wetland. See Damariscotta Shoreland Zoning Map for existing structures and setback line concerning Medical Facility District to be incorporated. In the Resource Protection District the setback requirement shall be 250 feet, horizontal distance, except for structures,

roads, parking spaces or other regulated objects specifically allowed in that district in which case the setback requirements specified above shall apply.

In addition:

- a. The water body, tributary stream or wetland setback provision shall neither apply to structures which require direct access to the water body or wetland as an operational necessity, such as piers, docks and retaining walls, nor to other functionally water-dependent uses.
- b. All principal and accessory structures within lots abutting that part of the Damariscotta River known as Great Salt Bay from the Route One bridge to the Nobleboro town line shall have a combined frontage and setback from the normal high water line totaling at least 500 feet; be setback a minimum of one hundred and twenty-five (125) feet, horizontal distance from the high-water line; and shall be screened from the river by existing vegetation. This provision does not apply to structures related to hydropower facilities.
- c. For principal structures, water and wetland setback measurements shall be taken from the top of a coastal bluff that has been identified on Coastal Bluff maps as being "highly unstable" or "unstable" by the Maine Geological Survey pursuant to its "Classification of Coastal Bluffs" and published on the most recent Coastal Bluff map. If the applicant and the permitting official(s) are in disagreement as to the specific location of a "highly unstable" or "unstable" bluff, or where the top of a bluff is located, the applicant may at his or her expense, employ a Maine Registered Professional Engineer, a Maine Certified Soil Scientist, a Maine State Geologist or other qualified individual to make a determination. If agreement is still not reached, the applicant may appeal the matter to the board of Appeals.
- d. On a non-conforming lot of record on which only a residential structure exists and it is not possible to place an accessory structure meeting the required water body, tributary stream or wetlands setback, the Codes 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.

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

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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, wind power generating facilities, antennas, and similar structures having no floor area.
3. It is the intention that limited commercials uses in the Limited Commercial 'A' District be accommodated within the existing structure where practicable. Expansions of existing

structures and new structures constructed in the Limited Commercial 'A' District Shall be compatible with the existing structure.

4. a. The lowest floor elevation or openings of all buildings and structures including basements shall be elevated at least three feet 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 floodplain soils. In lieu of constructing to three feet above the base flood elevation, non-residential structures within tidal waters and in a AE Zone as indicated in the Floodplain Management Ordinance, may be flood proofed to standards according to Article VI.G.1.a of the Floodplain Management Ordinance. The lowest floor elevation would still be required to be one foot above the Base Flood Elevation.
  - b. In tidal water, all **substantial improvements** shall be 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 floodplain soils.
  - c. In fresh water, the lowest floor elevation or openings of all new buildings and structures including basements and **substantial improvements** 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 floodplain soils.
5. The total footprint area of all structures, parking lots and other non-vegetated surface 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 Commercial District, where lot coverage shall not exceed seventy (70) percent, in the Limited Commercial Districts A, and B , where lot coverage shall not exceed thirty five (35) percent and in the Medical Facilities District, where the lot coverage may not exceed fifty (50) percent.
  6. 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:
  - (1) 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;
  - (2) Vegetation plantings must be in quantities sufficient to retard erosion and provide for effective infiltration of stormwater runoff;
  - (3) Only native species may be used to establish the buffer area;
  - (4) A minimum buffer width of 15 feet, horizontal distance, is required, measured perpendicularly to the normal high-water or upland edge of a wetland;
  - (5) A foot path not to exceed the standards in Section 15(P)(2)(a) may traverse the buffer.

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**NOTE:** If the wall and associated soils disturbance occurs within 75 feet, horizontal distance, of a water body, tributary stream or coastal wetland, a permit pursuant to the Natural Resources Protection Act (NRPA) is required from the Maine DEP.

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- 7. 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, MRSA., Section 480-C); and that the applicant demonstrates that no reasonable access alternative exists on the property.

**C. Piers, Docks, Wharfs, Bridges and Other Structures and Uses Extending Over or Beyond 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 existing conditions, uses and character of the area. A temporary pier, dock or wharf in non-tidal waters shall not be wider than six feet for non-commercial uses.

5. No new structure shall be built on, over or abutting a pier, wharf, dock or other structure extending beyond the normal high-water line of a water body or within a wetland unless the structure requires direct access to the water body or wetland as an operational necessity.
6. New permanent piers and docks on non-tidal waters shall not be permitted unless it is clearly demonstrated to the Planning Board that a temporary pier or dock is not feasible and a permit has been obtained from the Department of Environmental Protection pursuant to the Natural Resources Protection Act.
7. No existing structures built on, over or abutting a pier, dock, wharf or other structure extending beyond the normal high-water line of a water body or within a wetland shall be converted to residential dwelling units in any district.
8. Except in the Commercial District, structures built on, over or abutting a pier, wharf, dock or other structure extending beyond the normal high-water line of a water body or within a wetland shall not exceed twenty (20) feet in height above the pier, wharf, dock or other structure. New permanent structures projecting into or over water bodies shall require a permit from the Department of Environmental Protection pursuant to the Natural Resources Protection Act, 38 M.R.S.A., Section 480-C. Permits may also be required from the Army Corps of Engineers if located in navigable waters.

#### **D. Campgrounds**

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

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

#### **E. Individual - Private Campsites**

Individual-private campsites not associated with campgrounds are allowed provided the following conditions are met:

1. One campsite per lot existing on the effective date of this Ordinance, or thirty thousand (30,000) square feet of lot area within the shoreland zone, whichever is less, may be permitted.
2. Campsite placement on any lot, including the area intended for a recreational vehicle or tent platform, shall be set back one hundred (100) feet, horizontal distance, from the normal high-water line of a great pond classified GPA or river flowing to a great pond classified GPA, and seventy-five (75) feet, horizontal distance, from the normal high-water line of other water bodies, tributary streams, or the upland edge of a wetland.

3. Only one recreational vehicle shall be allowed on a campsite. The recreational vehicles shall not be located on any type of permanent foundation except for a gravel pad, and no structure(s) 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, except that in the Commercial District parking areas shall be set back at least twenty-five (25) feet, horizontal distance, from the shoreline. The setback requirement for parking areas serving public boat launching facilities, in Districts other than the Commercial District shall be reduced to no less than fifty (50) feet, horizontal distance, from the shoreline or tributary stream normal high-water line or upland edge of a wetland if the Planning Board finds that no other reasonable alternative exists further from the shoreline or tributary stream.
2. Parking areas shall be adequately sized for the proposed use and shall be designed to prevent stormwater runoff from flowing directly into a water body, tributary stream or wetland and where feasible, to retain all runoff on-site.

3. In determining the appropriate size of proposed parking facilities, the following shall apply:
  - (a) Typical parking space: Approximately ten (10) feet wide and twenty (20) feet long, except that parking spaces for a vehicle and boat trailer shall be forty (40) feet long and except that up to 50% of parking spaces may be for smaller cars sized 9 feet wide by 18 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 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 its 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 short segments of less than two hundred (200) feet.
6. In order to prevent road and driveway surface drainage from directly entering water bodies, roads shall be designed, constructed, and maintained to empty onto an unscarified buffer strip at least (50) feet plus two times the average slope, in width between the outflow point of the ditch or culvert and the normal high-water line of a water body, tributary stream, or upland edge of a wetland. Road 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.

| <u>Grade<br/>(Percent)</u> | <u>Spacing<br/>(Feet)</u> |
|----------------------------|---------------------------|
| 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 road sections having slopes greater than ten (10) percent, ditch relief culverts shall be placed across the road at approximately a thirty (30) degree 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 or 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, 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 Commercial District and the Limited Commercial Districts 'A' and 'B', 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) feet in area.
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.
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 stormwater.
2. Storm water runoff control systems shall be maintained as necessary to ensure proper functioning.

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

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

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#### **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 roadside distribution lines, is not allowed in a Resource Protection or Stream Protection District, except to provide services to a permitted use within said district, or except where the applicant demonstrates that no reasonable alternative exists. Where allowed, such structures and facilities shall be located so as to minimize any adverse impacts on surrounding uses and resources, including visual impacts.
3. Damaged or destroyed public utility transmission and distribution lines, towers and related equipment may be replaced or reconstructed without a permit.

#### **M. Mineral Exploration and Extraction**

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

Mineral extraction may be permitted under the following conditions:

1. A reclamation plan shall be filed with, and approved by, the Planning Board before a permit is granted. Such plan shall describe in detail procedures to be undertaken to fulfill the requirements of Section 15(M)(3) below.
2. No part of any extraction operation, including drainage and runoff control features shall be permitted within one hundred (100) feet, horizontal distance, of the normal high-water line of a great pond classified GPA or a river flowing to a great pond classified GPA, and within seventy-five (75) feet, horizontal distance, of the normal high-water line of any other water body, tributary stream, or the upland edge of a wetland. Extraction operations shall not be permitted within fifty (50) feet 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.

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

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- 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 resided 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 *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.

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(Assistance in preparing a conservation plan may be available through the local Soil and Water Conservation District office.)

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- 4. There shall be no new tilling of soil within one-hundred (100) feet, horizontal distance, of the normal high-water line of a great pond classified GPA; within seventy-five (75) feet, horizontal distance, from other water bodies and coastal wetlands; nor within twenty-five (25) feet, seventy-five (75) feet of any property line, without written permission of the owner of such adjacent property.
- 5. Newly established livestock grazing areas shall not be permitted within one hundred (100) feet, horizontal distance, of the normal high-water line of a great pond classified GPA; within seventy-five (75) feet, horizontal distance of other water bodies and coastal wetlands, nor; within twenty-five (25) feet, horizontal distance, of tributary streams and freshwater wetlands. Livestock grazing associated with ongoing farm activities, and which are not in conformance with the above setback provisions may continue, provided that such grazing is conducted in accordance with a conservation plan.

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NOTE: 17 M.R.S.A. section 2805(4) requires a municipality to provide the Commissioner of Agriculture, Food and Rural Resources with a copy of any proposed ordinance that impacts farm operations. The law further requires the Commissioner to review the proposed ordinance and advise the municipality if the proposed ordinance would restrict or prohibit the use of best management practices. A copy of a shoreland zoning ordinance that regulates no more restrictively than contained in these Guidelines need not be provided to the Commissioner of Agriculture, Food and Rural Resources.

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**O. Timber Harvesting**

Repealed on June 10, 2015 in accordance with 38 MRSA Section 438-B (5). Timber harvesting is now under the jurisdiction of the Maine Forest Service.

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

1. In a Resource Protection District abutting a great pond, there shall be no cutting of vegetation within the strip of land extending 75 feet, horizontal distance, inland from the normal high-water line, except to remove 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 Paragraph 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 to 1.5 feet Above

| <u>Ground Level (inches)</u> | <u>Points</u> |
|------------------------------|---------------|
| 2 - < 4 in.                  | 1             |
| > 4 - < 8 12 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.

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

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

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

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The following shall govern in applying this point system:

- (1) The 25-foot by 50-foot rectangular plots must be established where the landowner or lessee proposes clearing within the required buffer;
- (2) Each successive plot must be adjacent to, but not overlap, a previous plot;
- (3) Any plot not containing the required points must have no vegetation removed except as otherwise allowed by this Ordinance;
- (4) Any plot containing the required points may have vegetation removed down to the minimum points required or as otherwise allowed by this Ordinance;
- (5) 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 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) above ground level for each 25-foot by 50-foot rectangle area. If five saplings do not exist, no woody stems less than two (2) inches in diameter can be removed until 5 saplings have been recruited into the plot.

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

- c. In order to protect water quality and wildlife habitat, existing vegetation under three (3) feet in height and other ground cover, including leaf litter and the forest duff layer, shall not be cut, covered or removed, except to provide for a footpath or other permitted uses as described in Section 15(P) paragraphs 2 and 2a. above.
- d. Pruning of tree branches, on the bottom one-third 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 Commercial District.

4. Legally existing nonconforming cleared openings may be maintained, but shall not be enlarged, except as allowed by this Ordinance.
5. Fields and other cleared openings which have reverted to primarily shrubs, trees, or other woody vegetation shall be regulated under the provisions of Section 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 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 riprap.
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. Drainage ways shall be designed and constructed in order to carry water from a twenty five (25) year storm or greater, and shall be stabilized with vegetation or lined with rip-rap.

#### **R. Soils**

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

#### **S. Water Quality**

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

#### **T. Archeological Sites**

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

### **Section 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 MRSA 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 being 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 water course.
2. A permit is not required for an archeological excavation as long as the excavation is conducted by an archeologist listed on the State House 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 ordinances.

## **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 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 flood plain 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 floodplain 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 three feet above the 100-year floodplain elevation; and the development is otherwise in compliance with any applicable municipal floodplain ordinance.

And for **substantial improvements** of existing buildings in tidal water 100 year floodplains and in fresh water 100 year floodplains, all buildings, including basements, are elevated at least one foot above the 100 year floodplain elevation; and the development is otherwise in compliance with any applicable municipal floodplain 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 floodplain.

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 floodplain, 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 ~~no~~ 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. Following installation of service, the company or district shall forward the written authorization to the municipal officials, indicating that installation has been completed.

## **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 to 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:
  - (1) 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
  - (2) The strict application of the terms of this Ordinance would result in undue hardship. The term "undue hardship" shall mean:
    - (a) That the land in question cannot yield a reasonable return unless a variance is granted;
    - (b) That the need for a variance is due to the unique circumstances of the property and not to the general conditions in the neighborhood;
    - (c) That the granting of a variance will not alter the essential character of the locality; and

(d) That the hardship is not the result of action taken by the applicant or a prior owner.

- d. Notwithstanding Section 16(H)(2)(c)(2), 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 of 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 a 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 of 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

- (1) An administrative or variance appeal may be taken to the Board of Appeals by an aggrieved party from any decision of the Code Enforcement Officer or the Planning Board, 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.

- (2) Applications for appeals shall be made by filing with the Board of Appeals a written notice of appeal which includes:
  - (a) A concise written statement indicating what relief is requested and why the appeal or variance should be granted.
  - (b) A sketch drawn to scale showing lot lines, location of existing buildings and structures and other physical features of the lot pertinent to the relief sought.
- (3) Upon receiving an application for an administrative appeal or a variance, the Code Enforcement Officer or Planning Board, as appropriate, shall transmit to the Board of Appeals all of the papers constituting the record of the decision appealed from.
- (4) The Board of Appeals shall hold a public hearing on an administrative appeal or a request for a variance within thirty-five (35) days of its receipt of a complete written application, unless this time period is extended by the parties.

b. Decision by Board of Appeals

- (1) A majority of the full voting membership of the Board shall constitute a quorum for the purpose of deciding an appeal..
- (2) The person filing the appeal shall have the burden of proof.
- (3) The Board shall decide all administrative appeals and variance appeals within thirty five (35) days after the close of the hearing, and shall issue a written decision on all appeals.
- (4) The Board of Appeals shall state the reasons and basis for its decision, including a statement of 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 vote to reconsider and the action 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, MRSA Section 4452.

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NOTE: Current penalties (2008) 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 MRSA Section 4452).

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## **Section 17. Definitions**

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

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

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

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

**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 (before development) ground level.

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

**Bureau** - State of Maine Department of Conservation's Bureau of Forestry.

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

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

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

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

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**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.

**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 lots 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.

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

**Footprint** – The entire area of ground covered by the structures on a premises, including cantilevered or similar overhanging extensions, as well as unenclosed structures, such as patios and decks.

**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 and inland waters and which cannot be located away from these waters. The uses include, but are not limited to commercial and recreational fishing and boating facilities (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 aides, basins and channels, industrial uses dependent upon water-borne transportation or requiring large volumes of cooling or processing water and which cannot reasonably be located or operated at an inland site, and uses which primarily provide general public access to marine or tidal 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 Title 38 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, pine needles and twigs and the partially decayed organic matter of the forest floor.

**Height of a structure** - the vertical distance between the mean original grade at the downhill side of the structure and the highest point of the structure, excluding chimneys, steeples, antennas, and similar appurtenances which 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 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 the water body, tributary stream or wetland. Included in this allowance are expansions which in-fill irregularly shaped structures.

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

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

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

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

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

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

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

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

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

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

**Native** - indigenous to the local forests.

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

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

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

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

**Non- Sewered** - Lots not served by the Municipal Sewer System and requiring a subsurface disposal system.

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

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

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

**Piers, docks, wharfs, 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 flood plain 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 flood plain wetlands from that point at which it provides drainage for a watershed of twenty five (25) square miles to its mouth.

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

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

**Salt meadow** - Areas of a coastal wetland that support salt tolerant plant species bordering the landward side of salt marshes or open coastal water, where the soil is saturated during the growing

season but which is rarely inundated by tidal water. Indigenous plant species include salt meadow cordgrass (*Spartina patens*) and black rush; common three square occurs in fresher areas.

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

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

**Sewered** - Lots serviced by the Great Salt Bay Sanitary District.

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

**Shoreland zone** - the land area located within two hundred and fifty (250) feet, horizontal distance, of the normal high-water line of any great pond or river within 250 feet, horizontal distance, of the upland edge of a coastal wetland, including all areas affected by tidal action; within 250 feet of the upland edge of a freshwater wetland; or within seventy-five (75) feet, horizontal distance, of the normal high-water line of a stream.

**Shoreline** - the normal high-water line or upland edge of a freshwater or coastal wetland.

**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 temporarily or permanently located, built, constructed or erected 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 waster 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; pre-treatment filter; piping or any other fixture, mechanism or apparatus used for those purposes; does not include any discharge system licensed under 38 M.R.S.A. Section 414, any surface waste water disposal system or any municipal or quasi-municipal sewer or waste water treatment system.

**Sustained slope** - a change in elevation where the referenced percent grade is substantially maintained or exceeded throughout the measured area.

**Tidal waters** - all waters affected by tidal action during the maximum spring tide.

**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 presence of a bed, devoid of topsoil, containing waterborne deposits or exposed soil, parent material or bedrock; and which is connected hydrologically with other water bodies. "Tributary stream" does not include rills or gullies forming because of accelerated erosion in disturbed soils where the natural vegetation cover has been removed by human activity.

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

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

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

**Velocity zone** - an area of special flood hazard extending from offshore to the inland limit of the primary frontal dune along an open coast and any other area subject to high velocity wave action from storms or seismic sources.

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

**Water body** - any great pond, river or stream.

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

**Wetland** - a freshwater or coastal wetland.

**Woody vegetation** - live trees or woody, non-herbaceous shrubs.

The enactment of this ordinance hereby revises the Shoreland Zoning Ordinance for the Town of Damariscotta, Maine, enacted on June 14, 2017.

Robin Mayer  
Robin Mayer

Ronn Orenstein  
Ronn Orenstein

Mark Hagar  
Mark Hagar

Amy Leshure  
Amy Leshure

Louis F Abbotoni  
Louis F Abbotoni

Board of Selectmen  
Town of Damariscotta

Attest: A true copy of an ordinance entitled "Shoreland Zoning Ordinance for the Town of Damariscotta, Maine," enacted March 21, 2018, as certified to me by the municipal officers of Damariscotta, Maine on the 4<sup>th</sup> day of April, 2018.

Cheryl Pirkham  
Cheryl Pirkham, Deputy Clerk  
Damariscotta, Maine

ATTEST: A TRUE COPY  
Cheryl Pirkham  
4/5/18 DATE



## Chapter 107

### SIGNS

#### §107-1. Purpose

The purpose of this Ordinance is to preserve the character of Damariscotta in concert with securing the safety and well-being of its residents by the regulation of signs.

#### §107-2. Definitions

**BANNER:** Any sign of lightweight fabric or similar material that is mounted to a pole or a building at one or more edges. For purposes of this Ordinance, national, state, or municipal flags, or the official flag of any institution or business, shall be considered banners.

**BUSINESS:** An independent retail, professional, service, commercial, industrial or not-for-profit activity that controls its own decisions and, if a for-profit enterprise, pays its own individual sales tax to the State.

**CHANGEABLE SIGN, ELECTRONICALLY (DIGITALLY):** An on-premise sign created, designed, manufactured or modified in such a way that its message may be electronically or digitally altered by the complete substitution or replacement of one display by another on one side or both sides of the sign.

(a) Display means that portion of the surface area of a changeable sign that is or is designed to be or is capable of being periodically altered for the purpose of conveying a message.

(b) Message means a communication conveyed by means of a visual display of text that includes letters and numbers (of all styles) or symbols characteristically found on a computer keyboard.

(c) Sign assembly means the display, border, trim and all supporting apparatus, including posts, columns, pedestals and foundation.

(d) Time and temperature sign means an electronically changeable sign that displays the time and temperature by the complete substitution or replacement of a display showing the time with a display showing the temperature.

**CHANGEABLE SIGN, MANUALLY:** An on-premise sign designed, manufactured or modified in such a way that its text or symbols may be manually substituted in part or as a whole by other text or symbols.

**SIGN:** Any device, fixture, placard, or structure that uses any color, form, graphic, 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, including portable signs and also including a sign located inside a window or door so that it is visible from the exterior of the building. Brand names and logos that are integral parts of goods to be sold and small

informational placards decals (e.g. open/close, private parking and business hours placards) are not considered signs under this Ordinance.

**SIGN, FREESTANDING:** A sign supported by one or more upright poles, columns, braces or structure anchored in the ground and not attached to any building or other structure.

**SIGN, INFLATABLE:** A balloon type sign made of flexible material into which air, helium, or other gas is pumped to fill it out and make it stand upright but including possibly waving or swaying.

**SIGN, LADDER (AKA Component Sign):** A sign with two or more signs attached to the same support.

**SIGN, OFF-PREMISE:** A sign that is not located on the same lot of record that the business, facility, or point of interest is located.

**SIGN, PORTABLE:** A sign that is not permanently attached to the ground or other permanent structure, or a sign designed to be transported, including, but not limited to, signs designed to be transported by means of wheels or trailers, balloons used as signs. Signs attached to or painted on vehicles parked and visible from the public right-of-way, unless said vehicle is used in the normal day-to-day operations of the business. For the purpose of this Ordinance, blackboard and sidewalk signs are not considered portable signs.

**SIGN, SIDEWALK:** A moveable sign, which may be an A-frame, easel, pedestal or similar type sign placed on the sidewalk or boulevard area within the public right-of-way or private property.

**SIGN, TEMPORARY:** Any sign of a temporary nature, displayed less than 30 days within any 12-month period, including but not limited to the following: political signs, charitable signs, fundraising signs, construction signs, carnival signs, garage sales, lawn sales, rummage sales and all signs advertising sales of real estate and personal property, and for-rent signs. Any exterior sign displayed by an ongoing business on the business' premises in which the written or printed (non-electronic) message changes while the structure of the sign remains unchanged shall not be considered a Temporary Sign. For example, chalkboards and signs with removable (non-electronic) lettering shall not be considered Temporary Signs.

**SIGN, WAY-FINDING:** A Town approved sign that directs the public to public or private facility.

### **§107-3. Permit Required**

(a) Except as provided in §107-4(e) and §107-5, no person, firm, or corporation(s) shall hereafter significantly alter any sign or sign structure, erect, hang, or place any type of signage without a permit first having been issued by the Code Enforcement Officer (CEO).

(b) The permit fee for all new signs shall be as set forth on the Town Fee Schedule.

(c) Failure to obtain a permit prior to altering a sign or structure, or erecting, placing, or hanging a sign shall be subject to a permit fee two times the scheduled fee.

(d) Every application for a sign permit shall be accompanied by plans to scale: showing the area of the sign, position of the building/structure/lot upon which the sign is to be attached or erected, method of illumination, if any, other information such as (but not limited to) its materials.

(e) The CEO shall require the applicant to show full compliance with this and all other laws and ordinances of the Town. If the sign is in compliance with all such requirements and laws, the permit shall be issued.

#### **§107-4. Permitted Signs by District – and Regulations**

Signs on properties within the Shoreland Zone shall conform to the sign requirements of the Shoreland Zoning Ordinance (Section 15.I), except that within the Shoreland “Commercial” District the regulations of §107-4(c) of this Ordinance shall govern, and within the Shoreland “Medical Facility” District, §107-4(b) of this Ordinance shall govern.

The following designates the permitted specifications of signs in each district:

##### **(a) General Residential and Rural Districts**

(1) For an allowed use conducted on the premises, one on-premise sign per abutting street, with a maximum area of sixteen square feet per sign. The top of any portion of a sign shall be no more than 9 feet above the ground.

(2) For approved subdivisions, one permanent sign designating the name of the subdivision with a maximum height of nine (9) feet measured from the ground to top of the highest support or top of sign, with a maximum sign area of 32 square feet.

(3) For home occupations, one on-building sign, with a maximum sign area of six (6) square feet.

(4) The setback of all free-standing signs shall be at least 5 feet from the edge of the right-of-way of roads and the minimum designated setback for structures from side and rear lot lines of the District in which the sign is located.

(5) No signs shall be illuminated internally. Externally lighted signs shall be lighted from above by full cut-off fixtures (i.e. ‘down-lighted’) and shall be supplied with a timer to be automatically turned-off between 11 PM and 7AM. Flashing signs are prohibited.

(b) Municipal and Shoreland “Medical Facility” Districts. It is the intent to allow flexibility in the design of signs for uses in these Districts. Signs are encouraged to be in keeping with those in current and historic use.

(c) Downtown Commercial C1 District. An allowed separate use or business situated on its own individual lot may have up to two on-premise signs per separate use or business per each of the four sides of the building.

(1) The maximum size of any sign shall be 32 square feet.

(2) Electronically changeable (digital) signs and flashing signs are prohibited.

(3) In addition to any other permitted signs per business, one (1) freestanding sidewalk sign up to 20" x 28" in size may be permitted for each allowed separate use or business, with a permit from the CEO, on the business' own private property or on the public sidewalk abutting the business. In determining whether to issue a permit, the CEO shall consider pedestrian and vehicle safety. Sidewalk signs on the public sidewalk shall be placed at least 3 feet from the curb and from each other and not obstruct pedestrian or wheelchair circulation. Sidewalk signs shall be removed from public sidewalks during high wind, snow removal and at the closing time of the business every day and stored on private property until the business re-opens. The Code Enforcement Officer or a Police Officer may require sand bag or comparable stabilization of sidewalk signs that repeatedly fall over or move in the wind thereby presenting a public safety hazard.

(4) To the extent permitted by State law, in addition to any other permitted signs, all separate uses or businesses, including professional offices, in the C1 District located away from Main Street may have one off-premises sidewalk sign up to 20" x 28" in size that may be allowed with a permit from the CEO on the public sidewalk of Main Street. In determining whether to issue a permit, the CEO shall require the applicant of the use or business to consider pedestrian and vehicle safety and secure the permission in writing of the property owner in front of which the off-premises sign is to be located. Placement of off-premises sidewalk signs shall also be subject to the regulations of §107-4(c)(3).

(5) In addition to any other permitted signs, a single blackboard sign per use or business shall be allowed on which the message may change, located near an entrance and attached to a building for the purpose of posting information. Such messages may include, but are not limited to, menus, specials, new products, sales, real estate listings or sample designs, provided the sign does not exceed six square feet.

(6) In addition to any other permitted signs, businesses, including professional offices, in the C1 District located away from Main Street may have one component or ladder sign that names the business or profession and indicates the direction to the business or profession. The sign may be up to 32 square feet in total display area, on the public right-of-way of Main Street, or on private property on Main Street, so long as all the public safety measures as for sidewalk signs are maintained. Component or ladder signs on private property, other than the property of the uses or businesses on the sign, shall have a letter from the private landowner hosting the sign approving of the sign.

(7) For Home Occupations, one on-building or free standing sign with a maximum sign area of six square feet shall be allowed.

(8) Externally lighted signs are required to be lighted from above (i.e., down-lighted) to minimize glare onto motorists and pedestrians.

(d) Other Commercial C2 District

An allowed separate use, business or professional office, situated on its own individual lot may have:

(1) No more than two on-premise signs per each separate street frontage with a maximum area of 100 square feet display area for each separate sign. The highest portion of any sign shall be no more than 20 feet above the ground.

(2) Flashing signs are prohibited.

(3) Signs by the road of establishments with multiple businesses are encouraged to be combined together in a single location and coordinated together. A combined sign may take the form of a component or ladder sign.

(4) One of the total permitted signs per business on a property may be manually or electronically changeable. Electronically changeable signs may be double-sided and free-standing or may be single-sided. Such signs may be embedded into and be a constituent part of a larger non-illuminated sign. (See §107-4(f) for electronically changeable sign requirements.)

(5) All electronically changeable signs shall be programmed to be turned down to 50 percent or less of their maximum illuminating power between 11 PM and 7 AM.

(6) Externally lighted signs are required to be lighted from above (i.e., down-lighted) to minimize glare onto motorists and pedestrians.

(7) For home occupations, one on-building or free-standing sign with a maximum sign area of six square feet is permitted.

(8) Inflatable signs may be allowed only in the C2 Commercial District by a permit from the CEO for no more than one five-day consecutive period per calendar year. Inflatable signs shall be located at least 200 feet from any public or private road.

(e) Other Allowed Signs – All Districts (No Permit Required)

(1) Any sign that was lawfully in existence prior to the date of the adoption of this Ordinance is permitted. However, any change in size, construction, location, or lighting that significantly changes the visual impact of said sign shall constitute a new sign and such change shall be governed by the terms of this Ordinance. Change alone of style, design or content of wording or graphic display shall not constitute a “significant change” for the purposes of this Ordinance. The interpretation of this provision shall be in the sole discretion of the CEO. Sidewalk signs are not “grandfathered”; see §107-4(c) (3) and (4).

(2) House addresses, family name signs, and no trespassing signs and historic markers or plaques.

(3) Traffic control signs, handicapped access signs or signs at schools and all other municipal buildings intended to identify public hazards or ensure and promote public safety. These signs may be electronically changeable or manually changeable.

(4) Signs of a business that are painted on, affixed to, or placed behind a window for the purpose of exterior display. No window signs shall flash or emit nuisance level brightness.

(5) Informational and directional signs concerning hospitals, emergency medical care facilities, handicapped or way-finding signs.

(6) Signs to direct vehicles and/or pedestrians to or within private or public property, provided the signs are no larger than 6" by 18".

(7) Banners and flags are permitted but shall not be placed in a manner or in a location that obstructs pedestrian walkways or vehicular traffic or otherwise compromises public safety.

(f) Electronically (Digitally) Changeable Signs

Changeable Signs shall conform to 23 M.R.S.A. §1914 (11-A). In addition:

(1) Changeable display area of a single sign shall be allowed up to 24 square feet within an overall changeable sign surface of up to 32 square feet per side (i.e., the digital display area may cover up to 75 percent of a 32 square foot overall sign).

(2) The highest point of the display of a changeable sign may not exceed a height of 20 feet above either the centerline of the nearest public way (if the public way is within 50 feet of the sign) or actual ground level adjacent to the sign, whichever is lower.

(3) Electronically changeable signs (that may change at any frequency but that do not flash) are allowed at gas stations to announce the current price of gasoline. Such signs require a permit from the CEO.

(4) The display on a changeable sign may be changed no more frequently than once every 30 minutes, except for changeable signs at gas stations.

(5) When an electronic changeable sign transitions from one display to the next, it must change as rapidly as technologically practicable. The display is permitted to change through phasing, rolling, scrolling or blending. The display is prohibited from flashing.

(6) All electronically changeable signs shall be turned down to 50 percent or less of their daytime illumination between 11 PM and 7 AM.

**§107-5. Temporary Signs**

A temporary sign, as defined in this Ordinance, shall not require a permit. A temporary sign shall not exceed six square feet in sign area and shall not be illuminated. Temporary signs shall be placed so as not to be hazardous to public safety. If deemed hazardous to public safety by the CEO or a Damariscotta Police Officer, the CEO or Police Officer is authorized to require relocation to the nearest place that secures public safety.

#### **§107-6. Prohibited Signs**

(a) Electronically (Digitally) Changeable Signs are prohibited in all Districts except as expressly permitted in this Ordinance.

(b) Obsolete Signs. Any sign now or hereafter existing that no longer advertises a bona fide business conducted, product sold, or activity or campaign being conducted shall be taken down and removed by the owner, agent, or person having the beneficial use of the building, structure, or lot upon which such sign may be found. If not removed within 10 days after written notification from the CEO, failure to comply with such notice constitutes a violation of the terms of this Ordinance.

(c) Billboards, animated signs, flashing signs, searchlight signs throwing images skyward, rotating and other signs with moving parts and portable signs are prohibited in all zones.

(d) Sidewalk signs are prohibited on any public or private way, except as permitted under §§107-4(c)(3) and (4), in Commercial C-1 District.

(e) Any portion of any sign is prohibited above 20 feet above the ground.

#### **§107-7. Administration**

(a) The CEO is authorized to review and act on all applications for a sign permit pursuant to this Ordinance. In considering sign permit applications, the CEO may act to approve, disapprove, or approve with variances as authorized by the Board of Appeals. All work on installing or modifying signs shall be carried out in accord with the documentation submitted on a sign permit approved and signed by the CEO.

(b) The CEO and Police officers are authorized to approve minor adjustments in the field to any existing signs and to monitor the public safety of all signs and require relocation if it is determined that public safety is endangered.

#### **§107-8. Appeals and Variances**

Variance and administrative appeals may be brought by appellants concerning the interpretation and administration of this ordinance in accordance with of the appeal provisions in the Damariscotta Land Use and the Board of Appeals Ordinances.

#### **§107-9. Enforcement**

(a) Nuisances. Any violation of this Ordinance shall be deemed to be a nuisance.

(b) Code Enforcement Officer

(1) This ordinance shall be administered and enforced by the Town's CEO. If the CEO shall find that any provision of this Ordinance is being violated, the CEO shall notify in writing the person responsible for such violation, indicating the nature of the violation and ordering the action necessary to correct it, including discontinuance of illegal use of a sign. A copy of such notices shall be maintained as a permanent record.

(2) The CEO shall conduct on-site inspections to insure compliance with all applicable laws and conditions attached to sign permit approvals. The CEO shall also investigate all complaints of alleged violations of this Ordinance. The CEO shall keep a complete record of all essential transactions of the office, including applications submitted, permits granted or denied, variances granted or denied, revocation actions, revocation of permits, appeals, court actions, violations investigated, violations found, and fees collected.

(3) The CEO shall be responsible for administering the provisions of this ordinance, including interpreting the provisions hereof. Any person who believes that the CEO has made an error in the interpretation or application of the provisions of this ordinance may appeal, within the time limits for such appeals, such determination to the Board of Appeals as an administrative appeal. If the Appeals Board finds that the CEO erred in interpretation of the ordinance, it shall modify or reverse the action accordingly.

(c) Legal Actions

When the above action does not result in the correction or abatement of the violation or nuisance condition, the Board of Selectmen or 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 Town. The Board of Selectmen 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 sign to continue unless there is clear and convincing evidence that the illegal sign was constructed as a direct result of erroneous advice given by an authorized municipal board or official and there is no evidence that the owner acted in bad faith, or unless the removal of the sign will result in a threat or hazard to public health and safety or will result in substantial environmental damage

(d) Fines

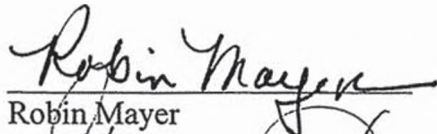
Any person, including but not limited to a landowner, a landowner's agent or a contractor, who orders or conducts any activity in violation of this Ordinance shall be penalized in accordance with Title 30-A, Maine Revised Statutes Annotated, Subsection 4452.



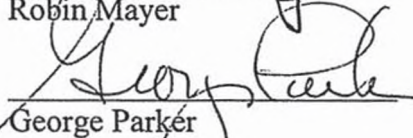
**§107-10. Severability**

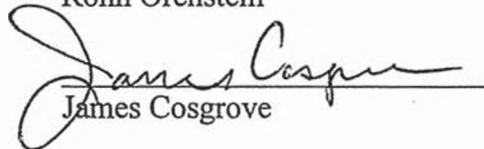
Should any section or provision of this Ordinance be declared by the courts to be invalid, such decision shall not invalidate any other section or provision of this Ordinance.

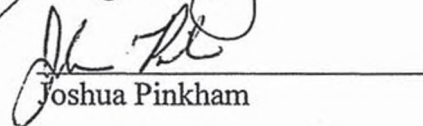
The enactment of this Ordinance hereby creates the Damariscotta Sign Ordinance.

  
Robin Mayer

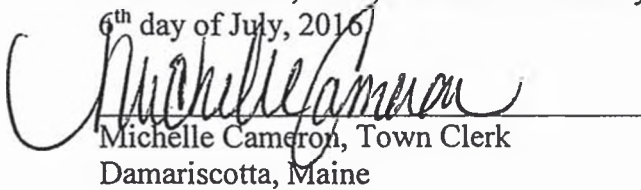
  
Ronn Orenstein

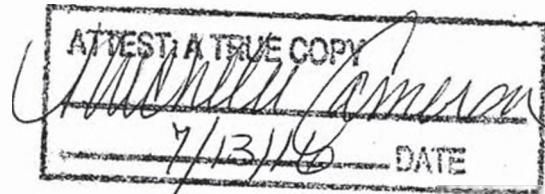
  
George Parker

  
James Cosgrove

  
Joshua Pinkham

Attest: A true copy of an ordinance entitled "Sign Ordinance" for the Town of Damariscotta, Maine-June 15, 2016, as certified to me by the municipal officers of Damariscotta, Maine on the 6<sup>th</sup> day of July, 2016

  
Michelle Cameron, Town Clerk  
Damariscotta, Maine

ATTEST: A TRUE COPY  
  
7/13/16 DATE

**Legislative History**

Enacted June 15, 2016, effective June 16, 2016



SITE PLAN REVIEW ORDINANCE  
TOWN OF DAMARISCOTTA  
June 13, 2018

TABLE OF CONTENTS

Section 1. AUTHORITY..... 2

Section 2. PURPOSE..... 2

Section 3. APPLICABILITY..... 3

Section 4. EFFECTIVE DATE..... 4

Section 5. AVAILABILITY..... 4

Section 6. SEVERABILITY..... 4

Section 7. CONFLICTS WITH OTHER ORDINANCES..... 4

Section 8. AMENDMENTS..... 4

Section 9. ADMINISTRATION..... 4

Section 10. PRE-APPLICATION AND APPLICATION PROCEDURES ..... 5

Section 11. PERFORMANCE STANDARDS..... 11

Section 12. LARGE-SCALE DEVELOPMENT ..... 26

Section 13. APPEALS AND VARIANCES..... 33

Section 14. ENFORCEMENT..... 34

Section 15. DEFINITIONS..... 35

- Amended June 13, 2018: Effective Date June 13, 2018\*
- Amended June 15, 2016: Effective Date June 15, 2016
- Revised July 1, 2015: Effective Date July 1, 2015
- Revised March 16, 2011: Effective Date March 16, 2011
- Revised January 21, 2009: Effective Date January 21, 2009
- Revised June 13, 2007: Entire Ordinance; Effective Date June 13, 2007.
- Revised June 13, 2006: Effective Date June 13, 2006
- Amended June 12, 2002; Effective Date June 18, 2002.
- Revised December 30, 1998: Section 10(A)(2)(b),(c), (d), € and Section 13, Downtown Commercial Area.
- Enacted March 26, 1994; Effective Date April 28, 1994.

ATTEST: A TRUE COPY  
*[Signature]*  
 7/5/18 DATE

\*Amended Sections 10.H.1 and 2 concerning time period for Board to issue a Notice of Decision for an approved site plan (p.10); and Section 11 on requiring submittal of a site plan fully conforming to the ordinance before submittal of a second plan that proposes any waivers sought (p. 11).

**SITE PLAN REVIEW ORDINANCE  
TOWN OF DAMARISCOTTA**

**Section 1. AUTHORITY**

This ordinance is enacted pursuant to the authority given the Town in MRSA Title 30-A, Section 3001.

**Section 2. PURPOSE**

Substantial development or major changes in the use of land cause a profound impact on the cost and efficiency of municipal services and on the environment of the town. Such development can have adverse impact on schools, sewers, water lines, and other public utilities; recreational facilities; liquid and solid waste disposal; police and fire protection; open space; road systems and circulation; traffic congestion, safety and access; emergency access; placement of buildings and structures; property values; water supply and quality; management of storm water, erosion, and sedimentation; protection of the groundwater; protection of historic and archaeological resources; adverse impacts upon adjacent properties, the visual characteristics of the neighborhood and Town. The site plan review provisions set forth in this ordinance are intended to protect the public health and safety, promote the general welfare of the community, and conserve the environment, wildlife habitat, fisheries, and unique natural areas; and to fit the project harmoniously into the fabric of the community by assuring that the following objectives are accomplished with the least possible regulation:

- A. To minimize impacts caused by nonresidential, multifamily residential, and other developments described in Section 3, in a manner, which assures that adequate provisions are made for all of the concerns, listed above.
- B. To establish a Site Review procedure whereby Town officials may review new proposals to use land and buildings for uses listed in paragraph A. above.
- C. To establish a fair and reasonable set of standards for evaluating each development proposal impartially on its own merits;
- D. To provide a Public Hearing process where required by the Ordinance through which town residents may raise questions and receive answers about how new development proposals would affect them;
- E. To suggest ways in which development proposals may be modified so that potential problems and nuisances can be minimized or eliminated;
- F. To exempt conventional lot by lot residential subdivisions already regulated under the town's Subdivision Ordinance, and other residential uses described in Section 3.
- G. To exempt all existing land uses and development from this review procedure, except where physical expansion or significant changes of use are proposed, or where new materials and processes are proposed;
- H. To balance the right of land owners to use their land for purposes stated in Section 2(G) above, with the corresponding right of abutting and neighboring land owners and other citizens of the Town to live without undue disturbance from noise, smoke, fumes, dust, odor, glare, traffic, or storm water runoff, or the pollution of ground or surface water resources.

- I. To provide local protection from those particular nuisances which are not governed by State law or regulations;
- J. To protect property values;

**Section 3. APPLICABILITY**

**A. This Ordinance shall apply to:**

- 1. Proposals for new construction of nonresidential buildings or structures and of multifamily dwellings, including accessory buildings and structures.
- 2. Proposals for enlargement of or significant change of use of nonresidential buildings or structures and of multifamily dwellings, including accessory buildings and structures.
- 3. Proposals for conversion of existing single and two-family residential structures to non-residential or multifamily dwelling uses including accessory buildings and structures.
- 4. Proposals to pave or create impervious surface of more than 10,000 square feet in the aggregate, for non-residential or multifamily dwelling uses.
- 5. Proposals to strip, grade, remove or fill earth materials of more than 20,000 square feet in area in the aggregate.
- 6. Previously conforming uses which have been discontinued for a period of 12 months or more. Such uses cannot be renewed without review by the Code Enforcement Officer to assure conformance with all applicable ordinances.
- 7. Non-conforming uses which have been discontinued for a period of twelve months or more. Such uses cannot be renewed except as provided for under the Damariscotta Shoreland Zoning Ordinance and other ordinances of the Town as applicable.
- 8. All construction and expansion of wireless telecommunication facilities except as provided in Section 3.B

**B. The following are exempt from the provisions of this ordinance:**

- 1. Emergency Wireless Telecommunications Facility.
- 2. Temporary wireless communication facilities for emergency communications by public officials.
- 3. Amateur (ham) radio stations licensed by the Federal Communications Commission (FCC).
- 4. Parabolic Antennas less than seven (7) feet in diameter, that are an accessory use of the property.
- 5. Maintenance, repair or reconstruction of a wireless telecommunications facility and related equipment, provided that there is no change in the height or any other dimension of the facility.

6. Temporary wireless telecommunications facility, in operation for a maximum period of one hundred eighty (180) days.
7. An antenna that is an accessory use to a residential dwelling unit.
8. Single-family detached dwellings
9. Home occupations
10. Two-family dwellings
11. Agricultural land management practices and forest management practices, exclusive of associated structures or buildings.
12. Ordinary repair and maintenance.

**Section 4. EFFECTIVE DATE**

The effective date of this ordinance is June 13, 2007.

**Section 5. AVAILABILITY**

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

**Section 6. SEVERABILITY**

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

**Section 7. CONFLICTS WITH OTHER ORDINANCES**

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

**Section 8. AMENDMENTS**

This Ordinance may be amended by majority vote at any regular or special town meeting of Damariscotta.

**Section 9. ADMINISTRATION**

The Planning Board (Board) is authorized to review and act on all site plans for development requiring site plan review as defined above. In considering site plans under this provision, the Board may act to approve, disapprove, or approve with conditions as authorized by these provisions. No municipal permits shall be issued, nor construction work begun on any use or development covered by this Ordinance, as specified in Section 3, until the site plan of development has been approved by the Board. All work shall be carried out in accord with the documentation submitted and approved by the Board.

**Section 10. PRE-APPLICATION AND APPLICATION PROCEDURES:**

- A. General Pre-Application: The applicant shall obtain a Site Plan Application, fill it out to the maximum feasible extent and set a possible meeting date at the Town to review the Site Plan Review application. The project should be reviewed informally with Code Enforcement officer and Board Chairman (or Planner) to determine if it generally conforms to applicable ordinance requirements. If the project appears to conform to applicable ordinance requirements, the applicant shall complete a building permit application, provide supporting documents and pay only the Site Plan Application fee and submit it with the Site Plan Review Ordinance application.

To be placed on the agenda for Pre-Application Sketch plan review, the applicant shall contact the Town Office at least 10 days prior to meeting. If the agenda for said meeting is full, the Chair of the Planning Board may place the project on the agenda of the next available meeting. Refer to Pre-application Procedures below for required documents.

To submit an application for review, 10 copies of a completed application and supporting documents and plans (each in a bound, stapled or otherwise attached report) along with the Site Plan Review fee, must be submitted to the town office no later than 15 business days prior to the next regularly scheduled Planning Board meeting. If the agenda for said meeting is full, the project shall be placed on the agenda of the next available meeting.

- B. Pre-Application Procedures: The following procedures and requirements shall apply to all applications for Site Plan Review:
1. Prior to submitting an application for approval of the proposed use or construction the applicant may meet informally with the Board at a regular meeting to present a sketch plan and generally discuss the proposal and to obtain guidance in development of the plan. The sketch plan may be a freehand drawing and show:
    - a. The outline of the tract or parcel with estimated dimensions, road rights of way and existing easements;
    - b. North Arrow
    - c. The proposed layout of the building(s), driveways, and parking areas; identification of general areas of steep slopes, wetlands, streams, and flood plains;
    - d. Other information pertinent to the project;
  2. Upon written request by the applicant, the Board, at its discretion, may waive certain Submission Requirements specified in Section 10.E or 10.F due to the nature or size of the project.
  3. The Board shall indicate any additional studies and other approvals from local and regional and State agencies that may be required. Letters from these agencies shall be included as a part of the application and/or review.
  4. The Board may, at its discretion make an inspection of the site prior to submission of the application.
  5. Within 30 days from submission of a pre-application and sketch plan and following an on-site inspection, if applicable, the Board shall submit in writing to the applicant a

checklist of the specific information which shall be included in the formal application to the Board.

- C. Application Procedures: All applications for site plan review shall be made in writing to the Board on the forms provided for this purpose. The application shall be made by the owner of the property or his agent, as designated in writing by the owner; and shall be accompanied by the payment of an application fee to cover the administrative costs of processing the application. The Code Enforcement Officer and Planner (or Board Chairman) shall review all applications for completeness and other permitting requirements prior to giving them to the Board.
- D. Independent Consultants: A review escrow account may be established by the applicant for all projects that include a building greater than 1,000 sq.ft. or more than 2,500 sq.ft. of impervious surface or such other projects that the Planning Board determines will require review by a consultant. The review escrow fee shall be established by the Board of Selectmen. The review escrow fee shall be used by the Planning Board to pay for professional reviews and advice related to the proposed project as it deems necessary. The Planning 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. Once the review escrow account decreases to 25% of its original amount, further review of the project shall cease until the applicant replenishes the review escrow account to an appropriate amount. Those monies deposited by the applicant and not spent by the Board shall be returned to the applicant within 30 days after the Board renders its final decision on the application or when all invoices for consultant services have been paid, whichever occurs later.
- E. Submission Requirements (except Wireless Telecommunications facilities): The application shall include 10 copies of all of the following:
  - 1. A fully executed and signed copy of the application for site plan review.
  - 2. Evidence of right, title, or interest in the property such as deed, option to purchase, lease, or agreement.
  - 3. A site plan drawn at a scale sufficient to allow review of the items listed under the preceding general standards but not at more than 50 feet to the inch for that portion of the total tract of land being proposed for development, and showing the following:
    - a. Names and addresses of all abutters on the plan and names and addresses of all abutters on a separate listing.
    - b. Sketch map showing general location of the site within the town.
    - c. Boundaries of all contiguous property under the control of the owner or applicant regardless of whether all or part is being developed at this time.
    - d. The bearings and distances of all property lines and the source of this information. The Board may waive the requirement of a formal boundary survey when sufficient information is available to clearly establish, on the ground, all property boundaries.
    - e. Classification(s) of the property and the location of zoning district boundaries as applicable.
    - f. Soil types and location of soil boundaries suitable for waste water disposal as certified by a registered engineer or soil scientist.



- g. The location of all building setbacks required by this or other ordinances of the Town of Damariscotta.
  - h. The location, size, and character of all signs and exterior lighting.
  - i. The location of all existing and proposed buildings (including size and height), driveways, sidewalks, parking spaces, loading areas, open spaces, large trees, open drainage courses, signs, exterior lighting, service areas, easements, and landscaping; and wetlands and streams as identified by a wetlands scientist.
  - j. The location of all buildings within 50 feet of the parcel to be developed and the location of intersecting roads or driveways within 200 feet of the parcel.
  - k. Existing and proposed topography of the site at two foot contour intervals if major changes to the existing topography are being proposed.
4. A management plan in conformance with the provisions of Section 11.L.
5. An erosion and sediment control plan in conformance with the provisions of Section 11.M.
6. Building plans showing, at a minimum, floor plans and all elevations clearly indicating the type, color, and texture of all exterior surfacing materials of all proposed principal buildings and structures and all accessory buildings and structures.
7. Copies of any proposed or existing easements, covenants, deed restrictions, etc.
8. A list of all applicable State & Federal permits.
9. Identification of districts, sites, buildings, structures or objects, significant in American history, architecture, archaeology, engineering or culture, that are listed, or eligible for listing, in the National Register of Historic Places (see 16 U.S.C. 470w(5); 36 CFR 60 and 800).
10. Demonstration of financial and technical capacity to complete the project, as proposed, in accordance with this ordinance and the approved plan.
11. Location of any floodplains on the project parcel.
12. Soils test pit log demonstrating suitable soils for subsurface sewage disposal unless connection to a public sanitary sewer is proposed, in which case a letter from the Great Salt Bay Sanitary District attesting to its ability to accept sanitary wastes from the proposed development.
13. A phosphorus impact report if the project is within the watershed of a great pond.
14. An estimate of the amount of domestic water required for the project; if connection to the public water system is proposed, a letter from the Great Salt Bay Water District attesting to its ability to provide sufficient water to the project; if water is to be supplied by wells, the results of a hydrological study if required by the Planning Board.
15. Plan for supplying water for fire protection.

16. Letters from appropriate state authorities attesting to the project's impact, if any on historic, archaeological and rare or endangered plant or animal species on or in the vicinity of the project parcel.
  17. Demonstration that access to the site will be safe and will meet or exceed minimum required sight distance.
  18. Demonstration that the project will comply with applicable noise and air quality standards.
- F. Submission Requirements for Wireless Communication Facilities: The application shall include 10 copies of all of the following:
1. Documentation of the applicant's right, title, or interest in the property on which the facility is to be sited, including name and address of the property owner and the applicant.
  2. A copy of the FCC license for the facility, or a signed statement from the owner or operator of the facility attesting that the facility complies with current FCC regulations.
  3. USGS 7.5 minute topographic map showing the location of all structures and wireless application is filed) from the FCC Tower Registration Database.
  4. A site plan prepared and certified by a professional engineer registered in Maine indicating the location, type, and height of the proposed facility, antenna capacity, on-site and abutting off-site land uses, means of access, setbacks from property lines, and all applicable American National Standards Institute (ANSI) technical and structural codes; certification by the applicant that the proposed facility complies with all FCC standards for radio emissions is required; and a boundary survey for the project performed by a land surveyor licensed by the State of Maine.
  5. A scenic assessment, consisting of the following:
    - a. Elevation drawings of the proposed facility, and any other proposed structures, showing height above ground level;
    - b. A landscaping plan indicating the proposed placement of the facility on the site; location of existing structures, trees, and other significant site features; the type and location of plants proposed to screen the facility; the method of fencing, the Color of the structure, and the proposed lighting method.
    - c. Photo simulations of the proposed facility taken from perspectives determined by the Board, or their designee, during the pre-application conference. Each photo must be labeled with the line of sight, elevation, and with the date taken imprinted on the photograph. The photos must show the color of the facility and method of screening.
    - d. A narrative discussing: the extent to which the proposed facility would be visible from or within a designated scenic resource, the tree line elevation of vegetation within 100 feet of the facility, and the distance to the proposed facility from the designated scenic resource's noted viewpoints.
  6. A written description of how the proposed facility fits into the applicant's telecommunications network. This submission requirement does not require disclosure of confidential business information.

7. Evidence demonstrating that no existing building, site, or structure can accommodate the applicant's proposed facility, the evidence for which may consist of any one or more of the following:
  - a. Evidence that no existing facilities are located within the targeted market coverage area as required to meet the applicant's engineering requirements
  - b. Evidence that existing facilities do not have sufficient height or cannot be increased in height at a reasonable cost to meet the applicant's engineering requirements
  - c. Evidence that existing facilities do not have sufficient structural strength to support applicant's proposed antenna and related equipment. Specifically: planned, necessary equipment would exceed the structural capacity of the existing facility, considering the existing and planned use of those facilities, and these existing facilities cannot be reinforced to accommodate the new equipment.
  - d. Evidence that the applicant's proposed antenna or equipment would cause electromagnetic interference with the antenna on the existing towers or structures, or the antenna or equipment on the existing facility would cause interference with the applicant's proposed antenna.
  - e. Evidence that existing or approved facilities do not have space on which planned equipment can be placed so it can function effectively.
  - f. For facilities existing prior to the effective date of this ordinance, the fees, costs, for a tower built after the passage of this ordinance;
  - g. Evidence that the applicant has made diligent good faith efforts to negotiate co-location on an existing facility, building, or structure, and has been denied access;
8. Identification of districts, sites, buildings, structures or objects, significant in American history, architecture, archaeology, engineering or culture, that are listed, or eligible for listing, in the National Register of Historic Places (see 16 U.S.C. 470w(5); 36 CFR 60 and 800).
9. A signed statement that the owner of the wireless telecommunications facility and his or other successors and assigns agree to:
  - a. Respond in a timely, comprehensive manner to a request for information from a potential co-location applicant, in exchange for a reasonable fee not in excess of the actual cost of preparing a response;
  - b. Negotiate in good faith for shared use of the wireless telecommunications facility by third parties;
  - c. Allow shared use of the wireless telecommunications facility if an applicant agrees in writing to pay reasonable charges for co-location;
  - d. Require no more than a reasonable charge for shared use, based on community rates and generally accepted accounting principles. This charge may include but is not limited to a pro rata share of the cost of site selection, planning project administration, land costs, site design construction, financing, return on equity, depreciation, and all of the costs of

adapting the tower or equipment to accommodate a shared user without causing electromagnetic interference. The amortization of the above costs by the facility owner shall be accomplished at a reasonable rate, over the useful life span of the facility.

- e. A form of surety approved by the Board to pay for the costs of removing the facility if it is abandoned.
- f. Evidence that a notice of the application has been published in a local newspaper of general circulation in the community.
- g. The Board may waive any of these requirements when it determines that the scale of the project makes the information unnecessary.

#### G. Notification and Hearing requirements

- 1. The Applicant shall notify all abutting property owners by certified mail, return receipt requested, of all requests for site plan review. If two or more abutters, or 5 residents of the Town, object in writing, and such objection is received by the Board, or postmarked, within 15 days after a public notice of the request for Site Plan Review, the Board shall schedule a public hearing on the proposal. Such hearing shall be scheduled within 30 days of acceptance of an application as complete.
- 2. If the Board schedules a public hearing pursuant to section 10.G.1 or at its own discretion. The Board shall give written notice of the date, time, and place of such a hearing to the person making the application, and the applicant shall arrange with the Town Office to pay for the cost of publishing such notice. Such notice shall be published by the Board in a newspaper of general circulation in Damariscotta at least two (2) times; the date of the first publication to be at least seven (7) days prior to the hearing. Written notification by the Board of the hearing shall also be sent to the applicant and adjacent property owners by certified mail, return receipt requested, at least seven (7) days prior to the hearing.
- 3. If other agency permits are required, such as D.O.T. traffic movement permits, with roadwork involved, notifications shall be expanded as follows:
  - a. All property owners and lessees affected by the road modifications shall be notified by publication of intent in a newspaper of general circulation in Damariscotta.
  - b. Copies of the notifications shall be submitted with the application.

#### H. Board Review

- 1. Within 45 days of the acceptance of a complete application it becomes a Preliminary plan application. If the Board determines that the preliminary plan does not require a public hearing or site visit, the Board may determine that the application is a Final plan and shall make a decision. This period may be extended by mutual written agreement (by being recorded in the Board meeting Minutes). If the Board requires either a public hearing or site visit on a preliminary plan for it to gain acceptance as a final plan, the 45 day period does not start until after either and/or the public hearing or site visit have been held. All site plans with 7,500 square feet or more footprint in the aggregate, shall be required to have one or more public hearings and site visits after the Board determines it is a preliminary plan and before it may be declared a final plan.

2. The Board shall inform the applicant in writing of its decision (by a Notice of Decision) on final plan applications within fifteen (15) days of their its action. The 15 day period may be extended by mutual agreement in writing (email approvals are acceptable) to 30 days for good cause such as, but not limited to, a heavy work schedule by the Town Planner or other staff of the Planning Board.
3. One copy of the approved site plan shall be retained in the Town Office and one copy shall be given to the Code Enforcement Officer.
4. The Board may require the posting, prior to final approval of any plan, of a bond, agreement, or letter of credit in such amount as is approved by the Board as being reasonably necessary to insure completion of all improvements required as conditions of approval of such plan, and in such form as approved by the Planning Board and the Selectmen.
5. The Board may attach reasonable conditions to approvals to ensure conformity with the purposes and provisions of this ordinance. The Board may condition final approval on receipt of copies of all state or federal permits required by the project including, but not limited to, Natural Resource Protection Act Permit, Traffic Movement Permit, Site Location of Development Permit and US Army Corps of Engineers permits.
6. If the application concerns property which in whole or part is within any Shoreland Zone, the criteria included in the Shoreland Zoning Ordinance shall be reviewed concurrently with the Site Plan Review.
7. All approvals shall expire within one year of the date of issuance unless work thereunder is substantially commenced within one year from the date of approval. If work is not substantially completed within two years from the date of issue, a new application may be required by the Board.

#### **Section 11. PERFORMANCE STANDARDS**

The following standards are to be used by the Board in judging applications fort site plan review. These standards are meant to provide the minimum criteria, and while they should not be regarded as inflexible requirements, all proposals should address them while being open to demonstrating creativity, invention and innovation to ensure the best outcome for the applicant and the Damariscotta community. The site plan shall be approved unless in the judgment of the Board the applicant is not able to reasonably meet one or more of these standards. In all instances the burden of proof shall be on the applicant and such burden of proof shall include evidence necessary to demonstrate compliance with all applicable standards. If the site plan includes a building or buildings in the aggregate of 7,500 square feet or greater of floor area or has a facade of 50 feet or more, additional standards in Section 12 may also apply.

As a requirement for being approved by the Board as a complete application and thus a preliminary plan, the applicant shall submit a plan that fully meets all the requirements of all the Section 11 Performance Standards. The applicant may also submit an accompanying separate preliminary plan that sets out any proposed waivers from Section 11 Performance Standards accompanied by a written statement(s) explaining why the applicant believes the waivers would still accomplish the purpose of the performance standard so proposed to be altered.

##### **A. Preserve and Enhance the Landscape**

The landscape should be preserved in its natural state insofar as practical by minimizing tree removal, disturbance of soil and by retaining existing vegetation during construction. Except for

excavation operations approved pursuant to section 11.Q, only that topsoil directly affected by buildings, access and parking areas may be removed from the site.

B. Relationship to Environment and Neighboring Buildings

1. Proposed structures shall be related harmoniously to the terrain and to existing buildings in the vicinity which have a visual relationship to the proposed building.
2. Except in the downtown Commercial (C1) area, the following setbacks and buffer strips for parking areas shall be provided:
  - a. Frontage on Road: a 15 foot buffer strip from the property line to parking areas.
  - b. Side and rear lot lines: A 15-foot minimum buffer strip from the property line to any parking areas.
3. In the downtown commercial area, the following setbacks for parking areas shall be provided:
  - a. Frontage on road: Setbacks for parking shall be the same as that for structures as required by the Damariscotta Land Use Ordinance.
  - b. Side and rear lot lines: No setbacks are required for parking areas in this district.

C. Air Quality

The Board may require the applicant to demonstrate that the project, as proposed, will not result in undue air pollution or odors. In making this determination, the Board may require the applicant to consult with federal and state authorities to determine applicable air quality laws and regulations. Emission of dust, fly ash, fumes, vapors, smoke or other particulate matter or gasses and chemicals which could damage human health, animals, vegetation or property, or which could soil or stain persons or property, at any point beyond the lot line shall be prohibited.

D. Lighting and Glare

1. Lighting: Exterior lighting may be used which serves security, safety and operational needs but which does not directly or indirectly produce deleterious effects on abutting properties or which would impair the vision of a vehicle operator on adjacent roadways. Lighting fixtures shall be shielded or hooded so that the lighting elements are not exposed to normal view by motorists, pedestrians, or from adjacent dwellings. Direct or indirect illumination shall not exceed one-tenth (0.1) foot-candles upon abutting residential properties.
2. No rotating or flashing lights or signals, except safety signaling devices as required by law, are permitted.
3. Hazards: The Code Enforcement Officer may require a light source to be modified or removed even though it may have been approved by the Board if such light source is subsequently determined to causes a hazard as referenced in paragraph 1, above.
4. Plans shall be submitted for all proposed exterior lighting, drawn to a scale of 1"=20' and shall include the location and type of lighting equipment, manufacturer's specification sheets, and point-by-point calculated luminance values noted on a 10 foot grid. The following

lighting criteria shall not be exceeded:

- a. Parking lots: a maximum of 1.5 foot-candles throughout.
  - b. Intersections: a maximum of 3 foot-candles.
  - c. At property lines: Maximum 0.1 foot-candles.
  - d. The maximum height of the luminaire of freestanding or building-attached lights on properties or in parking areas for multi-use residences, commercial and other non-residential uses shall be the same as the principal building, but shall not exceed 16 feet.
  - e. All lights shall have shielding to provide a beam cut-off at no more than 75 degrees nadir. The source of any light (illumination) shall not be visible from any place on any abutting lot.
  - f. All new or replacement outdoor lights in the public right-of-way shall not exceed 20 feet in height or the manufacturer's specifications.
5. The applicant shall demonstrate to the satisfaction of the Board that the proposed lighting is appropriate for the intended use. The Board shall consider the hours of operation, characteristics of the neighborhood and the specific activities proposed in making its determination. During nighttime hours when the activity is not occurring, lighting, as a condition of approval may be required by the Board to be turned off or turned down to the minimum security level.
- a. Automobile service stations may have canopy lights and freestanding lights that are full cut-off shielded and up to 20 feet in height. No more than 1.5 foot-candles may spill across the lot line onto abutting commercial or other non-residential uses. No more than one-tenth (.1) foot-candle shall spill across any lot line abutting a residential use.
  - b. During nighttime hours when service stations are closed, all outdoor lighting shall be turned off or down to the minimum security level.
6. Lighting may be located along streets within the development, parking areas, at intersections and crosswalks and where various types of circulation systems merge, intersect or split.
7. Pathways, sidewalks and trails may be lighted with low mushroom-type standards or bollard type lights 3 feet or less in height.

E. Noise

The proposed development shall not increase noise levels to the extent that abutting or nearby properties are adversely affected. In order to comply with this, the development must meet the following requirements.

1. The maximum permissible sound level of any continuous, regular, frequent, or intermittent source of sound produced by any activity shall be limited according to the time of day and land use which abuts it as listed below except that 7 p.m. – 7 a.m. sound level limits shall apply all day on Sunday.

| Abutting Use  | Sound Level Limits dBA |                 |
|---------------|------------------------|-----------------|
|               | 7 a.m. – 7 p.m.        | 7 p.m. – 7 a.m. |
| Residential   | 55                     | 45              |
| Commercial    | 65                     | 55              |
| Industrial    | 70                     | 60              |
| Institutional | 55                     | 45              |

2. Where the abutting property is undeveloped, the sound level shall be equal to or less than the most restrictive other abutting use. Where there are no uses on abutting properties, the sound level at the property line shall be equal to or less than the least stringent use allowed in the zoning district.
3. Sound levels shall be measured at least four (4) feet above the ground at the property line of the development. Sound levels shall be measured by a meter set on the A-weighted response scale, fast response. The meter shall meet the latest version of American National Standards Institute (ANSI S1.4.) “American Standard Specification for General Purpose Sound Level Meters” and shall have been calibrated at a recognized laboratory within the past year.
4. The following uses and activities shall be exempt from the sound pressure level regulations.
  - a. Noises created by construction and temporary maintenance activities between 6:30 a.m. and 8:00 p.m.
  - b. The noises of safety signals, warning devices, and emergency pressure relief valve and other emergency activities.
  - c. Traffic noise on public roads.
  - d. Snow removal.

F. Adequacy of Public Road System

Vehicular access to the site must be on roads which have adequate capacity to accommodate the MDOT Level of Service Process, even if it is a Town owned road. A development not meeting this requirement may be approved if the applicant demonstrates that:

1. A public agency has committed funds to construct the improvements necessary to bring the level of access to this standard as soon as possible or,
2. The applicant will assume financial responsibility for the improvements necessary to bring the level of service to this standard and will assure the completion of the improvements as soon as possible, with a financial guarantee acceptable to the municipality.

G. Access into the Site

Vehicular access to and from the development must be safe and appropriate.



1. Any driveway or proposed street must be designed so as to provide the minimum sight distance according to the Maine Department of Transportation (MDOT) standards. Unless otherwise specified by MDOT, the following standards apply:

| Posted Speed - Required Sight Distance (1)* |        |
|---------------------------------------------|--------|
| 25 mph                                      | 200 ft |
| 30 mph                                      | 250 ft |
| 35 mph                                      | 305 ft |
| 40 mph                                      | 360 ft |
| 45 mph                                      | 425 ft |
| 50 mph                                      | 495 ft |
| 55 mph                                      | 570 ft |

**\*(1) Sight distance shall be increased by up to 50% if 30% or more of the vehicles using the proposed driveway or street will consist of vehicles larger than pickup trucks**

2. For developments on lots of record (created after the effective date of this Ordinance), the applicant shall meet, to the maximum extent possible, the above MDOT sight-distances. When meeting their MDOT sight-distances adjacent to said lots of record is clearly a hardship, the Planning Board may vary the sight-distance requirements so long as the public safety is substantially served.
3. Points of access and egress must be located to avoid hazardous conflicts with existing turning movements and traffic flows. The proposed site layout shall provide for safe access to and egress from public and private roads. Provision shall be made for providing and maintaining convenient and safe emergency vehicle access to all structures at all times.
4. The grade of any proposed drive or street must be not more than 3% for a minimum of forty (40) feet, from the intersection.
5. The intersection of any access/egress drive or proposed street must function at the MDOT Level of Service, even if it is a Town owned road.
6. Where a lot has frontage on two (2) or more streets, the primary access to and egress from the lot must be provided from the street where there is less potential for traffic congestion and for traffic and pedestrian hazards. Access from other streets may be allowed if it is safe and does not promote shortcutting through the site.
7. Where it is necessary to safeguard against hazards to traffic and pedestrians and/or to avoid traffic congestion, the applicant shall be responsible for providing turning lanes and traffic controls within public streets.
8. Access ways must be designed to have sufficient capacity to avoid queuing of entering vehicles on any public street.
9. The following criteria must be used to limit the number of driveways serving a proposed project:
  - a. No use shall have more than one (1) two-way driveway onto a single roadway unless a traffic engineer demonstrates that a second access is required for traffic safety. Any driveway must be no greater than thirty (30) feet wide. The Board may permit an additional driveway if necessary to accommodate delivery truck movements on

the site

- b. No use which generates one hundred (100) or more vehicle trips per day shall have more than two points of access to a single roadway.

#### H. Parking and Circulation

##### 1. Parking and Streetscape:

Parking areas shall provide safe, convenient and efficient access for vehicles and pedestrians. They shall be distributed around large buildings in order to shorten the distance to other buildings and public sidewalks and to reduce the overall scale of the paved surface. The object is to provide neither more nor less parking spaces than is needed and to maintain the village-scale street-scape by not setting larger retail buildings farther back from the street than necessary. This regulation may be subject to Planning Board review where out buildings are employed.

##### 2. Parking Requirements

For properties of one-half acre or less, the Planning Board may reduce the minimum parking count (from Section 11.H) standards down to zero on-site spaces for good reason. For properties over one-half acre, the minimum parking requirement may be reduced for good reason by the Planning Board (from standards in Section 11.H.5.i) to no less than 1 space per 1,000 square feet of leasable or saleable floor area. These spaces may be located either onsite, on-street (directly adjacent to the property), in shared parking scenarios or in any public parking facility, the closest outside edge of which facility is located no more than 500 feet from the entry of the proposed building.

##### 3. Off-street Surface Parking Lot Placement

- a. Wherever possible, parking lots shall be located behind or to the side of buildings such that buildings separate parking areas from the frontage street. An exception may be made for parking areas used for the display of vehicles for sale. In no case shall parking lots be located between the front facade of the principal building and the primary abutting streets unless the Planning Board grants a waiver and both the building and parking area are screened from view from the frontage street. Development consisting of out buildings (defined in Section 12.H.2) (i.e. buildings less than seven thousand, five hundred (7,500) square feet of floor area) and placement of 6 foot walls, singly or together may be used to screen parking areas.
  - b. Off-street surface parking lots shall be set back a minimum of 15 feet from non-frontage streets excluding alleys.
4. The layout and design of all means of vehicular and pedestrian circulation, including walkways, interior drives, and parking areas shall provide for safe general interior circulation, separation of pedestrian and vehicular traffic, service traffic, loading areas, and arrangement of parking areas.
  5. Parking areas shall be off street and designed so that vehicles leave the parking area in a forward motion. To minimize the number of entrances on to the main travel way, a single combined entrance/ exit is encouraged, while a maximum of 2 separate curb cuts is permitted. For those lots in the C2 District as defined herein, the requirements of this paragraph may be modified to fit the prevailing pattern of development.

6. Parking Lot Lay-out

- a. Parking lots shall be divided into small areas of no more than 40 parking spaces each by landscaping, such as but not limited to, shade trees, shrubs, and evergreens. For those lots in the C1 District, the Board may consider the Municipal Parking lot when assessing the project's parking requirements.
- b. Each 40 space (or fraction thereof) parking area shall be landscaped with curbed medians with a minimum curb to curb width of ten (10) feet. Curbed landscaped islands shall be sited at the end of each parking aisle and within parking aisles at intervals no greater than one island per every twenty (20) spaces. Islands at the ends of aisles shall be counted toward meeting this requirement. Each required landscaped island shall be a minimum of three hundred sixty (360) square feet in landscaped area.

7. The parking spaces provided will meet the needs of the particular use and the following standards shall be used as a guide:

- a. Access to stalls. Access to parking stalls should not be from major interior travel lanes, and shall not be immediately accessible from any public way.
- b. Movement to and from spaces. Parking areas shall be designed to permit each motor vehicle to proceed to and from the parking space provided for it without requiring the moving of any other motor vehicles.
- c. Pedestrian access. Parking aisles should be oriented perpendicular to stores or businesses for easy pedestrian access and visibility.
- d. Setbacks. See Section 11B.
- e. Parking stalls. Parking stalls and aisle layout shall conform to the following standards:

| Parking Angle | Stall Width | Skew Width | Stall Depth | Aisle Width  |
|---------------|-------------|------------|-------------|--------------|
| 90°           | 9'-0"       |            | 18'-5"      | 24'-0"       |
| 60°           | 8'-6"       | 10'-5"     | 16'-0"      | one-way only |
| 45°           | 8'          | 12'-9"     | 17'-5"      | one-way only |
| 30°           | 8'          | 17'-0"     | 12'-0"      | one-way only |
| Parallel      | 9'          | n/a        | 20'-0"      | n/a          |

- f. Parking stripes. In paved parking area painted stripes shall be used to delineate parking stalls. Stripes should be a minimum of 4" in width.
- g. Directional arrows. In aisles utilizing diagonal parking, arrows should be painted on the pavement to indicate proper traffic flow.
- h. Bumpers. Bumpers and/or wheel stops shall be provided where overhang of parked cars might restrict traffic flow on adjacent through roads, restrict pedestrian movement on adjacent walkways, or damage landscape materials.
- i. Number required. Off-street parking spaces shall be provided, unless the applicant can demonstrate that another standard is appropriate, to conform to the number required in

the following schedule:

|                                   |                                                |
|-----------------------------------|------------------------------------------------|
| 1. Light industrial               | 1.5/1000 s.f.                                  |
| 2. Industrial park                | 1.5/1000 s.f.                                  |
| 3. Manufacturing                  | 1.5/1000 s.f.                                  |
| 4. Warehousing                    | 1.5/1000 s.f.                                  |
| 5. Residential                    | 2/du                                           |
| 6. Apartments, condominiums       | 2/du                                           |
| 7. Senior citizen multi-family    | 1/du                                           |
| 8. Hotel/Motel/Inn                | 1/rm                                           |
| 9. Bed and breakfast              | 1/guest room                                   |
| 10. Club, lodge                   | ½ persons based on maximum legal capacity      |
| 11. Hospital/medical facility     | 1/3 beds and 1 per 2 employees per shift       |
| 12. Art gallery, museum, library  | 6.5/1,000 s.f.                                 |
| 13. School, primary               | 1.5 per classroom                              |
| 14. School, secondary             | 8 per classroom                                |
| 15. School, post-secondary        | 1 per student and 1 per faculty & staff member |
| 16. Theater, auditorium, assembly | 1/3 seats based on maximum legal capacity      |
| 17. Marina                        | ½ berths                                       |
| 18. Sports club, health spa       | 5/1000 s.f.                                    |
| 19. Church                        | ½ seats                                        |
| 20. Nursing home                  | 1/3 rooms                                      |
| 21. Medical, dental office        | 4/1000 s.f.                                    |
| 22. General offices               | 3/1000 s.f.                                    |
| 23. Governmental offices          | 4/1000 s.f.                                    |
| 24. Retail store                  | 4/1000 s.f.                                    |
| 25. Home improvement, hardware    | 3/1000 s.f.                                    |
| 26. Shopping center               | 4/1000 s.f.                                    |
| 27. Restaurant                    | 9/1000 s.f. or 1/3 seats                       |
| 28. Fast food restaurant          | 14/1000 s.f. or ½ seats                        |
| 29. Bank                          | 4/1000 s.f.                                    |
| 30. Services                      | 4/1000 s.f.                                    |
| 31. Child care                    | ¼ children licensed for care                   |
| 32. Auto, truck repair            | 5/service bay                                  |
| 33. Funeral home                  | 1/100 s.f.                                     |
| 34. Campgrounds                   | 1/campsite                                     |

- 35. Barber, beauty shop 3/chair
- 36. Car, truck dealers (see also 32) 5 plus 1/3000 s.f. indoor or outdoor display
- 37. Convenience store 4/1000 s.f.
- 38. Convenience store with pumps 4/1000 s.f.; one-half of service spaces at the gas pumps may be applied to meet not more than one-half of total parking required
- 39. Other uses sufficient spaces to accommodate the normal parking demand as determined by the Plan. Board

I. Pedestrian Circulation

The site plan must provide for a system of pedestrian ways within the development appropriate to the type and scale of development. This system must connect the major building entrances/ exits with parking areas and with existing sidewalks, if they exist or are planned in the vicinity of the project. The pedestrian network may be located either in the street right-of-way or outside of the right-of-way in open space or recreation areas. The system must be designed to link the project with residential, recreational, and commercial facilities, schools, bus stops, and existing sidewalks in the neighborhood or, when appropriate, to connect with amenities such as parks or open space on or adjacent to the site.

J. Existing Public Utilities and Services

- 1. The proposed development shall not impose a burden on sewers and storm drains, water lines or other public utilities.
- 2. The proposed development shall not have an adverse impact on the municipal services including municipal road systems, fire department, police department, solid waste program, sewage treatment plant, and other municipal services and facilities.
- 3. If proposed development will be served by the Great Salt Bay Sanitary (and water) District, the applicant shall submit a letter from the District stating that they will be able to hook up to the system upon payment of an impact fee. This impact fee must be paid prior to issuing of building permit.
- 4. The Board may require the applicant to complete a public facilities impact study or retain a consultant pursuant to the provisions of section 10.D to conduct such study if it determines the results of such study are necessary to adequately review the application.

K. Water Quality

- 1. The proposed development shall not unduly affect the quality or quantity of ground water. In making this determination, the Board shall consider the location of aquifers and aquifer recharge areas, the nature of the proposed development and its potential threat to ground water resources. The Board may place conditions upon an application to minimize potential impacts to the Town's ground water resources.
- 2. The development will not result in the existing ground water quality becoming inferior to the physical, biological, chemical, and radiological levels for raw and untreated drinking water supply sources specified in the State Drinking Water Regulations, pursuant to Title 22, M.R.S.A. Section 2601. If the existing ground water quality is inferior to the State Drinking Water Regulations, the development will not degrade the water quality any

further.

3. At commercial and other non-residential uses, above ground commercial or bulk fuel storage and chemicals or industrial wastes and potentially harmful raw materials, shall be contained within an impermeable diked area shall be provided; the diked area must be sized to contain one hundred ten (110) percent of the total volume of the fuels/chemicals/wastes able to contained therein. The containment area shall be roofed to prevent accumulation of rainwater in the diked area and shall be properly vented. There shall be no drains in the facility. All concrete whether walls and/or pads, shall be reinforced concrete and shall be designed by a State of Maine registered Professional Engineer.
4. Underground petroleum tanks where permitted shall be installed in accordance with the standards promulgated by the Maine Board of Environmental Protection.
5. Residential uses, such as but not limited to a multi-unit residential development, may store conventional heating fuel, such as but not limited to heating grade oil, propane or natural gas, in above-ground tanks.

#### L. Storm Water Management

A management plan, prepared by a registered professional engineer, shall be designed so that the post-development runoff does not exceed the pre-development runoff for the 24- hour duration, 2-, 10-, and 25-year frequency storm events. The plan shall be prepared in accordance with *Storm Water Management for Maine: Best Management Practices*, latest edition, prepared by the Maine Department of Environmental Protection, which is incorporated herein by reference and made a part thereof. The plan shall include the following information for the pre- and post-development conditions: drainage area boundaries, hydrologic soils groups, ground cover type, time of concentration flow paths, modeling methodology, calculations, and background data. The Board may require review and endorsement of the storm water plan and calculations by the Knox-Lincoln Soil and Water Conservation District. If the development requires Storm water Permit from the Department of Environmental Protection (DEP), the Board may accept the Storm Water Permit issued by DEP as evidence that this section has been satisfied.

#### M. Erosion and Sediment Control

An erosion and sediment control plan shall be prepared in accordance with the *Maine Erosion and Sediment Control Handbook for Construction: Best Management Practices*, latest revision, prepared by the Cumberland County Soil and Water Conservation District and the Maine Department of Environmental Protection, which is incorporated herein by reference and made a part thereof. The plan shall be prepared either by a professional civil engineer or by a Certified Professional in Erosion and Sediment Control (CPESC). At a minimum, the following items shall be discussed and provided:

1. The name, address, and telephone number of the person responsible for implementation of the plan.
2. A vicinity map showing the location of water bodies that may be affected by erosion and sedimentation from the project.
3. Existing and proposed drainage patterns, including drainage channels that drain to surrounding water bodies.

4. A sequence of work that outlines how the project will be constructed and specifically addressing how soil disturbance will be minimized during the construction process.
5. Clear definition of the limits of work and any buffer areas that will remain undisturbed and an indication of how these areas will be protected during construction.
6. Description of temporary and permanent erosion control practices that will be used.
7. Identification of the locations of the temporary and permanent erosion control practices.
8. Identification of how and where collected sediment will be disposed.
9. Dust control measures.
10. Inspection and maintenance procedures, including schedule and frequency.

The Board may require the review and endorsement of this plan by the Knox-Lincoln Soil and Water Conservation District.

N. Water Supply

The development has sufficient water available for the reasonably foreseeable needs of the development, including adequate fire protection and will not cause an unreasonable burden on an existing town water supply and/or neighboring wells.

O. Natural Beauty

The development will not have an undue adverse effect on the scenic or natural beauty of the area, or rare and irreplaceable natural areas. In making this determination, the Planning Board shall consider the following.

1. The clearing of trees should be the minimum necessary to accommodate the proposed development. The development shall, by notes on the final plan, limit the clearing of trees to those areas designated on the plan.
2. The development shall be designed to minimize the visibility of buildings from existing public roads. If the land cover type at the time of application is forested, the applicant shall maintain a wooded buffer strip no less than fifty feet in width along all existing public roads. The buffer may be broken only for driveways and streets. If the development is in proximity to a ridgeline, the applicant shall demonstrate how the design will minimize or eliminate any adverse visual impact on such ridgeline.
3. The Board may require the application to include in the landscape plan the preservation of any existing large trees, the replacement of trees and vegetation, and graded contours.

P. 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.

Q. Filling and Excavation

Excavations of sand & gravel, borrow, clay, topsoil, silt or rock that are not incidental to a development approved by the Planning Board and which exceed 1 (one) acre in area shall conform to the following performance standards. The Planning Board may approve modifications to these standards if such modifications have been approved by the Department of Environmental Protection. Where the project schedule for excavation that is incidental to a development approved by the Planning Board will exceed two years, such excavation shall default to comply with this section.

1. The following minimum setbacks from the excavation must be maintained. See Table below:
2. No excavation within 5 (five) feet of the seasonal high water table.
3. Refueling and maintenance operations within the excavation must be in accordance with a spill prevention, control and countermeasures plan prepared by a registered professional engineer and approved by the Planning Board.
4. The excavation must be naturally internally drained or the applicant shall submit a storm water management plan in conformance with section 11.L.
5. An erosion control plan prepared in conformance with Section 11.M shall address any access or haul roads, stabilization of material stockpiles and prevention of tracking of material onto public roads.
6. Dust associated with excavation and trucking activities shall be controlled by sweeping, paving, watering or other approved method.
7. The applicant shall submit a reclamation plan that shall include, at a minimum, the following:
  - a. final slopes shall be no steeper than 2.5 horizontal feet to one (1) horizontal foot vertical;
  - b. re-vegetation of excavated surfaces within one year of completion of each phase of the excavation; re-vegetation must result in a 75% survival rate for trees and shrubs and a permanent 90% ground cover;
  - c. removal of all structures and access and haul roads;
  - d. an engineer's cost estimates for all reclamation activities;
  - e. a bond or other financial guarantee satisfactory to the Planning Board sufficient to cover the cost of reclamation.
8. The excavation shall comply with the noise standards of Section 11.E and the access road shall comply with the minimum sight distance of Section 11.G.

(1) Must be maintained as a natural buffer. Existing vegetation cannot be removed. If existing vegetation has previously removed, it must be replaced in conformance with a plan approved by the Planning Board.

(2) No minimum buffer strip required between excavations owned by abutting property owners with abutters' written permission.

|                                                                       |                 |
|-----------------------------------------------------------------------|-----------------|
| <u>Point-driven or dug well in existence prior to the excavation</u>  | <u>200 feet</u> |
| <u>Drilled well into bedrock in existence prior to the excavation</u> | <u>100 feet</u> |
| <u>Public drinking water source serving 500 persons or less</u>       | <u>300 feet</u> |
| <u>Public drinking water source serving 501-1000 persons</u>          | <u>500 feet</u> |



| <u>Public drinking water source serving over 1000 persons</u>                               | <u>1,000 feet</u>                                      |
|---------------------------------------------------------------------------------------------|--------------------------------------------------------|
| <u>Great pond or river</u>                                                                  | <u>100 feet (1)</u>                                    |
| <u>All other water bodies</u>                                                               | <u>75 feet (1)</u>                                     |
| <u>Public road unless reduced by public entities with authority to grant Such reduction</u> | <u>100 feet (1)<br/>(25 ft (1) topsoil excavation)</u> |
| <u>Private road unless reduced by agreement with legal users of private road</u>            | <u>75 feet (1)</u>                                     |
| <u>Public right of way not containing a road</u>                                            | <u>50 feet (1)</u>                                     |
| <u>Property boundary (2)</u>                                                                | <u>50 feet (1)<br/>(25 ft (1) topsoil excavation)</u>  |

9. Excavation operations are limited to 7 a.m. to 6 p.m. Monday to Friday and 7 a.m. to 2 p.m. Saturday.
10. If blasting is proposed, the applicant shall submit a blasting plan prepared by a firm licensed to conduct such work. The plan shall include pre-project inspections of any off-site structures and wells that may be potentially affected by the blasting.

#### R. Sewage Disposal

The development must be provided with a method of disposing of sewage which is in compliance with the State Plumbing Code.

1. All sanitary sewage from new or expanded uses must be discharged into a public sewage collection and treatment system when such facilities are currently available or can reasonably be made available at the lot line and have adequate capacity to handle the projected waste generation.
2. If the public collection system is not at the lot line, but can be extended in the public right-of-way, the collection system must be extended by the owner and the new or expanded use connected to the public system. Such extension shall be required if the public system is within two hundred (200) feet of a new use with a design sewage flow of less than five hundred (500) gallons per day or within three hundred (300) feet of a new use with a design sewage flow of five hundred (500) or more gallons per day and the system has adequate capacity to accommodate the additional flow. The Board may waive this requirement if the use is already served by a properly functioning subsurface disposal system that is properly sized for the projected flows, provided the connection to the public system will occur if and when the subsurface system needs to be replaced.
3. If the public system cannot serve or be extended to serve a new or expanded use, the sewage must be disposed by an on-site sewage disposal system meeting the requirements of the Subsurface Wastewater Disposal Rules. The location of the bed and distances from wells on the property and on adjacent lots will be clearly shown. A copy of the design will be submitted with the application. If site is currently served by a septic system and the use is being expanded or changed, report must be submitted by a licensed soil scientist that the existing system and soils can accommodate the increased load or an expanded system.
4. When two (2) or more lots or buildings in different ownership share the use of a common subsurface disposal system, the system must be owned and maintained in common by an
5. Industrial or commercial wastewater may be discharged to public sewers in such quantities and/or of such quality as to be compatible with sewage treatment operations. Such wastes may require pretreatment at the industrial or commercial site in order to render them amenable to public treatment processes. Pretreatment includes, but is not limited to, screening, grinding, sedimentation, pH adjustment, surface skimming, chemical oxidation and reduction and dilution. The pretreatment standards shall be in compliance with the Great

Salt Bay Sanitary District “Regulation of Sewer Use”.

6. For all developments which require a building permit, the applicant shall demonstrate to the satisfaction of the Plumbing Inspector that the existing septic system is functioning properly.

S. Phosphorus Control

The introduction of excessive amounts of phosphorus into lakes and ponds has been identified as a significant threat to water quality. The following provisions are applicable to all projects requiring site plan review that are located within the watershed of a great pond.

1. For all new principal structures, expansions of existing structures which increase the floor area by 30% or more over the lifetime of the structure, new accessory structures of 300 square feet or more and new or enlarged roads and driveways on lots, phosphorus export from such development shall be equal to or less than that which is calculated using the methods established by the Maine Department of Environmental Protection and described in Section 4.2.1 of Phosphorus Control in Lake Watersheds: A Technical Guide to Evaluating New Development (September, 1992). The following phosphorus allocation factors shall be applicable.

| Watershed     | Water Quality as established by MDEP | Protection Level (from MDEP) | Phosphorus Coefficient (a) | Acceptable Increase in Phosphorus | Future Area to be Developed (b) | Per Acre Phosphorus Allocation © |
|---------------|--------------------------------------|------------------------------|----------------------------|-----------------------------------|---------------------------------|----------------------------------|
| Paradise Pond | Mod-sensitive                        | Medium                       | 8.13 lbs                   | 1.00                              | 174 acres                       | 0.047                            |
| Little Pond   | Mod-sensitive                        | High                         | 4.80 lbs                   | 0.75                              | 92 acres                        | 0.039                            |
| Pemaquid Pond | Mod-sensitive                        | High                         | 26.15 lbs                  | 0.75                              | 464 acres                       | 0.042                            |
| Biscay Pond   | Mod-sensitive                        | High                         | 18.65 lbs                  | 0.75                              | 254 acres                       | 0.055                            |

- a. Indicates the amount of additional phosphorus that, if exported from the watershed to the lake, will produce a 1 part per billion (ppb) increase in the lake’s phosphorus concentration (lbs./ppb/year)
  - b. Assumes 15% of each watershed is undevelopable due to environmental considerations; 30% of the remaining acreage is likely to be developed over the next 50 years.
  - c. Amount of phosphorus each developed acre is allowed to export without violating water quality goals.
2. For all other accessory buildings, expansions of existing structures and expansions of existing roads and driveways, the applicant shall demonstrate that, by utilizing permanent vegetated buffers, limiting the clearing of vegetation and the size of the development area limiting impervious surfaces and directing runoff away from the affected water body, the potential for phosphorus export has been minimized.

T. Buffer Areas

No industrial or commercial buildings or uses shall be established in, or abutting, a residential use unless a landscaped buffer strip is provided to screen visually the uses. Where no natural vegetation can be maintained due to varying site conditions, the landscaping may consist of

fences, walls, tree plantings, hedges or combinations thereof. The buffering shall be sufficient to minimize the impacts of any kind of potential use such as: loading and unloading operations, outdoor storage areas, vehicle parking, mineral extraction, waste collection, and disposal areas. Where a potential safety hazard to small children would exist, physical screening/barriers shall be used to deter entry to such premises. The buffer areas shall be maintained and vegetation replaced to ensure continuous year round screening.

The following standards apply to buffer strips, screening and landscaping required under this Ordinance:

1. Buffer strips. Buffer strips shall be required of the following widths for the following areas and/or purposes:
  - a. Protect water bodies. Along any water body within or adjacent to the project where the Board determines it desirable and necessary to protect such water body from sedimentation and pollution: Such buffer strips shall be a minimum of one hundred (100) feet in width or such greater width which in the judgment of the Board may be necessary to protect water bodies from sedimentation and pollution
  - b. Buffer strip on adjacent lot. If there is a buffer strip on the adjacent lot and the applicant for Site Plan Approval provides the Board with a guarantee from the abutter acceptable to the Board that the adjoining buffer strip will remain undeveloped, the Board may reduce the required buffer strip by the width of the encumbered adjoining buffer strip.
  - c. Route 1 buffer. A vegetative buffer 100 feet deep, or twenty percent (20%) of the depth of the lot, whichever is less, measured from the edge of the traveled way, shall be provided along Route 1 for all new commercial developments and for the re-development of existing commercial properties. Parking shall be prohibited within this buffer strip.
  - d. Roadside buffer in C2 District. Except as described in section 11.T.c, a vegetative buffer 50 feet deep, or twenty percent (20%) of the depth of the lot, whichever is less, measured from the edge of the traveled way, shall be provided along all public roads in the C2 District 1 for all new commercial developments and for the re-development of existing commercial properties. Parking shall be prohibited within this buffer strip.
  - e. Incompatible uses. Where the Board determines that adjacent uses or accessory uses are incompatible, a buffer strip may be required along any property line to shield incompatible uses or accessory uses from one another. Such buffer strips shall be a minimum of twenty-five (25) feet in width and such additional width which in the judgment of the Board may be necessary to shield incompatible uses from ordinary view.
2. Screening. Screening within the required buffer strips, in the form of natural or man-made barriers, existing vegetation or new plantings, if suitable existing vegetation and natural features do not exist, is required as follows:
  - a. Natural features. Natural features in buffer strips shall be maintained wherever possible. When natural features such as topography, gullies, stands of trees, shrubbery, and/or rock outcrops do not exist or are insufficient to screen structures and uses from the view of abutting properties and, where applicable, public roadways, other types of buffers shall be provided to supplement the existing features.

- b. Vegetation variety. All buffers that contain vegetation shall provide for a variety and mixture of landscaping. The variety shall be based on a consideration of susceptibility to disease, hardiness for specific site location, colors, season, textures, shapes, sizes, blossoms and foliage. Planted vegetation shall take the form of shade trees, deciduous shrubs, evergreens, well-kept grassed areas or ground cover, the species of which shall be well suited to the Damariscotta area and approved by the Board.
- c. Vegetation standards. Where planting is required, as determined by the Board at least one (1) shade tree at least six (6) feet in height and at least two and a half (2) to three (3) inches in diameter, measured at a point four (4) feet above finished grade level, shall be planted no nearer than five (5) feet to any lot line for each three hundred (300) square feet of required landscaped area; and at least one (1) deciduous shrub or evergreen at least eighteen (18) inches above finished grade level, shall be planted for each two hundred (200) square feet of finished landscaped area.
- d. Fencing. Where fencing is provided, it shall be no more than six (6) feet in height, and shall be so located within the property line to allow access for maintenance on both sides without intruding upon abutting properties, except that the Board may require up to an eight (8) foot high fence to separate incompatible uses.

#### U. Signs

See the Damariscotta Sign Ordinance.

#### V. Building Appearance

The following standards shall apply to all buildings less than the size standard for large-scale development. Buildings required to meet the standards for large scale development (7,500 square feet and larger) shall comply with those standards contained in Section 12 of this ordinance.

1. The building's architecture (e.g. buildings of less than 7,500 square feet of gross floor area) shall reflect traditional New England building forms including, but not limited to, pitched roofs, dormers, windows (rather than plate glass) and clapboard, shingle or brick siding. Freestanding accessory structures, such as ATMs, gas pump canopies, sheds or drive-thrus (so called), etc., shall be treated as architectural elements and meet the same design standards as the principal structures on the site.
2. Pitched roofs with a minimum pitch of 5/12 may be required by the Planning Board to complement existing abutting buildings or otherwise maintain a particular esthetic objective.
3. Building facade colors shall be non-reflective, subtle, neutral or earth tone. The use of high intensity colors, metallic colors, fluorescent colors or black on facades shall be prohibited. Building trim and architectural accent elements may feature colors of black, but such colors shall be muted, not metallic, not fluorescent and not specific to particular uses or tenants. Standard corporate and trademark colors shall be permitted only on signage.

#### Section 12. LARGE-SCALE DEVELOPMENT

In addition to the standards of Section 11, the following standards apply to larger non-residential buildings or structures and multi-family dwellings, including connected buildings, accessory buildings and structures, on site plans with the building or connected/associated buildings being 7,500 square feet or more of total floor area. The following standards are to be used by the

Board in reviewing applications for site plan review. After the effective date of this Section, additions to a building (as defined herein) that exceeds the 7,500 square foot threshold, either individually or cumulatively, shall meet the following standards for large-scale development. The Board may modify or waive specific performance standards for such additions if it finds that, due to the design, location, function or layout of the principal structure, the application of specific performance standards is impractical or inappropriate.

A. Building Appearance.

The building shall employ varying setbacks, heights, roof treatments, doorways, window openings and other structural or decorative elements to reduce apparent size and scale of the building.

1. The building's architecture shall include, but not be limited to, pitched roofs, dormers, windows (rather than plate glass) and clapboard or brick siding. Freestanding accessory structures, such as ATM's, gas pump canopies, sheds or drive-thru's (so called), etc., shall be treated as architectural elements and meet the same design standards as the principal structures on the site.
2. a. A minimum of fifty (50) percent of the structure's facades, 50 feet or longer in length and that are directly facing (i.e. parallel to) a public street, shall employ architectural features such as, but not limited to, actual protrusions or recesses with a depth of at least six (6) feet. No uninterrupted façade shall extend more than forty-nine (49) feet.  
b. Ground floor facades that face public streets shall have arcades, display windows, entry areas, awnings or other such features along no less than fifty (50) percent of their horizontal length.
3. A minimum of twenty (20) percent of all of the linear roof eaves or parapet lines on the side of structures (with a façade of 50 feet or more in length fronting on a public way), shall employ differences in height, with such differences measured eaves to eaves or parapet to parapet.
4. Pitched roofs with a minimum pitch of 5/12 may be required by the Planning Board to complement existing abutting buildings or otherwise maintain a particular aesthetic objective.
5. Building facades shall include a repeating pattern that includes no fewer than three (3) of the following elements: (a) color change; (b) texture change; (c) material module change; (d) expression of architectural or structural bay through a change in plane no less than twenty-four (24) inches in width such as an offset, reveal or projection rib. At least one of these elements shall repeat at intervals of no more than thirty (30) feet, either horizontally or vertically.
6. Any rear or side building façade that is directly facing a public street (i.e. parallel thereto), shall be designed to complement the architectural treatment of the primary façade. Rear and side building facades visible from residential properties shall be screened to block visibility from the residential property in conformance to Section 12.E.2.
7. Building façade colors shall be non-reflective, subtle, neutral or earth tone. The use of high intensity colors, metallic colors, fluorescent colors or black on facades shall be prohibited. Building trim and architectural accent elements may feature colors of black, but such colors shall be muted, not metallic, not fluorescent and not specific to particular uses or tenants. Standard corporate and trademark colors shall be permitted only on signage.

8. Building Compatibility

- a. Exterior building materials shall be of a comparable aesthetic quality on sides of the building directly facing (parallel to) public ways. Building materials such as glass, brick, tinted or decorative concrete block, wood, stucco, vinyl siding or exterior insulation and finish systems (EIFS) shall be used. Decorative architectural metal with concealed fasteners or decorative tilt-up concrete panels may be approved if incorporated into the overall design of the building.
  - b. Sides of the building not visible from a public way shall maintain compatibility with other sides of the building by use of compatible colors.
9. The integration of windows into the building design is required and shall be transparent glass between three (3) to eight (8) feet above the walkway along any facades facing a public street. The use of blinds shall be acceptable where there is a desire for opacity. Any blinds shall comply with the color standards of Subsection A.7 above. If large areas of plate glass are proposed, the Planning Board may require the applicant to demonstrate that glare from such glass will not create safety concerns for vehicles.
  10. Ground floor facades of retail buildings that face public streets or contain the principal access to the building and which exceed one hundred and fifty (150) feet in length shall be designed to appear as a series of attached, individual storefronts even though the building itself may consist of a single retail occupancy.
  11. Public entryways shall be clearly defined and highly visible on the building's exterior design and shall be emphasized by on-site traffic flow patterns. Two (2) or more of the following design features shall be incorporated into all public entryways: canopies or porticos, overhangs, projections, arcades, peaked roof forms, arches, outdoor patios, display windows, distinct architectural details.

#### B. Outdoor Sales.

Additional standards are applicable to large-scale development consisting of retail establishments greater than seven thousand and five hundred (7,500) square feet of floor area. The Planning Board may modify or waive one or more of the following standards for vehicle display areas if it finds that the application of such standards is impractical or inappropriate.

1. Areas for outdoor sales of products may be permitted if they are extensions of the sales floor into which patrons are allowed free access. Such areas shall be incorporated into the overall design of the building and the landscaping, be counted as part of the minimum 7,500 square feet (or maximum of 35,000 square feet) of floor area and shall be permanently defined and screened with walls, roofs and shall conform to those compatible predominant materials and colors used on the rest of the building.
2. Outdoor sales areas not counted toward minimum 7,500 square feet (or maximum 35,000 square feet) of floor area at commercial buildings include the location, storage and display of such hardscape or softscape landscaping, nursery, gardening or agricultural products such as, but not limited to, cement or brick pavers, outdoor pottery, outdoor furniture or plants, mulch, fertilizer or sand bags. Except for such agricultural, gardening, landscaping, nursery and similar products normally stored outdoors, the outdoor storage of products for retail sale is prohibited in an area where customers are not permitted unless such area is visually buffered from adjacent streets and abutting developed properties. This prohibition includes outdoor storage sheds and containers. There may, however, be outdoor storage of such things, but not limited to, excess stock of products normally found outdoors such as patio furniture, if

properly visually screened and for display purposes only.

3. Outdoor sales areas must be clearly depicted on the site plan. They must be at least ten (10) feet from motor vehicle routes and protected by a physical barrier.

C. Parking.

1. Parking areas shall provide safe, convenient and efficient access for vehicles and pedestrians. They shall be distributed around large buildings in order to shorten the distance to other buildings and public sidewalks and to reduce the overall scale of the paved surface.
2. Parking lots over 100 spaces shall be segmented visually and functionally into distinct parking areas of no more than 40 spaces by landscaped and curbed medians with a minimum curb to curb width of ten (10) feet. Curbed landscaped islands shall be sited at the end of each parking aisle and within parking aisles at intervals no greater than one island per every twenty (20) spaces. Islands at the ends of aisles shall be counted toward meeting this requirement. Each required landscaped island shall be a minimum of three hundred sixty (360) square feet of landscaped area.
3. No off-street parking shall be sited between the front façade of the principal building and the primary abutting streets with the exception of parking areas used for the display of vehicles for sale. The Planning Board may waive this requirement up to fifteen (15%) percent of off-street parking if it determines that the building and parking area are screened from view by out lot(s) (as defined in Section 12.H.2) consisting of buildings less than seven thousand and five hundred (7,500) square feet of floor area and by the use of additional tree plantings, berms, fencing, low walls, shrubs and/or perennials.

D. Bicycles and Pedestrian Facilities

1. Sidewalks internal to the development shall be provided and shall be no less than eight (8) feet in width and raised at least 6 inches above the vehicle travelway. Also, they shall be provided from the public sidewalk or right-of-way to the principal customer entrance(s) of all larger commercial buildings on the site. At a minimum, walkways shall connect focal points of pedestrian activity such as, but not limited to, transit stops, street crossings, building and store entry points and shall feature adjoining landscaped areas that includes trees, shrubs, benches, flower beds, ground covers and other such materials for no less than fifty (50) percent of the length of the walkway.
2. Sidewalks at least five (5) feet in width shall be provided along all sides of the lot that abut a public street.
3. Sidewalks at least eight (8) feet in width shall be provided along the full length of the building along any façade featuring a customer entrance and along any façade abutting public parking areas. Such sidewalks shall be located at least six (6) feet from the façade of the building to provide planting beds for foundation landscaping, except where features such as arcades or entryways are part of the façade. Weather protection features such as awnings or arcades are required at all customer entrances.
4. All internal pedestrian crosswalks shall be distinguished from driving surfaces through the use of durable, low maintenance surface materials such as, but not limited to, pavers, bricks or scored concrete or asphalt to enhance pedestrian safety and comfort as well as the attractiveness of the walkways.

5. The development shall provide exterior pedestrian furniture in appropriate locations at the rate of one seat for every five thousand (5,000) square feet of gross floor area and secure, bicycle parking at the rate at least three bicycle rack spaces for every fifty (50) vehicle parking spaces.

#### E. Landscaping

1. The applicant shall submit a site landscaping plan that presents the location and quantity of all project plantings. The applicant shall also submit a planting schedule keyed to the site landscaping plan that lists the botanical and common names, size at planting and quantity of all project plantings. Landscaping shall be considered an integral component of the approved project. The applicant shall replace within thirty (30) days, or as seasonally required by the species, any landscaping that dies, is removed or otherwise requires replacement. Such replacement landscaping shall be equivalent in species and size to the original landscaping unless the applicant can demonstrate to the satisfaction of the Planning Board that the site conditions require an alternative species of comparable size.
2. A minimum of thirty (30) percent of the building's total foundation, including a minimum of fifty (50) percent along the building's façade facing a public street, shall be planted with landscaping, based on proper planting conditions, consisting of trees at least 1" caliper in width and an average height of six (6) feet, appropriate to USDA Plant Hardiness Zone 5 and placed into soil that would allow long-term growth and survival. Add adequate coverage by shrubbery to visually screen the base (foundation) of the building(s). At a minimum, planted shrubbery shall be 3 gallon pot size so called. This landscaping shall be near entrances and facades facing public streets as well as in parking areas. If the building will be located in a village area and there will be no setback between it and a public sidewalk or street right-of-way, landscaping along the building's front façade is not required.
3. Parking islands shall be landscaped in conformance to Subsection 2 above.
4. Buffer strip landscaping shall consist of trees, based on proper planting conditions, at least 1" caliper in trunk width and a minimum suitable height appropriate to USDA Plant Hardiness Zone 5, placed into soil that would allow long-term growth and survival and in sufficient number to form a visual barrier consisting of understory trees, evergreen or deciduous shrubs and evergreen trees. These shall be planted along and within a minimum thirty (30) foot deep green buffer strip adjacent to all public and private streets and drives including parking lot connections, circulation drives (including those adjacent to buildings) and loading areas. If the building(s) will be located in a village area and there will be no setback between it and a public sidewalk or street right-of-way, landscaping adjacent to the public sidewalk or street right-of-way is not required.
5. Where the commercial building abuts a residential boundary line or a property with at least one residence, a stone wall or fencing with evergreen trees that provides screening and buffering shall be included, but not limited to, a six (6) foot high berm. or, as determined by the Planning Board, plantings that would protect the residents from seeing the commercial building(s).

#### F. Screening

1. Ground and wall-mounted mechanical equipment, refuse containers and permitted outdoor storage must be fully concealed from on-site and off-site ground level views with materials identical to those on building exteriors.



2. All trash collection areas that are not within an enclosed building or underground, must be screened or recessed so that they are not visible from public sidewalks, internal pedestrian walkways or adjacent residential properties and at least 50 feet from any lot line. Screening and landscaping of these areas shall conform to the predominant materials used on the site.
3. Roof-top equipment must be screened by parapets, upper stories or exterior walls from viewing from public streets within one-thousand (1,000) feet. Roof-top solar panels or windpower generators shall be screened only to the extent that their function is not compromised
4. Gates and fencing may be used for security and access. Chain link, wire mesh or wood slat fencing are acceptable for security purposes. Such security fencing, however, does not satisfy buffering or screening requirements of this Ordinance.
5. Loading docks must be screened from surrounding roads and developed properties by walls matching the building's exterior or by fully opaque landscaping.

#### G. Building Reuse

Additional standards for maintenance of a site after vacancy applicable only to large-scale developments consisting of commercial buildings (in the aggregate) greater than 7,500 square feet in total floor area are:

1. If the building remains vacant for a period of four (4) consecutive years (within a 20 year time frame after having been initially constructed), the Selectmen may, following notice to the owners, mortgagees and any other legally interested parties, along with an opportunity to be heard, vote their right to pursue the removal of the building(s) from the site pursuant to 17 MRSA, Section 2851 (The Dangerous Buildings Statute) if the Selectmen find that the building(s) are structurally unsafe, unstable, unsanitary, constitutes a fire hazard, is unsuitable or improper for the use or occupancy to which it is put (or could reasonably be put pursuant to the Damariscotta Land Use Ordinance), constitutes a hazard to health or safety because of inadequate maintenance, dilapidation, obsolescence, or is otherwise dangerous to life or property. In pursuit of exercising removal of a building(s) pursuant to 17 MRSA, Section 2851, the Selectmen must find, after notice and hearing on the vacant or abandoned building(s), that the building(s) are a nuisance or dangerous before deciding upon razing and removal of the building(s) from the site.
2. Where a proposed new building will replace an existing commercial building of 7,500 square feet of total floor area or more, the applicant shall submit evidence that there will be no private prohibition on the type of reuse of the previously occupied building through conditions of sale or lease.

#### H. Additional Standards for Buildings 20,000 square feet or Greater in total floor area

Additional standards applicable only to large-scale development greater than twenty thousand (20,000) square feet in total floor area. These standards are intended to ensure that the buildings are not prominently visible from roads unless they are sited close to the road in a manner similar to traditional village commercial development.

1. Retail buildings of twenty (20,000) square feet or greater in total floor area that are set back more than fifty (50) feet from a road shall not be prominently visible from such a road. This may be accomplished by existing vegetation and topography as well as proposed site improvements such as landscaping, berms and similar site design features. In determining if

existing vegetation and/or proposed landscaping will satisfy this standard, the Planning board shall require the applicant to provide a visualization of the building and landscaping as they would appear 7 years after completion of the project.

2. Alternatively, the standards in Section H herein, may be satisfied by the siting of smaller commercial buildings on pads or out-lots between the large-scale retail building and the designated road. This technique shall be employed for the full width of the development site along the road that provides its principal vehicular access except for access locations and landscaped public open spaces that the Planning Board determines will provide effective visual buffering of the large retail building.

### 3. Community Impacts

The Planning Board may require an economic and fiscal impact analysis for a proposed large-scale development. The applicant shall provide adequate funding to the Town to retain a consultant of the Town's choice with appropriate experience to complete and present such analysis.

#### a. The impact statement shall include the following elements:

- (1) Identification and assessment of the impacts of the proposed project, including positive, negative and indirect impacts.
- (2) Proposed measures to mitigate adverse impacts and/or maximize positive impacts including provision of infrastructure or public service improvements sufficient to support the project. Any adverse impacts that cannot be mitigated shall be identified. Mitigation measures to be implemented by the applicant shall be identified.
- (3) Proposed measures to mitigate negative traffic impacts to road plans of the Town and how to integrate the proposed development into the road plans of the Town.

#### b. The impact statement shall assess the following areas of potential impact:

- (1) Types of jobs created.
- (2) Number of full-time (forty (40) hours per week) and part-time (less than forty (40) hours per week) jobs created.
- (3) Evaluation of the market and financial feasibility of the project. Include a trade area analysis indicating the market area proposed for the project and the area from which patrons will be attracted and any plans for phased construction. Include any further market studies prepared for the project by the applicant.
- (4) Evaluation of the potential for the proposed project to create an over-supply of retail space in Town using industry-accepted standards for commercial floor area per resident.
- (5) Evaluation of the impact of the proposed project on commercial vacancy rates in Damariscotta and Lincoln County.
- (6) Estimate to what extent the proposed project would reduce the diversity of the Town's economic base by eliminating smaller businesses.
- (7) Comparison and evaluation of the projected costs and benefits to the Town resulting from the project including:

- (i) Projected costs arising from increased demand for and required improvements to public services and infrastructure.
- (ii) Value of improvements to public services and infrastructure to be provided by the project.
- (iii) Projected tax revenues to the Town to be generated by the project and the need for increased financial support for infrastructure improvements and protective services.
- (iv) Projected impact of the project on land values (both residential and commercial) and potential loss or increase in tax revenues to the Town.
- (v) Short-term and long-term projection of increased revenues to the Town and costs resulting from the proposed project.
- (vi) Estimate of the difference between how much of the revenue generated by the proposed project would be retained and re-directed back into the economy of the community compared to other retail chain stores and locally-owned, independent retailers in Town.

### **Section 13 APPEALS AND VARIANCES**

- A. To appeal a decision of the Board, an aggrieved party must file the appeal with the Board of Appeals within 30 days of the date of the decision of the Board. If such appeal decision is not filed within the stated time, the prior decision of the Board shall be final. Following a hearing, the Board of Appeals may reverse the decision of the Board only upon a finding of Fact or in law that the decision is clearly contrary to specific provisions of this Ordinance. The Board of Appeals may affirm, modify, or remand the application to the Board for further proceeding. The Board of Appeals shall render a decision within 30 days of receiving an application.
- B. The Board of Appeals may grant a variance from the strict application of this Ordinance provided that the strict application of the terms of this Ordinance would result in undue hardship to the applicant. The term “undue hardship” shall mean:
  - 1. That the land in question cannot yield a reasonable return unless a variance is granted, and;
  - 2. 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,
  - 3. That the granting of a variance will not alter the essential character of the locality; and,
  - 4. That the hardship is not the result of action taken by the applicant or a prior owner.
- C. Appeal Procedure
  - 1. Making an Appeal
    - a. 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 Board. Such appeal shall be taken within 30 days of the date of the decision appealed from, and not otherwise, except that the Board, upon a showing of good cause, may waive the 30 day requirement.

- b. Such appeal shall be made by filing with the Board of Appeals a written notice of appeal which includes:
    - (1) A concise written statement indicating what relief is requested and why it should be granted.
    - (2) 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.
  - c. Upon being notified of an appeal, the Code Enforcement Officer or Board, as appropriate, shall transmit to the Board of Appeals all of the papers constituting the record of the decision appealed from.
  - d. The Board of Appeals shall hold a public hearing on the appeal within 35 days of its receipt of an appeal request.
  - e. The Code Enforcement Officer shall participate in appeals procedures.
2. Decision by Board of Appeals
- a. A majority of the board shall constitute a quorum for the purpose of deciding an appeal. A member who abstains shall not be counted in determining whether a quorum exists.
  - b. The concurring vote of a majority of the members of the Board of Appeals present and voting shall be necessary to reverse an order, requirement, decision, or determination of the Code Enforcement Officer or Board, or to decide in favor of the applicant on any matter on which it is required to decide under this Ordinance, or to affect any variation in the application of this Ordinance from its stated terms. The board may reverse the decision, or failure to act, of the Code Enforcement Officer or Board only upon a finding that the decision, or failure to act, was clearly contrary to specific provisions of this Ordinance.
  - c. The person filing the appeal shall have the burden of proof.
  - d. The Board shall decide all appeals within 35 days after the close of the hearing, and shall issue a written decision on all appeals.
  - e. All decisions shall become a part of the record and shall include a statement of findings and conclusions as well as the reasons or basis therefore, and the appropriate order, relief or denial thereof.

3. Appeal to Superior Court

Any aggrieved party who participated as a party during the proceeding before the Board of Appeals may take an appeal to Superior Court in accordance with State laws within 30 days from the date of any decision of the Board of Appeals.

4. Reconsideration

The Board of Appeals may reconsider any decision within 30 days of its prior decision. The Board may conduct additional hearings and receive additional evidence and testimony.

## Section 14 ENFORCEMENT

### A. Nuisances

Any violation of this Ordinance shall be deemed to be a nuisance.

### B. Code Enforcement Officer

1. This ordinance shall be administered and enforced by a Code Enforcement Officer (CEO) appointed by the Municipal Officers. 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.
2. 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. The Code Enforcement Officer shall keep a complete record of all essential transactions of the office, including applications submitted, permits granted or denied, variances granted or denied, revocation actions, revocation of permits, appeals, court actions, violations investigated, violations found, and fees collected.
3. The Code Enforcement Officer shall be responsible for administering the provisions of this ordinance, including interpreting the provisions hereof. Any person who believes that the CEO has made an error in the interpretation or application of the provisions of this ordinance may appeal, within the time limits for such appeals, such determination to the Board of Appeals as an administrative appeal. If the Appeals Board finds that the CEO erred in his/her interpretation of the ordinance, it shall modify or reverse the action accordingly.

### C. 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 town. 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.

### D. Fines

Any person, including but not limited to a landowner, a landowner's agent or a contractor, who orders or conducts any activity in violation of this Ordinance shall be penalized in accordance with Title 30-A, Maine Revised Statutes Annotated, Subsection 4452.

## Section 15 DEFINITIONS

**Meaning of Words.** All words not defined herein shall carry their customary and usual meanings. Words used in the present tense shall include the future. Words used in the singular shall include the plural.

**ABUTTING PROPERTY** - Any lot which is physically contiguous with the subject lot even if only at a point and any lot which is located directly across a street or right-of-way from the subject lot such that the extension of the side lot lines of the subject lot would touch or enclose the abutting property.

**ACCESSORY BUILDING** - A detached, subordinate building, the use of which is clearly incidental and related to that of the principal building or use of the land, and which is located on the same lot as that of the principal building or use.

**ACCESSORY 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 a permit or variance.

**ANTENNA** - any system of poles, panels, rods, reflecting discs or similar devices used for the transmission or reception of radio or electromagnetic frequency signals.

**ANTENNA HEIGHT**- the vertical distance measured from the base of the antenna support structure at grade to the highest point of the structure, even if said highest point is an antenna. Measurement of tower height shall include antenna, base pad, and other appurtenances and shall be measured from the finished grade of the facility site. If the support structure is on a sloped grade, then the average between the highest and lowest grades shall be used in calculating the antenna height.

**ARCADE:** A series of outdoor spaces located -under a roof or overhang and supported by columns or arches.

**ARTERIAL** - A controlled access road or a street or road with traffic signals at important intersections and/or stop signs on side streets or which is functionally classified by the Maine Department of Transportation as an arterial.

**BAY:** As applied to large scale development, a spatial division element in a building defined by beams or ribs and their supports.

**BERM:** An earthen mound designed to provide visual interest on a site, screen -undesirable views, reduce noise or provide a buffer from adjoining uses.

**BUFFER:** As applied to large scale development, an area provided to reduce the conflict between two different land uses. Buffers are intended to mitigate undesirable views, noise and glare, effectively providing greater privacy to neighboring land uses. Typical buffers include, but are not limited to, plant materials, walls, fences and/or significant land area to separate the uses.

**BUILDING** - Any permanent structure, having one or more floors and a roof, which is used for the housing or enclosure of persons, animals or property. When any portion thereof is separated by a

division wall without opening, then each such portion shall be deemed a separate building.

**BUILDING FOOTPRINT** - The area covered by a building measured from the exterior surface of the exterior walls at grade level exclusive of cantilevered portions of the building. Where the building is elevated above grade level on posts or similar devices, the building footprint is the area the building would cover if it were located at ground level.

**BED & BREAKFAST** - A private home occupied by the owner or his tenant as his principal residence which offers overnight sleeping accommodations and breakfast at a single price for travelers; the total space occupied by such accommodations no to exceed twenty percent of the dwelling.

**BOARD** - The Planning Board of the Town of Damariscotta.

**CANOPY**: As applied to large scale development, a projection over a niche or doorway, often decorative or decorated; a roof over an accessory structure including but not limited to gasoline pumps and an Automated Teller Machine (ATM).

**CHANGE FROM ONE CATEGORY OF NONRESIDENTIAL USE TO ANOTHER CATEGORY OF NONRESIDENTIAL USE** - A change in the type of occupancy of a nonresidential building or structure, or a portion thereof, such that the basic type of use is changed, such as from retail to office or storage to a restaurant, but not including a change in the occupants.

**COLLECTOR** – A street that collects traffic from local streets and connects with arterials or a street or road functionally classified as a collector by the Maine Department of Transportation.

**COLOCATION** - the use of a wireless telecommunications facility by more than one wireless telecommunications provider.

**COLUMN**: A vertical support, usually cylindrical, consisting of a base, shaft and capital, either monolithic or built up of drums the full diameter of the shaft.

**COMMERCIAL** - 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.

**CONNECTED/ASSOCIATED BUILDINGS**: Two or more buildings on a site plan that are connected by and arcade or sidewalk or that are less than 50 feet apart at any point on any building.

**CURB CUT** - The opening along the curb line or street right-of-way line at which point vehicles may enter or leave the street.

**DOWNTOWN COMMERCIAL AREA** - the Downtown Commercial Area is defined as follows: Downtown Commercial (C1) district of Article 3(C)(2)(a) of the Damariscotta Land Use Ordinance.

**DWELLING UNIT** - a room or group of rooms designed and equipped exclusively for use as permanent, seasonal, or temporary living quarters for only one family. The term shall include mobile homes, but not recreational vehicles.

**EAVE**: The overhang at the lower edge of the roof, which usually projects out over the exterior walls of the structure.

**EXPANSION** -

1. An increase of the building footprint and/or increase in the height of the structure beyond it

present highest point. Alterations of existing buildings which are required in order to meet the requirements of the Americans With Disabilities Act (ADA) and/or State Fire Code are not considered to be enlargements or expansions of a structure and are not required to meet otherwise applicable setback requirements, provided the alterations are the minimum necessary to satisfy the ADA and/or State Fire Code.

2. Any intensification of use in time, volume or function, whether or not resulting from an increase in the footprint, height, floor area, land area or cubic volume occupied by a particular use. Increases which are required in order to meet the requirements of the Americans With Disabilities Act and/or the State Fire Code are not considered to be enlargements or expansions of use.

3. (As it applies to telecommunication facilities) - the addition of antennas, towers or other devices to an existing structure.

**FAA** - The Federal Aviation Administration or its lawful successor.

**FACADE**: The portion of any exterior elevation on the building extending from grade to the top of the parapet, wall or eaves and extending the entire length of the building.

**FCC** - means the Federal Communications Commission , or its lawful successor

**FOOTCANDLE**: A measure of light falling on a surface. One (1) footcandle is equal to the amount of light generated by one (1) candle shining on one (1) square foot surface located one (1) foot away.

**FORMULA RESTAURANT**: An eating place that is one of a chain or group of three (3) or more establishments and which satisfies at least two of the following description:

- a. It has the same or similar name, trade name, or trademark as others in the chain or group;
- b. It offers either of the following characteristics in a style which is distinctive to and standardized among the chain or group;
  - (1) Exterior design or architecture;
  - (2) Uniforms, except that a personal identification or simple logo will not render the clothing a uniform.
- c. It is a fast food restaurant within a chain of 3 or more similarly named and identifiably designed and constructed to look similar to the viewer.

**FISHERIES** - Areas identified by a governmental agency such as the Maine Department of Inland Fisheries and Wildlife, Atlantic Salmon Authority, or Maine Department of Marine Resources as having significant value as fisheries and any areas so identified in the municipality's comprehensive plan.

**FLOOR AREA** - The sum of the horizontal areas of the floor(s) of a structure enclosed by exterior walls.

**GROUND WATER** - All of the water found beneath the surface of the ground. For purposes of aquifer protection, this term refers to the subsurface water present in aquifers and recharge areas.

**HISTORIC OR ARCHAEOLOGICAL RESOURCES and SITES** - resources that are:

1. Listed individually in the National Register of Historic Places or eligible for listing on the National Register;



2. Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary of the Interior to qualify as a registered historic district;
3. Individually listed on a state inventory of historic places in states with historic preservation programs approved by the Secretary of the Interior;
4. Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified by Secretary of the Interior through the Maine Historic Preservation Commission; or
5. Areas identified by a governmental agency such as the Maine Historic Preservation Commission as having significant value as an historic or archaeological resource and any areas identified in the municipality's comprehensive plan, which have been listed or are eligible to be listed on the National Register of Historic Places.

**HISTORIC DISTRICT** - a geographically definable area possessing a significant concentration, linkage or continuity of sites, buildings, structures or objects united by past events or aesthetically by plan or physical development and identified in the municipality's comprehensive plan, which is listed or is eligible to be listed on the National Register of Historic Places. Such historic districts may also comprise individual elements separated geographically, but linked by association or history.

**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 2 persons other than family members residing in the home.

**HOTEL/MOTEL/INN** - a commercial building or group of detached or connected buildings designed to accommodate for a fee travelers and other transient guests remaining for a limited duration with sleeping rooms without cooking facilities, each unit having its own private bathroom and its separate entrance leading either to the outdoors or to a common corridor or hallway. A hotel, motel, or inn may include restaurant facilities for the use of its guests and other customers.

**ILLUMINANCE** – The measure of the amount of light that is intercepted by an object that is a distance away from the sign. That is, the lighted sign face illuminates objects that are away from it, and the lighting level produced by the sign on a particular object is measured in footcandles (fc)s.

**IMPERVIOUS SURFACE** - The area covered by buildings and associated constructed facilities, areas which have been or will be covered by a low-permeability material, such as asphalt or concrete, and areas such as gravel roads and unpaved parking areas, which have been or will be compacted through design or use to reduce their permeability. Common impervious surfaces include, but are not limited to, rooftops, walkways, patios, driveways, parking lots or storage areas, concrete or asphalt paving, gravel roads, packed earthen materials, and oiled, macadam, or other surfaces which similarly impede the natural infiltration of storm water.

**INDUSTRIAL** - the assembling, fabrication, finishing, manufacturing, packaging or processing of goods, or the extraction of minerals.

**LANDSCAPING:** The combination of natural elements such as trees, shrubs, ground covers, vines, or other organic and inorganic materials, which are installed for purposes of creating an attractive and pleasing environment, screening unsightly views, reducing environmental impacts, and filtering matter from the air.

**LARGE SCALE DEVELOPMENT:** Unless otherwise described, a commercial establishment or a multi-family dwelling or other non-residential development that equals or exceeds seven thousand

five-hundred (7,500) square feet of gross floor area, a non-residential development with a drive-thru facility or outdoor fuel sales or a formula restaurant; large scale development does not include agricultural building or commercial greenhouses and nurseries accessory to a retail or wholesale sales establishment.

**LINE OF SIGHT**- the direct view of the object from the designated scenic resource.

**LOCAL STREET** - A public street or road which is not identified as an arterial or collector. A local street includes a proposed street shown on an approved and recorded subdivision.

**LUMINANCE** – The measure of the brightness of the sign face.

**MULTI-FAMILY RESIDENTIAL** - a residential structure containing 3 or more residential dwelling units.

**NADIR**: The angle pointing directly downward zero (0°) degrees from the lighting fixture. Seventy-five (75°) degrees nadir, for example, is the angle pointing seventy-five (75°) degrees above nadir.

**NATURAL AREAS AND NATURAL COMMUNITIES, UNIQUE NATURAL AREAS AND NATURAL COMMUNITIES** - Areas identified by a governmental agency such as the Maine Department of Conservation Natural Areas Program as having significant value as a natural area and any areas identified in the municipality's comprehensive plan.

**OUT LOT**: A comparatively small lot with a small building located between a larger, commercial or institutional building and a public street. The larger internal-lot building is generally of 7,500 square feet or greater footprint.

**OWNER** - Any person, firm, corporation, or other legal entity which controls a parcel of land by a fee or less than fee title, or is party to a valid contract or option to purchase said title.

**PARABOLIC ANTENNA** (also known as a satellite dish antenna) - an antenna which is bowl-shaped, designed for the reception and or transmission of radio frequency communication signals in a specific directional pattern.

**PARAPET**: The portion of a wall that extends above the roofline.

**PARKING SPACE** - An area abutting a street or drive and intended or used for parking vehicles, in compliance with Section 11.H.

**PEDESTRIAN WALKWAY**: A surfaced walkway separate from the traveled portion of a public or private right-of-way, parking lot or driving aisle.

**PITCH**: The slope of a roof commonly expressed in terms of inches of vertical rise per foot of horizontal run.

**PORTICO**: A porch or walkway with a roof supported by columns, often leading to the entrance of a building.

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

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

**PUBLIC RECREATIONAL FACILITY** - a regionally or locally significant facility, as defined and identified either by State statute or in the municipality's adopted comprehensive plan, designed to serve the recreational needs of municipal property's owner.

**RECHARGE AREA** - Area composed of permeable, porous material through which precipitation and surface water infiltrate and directly replenish groundwater in aquifers.

**RETAIL BUSINESS, STORE OR USE** - A business engaged in the sale, rental, or lease of goods or services to the ultimate consumer for direct use or consumption and not for resale; also pertaining to any structure or use connected with or engaged in such sale, whether it be attached to the principal structure or any accessory structure or use which would reasonably be considered incidental and subordinate to the principal use or structure. This definition shall apply to any such structure or use located on the same lot or adjoining lots under the same ownership.

**SCALE:** The size or proportion of a building element or space relative to the structural or functional dimension of the human body.

**SCREEN:** See also "buffer". The sole purpose of a screen is to block views. A screen should be constructed of opaque materials and whose height will be effective in obstructing unwanted views.

**SETBACK** - the nearest horizontal distance from the property line or normal high-water line to the nearest part of a structure, road, parking space or other regulated object or area.

**SETBACK, FRONT** - An open area extending the entire width of a lot from lot sideline to lot sideline and extending in depth at a right angle from the street right-of-way to such depth as specified. Such area shall be unoccupied and unobstructed by any building from the ground upward.

**SETBACK, REAR** - An open area extending the entire width of a lot from lot sideline to lot sideline and extending at a right angle from the rear property line of the lot to such depth as specified. Such area shall be unoccupied and unobstructed by any building from the ground upward.

**SETBACK, SIDE** - An open area extending along each sideline of a lot between the front setback and the rear setback on such lot and extending at a right angle from the sidelines of such lot to such depth as specified. Such area shall be unoccupied and unobstructed by any building from the ground upward.

**SHARED PARKING** – A system of parking, typically applied to buildings of differing uses that each have peak parking demands at different times within a 24 hour period, thereby allowing some parking spaces to be shared.

**SIGHT DISTANCE** - The direct line of sight from a point four feet above the centerline of a road or highway to a point four feet above the center of the place at which vehicles enter and leave the highway.

**SIGNIFICANT CHANGE OF USE** – The change of the use of a property which triggers changes to any of the performance standards of Section 11 of this Ordinance. Such changes may include, but are not limited to, changes in the number of on-site parking spaces, for example, as required in Section 11(H)(4)(i).

**STRUCTURE** - Anything constructed or erected, which requires location on the ground or attached to something having a location on the ground, but not including a tent or vehicle.

**STOREFRONT:** The traditional "main street" facade bound by a structural pier on either side, the sidewalk on the bottom and the lower edge of the upper facade at the top.

**SUBSTANTIALLY COMMENCED; SUBSTANTIALLY COMPLETED** - Construction shall be considered to be substantially commenced when any work beyond the state of excavation, including but not limited to, the pouring of a slab or footings, the installation of piles, the construction of columns, or the placement of a manufactured home on a foundation has begun. Construction shall be considered to be substantially completed when it has been completed to the point where normal functioning, use, or occupancy can occur without concern for the general health, safety, and welfare of the occupant and the general public. At a minimum it shall include the completion of no less than seventy (70) percent of the costs of the proposed improvements within a development and shall include permanent stabilization and/or re-vegetation of areas of the site that were disturbed during construction.

**SUBSURFACE SEWAGE DISPOSAL SYSTEM** - a collection of treatment tank(s), disposal area(s), holding tank(s) and pond(s), surface spray system(s), cesspool(s), well(s), surface ditch(es), alternative toilet(s), or other devices and associated piping designed to function as a unit for the purpose of disposing of wastes or wastewater on or beneath the surface of the earth. The term shall not include any wastewater discharge system licensed under 38 MRSA Section 414, any surface wastewater disposal system licensed under 38 MRSA Section 413 Subsection 1-A, or any public sewer. The term shall not include a wastewater disposal system designed to treat wastewater which is in whole or in part hazardous waste as defined in 38 MRSA Ch 13, Subchapter 1.

**TARGETED MARKET COVERAGE AREA** - the area which is targeted to be served by this proposed telecommunications facility.

**TEXTURE:** The visual and tactile quality of a surface apart from its color and form. A building texture refers to the variations in the exterior facade and may be described in terms of roughness of the surface material, the patterns inherent in the material or the patterns in which the material is placed.

**THEATRE BUILDING** - Or theatre (also a playhouse) is a structure where theatrical works or plays are performed or other performances such as lectures or musical concerts may be given in front of an audience. A theatre building (also a cinema, movie house, picture theater, film theater) may also be a venue for viewing motion pictures ("movies" or "films") by an audience.

**USE** - The purpose for which land or a building is arranged, designed, or intended, or for which either land or a building is or may be occupied or maintained.

**VEGETATION** - All live trees, shrubs, ground cover, and other plants.

**WIRELESS TELECOMMUNICATIONS FACILITY OR FACILITY**- any structure, antenna, tower, or other device which provides radio/television transmission, commercial mobile wireless services, unlicensed wireless services, cellular phone services, specialized mobile radio communications (SMR), common carrier wireless exchange phone services, specialized mobile radio communications (SMR), common carrier wireless exchange access services, and personal communications service (PCS) or pager services.

**WILDLIFE HABITAT, SIGNIFICANT WILDLIFE HABITAT** - Areas identified by a governmental agency such as the Maine Department of Inland Fisheries and Wildlife as having significant value as habitat for animals and any areas identified in the municipality's comprehensive plan.



**Small Wind Energy Conversion Systems Ordinance**  
Town of Damariscotta, Maine

**TABLE OF CONTENTS**

Section 1. PURPOSE AND INTENT

Section 2. AUTHORITY

Section 3. APPLICABILITY

Section 4. CONFLICTS WITH OTHER ORDINANCES

Section 5. SEVERABILITY

Section 6. DEFINITIONS

Section 7. PRE-APPLICATION AND APPLICATION PROCEDURES

Section 8. LOCATION OF SMALL WIND CONVERSION SYSTEMS

Section 9. DIMENSIONAL REQUIREMENTS

Section 10. DEVELOPMENT STANDARDS

Section 11. ABANDONMENT OF USE

Section 12. ADMINISTRATION AND WAIVERS OR MODIFICATIONS

Town of Damariscotta  
SMALL WIND ENERGY CONVERSION SYSTEMS

1. Purpose and Intent

The purpose of this Ordinance is to alleviate dependence on fossil fuel energy sources by encouraging the development of on-site energy production and consumption by providing standards for alternative wind powered energy. The small wind energy conversion provisions set forth in this Ordinance are intended to protect the public health and safety, promote the general welfare of the community and conserve the environment, wildlife habitat, fisheries and unique natural areas; and to fit small wind conversion systems harmoniously into the fabric of the community by assuring the following standards are accomplished with the least possible regulation.

2. Authority

The Damariscotta Planning Board is vested with the authority to review and approve, conditionally approve or reject any application for small wind energy conversion systems (also called “Wind Generator(s)” herein).

3. Applicability

The requirements of this Ordinance shall apply to small wind energy conversion systems proposed, operated, modified or constructed after the date of adoption of this Ordinance.

4. Conflicts With Other Ordinances

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

5. 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.

6. Definitions

- A. Applicant: The person, firm, corporation, company, limited liability corporation or other entity which applies for approval under this Ordinance.
- B. Habitable Building (or structure): Places likely to be occupied on a continuous or temporary basis. This includes, but is not limited to, dwellings, commercial businesses,

places of worship, nursing homes, schools or other places used for education, day-care centers, motels, hotels, correctional institutions or barns.

- C. Line of Sight: The direct view of the object from selected locations.
  - D. Negative Visual Impact: A change in the appearance of the landscape as a result of a small wind energy conversion system development that is both out-of-character with a significant designated resource and which significantly diminishes the scenic value of the significant resource. Mere visibility of a small wind energy conversion system does not in and of itself constitute a negative visual impact.
  - E. Significant Designated Resource: A specific location, view or corridor identified as a scenic resource in the Damariscotta Comprehensive Plan or by a State or Federal agency. Significant designated resources include, but are not limited to, National Register of Historic Places buildings, locales or views of same. This includes the designated Damariscotta downtown village historic district comprised of 24 buildings on Main Street (Comprehensive Plan, March, 1992 – 2002).
  - F. Site: The parcel of land where a small wind energy conversion system is to be placed. The site can be publicly or privately owned and is a single lot
  - G. Small Wind Energy Conversion System: A wind energy conversion system consisting of a wind turbine, a tower, footings, electrical infrastructure, fence and any other associated equipment or structures. Any single small wind energy conversion system, herein defined, shall have a rated capacity of not more than 100 kilowatts and is a legal accessory use wherever situated.
  - H. Total Height: The vertical distance measured from a point on the ground at the original grade to the highest point of the wind turbine blade (or other component) when the tip is at full vertical.
  - I. Viewshed Map: A map that shows the geographic area from which a small wind energy conversion system may be seen.
  - J. Wind Generator: See “Small Wind Conversion System” above.
7. Pre-Application and Application Procedures
- A. General Pre-Application: The applicant shall obtain a Wind Generator Application, fill it out to the maximum feasible extent and arrange a possible meeting to review the Small Wind Generator application. The project should be reviewed informally with the Codes Enforcement officer and Board Chairman (or Planner) to determine if it generally conforms to applicable ordinance requirements. If the project appears to conform to applicable ordinance requirements, the applicant shall complete a building permit application, provide supporting documents and pay only the Wind Generator Application



fee and submit it with the Wind Generator Ordinance application.

To be placed on the Planning Board agenda for Pre-Application Sketch plan review, the applicant shall contact the Town Office at least 10 days prior to a meeting. If the agenda for said meeting is full, the Chair of the Planning Board shall place the project on the agenda of the next available meeting. Refer to Pre-application Procedures below for required documents. To submit an application for review, 6 copies of a completed application and supporting documents and plans (each in a bound, stapled or otherwise attached report) along with the Wind Generator fee (as determined by the Board of Selectmen), must be submitted to the Town Office no later than 15 business days prior to the next regularly scheduled Planning Board meeting. If the agenda for said meeting is full, the project shall be placed on the agenda of the next available meeting.

- B. Pre-Application Procedures: The following procedures and requirements shall apply to all applications for Wind Generator Reviews:
- (1) Prior to submitting an application for approval of the proposed project the applicant may meet informally with the Board at a regular meeting to present a sketch plan and generally discuss the proposal and to obtain guidance in development of the plan. The sketch plan may be a freehand drawing and show:
    - (a) The outline of the tract or parcel with estimated dimensions, road rights of way and existing easements;
    - (b) North Arrow
    - (c) The proposed layout of the wind generator equipment, related features of the project and existing or planned building(s), identification of general areas of steep slopes, wetlands, streams, and flood plains;
    - (d) Other information pertinent to the project;
  - (2) Upon written request by the applicant, the Board, at its discretion, may waive certain Submission Requirements specified in Section ~~7.E~~ 7.D due to the nature or size of the project.
  - (3) The Board shall indicate any additional studies and other approvals from local and regional and State agencies that may be required. Letters from these agencies shall be included as a part of the application and/or review.
  - (4) The Board may, at its discretion, make an inspection of the site prior to submission of the application
  - (5) Within 30 days from submission of a pre-application and sketch plan and following an on-site inspection, if applicable, the Board shall submit in writing to the applicant a checklist of the specific information which shall be included in the formal

application to the Board.

1. C. Application Procedures: All applications for Wind Generator review shall be made in writing to the Board on the forms provided for this purpose. The application shall be made by the owner of the property or his agent, as designated in writing by the owner; and shall be accompanied by the payment of an application fee. The application fee shall be the amount included in the Town's fee schedule. The Board of Selectmen shall determine the application fees based on the Town's average administrative cost to process permit and license applications. These costs shall reflect the Town's estimated costs associated with the permitting or licensed activity including the administrative time for processing the application, any required initial and follow-up inspections, legal and other professional fees and the cost for public notices.  
The Code Enforcement Officer and Planner (or Board Chairman) shall review all applications for completeness and other permitting requirements prior to giving them to the Board.
- D. Submission Requirements: The application shall include 6 copies of all of the following:
  - (1) A fully executed and signed copy of the application for wind generator review.
  - (2) Evidence of right, title or interest in the property such as deed, option to purchase, lease, or agreement.
  - (3) A site plan drawn at a scale sufficient to allow review of the items listed under the preceding general standards but not at more than 50 feet to the inch for that portion of the total tract of land being proposed for development, and showing the following:
    - (a) Names and addresses of all abutters on the plan and names and addresses of all abutters on a separate listing.
    - (b) Sketch map showing general location of the site within the town.
    - (c) Boundaries of all contiguous property under the control of the owner or applicant regardless of whether all or part is being developed at this time.
    - (d) The bearings and distances of all property lines and the source of this information. The Board may waive the requirement of a formal boundary survey when sufficient information is available to clearly establish, on the ground, all property boundaries.
    - (e) Classification(s) of the property and the location of zoning district boundaries as applicable.
    - (f) The location of all existing and proposed buildings, easements. Copies of any proposed or existing easements, covenants, deed restrictions or other legal matters

related to the deed.

(4) Structural Assessment.

- (a) Evidence that the applicant's roof-mounted wind generator meets the manufacturer's standards and is certified by a structural engineer that the applicant's roof is sufficiently sturdy to hold a roof-mounted wind generator in winds below 100 miles an hour for at least one hour.

(5) The Planning Board may require a scenic assessment consisting of one or more of the following:

- (a) A visual analysis composed of elevation drawings of the proposed wind power generator and any other proposed structures, showing height above ground level. The analysis may include a computerized photographic simulation demonstrating the visual impacts from nearby strategic vantage points and also indicate the color treatment of the system's components and any visual screening incorporated into the site that is intended to lessen the system's visual prominence.
- (b) A landscaping plan indicating the proposed placement of the facility on the site; location of existing trees and other significant site features; the type and location of plants proposed in the screening plan for the facility and the method of fencing, if any.
- (c) Photo simulations of the proposed facility may include those taken from perspectives determined by the Board, or their designee, during the pre-application conference. Each photo must be labeled with the line of sight, elevation, and with the date taken imprinted on the photograph. The photos must show the color of the facility and method of screening.
- (d) A brief narrative discussing: the extent to which the proposed facility would be visible from or within a designated scenic resource or scenic viewshed, the tree line elevation of vegetation within 100 feet of the facility, and the distance to the proposed facility from the designated scenic resources noted viewpoints.

- (6) A signed statement that the owner of the wind generator facility and his or other successors and assigns agree to pay for the costs of removing the facility if it is abandoned.

~~(F)~~E. Notification and Hearing Requirements

The applicant shall notify all abutting property owners by certified mail, return receipt requested, for all requests for a wind generator. If two or more abutters, or 5 residents of the Town, object in writing and such objection is received by the Board or postmarked within 15 days after a public notice of the request for a wind generator, the Board shall schedule a public hearing on the proposal. Such hearing shall be scheduled within 30

days of acceptance of an application as complete.

~~(G)~~ F. Board Review

- (1) Within 45 days of the acceptance of a complete application not requiring a hearing, the Board shall act upon the application. This period may be extended by mutual written agreement.
- (2) The Board shall inform the applicant in writing of their decision within seven (7) days of their action.
- (3) One copy of the approved wind generator application shall be retained in the Town Office and one copy shall be given to the Code Enforcement Officer.
- (4) The Board may attach reasonable conditions to approvals to ensure conformity with the purposes and provisions of this Ordinance.
- (5) If the application concerns property which in whole or part is within any Shoreland Zone, the criteria included in the Shoreland Zoning Ordinance shall be reviewed concurrently with the Wind generator application.
- (6) All approvals shall expire within one year of the date of issuance unless work thereunder is substantially commenced within one year from the date of approval. If work is not substantially completed within two years from the date of issue, a new application may be required by the Board.

8. Location of Small Wind Conversion Systems

Small wind conversion systems are permitted in all Land Use Districts except the Commercial I District. Where wind generators meet all the other requirements of this Ordinance, they may be placed on a lot if they do not exceed the following capacities:

Downtown Commercial (C1) District: Not permitted  
General Residential (R) District: 10 Kw  
Other Commercial (C2) District: 100 Kw  
Rural (Ru) District: 100 Kw

9. Dimensional Requirements

- A. Setbacks. All small wind energy conversion systems shall be set back a minimum horizontal distance of 1.1 times the total height of the system from property lines, public right-of-ways, easements and habitable buildings. New habitable buildings shall not be constructed within the setback area after a small wind energy conversion system has been constructed and is operating.

B. Height. The total height shall not exceed the following requirements for either free-standing or roof-mounted wind conversions systems. The allowable height shall be reduced if necessary to comply with Federal Aviation Administration requirements.

(1) General Residential (R) District: Tower – 85 feet;  
Vertical top of blade or other component – 100 feet

(2) Commercial (C2) and Rural (Ru) Districts: Tower – 100 feet  
Vertical top of blade or other component – 140 feet

#### 10. Development standards.

If a project includes construction other than a wind generator project, it may also need to comply with other applicable Damariscotta Ordinances.

A. The system's tower and blades shall be a non-reflective color that blends the system and its components into the surrounding landscape to the greatest extent possible and incorporates non-reflective surfaces to minimize any visual disruption.

B. The system shall be designed and located in such a manner to minimize negative visual impacts on significant designated resources. The application shall include a visual impact analysis of the small wind energy conversion system(s) as installed. See Section 7.E.5.

C. Exterior lighting on any tower or turbine associated with the small wind energy conversion system shall not be allowed except that which is specifically required by the Federal Aviation Administration.

D. All on-site electrical wires associated with the systems shall be installed underground except for 'tie-ins' to a public utility company transmission poles, towers and lines. This standard may be modified by the Planning Board if the project terrain is determined to be unsuitable due to the reasons of need for excessive grading or similar factors.

E. The system shall be operated and located such that no disruptive electromagnetic interference with signal transmission or reception is caused beyond the site. If it has been demonstrated that the system is causing disruptive interference beyond the site, the system operator shall promptly eliminate the disruptive interference or cease operation of the system.

F. Towers (but not applying to pole-mounted wind generators) shall be constructed to provide one of the following means of access control or another appropriate method of access control as approved by the Planning Board:

(1) Tower climbing apparatus located no closer than twelve (12) feet from the ground.

(2) A locked anti-climb device installed on the tower.

(3) A locked, protective fence at least six (6) feet in height that encloses the tower.

G. Anchor points for any guy wires for a system tower shall be located within the site. No guy wires or other system components shall be located so as to block access by emergency vehicles. The Fire Department shall be afforded the ability to cut electricity going into the house or other habitable building.

H. All small wind energy conversion systems shall comply with applicable Federal Aviation Administration (FAA) rules and regulations. The applicant shall present proof of compliance with FAA rules and regulations prior to the Planning Board's final decision.

I. No small wind energy conversion system shall be installed or operated in a manner that causes interference with the operation of any aviation facility including helicopter pads.

J. The conformance of rotor and over-speed control design and fabrication with good engineering practices shall be certified by the manufacturer.

K. Noise.

(1) Except during short-term events including utility outages and severe wind storms, the audible noise due to wind generator operations shall not be created which causes the noise level at the property boundary line of the proposed site to exceed the following: forty-five (45) dBA at the lot line abutting lots in the General Residential (C2) and the Rural (Ru) Districts; or to exceed fifty-five (55) dBA at the lot line abutting lots in the Commercial (C2) District. Certification shall be provided before construction demonstrating compliance with this requirement.

(2) Where the abutting property is undeveloped, the sound level shall be equal to or less than the most restrictive other abutting use. Where there are no uses on abutting properties, the sound level at the property line shall be equal to or less than the least stringent use allowed in the zoning district.

## 11. Abandonment of Use

A small wind energy conversion system which is not generating electricity for eighteen (18) consecutive months shall be deemed abandoned and shall be dismantled and removed from the property at the expense of the property owner.

## 12. Administration and Waivers or Modifications

A. The Planning Board is authorized to review and act on all wind generator applications. In considering wind generator plans under this Ordinance, the Board may act to approve, disapprove or approve with conditions as authorized by these provisions. No municipal permit shall be issued nor construction work begun on any wind generator project until

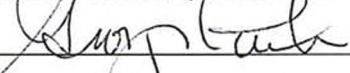
the wind generator plan has been approved by the Board. All work shall be carried out in accord with the documentation submitted and approved by the Board


- B. The Board may attach reasonable conditions to approvals to ensure conformity with the purposes and provisions of this Ordinance. The Board may condition final approval on receipt of copies of all State or Federal permits required by the project including, but not limited to, the Damariscotta Floodplain Management Ordinance or the Federal Aviation Administration (FAA) permits
- C. If the application concerns property which in whole or in part is within any Shoreland Zone, the criteria included in the Shoreland Zoning Ordinance shall be reviewed concurrently with wind generator review.
- D. All approvals shall expire within one year of the date of issuance unless work thereunder is substantially commenced within one year from the date of approval. If work is not substantially completed within two years from the date of issue, a new application may be required by the Board.
- E. The owner of a wind generator tower is responsible for recording the fall zone of the tower on her/his deed, site plan or subdivision plan at the Lincoln County Registry of Deeds (LCRD).

The enactment of this ordinance hereby revises the Small Wind Energy Conversion System Ordinance for the Town of Damariscotta, Maine as revised on February 26, 2008.

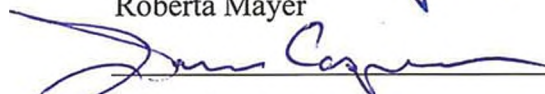
Board of Selectmen:

  
Ronn Orenstein, Chairman

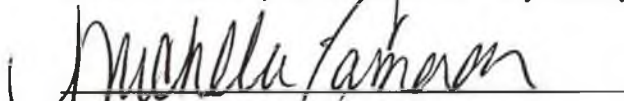
  
George Parker

  
Joshua Pinkham

  
Roberta Mayer

  
James Cosgrove

Attest: A true copy of an ordinance entitled "Small Wind Energy Conversion System Ordinance" for the Town of Damariscotta, Maine-June 15, 2016, as certified to me by the municipal officers of Damariscotta, Maine on the 6<sup>th</sup> day of July, 2016.

  
Michelle Cameron, Town Clerk

Damariscotta, Maine

**Legislative History**

Enacted at Special Town Meeting on February 6, 2008.

Typos corrected on adopted Ordinance on February 26, 2008.

# Town of Damariscotta

## SUBDIVISION ORDINANCE



This revision and subsequent Subdivision Ordinance were adopted at the Annual Town Meeting on June 11, 2014.

ATTESTED BY:

A handwritten signature in cursive script, appearing to read "Cheryl M. Pinkham".

Cheryl M. Pinkham, Town Clerk

Date 06/10/2014





Proposed Amended Subdivision Ordinance for June 11, 2014 ATM -- clean version

- Section VII. Definitions - for 'Resubdivision' and "Subdivision Owner" (pp. 3 & 4).
- Section IX. Plan Revisions after Approval (pp. 13 & 14)

## **SUBDIVISION ORDINANCE OF THE TOWN OF DAMARISCOTTA**

|                      |                                                                                                     |              |
|----------------------|-----------------------------------------------------------------------------------------------------|--------------|
| <b>Section I.</b>    | <b>Purpose .....</b>                                                                                | <b>2</b>     |
| <b>Section II.</b>   | <b>Authority and Administration .....</b>                                                           | <b>2</b>     |
| <b>Section III.</b>  | <b>Validity .....</b>                                                                               | <b>2</b>     |
| <b>Section IV.</b>   | <b>Applicability, Conflict with<br/>Other Ordinances .....</b>                                      | <b>2</b>     |
| <b>Section V.</b>    | <b>Effective Date .....</b>                                                                         | <b>2</b>     |
| <b>Section VI.</b>   | <b>Amendments .....</b>                                                                             | <b>3</b>     |
| <b>Section VII.</b>  | <b>Definitions .....</b>                                                                            | <b>3-4</b>   |
| <b>Section VIII.</b> | <b>General Provisions, Requirements,<br/>Design Review Standards for<br/>Subdivision Plan .....</b> | <b>4-8</b>   |
| <b>Section IX.</b>   | <b>Subdivision Approval, Procedures and<br/>Requirements .....</b>                                  | <b>8-13</b>  |
| <b>Section X.</b>    | <b>Bond Requirement, Waiver, and<br/>Bond Release .....</b>                                         | <b>13-14</b> |

Adopted: May 27, 1989; Amended: June 11, 2014

## SUBDIVISION ORDINANCE - TOWN OF DAMARISCOTTA

### **SECTION I. PURPOSE**

The purpose of this subdivision ordinance shall be to assure the comfort, health, safety, and general welfare of the people, to protect the environment, to provide for the orderly development of a sound and stable community, and to permit moderate growth according to the established character of the Town and shall further be the same as that written out in Title 30 MRSA, 1964, Section 4956 Subsection 3 as amended.

### **SECTION II. AUTHORITY AND ADMINISTRATION**

#### **A. Authority**

1. This ordinance has been prepared in accordance with the provisions of Title 30 Maine Revised Statutes Annotated, 1964, Chapter 289, Section 4956 as amended.

2. This ordinance shall be known and may be cited as the "Subdivision Ordinance, of the Town of Damariscotta, Maine."

#### **B. Administration**

1. The Planning Board of the Town of Damariscotta, hereinafter called the Board, shall administer this ordinance.

### **SECTION III 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 this Ordinance.

### **SECTION IV APPLICABILITY, CONFLICT WITH OTHER ORDINANCES**

This Ordinance applies to all Damariscotta subdivision lots not recorded in the Lincoln County Registry of Deeds sixty (60) days subsequent to day of adoption. Whenever the provisions of this Ordinance conflict with any other Town Ordinance, the stricter standard shall apply.

### **SECTION V EFFECTIVE DATE**

The effective date of this Ordinance is May 27, 1989 and as amended on June 11, 2014.

SUBDIVISION ORDINANCE - TOWN OF DAMARISCOTTA

**SECTION VI AMENDMENTS**

This Ordinance may be amended in part or in whole by majority vote by Australian ballot at any regular town meeting.

**SECTION VII DEFINITIONS**

For the purpose of this ordinance, certain terms used herein are defined as follows:

- A. Subdivision. A subdivision is the division of a tract or parcel of land into 3 or more lots within any 5-year period, 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, unless the intent of such gift is to avoid the objectives of this section, 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 this section.

In determining whether a tract or parcel of land is divided into 3 or more lots, this first dividing of such tract or parcel, unless otherwise exempted herein, shall be considered to create the first 2 lots and the next dividing of either of said first 2 lots, by whomever accomplished, unless otherwise exempted herein, shall be accomplished by a subdivider who shall have retained one of such lots for his own use as a single family residence for a period of at least 5 years prior to such 2nd dividing. Lots of 40 or more acres shall not be counted as lots.

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

- B. Resubdivision. Resubdivision shall mean the division of any existing subdivision or any change of lot size therein or the relocation of any street or lot line in a subdivision. "Revision of a subdivision" means resubdivision. All applicable regulations in Sections VIII, IX, X and XI shall apply to resubdivisions.
- C. Exemptions. Subsection 1 of the State Subdivision Law states that a number of divisions shall not be counted as lots, including divisions created by:
1. Inheritance
  2. Condemnation
  3. Order of a court

## SUBDIVISION ORDINANCE - TOWN OF DAMARISCOTTA

4. Gift to a person related to the donor by blood, marriage or adoption, unless the intent of such gift is to avoid the objectives of the Subdivision Law (not a sale, but a Gift).
  5. Transfer of an interest in land to an abutting landowner, however accomplished.
  6. Land retained by the subdivider for his own use as a single family residence for a period of at least 5 years prior to the second dividing of a parcel.
  7. Lots of 40 acres or more.
- D. State Requirements. The state's Site Location Act, Title 38 MRSA Section 481485 and 488-490, require that certain, large-scale developments, including some large subdivisions, obtain the approval of both the State Board of Environment Protection (BEP) and the Town Planning Board.
- E. Subdivision Owner. The subdivision owner is the subdivider. But when the subdivider no longer owns the majority of lots and when ownership of the subdivision's utilities, private roads and commonly owned land have passed to a subdivision owners organization, then a simple majority of the lot owners in the subdivision organization becomes the owner of the subdivision and makes decisions concerning the subdivision including about any resubdivisions.

### **SECTION VIII - GENERAL PROVISIONS, REQUIREMENTS, DESIGN AND REVIEW STANDARDS FOR SUBDIVISION PLAN**

- A. General Provisions and Requirements
1. Whenever any subdivision is proposed or before any contract for the sale of or offer to sell such subdivision or any part thereof shall have been negotiated the subdividing owner or his agent shall apply in writing to the Board for approval of such subdivision.
  2. No transfer of ownership shall be made of any land in a proposed subdivision until a Final Plan of such subdivision has been approved by the Board nor until a duly approved copy of such Final Plan has been filed with the Town Clerk and recorded in the Lincoln County Registry of Deeds.
  3. Where strict conformity to the Subdivision Ordinance would cause undue hardship or injustice to the owner of land and a subdivision plan is substantially in conformity with the requirements of this ordinance the Board may consider waiver of some aspects of this ordinance provided that the spirit of the regulations and public convenience, health, and welfare will not be adversely affected.

## SUBDIVISION ORDINANCE - TOWN OF DAMARISCOTTA

4. No utility installations, no grading or construction of roads, no grading of land or lot, and no construction of buildings shall be done on any part of the land or lots within a subdivision until a Final Plan of such subdivision shall have been duly prepared, submitted, reviewed, approved, and endorsed as provided in this Ordinance, nor until an attested copy of a Final Plan has been filed with the Town Clerk and recorded in the Lincoln County Registry of Deeds.
5. Subdivision Fees: Fees of #250.00 plus \$50.00 for each lot. The Fees shall be payable, at final approval, to the Town of Damariscotta, and shall go into the General Fund of the Town.
6. Penalties: Any person who conveys any land by reference to a plan which has not been approved as required by this ordinance and recorded by the proper Register of Deeds, shall be punished by a fine of not more than \$10,000.00 for each lot conveyed.
7. Preservation of Natural Features: The Planning Board may require that a proposed subdivision plan preserve such natural features as trees, streams, water courses, and scenic views. The street and lot layout shall be adopted to the topography. Extensive grading and filling shall be avoided as far as possible. Open spaces may be required.
8. Land Not Suitable for Housing: Land susceptible to flooding and land not suitable for housing or street development shall not be accepted as part of a subdivision for residential purposes, but may be used, with the approval of the Board, for parks, playgrounds, or other open-space uses.
9. Easements for Natural Drainage Ways: Any natural drainage ways and their easements shall be so incorporated that no flooding will occur and all storm water will be disposed of properly.

### B. Design Standards:

(a) The arrangement, character, extent, width, grade, location of all streets and roads shall be considered in their relation to existing or planned street and roads, to topographical conditions, to public convenience and safety, and their appropriate relation to the proposed use of the land to be served by such street.

(b) Potential Town Roads. The design and construction of all streets and roads in this category shall comply with State Aid Road Specifications. For acceptance by the Town as a public road, the road must have a bituminous surface and be certified by the developer that its construction complies with State Aid Road Specifications.

(c) All other roads shall be constructed and maintained to private road standards listed below. The Board may require additional road requirements based on the recommendations or the Road Commissioner, fire company or school board. Owner maintenance responsibilities shall be included in the owner organization charter.

(d) The following minimum standards apply to Private Roads: Right of

|                     |                                                                                                                                                                                        |
|---------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <u>Way</u>          | 50 feet wide                                                                                                                                                                           |
| <u>Clearing</u>     | A minimum of 28 feet wide, leaving healthy trees between cleared area and outside edge of right of way.                                                                                |
| <u>Grubbing</u>     | Stumps and rocks over 6 inches in diameter must be removed.                                                                                                                            |
| <u>Road Width</u>   | Minimum of 18 feet on finished top or travel lane, plus 2 foot shoulders.                                                                                                              |
| <u>Culverts</u>     | A size adequate to handle the flow of water.                                                                                                                                           |
| <u>Gravel</u>       | a. Sub-base - existing material grading.<br>b. Base - Coarse material of 6 inch minus to be applied to a minimum of 12 inches deep and 18 inches or more over ledges.                  |
| <u>Ditches</u>      | Adequate depth to handle the flow of water. Ditches and embankments to be seeded with conservation grass mix.                                                                          |
| <u>Turn-around</u>  | Adequate turn-around at end of dead end roads with a <u>minimum</u> diameter of 100 feet or with modification at the discretion of the Planning Board.                                 |
| <u>Intersection</u> | Where the private road meets the public road, the point of intersection must be of sufficient width to allow for an unobstructed view and safe turning into <u>the traffic lanes</u> . |

The Board may reduce the learning and right of way requirements, when it determines that lesser requirement would still clearly assure an adequate and safe roadway for the public and landowners..

2. Utilities: Easements for utilities across lots shall be provided where necessary and shall be at least twelve (12) feet wide.
3. Water System: Where possible and economically reasonable, water service with fire hydrants shall be obtained from the water company.

## SUBDIVISION ORDINANCE - TOWN OF DAMARISCOTTA

4. Sanitary Sewage: Individual or private sewerage systems may be permitted in subdivision where it is economically infeasible to install public sewage disposal systems, provided infeasible to install public sewage disposal systems, provided that the installation complies with the regulations of the Maine Plumbing Code and is approved by the Plumbing Inspector.
  5. Electrical Power and Telephone Systems: Whenever practicable the subdivider shall be encouraged to install underground conduits and other necessary subsurface structures to provide underground power and phone service.
  6. Minimum Lot Size: Each lot or parcel of land shall comply with all other Town land use requirements and shall further have a minimum lot frontage of 150 feet on public or private roads excepting those lots fronting and gaining access from a cul-de-sac.

The cul-de-sac lots that lack the minimum 150 feet road frontage shall have a building restriction in the area between the edge of the cul-de-sac and between the place where the lot has attained a frontal width of 150 feet.

### C. Review Standards & Finding of Fact

1. The Planning Board shall consider the following criteria and shall determine that a proposed subdivision:
  - a. Will not result in undue water or air pollution. In making this determination, the Board shall consider at least the elevation of the land above sea level and its relation to the flood plains; the nature of the soils and subsoils and their ability to support waster disposal; the slope of the land and its effect on effluents;
  - b. Has sufficient water available for the reasonably foreseeable needs of the subdivision, including potable water and fire control needs;
  - c. Will not cause an unreasonable burden on existing water resources;
  - d. Will not cause unreasonable soil erosion or reduction in the capacity of the land to hold water so that a dangerous or unhealthy condition may result;



## SUBDIVISION ORDINANCE - TOWN OF DAMARISCOTTA

- e. Will not cause unreasonable highway or reduction in the capacity of the land to hold water so that a dangerous or unhealthy condition may result;
- f. Will provide for adequate solid and sewage waste disposal;
- g. Will not cause an unreasonable burden on the ability of a municipality to dispose of solid waste and sewage if municipal services are to be utilized;
- h. Will not have an undue adverse effect on the scenic or natural beauty of the area, aesthetics, historic sites or rare and irreplaceable natural areas;
- i. Is in conformance with all duly adopted regulations and ordinances;
- j. The subdivider has adequate financial and technical capacity to meet the above standards;
- k. Whenever situated in whole or in part within 250 feet of any pond, lake, river or tidal waters, will not adversely affect the shoreline or water quality of that body of water and conforms to the provisions of the Damariscotta Shoreland Zoning Ordinance.
- l. Will not, alone or in conjunction with existing activities adversely affect the quality or quantity of ground water.
- m. All principal structures within the subdivision shall conform to the provisions of the Damariscotta Flood Plain Management Ordinance.

### **SECTION IX. SUBDIVISION APPROVAL PROCEDURES AND REQUIREMENTS**

#### **A. Pre-application Meeting**

- 1. Prior to submitting a preliminary plan for subdivision, the applicant may appear informally at a regular meeting of the Board to discuss the proposed subdivision.

#### **B. Preliminary Plan Submittal**

##### **1. Procedures and Action**

SUBDIVISION ORDINANCE - TOWN OF DAMARISCOTTA

- a. An application for Preliminary Plan approval of a subdivision plan shall be submitted to the Planning Board at the regular meeting previous to the one at which the Plan will be considered.
- b. On receipt of the Preliminary Plan and Application, the Board shall issue the Applicant a dated Receipt.
- c. Within 30 days of a receipt of a Preliminary Plan application form, the Board shall notify the applicant in writing whether or not the application is complete, and what, if any, additional submissions are required for a complete application.
- d. The Board shall determine whether to hold a public hearing on the Preliminary Plan application. If the Board decides to hold a public hearing, it shall hold the hearing within thirty days of receipt of a complete application, and shall publish notice of the date, time and place of the hearing in the newspaper of general circulation in the municipality at least two times, the date of the first publication to be at least seven days prior to the hearing.
- e. The Board shall, within thirty days of a public hearing, or within sixty days of a complete application, if no hearing is held, or within another time limit as may be otherwise mutually agreed by the Board and the subdivider, make findings of fact on the application, and approve, approve with conditions, or deny the Preliminary Plan, The Board shall specify in writing its findings of facts and reasons for any conditions and denial.
- f. When granting approval of a Preliminary Plan, the Board shall state the conditions of such approval, if any, with respect to:
  - (1) The specific changes which it will require in the Final Plan;
  - (2) The character and extent of the required improvements for which waivers may have been requested and which in the Board's opinion may be waived without jeopardy to the public health, safety, and general welfare; and
  - (3) Whether a Bond will be required by the Board.
- g. Within not more than 12 months after issuance of such preliminary approval the subdivider or his agent shall submit an application for Final Plan.

SUBDIVISION ORDINANCE - TOWN OF DAMARISCOTTA

SUBDIVISION ORDINANCE - TOWN OF DAMARISCOTTA

- h. No Final Plan may be submitted until after a Preliminary Plan has received approval.

2. Preliminary Plan Submission Requirements

- A. An application for approval of a preliminary subdivision plan shall be accompanied by:
- (1) Seven (7) copies of a plan which shall show existing streets and boundary lines and shall be at a scale of not more than 100 feet to the inch (100-1"), except that a supplementary map showing the relationship of the parcel of land to be subdivided to other properties and road may be at a scale of not more than 500 feet to the inch (500-1").
  - (2) A copy of the deed from which the survey is based. A copy of all deed restrictions, easements, rights-of-way, or other encumbrances currently affecting the property.
  - (3) All covenants of *the* subdivision *must* be presented with the preliminary plan application.
  - (4) A copy of the letter of notification sent to abutting property owners of a proposed subdivision with the registered mail receipts attached to it.
- B. The Preliminary Plan shall show:
- (1) Identification: The name of the subdivision, location and boundaries of the land to be subdivided, scale, north arrow, date, name and address of the record owner, subdivider, and designer.
  - (2) Lines: Street lines, a lot lines and reservations for public purposes including public utilities, drainage and other easements.
  - (3) Dimensions: All dimensions in feet and decimals of feet.
  - (4) Lots: Lines and dimensions, with numbers and lot letters in accordance with the prevailing policy of existing tax maps.
  - (5) Monuments: Reference monuments on all street corners and angles and street lines wherever in the opinion of the Board such monuments are necessary to properly determine the location on the ground.

## SUBDIVISION ORDINANCE - TOWN OF DAMARISCOTTA

- (6) Parks and Open Space: Designation of the location, size, planting and landscaping of such parks, and open spaces as are required by the Board.
- (7) Topographic Map: The Subdivision plan will be superimposed on a United States Geodetic Survey topographic map enlarged to 8 1/2 X 11 inches format.
- (8) Location of Special Features: Natural and man-made, affecting the subdivision or giving it character, such as bodies of water, streams and water courses, swamps and marshes, wooded areas, specimen preservable trees one foot or more in diameter, houses, barns, shacks, and other significant features.
- (9) Sites: Sites, if any, for multi-family dwellings, shopping centers, churches, industry, or other non-public authorities for future construction or near the site.
- (10) Site Data Summary Including total of residential lots acreage, total road acreage, and total common lot acreage.

### C. Final Plan Submittal

#### 1. Procedure and Action

- a. An application for Final Plan approval of a subdivision plan shall be submitted to the Planning board at the regular meeting previous to the one at which the Plan will be considered.
- b. On receipt of the Final Plan and Application, the Board shall issue the Applicant a dated Receipt.
- c. Within 30 days of receipt of a Final Plan application form, the Board shall notify the applicant in writing whether or not the application is complete, and what, if any, additional submissions are required for a complete application.
- d. The Board shall determine whether to hold a public hearing on the Final Plan application. If the Board decides to hold a public hearing, shall hold the hearing within thirty days of receipt of a complete application, and shall publish notice of the date, time and place of the hearing in the newspaper of general circulation in the municipality at least two times, the date of the first publication to be at least seven days prior to the hearing,
- e. The Board shall, within thirty days of a public hearing, or within sixty days of a complete application, if no hearing is held, or within another

## SUBDIVISION ORDINANCE - TOWN OF DAMARISCOTTA

time limit as may be otherwise mutually agreed by the Board and the subdivider, make findings of fact on the application, and approve, approve with conditions, or deny the Final Plan. The Board shall specify in writing its findings of facts and reasons for any conditions and denial.

### 2. Final Plan Submission Requirements

- a. The Final Plan of the subdivision shall be legibly and clearly drawn in ink at a scale of one hundred feet to the inch (1.00'=1") on mylar suitable for reproduction and seven blue line copies. Size of the sheet shall not measure more than two feet by three feet (2' x 3'). A Final Plan shall contain all the requirements of the Preliminary Plan and shall show:
  - (1) Certification:  
The seal of a licensed engineer or certification by a land surveyor attesting that such Final Plan is substantially correct.
  - (2) Streets:  
Names, cross sections at 100-foot stations or as required by the Planning Board and profile at center line and side lines, all elevations based on datum plan established by the U.S.G.S. Street widths of right-of-way and pavement, radii of all curves, walks, curbs, gutters, culverts, etc.
  - (3) Drainage, Existing and Proposed: (A) Kind. (B) Location. (C) Profile, cross-sections, and invert elevations.
  - (4) Sanitation, Existing and Proposed: (A) Location, size, profile, cross-sections, elevations, and inverts of sanitary sewers, or (B) Description, plan, location, and dimensions of other means of sewage disposal, with evidence of soil suitability, including percolation tests and classification of soil types suitable for on-site sewage disposal.
  - (5) Water Supply and Other Utilities: On and adjacent to the tract showing location, proposed connections, type, and size of water and gas lines, locations of fire hydrants, electric and telephone poles and conduits, and street light standards.
- b. Other Documents to Accompany Final Plan:
  - (1) Where applicable, a Final Plan shall be accompanied by certification by a duly authorized engineer that the design of sewer and water facilities and streets and utilities in the proposed

## SUBDIVISION ORDINANCE - TOWN OF DAMARISCOTTA

subdivision conform to the requirements of this ordinance. The cost of inspection shall be borne by the developer or subdivider.

- (2) A statement from the soil scientist that he has reviewed the Final Plan and certifies that a septic system can be built on each lot.

Protective Covenants: In form for recording.

- (3) Subdivision Owners Organizational Charter, If owners are to share commonly owned land within the subdivision or share in the use and maintenance of common water supply, sewage treatment system or access road, organization documents of the organization authorized to conduct these functions, and documents specifying owners' responsibilities and liabilities.

- (5) A Statement from the Water Company if they supply the water:

- (6) A Bond, if required by the Board.

- (7) Other Data: Such other conveyances, certificates, affidavits, endorsements, or deductions as may be required by the Planning Board in the enforcement of this Ordinance.

### 3. Final Approval and Filing

- a. Upon voting to approve the subdivision, the Board shall sign the Final Plan and four copies by the signature of a majority of the members of the Board. They mylar and one copy of the Final Plan. shall be recorded in the Lincoln County Registry of Deeds; one copy is to be delivered to the Town Clerk; one copy will be retained by the Board; and one copy will be retained by the developer.
- b. The delivery of the mylar and one copy of the Final Subdivision Plan to the Lincoln County Registry of Deeds and one copy filed with the Town Clerk is the responsibility of the owner of record.
- c. A subdivision permit shall expire if not recorded in the Lincoln County Registry of Deeds and filed with the Town Clerk within 90 days of final approval.

#### D. Plan Revisions after Approval

1. An applicant for a revision to a previously approved Plan (e.g. a resubdivision) shall submit the application to the Code Enforcement Officer and/or the Town Planner. The application shall identify the subdivision and original approval date and describe the nature of the revision being sought. If the revision involves a change to any of the plan drawings, the revised plan drawing (s) shall be included with the application.
2. If the proposed revision does not involve the adjustment of lot boundaries or the creation of a new lot or unit or new road, the Code Enforcement Officer will act to approve or deny the

## SUBDIVISION ORDINANCE - TOWN OF DAMARISCOTTA

application. The Code Enforcement Officer will make a written record of his action to attach to the subdivision file. The Code Enforcement Officer will act within ten (10) working days.

3. If the proposed revision does involve the adjustment of lot boundaries or the creation of a new lot or unit or new road, the Code Enforcement Officer and/or Town Planner will submit the application to the Board for official review and action, in accordance with the procedure in Section VIII of this ordinance. The Planning Board may require additional items to be submitted for the review, *provided that* the Board shall not unreasonably impose submission requirements not related to the requested revision.
4. The board's scope of review shall be limited to those portions of the plan which are proposed to be revised. The board shall use the ordinance standards currently in effect at the time of review of the proposed revision.

### **Section X. BOND REQUIREMENT, WAIVER AND RELEASE**

#### **A. Bond Requirement**

The subdivider shall file with the Board at the time of submission of the Final Plan:

1. A bond in an amount sufficient to cover the cost of the construction of streets, paving, storm drainage, utilities, sewer systems and water supply approved as to form and surety by the Town of Damariscotta, and conditioned upon the completion of such streets etc., within two years of the date of such bond.
2. or, cash placed in escrow for the above as the Planning Board shall require.

#### **B. Bond Waiver**

The Board may at its discretion waive the above requirements to post bond or cash in escrow and grant conditional approval.

#### **C. Release of Bond**

1. Before voting to release the subdivider's check or performance bond, the Board of Selectmen shall determine to its satisfaction, in part by a written certification of the Planning Board Chairman, that there have been submitted to them by the subdivider or his agents, written statements, signed by:
  - (a) a duly authorized engineer paid for by the subdivider that the sewer and water facilities and streets and utilities in the proposed subdivision have been constructed and conform to the requirements of this ordinance and of any state or federal law that applies; and that all permanent bounds and monuments on street lines and on lot lines have been installed and are accurately in the locations designated on the Final Plan.
  - (b) the Town Road Commissioner certifies that the streets and storm drainage have been constructed in conformity with the requirements of this ordinance.

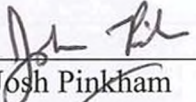
SUBDIVISION ORDINANCE - TOWN OF DAMARISCOTTA


SECTION XI APPEALS

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

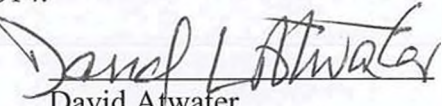
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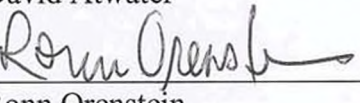
The enactment of this ordinance hereby revises the "Subdivision Ordinance of the Town of Damariscotta" as revised on June 11, 2014.

  
\_\_\_\_\_  
Josh Pinkham

  
\_\_\_\_\_  
Vicki Pinkham

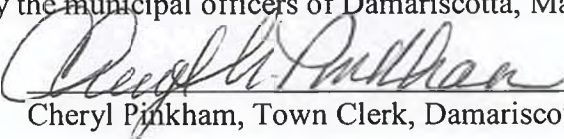
  
\_\_\_\_\_  
Robin Mayer

  
\_\_\_\_\_  
David Atwater

  
\_\_\_\_\_  
Ronn Orenstein

Board of Selectmen  
Town of Damariscotta

Attest: A true copy of an ordinance entitled "Subdivision Ordinance of the Town of Damariscotta", as certified to me by the municipal officers of Damariscotta, Maine on the 11th day of June, 2014.

  
\_\_\_\_\_  
Cheryl Pinkham, Town Clerk, Damariscotta, Maine





## Chapter 703

### TOWN LANDING

#### §703-1. Authority

This Ordinance is enacted pursuant to Title 30-A M.R.S.A. Section 3001 and to 38 M.R.S. A. Section 7.

#### §703-2. Purpose

This Ordinance provides for the just and orderly operation of the Town Boat Landing area, its ramp and docks, so that watercraft, passengers and equipment have adequate and clear access to the Damariscotta River.

#### §703-3. Effective Date

This Ordinance shall be effective upon adoption by the Town of Damariscotta.

#### §703-4. Rules and Regulations

- (a) **PUBLIC FLOAT:** The Public Float shall be used solely for loading and unloading passengers and equipment.
- (b) **BOAT LANDING AREA:** Watercraft shall be unloaded and loaded into the water via the Boat Landing Area only.
- (c) **LOADING AND UNLOADING OF EQUIPMENT AND PASSENGERS:** Loading and unloading shall be allowed from the outside of the outer facing/riverside float and must be done as quickly as possible to allow others to have access to the floats for the same purpose. Watercraft will not be allowed to tie up for longer than is reasonable to load and unload passengers and equipment, with a maximum time limit of 15 minutes. This time limit may be exceeded (up to a maximum of 30 minutes) for vessels which are 25 feet or more in length or for sailing vessels, as such types of watercraft may require more preparation for launching or retrieval purposes. The time limit may also be exceeded (up to a maximum of 30 minutes) for the loading and unloading of passengers whose disability or other health-related limitations require additional time.
- (d) **SKIFF BOATS:** Skiff or Tender boats, no longer than 12 feet in length, solely used for the purpose of traveling back and forth to another boat stored on a mooring in the harbor, may be stored on the inner southerly facing float area. Skiffs and gear may not be stored on the Public Float or ramp area.
- (e) **TIE-UP LIMIT:** Boaters are allowed to tie-up along the outside of the southerly facing

(riverside) floats for a period not to exceed a two-hour time limit.

### **§703-5. Fees and Penalties**

(a) Any person(s) violating the provisions of this Ordinance shall be subject to the following fees and penalties in accordance with enforcement procedures set forth in paragraph (b) below.

Misuse of Public Float	§703-2(a)	\$50
Improper Use of Boat Landing Area	§703-2(b)	\$50
Unnecessary delays or exceeding time limits	§703-2(c)	\$10
Improper tie up to the Public Float	§703-2(c)	\$50
Improper tender/skiff storage	§703-2(d)	\$25
Violation of Tie-Up Limit	§703-2(e)	\$10

#### **(b) Enforcement**

- (1) Enforcement officers, as set forth in Section 703-6, shall issue a warning for each first violation of this Ordinance.
- (2) Subsequent violations shall be fined as listed above and as outlined in this Section.
- (3) Repeat violations of this Ordinance shall cause any fine amounts to double unless otherwise specified.
- (4) In addition to the fines specified above, any enforcement officer aware of a third violation of this Ordinance may cause that boat, vehicle and/or trailer to be removed at the owner's expense.

(c) All fines shall be paid to the Town Treasurer at P.O. Box 218, Damariscotta, Maine 03453, within 5 days of the date of the notice.

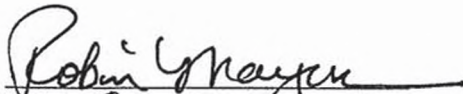
### **§703-6. Enforcement**

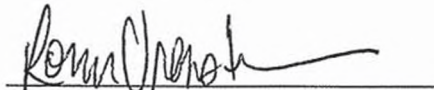
This Ordinance shall be enforced by the Damariscotta Police Department, Harbor Master, Deputy Harbor Master or any other law enforcement official of the Town, County or State.

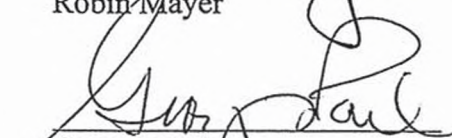
### **§703-7. Severability**

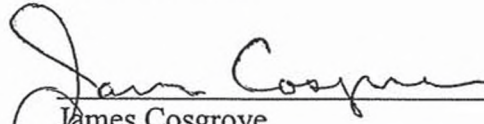
Each provision of this Ordinance shall be deemed independent of all other provisions herein. If any provision of this Ordinance is declared invalid all other provisions thereof shall remain valid and enforceable.

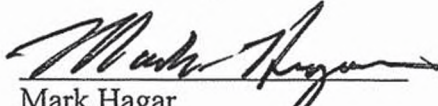
Board of Selectmen

  
Robin Mayer

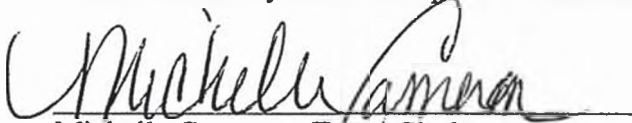
  
Ronn Orenstein

  
George Parker

  
James Cosgrove

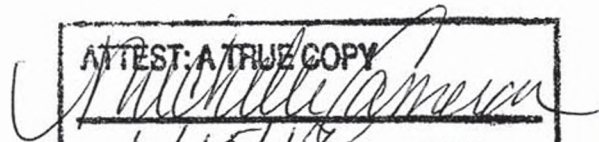
  
Mark Hagar

Attest: A true copy of an Ordinance entitled: "Town Landing." Enacted June 14, 2017, as certified to me by the Municipal Officers of Damariscotta, Maine on the 14<sup>th</sup> day of June, 2017.

  
Michelle Cameron, Town Clerk  
Damariscotta, Maine

**Legislative History**

Enacted July 17, 2000, effective July 17, 2000  
Revised June 14, 2017, effective June 14, 2017

ATTEST: A TRUE COPY  
  
6/15/17 DATE



**TRAFFIC AND PARKING ORDINANCE  
TOWN OF DAMARISCOTTA**

**ARTICLE ONE**

**SECTION I: Definitions of words and phrases:**

- 1.1 **BUSINESS SECTION** ALL streets and portions of street parking lot within the area designated. The BUSINESS SECTION of the town of Damariscotta comprises: that section of Main St. (Business Route 1) from the Damariscotta river bridge to U.S Route 1 town line and all connected streets or parts thereof; Water St; Cross St.; Elm St.; Vine St.; Church St.; Bristol Road (Rt. 129.) School St.; Biscay Road; Belvedere Road; Keene's Woods Road; Old Route 1.
- 1.2 **VEHICLE** All kinds of conveyances for person and property except those used exclusively on track.
- 1.3 **PUBLIC WAY** All streets, roads, parking lots of which the public has a right of access of (as described in MRSA 17-A section 505)
- 1.4 **COMMERICAL VEHICLE** Every vehicle designated, maintained or used primarily for transportation of property.
- 1.5 **PARK** The leaving of a vehicle, whether occupied or un-occupied, temporarily for the purpose of loading or unloading of merchandise or passengers.
- 1.6 **DRIVER** A person who drives or is in actual physical control of the vehicle.
- 1.7 **POLICE OFFICER** Any officer of the Police Department, or any person authorized to direct traffic or make an arrest for violation of traffic regulations.
- 1.8 **SIDEWALK** That portion of street between the curb line or the lateral line of a roadway and the adjacent property line intended of use by pedestrians.
- 1.9 **PEDESTRIAN**  
A person on foot; a person walking.
- 1.10 **ALLEY**  
A street or way intended to provided access to the rear or side lots of a building in urban district and not intended for the purpose of through traffic.
- 1.11 **FIRE CHIEF**  
A person who is appointed by the Town of Damariscotta to fight fires and other emergencies.
- 1.12 **FIREMAN**  
A person who volunteers to fight fire and is employed by the Town of Damariscotta to fight fires and other emergencies.

**1.13 OFFICIAL TIME STANDARD**

When certain hours are named herein they shall mean standard time or daylight savings time – whichever are in current use in the municipality.

**1.14 EMERGENCY VEHICLES**

Ambulances and any other vehicles belonging to the police or fire departments shall have the right of way in any street and through any procession. All vehicles shall go to the right of road or street as near the curb or gutter as possible, and come to a complete stop at the sound of approaching sirens or bells of all fire apparatus including vehicles owned by firemen. It shall be unlawful for any person to drive any team, automobile, truck, tractor, or any other motor vehicles over any section(s) of hose which shall hereafter be laid by the Fire Department of the Town of Damariscotta upon the streets of this town.

**1.15 MUNICIPAL PARKING LOT**

The municipal parking lot is defined as follows: Starting at the intersection of the Damariscotta River and the westerly lot line at the First Church of Christian Scientist (lot 6 map 6) proceeding North along the westerly lot line of lot 6 and 7B, map 6 to the southeast corner of lot 8, map 6; thence West along the southerly borders of lots 8,9,10 to the intersection with lot 12; thence following the East, South and West borders of lot 12, to lot 13, thence westerly to the intersection with lot 14-1 map 6 ; thence following the easterly, and westerly bounds of lot 14-1 to lot 15; thence following the southerly and westerly bounds of lot 15 to lot 16A thence following the southerly bounds of lots 16A, 16, 17, 18, 19, and across-the-right of way of the easterly shore of Misery Gulch; thence following the shore of Misery Gulch and the Damariscotta River to the point of beginning. The municipal parking lot is also shown on map 6 of the property maps of the Town of Damariscotta, prepared by James W. Seawall Company, and is shown South of lots 19-8: West of lots 6 & 7; northeast of Damariscotta River and Misery Gulch.

For the purpose of this section and section III of this ordinance, Boat Landing Vehicles shall be defined as vehicles with a boat trailer attached or vehicles displaying a valid boat landing parking permit issued by the Town pursuant to Section 1.20 herein.

There shall be three (3) hour parking in the municipal parking lot from 6:00 A.M to 6:00 P.M excluding Sunday, with the following exceptions:

- (a) All of the spaces, along the South side of the municipal parking lot (the water's edge) which will be designated as 8 hour parking from 6 am to 6 pm.
- (b) There will be fourteen (14) parking spaces in the municipal parking lot which will be reserved and as Boat Landing Parking specifically for vehicles using the public boat landing facility and shall be designated as follows:

- 8 spaces for vehicles with boat trailers attached or vehicles displaying a valid boat landing parking permit along the waters edge (south side of lot);
- 2 spaces only for vehicles with boat trailers attached along Misery Gulch;
- 4 spaces only for vehicles with boat trailers attached in the middle row.

(c) Entrance and Exit shall be by the Southeast corner by Savory Maine (formerly Christian Science Church) and Northwest corner by Fish Market. Traffic is to travel in both directions.

#### 1.16 WINTER PARKING

No person shall leave or park any vehicles of which she/he has charged possession, or permit the same to stand on any street, municipal parking lot or road to the town of Damariscotta between the times of 9 P.M to 7 A.M from November 15<sup>th</sup> until April 15<sup>th</sup> of each year due to removal of snow. All vehicles hindering snow removal will be removed and stored at the expensed of the owner or person in charge or control of same.

#### 1.17 SEASONAL STREET CLEANING

No person shall leave or park any vehicle of which he/she has charged or possession, or permit the same to stand on Main Street (Business Route 1) from the Damariscotta river bridge, to Bristol Road, on Elm Street from Main Street to the intersection on Theatre Street, or on Theatre Street in the town of Damariscotta on Mondays & Thursdays, between the times of 5 A.M and 7 A.M from April 1<sup>st</sup> to November 1<sup>st</sup> every year due to street sweeping and cleaning. Any vehicle in violation may be ticketed or removal and impounded or stored at the expense of the owner or person in charge or control of same.

#### 1.18 MAIN STREET:

In the business section of Damariscotta, which includes the North and South side of Main Street (Business Route 1) from the bridge East to Westerly Bristol Road (Route 129), East side of Water Street from junction of Main Street (Business Route 1) and Water Street to Cross Street North curb line extended: *A vehicle shall not be parked for a period in excess of one hour at any time between the hours of 6am. to 6pm.*

#### 1.19 HANDICAPPED PARKING

A parking space for a handicapped person only. Must have handicapped plates or placard.

(a) Definitions. Any physical handicapped person employed in a business establishment serviced by parking spaces may obtain a license giving him/her permission to park for a unlimited period of time In such a parking space as the town Selectmen may designate. Such designated space shall be



marked and identified to show that it is so reserved for such physical handicapped person. The designation of the parking space must also be agreed to by the manager of the store of which the parking space is located. Any parking space thus designated shall be reserved exclusively to the person to whom the said license is granted.

(b) Application. All applications for such license shall be made in writing, directed to the town Selectmen, who may or may not, at their discretion, grant such license. See appendix A for agreement form.

(c) Fees. The fee for such license is to be \$50.00.

(d) Handicapped parking space for the exclusive use by persons with vehicles displaying handicapped Registration Plates or placard shall be establish as follows:

- (1) One space, on the southerly side of Main Street, in front of James Gallagher's law office.
- (2) One space, on the northerly side of Main Street in front of Damariscotta Bank & Trust.
- (3) One space, on the southerly edge of the Municipal Parking Lot, near the southwest corner of the Christian Science Church.
- (4) One space at the corner of Main and Elm Street, in front of King Eiders Pub
- (5) One space in the Municipal waterfront parking lot East end, North side of the set parking spaces. The Chief of Police shall be responsible for designating and marking such spaces to show that they are reserved for use by the physically handicapped.

## 1.20 BOAT LANDING PARKING PERMITS

Any boat owner keeping a boat or boats on permanent moorings in Damariscotta Harbor may obtain a permit entitling for him or her to park a vehicle (without a boat trailer attached) in one of the 8 spaces allocated for permit use pursuant to section 1.15 herein. Applicants for a permit will be required to provide proof of boat and mooring ownership and current use of the same. A letter or telephone verification from the harbor master or assistant harbormaster shall be deemed sufficient proof to qualify an applicant to receive a permit. Permits must be displayed in the vehicle windshield area when the vehicle is parked in the designated space.

(a) Definitions. For the purpose of this section, the geographical limits of Damariscotta Harbor shall be considered to be the waters of Damariscotta River bounded on the South by a line between Cottage Point on the East

and Little Point in the West and bounded on the North by Main Street bridge. *Permanent moorings* shall be considered to consist of heavy ground tackle which is designed for long term mooring of vessels and is designed and intended to remain on the ocean or river bottom when the vessel is away from its mooring.

## ARTICLE 2 TRAFFIC AND PARKING ORDINANCE SECTION 1

No person shall, stop, stand or park a vehicle except when necessary to avoid conflict with other traffic or compliance with law or the directions of a police officer or traffic – control device, in any of the following places:

- (1) On the sidewalk.
- (2) In front of a public or private driveway.
- (3) Within an intersection
- (4) Within 10 feet of a water hydrant
- (5) On a cross walk
- (6) Within 25 feet of a street corner except for designated parking spaces and entrances to one way streets.
- (7) Within 500 feet of any building, field or forest with an alarm of fire or other emergency has been sounded without consent of the Chief of Police or Fire Chief.
- (8) In any public street more than twelve inches from the curb, except in emergency or to allow another vehicle or pedestrian to cross its way.
- (9) On the roadway side or any vehicle parked at the edge or curb of a street, commonly know as double parking.

## SECTION II

### BUSINESS ROUTE 1

- 2.1 There shall be no parking anytime on the northerly side of Business Route 1 from CMP pole #2 easterly to CMP pole #1 for 193 feet.
- 2.2 There shall be no parking at anytime on the northerly side of Business Route 1 beginning at the intersection of East Elm Street easterly curb line extended easterly 27 feet.
- 2.3 There shall be no parking anytime on the northerly side of Business Routel beginning at the House of Ross driveway westerly curb line extended westerly for 31 feet.
- 2.4 There shall be no parking at anytime on the northerly side of Business Route 1 beginning at the intersection of Church Street

- westerly curb line extended westerly to CMP pole #9 for 398 feet.
- 2.5 There shall be parking on the southeasterly side of Business Route 1 beginning at CMP pole 15 by Damariscotta Hardware easterly to Biscay road intersection, South of curb line for 5,280 feet.
- 2.6 There shall be no parking anytime on the easterly side of Business Route 1 beginning at Biscay Road northerly to Great Salt Bay Community School driveway southerly, curb line 1,731 feet.
- 2.7 There shall be no parking anytime on westerly side of Business Route 1 beginning at Church Street northerly curb line extended northerly opposite of Great Salt Bay Community School driveway southerly curb line extended for 1731 feet.
- 2.8 Handicapped parking – one space on the southerly side of Main Street in front of James Gallagher’s law office. One space on the northerly side of Main Street in front of Damariscotta Bank & Trust.
- 2.9 There shall be no parking on the northerly side of Business Route 1. Beginning at the intersection of Business Route 1 and Church Street, easterly curb line extended, easterly to the intersection of Business Route 1 and School Street westerly curb line extended for 2,865 feet.
- 2.10 There shall be no parking anytime on the south side of Business Route 1. Beginning at the intersection of Route 129 cut off, easterly curb line extended easterly to a point opposite CMP pole #13, for 46 feet.
- 2.10a All vehicles parked within the business section of the Town of Damariscotta shall be parked with its right wheels toward the curb, heading in the direction of flow of traffic.

**WATER STREET**

- 2.11 There shall be no parking anytime westerly side of Water Street from the southerly entrance/exit of the Municipal Parking Lot curb line extended southerly to CMP pole #11 for 1092 feet.

**ELM STREET**

- 2.12 There shall be no parking anytime southerly side of Elm Street beginning at the intersection of Church Street westerly curb extended for 985 feet.

**CHURCH STREET**

- 2.13 There shall be no parking westerly side of Church Street beginning Business Route 1 northerly, curb line extended northerly to Elm Street southerly, curb line extended 659 feet.
- 2.14 There shall be no parking on the northerly side of Church Street beginning at CMP pole 14 northerly to a point opposite CMP pole 28 for 205 3 feet.
- 2.15 There shall be no parking on the southerly side of Church Street beginning at Chapman Street westerly curb line in westerly direction 85 feet.
- 2.16 There shall be no parking on the easterly side of Church Street beginning at Vine Street northerly for a distance of 60 feet. And also beginning at the Municipal Building extending southerly for a distance of 100 feet.

**CHAPMAN STREET**

- 2.17 There shall be no parking on the northerly side of Chapman Street beginning at Church Street south curb line extended easterly for 150 feet.
- 2.18 There shall be no parking on the southerly side of Chapman Street beginning at the westerly Church Street curb line south extending easterly 1834 feet to westerly school street curb line.

**CROSS STREET**

- 2.19 There shall be no parking anytime on the southerly side of Cross Street beginning at Water Street westerly curb line extended easterly to Rout 129 westerly, curb line extended for 325 feet.
- 2.20 There shall be no parking anytime on the northerly side of Cross Street beginning at water street easterly, curb line extended easterly to Route 129 westerly, curb line extended for 150 feet.

**BRISTOL ROAD**

- 2.21 There shall be no parking west side of Bristol road (Rt. 129) from the northerly side of the Firehouse shop corner line extended north to the southerly Main Street (bus Rt. 1) curb line extended for 150 feet.

**VINE STREET**

- 2.22 There shall be no parking anytime on the southerly side of Vine Street beginning at Church Street curb line extended easterly for 200 feet.

**MUNICIPAL PARKING LOT**

- 2.23 Handicapped parking, first space southwest corner of parking lot, water side.
- 2.24 There shall be no parking anytime easterly entrance to Municipal Parking lot on South side from westerly Water Street curb line extended westerly direction to parking lot for 165 feet.
- 2.25 There shall be no parking anytime easterly entrance to Municipal Parking Lot on northern side from the westerly Water Street curb line extended westerly direction to parking lot for 165 feet.
- 2.26 There shall be no parking anytime on the westerly side, right of way Colby & Gale, entrance / exit to Municipal Parking Lot from the southerly Main Street (Business Route 1) curb line extended southerly to CMP pole #3:01 for 104 feet.

**SCHOOL STREET**

- 2.27 There shall be no parking anytime from the intersection of School Street and Business Route 1, South side, along the East and West sides of School Street, South for a distance of 500 feet.

**HODGDON STREET**

- 2.28 There shall be no parking on Hodgdon Street between Church Street and Pleasant Street

**SECTION III**

**PARKING LIMITS**

- 3.1 Business Section –2 (two)\_hour limit, from 6 am to 6 pm, to be enforced year round.
- 3.2 Municipal Parking Lot – General Parking  
The regulations set forth in the section 3.2 shall be enforced from Memorial Day to Labor Day.

There shall be three (3) hour parking in the municipal parking lot from 6:00A.M to 6:00P.M excluding Sunday, with the following exception of boat landing parking as set forth in Section 3.3 below .

- 3.3 Municipal Parking Lot-Boat Landing Parking

The regulations set forth in the section 3.3 shall be enforced from Memorial Day to Labor Day.

All boat landing parking (as defined in Section 1.15(b)) will be all day parking. There will be no time limit for these vehicles parked in the 14

spaces so long as the vehicles either display a permit or an attached trailer as set forth in Section

1.15 (b). Vehicles without a boat trailer attached or which do not display a valid Boat Landing Parking Permit will be ticketed.

### ARTICLE III

#### STOP SIGNS & ONE WAY STREETS

- (a) No person shall drive any vehicle past or through any intersection having a stop sign, without bringing his/her vehicle to a FULL stop.
- (b) Stop signs shall be located in the following places:
- (c) Chapman Street, all traffic shall stop before entering School Street.
- (d) Elm Street, all traffic shall stop before entering Church Street.
- (e) Egypt Road, all traffic shall stop before entering Back Meadow Road
- (f) Hammond Road, North of Back Meadow Road, all traffic shall stop before entering Back Meadow Road.
- (g) Hammond Road, South of Back Meadow Road, all traffic shall stop before entering Back Meadow Road.
- (h) Hodgdon Street, South of Pleasant Street, all traffic shall stop before entering Pleasant Street.
- (i) Hodgdon Street, North of Pleasant Street, all traffic shall stop before entering Pleasant Street.
- (j) Hodgdon Street, all traffic shall stop before entering Church Street.
- (k) Pleasant Street, all traffic shall stop before entering Church Street.
- (l) Rocky Run Road, all traffic shall stop before entering Egypt Road.
- (m) Standpipe Road, all traffic shall stop before entering Back Meadow Road.
- (n) Vine Street, all traffic shall stop before entering Church Street.
- (o) Chapman Street, all traffic shall stop before entering Church Street.
- (p) School Street, all traffic shall stop before entering Church Street.
- (q) Lewis Point Road, all traffic shall stop before entering Elm Street.

- (r) Elm Street East, all traffic shall travel in a southerly direction from Elm Street to Main Street.
- (s) Elm Street West, all traffic shall travel in a northerly direction from Main Street to Elm Street.
- (t) Hodgdon Street, all traffic shall travel in a northerly direction from Church Street to Pleasant Street.
- (u) Entrances to Municipal Parking Lot, one way, by West side Gay Block, traffic heading southerly from Main Street, all traffic heading South from Main Street

## ARTICLE 4

### PENALTIES

Any person accused of a violation of any portion of this ordinance, where a fine amount is not designated may voluntarily waive his or her right to appear and defend before any court or judicial tribunal the charge made against him or her for such violation by paying the Municipality (Town of Damariscotta) the minimum sum of \$75.00 within 30 days of the time such alleged offense was committed.

- 4.1 All fines and penalties collected under this traffic ordinance shall be paid to the Town Treasurer at the Town Office during normal business hours or by mail at 21 School Street, Damariscotta, ME 04543. The Board of Selectmen is authorized to employ all such procedures authorized by law which they deem prudent to collect the same.
- 4.2 It shall be unlawful and in violation of this chapter for any person to cause, allow, or suffer any vehicle registered in the name of or operated by such person to do any act forbidden or fail to perform any act required in this ordinance; provided, the fact that a vehicle is unlawfully parked shall be prima facie evidence of the unlawful parking of such vehicle by the person in whose name such vehicle is registered. Further, any vehicle parked in violation of this ordinance (whether because of length of time, place, or the manner in which said vehicle is parked) is declared to be an obstruction in such street or public way and a menace to the safe and proper regulation of traffic.
- 4.2a It shall be unlawful and in violation of this ordinance for any person to cause damage to or take any municipal traffic devices, such as, but not limited to, any traffic safety equipment, such as safety cones, barriers, traffic lights, crosswalk signs or signs which designate road names, speed limit, stop, yield or any other type of traffic and safety signs or equipment owned or possessed by the Municipality. Any person(s) convicted of the theft or possession of any municipal traffic and safety items shall be subject to a mandatory minimum fine of \$150.00 per conviction. Any person convicted of damaging any municipal traffic and safety items will be subject to reimbursing the Municipality for all costs of correcting or replacing, and any installation of said items.

The Board of Selectmen may choose to offer a reward of up to \$200.00 to person(s) providing information which results in a conviction of any person(s) for the theft or possession of any municipal traffic and safety items.

- 4.3 Obedience to police & fire officials required. No person shall willfully fail or refuse to comply with any lawful order or direction of a police officer or fire department official.
- 4.4 General authority of police and fire department officials to enforce laws and direct traffic.
  - a) It shall be the duty of the officers of the police department or such officers as are assigned by the Chief of Police to enforce all street traffic laws of the Town and all of the State of Maine vehicle laws applicable to street traffic in the Town.
  - b) Officers of the police department or such officers as are assigned by the Chief of Police are hereby authorized to direct all traffic by voice, hand or signal in conformance with traffic laws; provided that, in the event of a fire or other emergency, or to expedite traffic or to safeguard pedestrians, conditions may require notwithstanding the provisions of the traffic laws.
  - c) Officers of the fire department, when at the scene of a fire or similar public safety incident, may direct or assist the police in directing traffic or similar public safety incident in the immediate vicinity.
- 4.5 Town to provide books containing numbered citation forms; Police Chief's duties regarding books:
  - a) The Chief of Police shall be responsible for the issuance of such books to individual members of the police department.
- 4.6 Procedure of police officers upon stopping alleged violator; citation to specify violation. Except when authorized or directed under State Law to immediately take a person before a magistrate or other court official for the violation of any traffic laws, a police officer who halts a person for such violation, other than for the purpose of giving said person a warning, and does not take said person into custody, shall then issue said person a Violation Summons and Complaint form (VSAC) or a Uniform Summons and Complaint form (USAC). The alleged violation(s) to be specified on the citation.
- 4.7 Duty to deposit copy of citation with Police Chief; disposition of citation, Chief to record disposition of charges, warrants; altering defacing citation, record:
  - a) Every police officer upon issuing a VSAC/USAC to an alleged violator of any provision of the motor vehicle laws of this State or of any traffic ordinance of the Town shall deposit the copy of the citation with the Police Chief.



- b) The citation shall be disposed of in accordance with those laws of the state which govern the procedures in the District Court.
  - c) The Chief of Police shall also maintain or cause to be maintained in connection with every traffic citation issued by a member of the police department a record of the disposition of the charge by the District Court or its traffic violations bureau.
  - d) It shall be unlawful and official misconduct for any member of the police department or other officer or public employee to dispose of, alter or deface a traffic citation or any copy thereof, or the record of the issuance or disposition of any traffic citation, complaint or warrant, in a matter other than as required by this section.
- 4.8 It shall be unlawful for any person to cancel or solicit the cancellation of any traffic citation in any manner other than as provided by this article.
- 4.9 Removal of tickets, notices or citations from vehicles. No person shall remove from any vehicle a traffic law violation ticket, notice or citation placed on or in such vehicle by a police officer of the Town of Damariscotta, except for the purpose of answering such notice or citation as required therein.
- 4.10 Police officer's duty upon finding illegally parked vehicle with driver. Whenever any motor vehicle without a driver is found parked or stopped in violation of any of the restrictions imposed by ordinance of the Town of by State law, the officer finding such vehicle shall take its registration number and may take any other information displayed on the vehicle (which may take any other information displayed on the vehicle) which may identify its user, and shall conspicuously affix to such vehicle a traffic citation, on a form provided by the Town.
- 4.11 Each owner or operator of a vehicle who violates the provisions of the ordinance which regulates stopping, standing and parking, shall within 30 days of the time when such notice was attached to such vehicle pay the Town of Damariscotta the initial charge and penalty for and in full satisfaction of such violation of sum as stated on the traffic ticket. The failure of such owner or operator to make such payment shall render such owner or operator subject to a penalty of double the original fine. The failure of such operator to make such payment shall render such owner or operator subject to the penalties hereinafter provided for the violation of general provisions of this ordinance.

## ARTICLE 5

### FINES

- 5.1 Any person accused of a violation of the parking portion of this ordinance may voluntarily waive his/her right to appear and defend before any court or judicial tribunal, the charge made against him/her for such violation, by paying the Municipality the amount assessed on said violation.
- 5.2 **NON PAYMENT OF FINES:** Any person who has no paid the fine amount assessed them within 30 days shall be mailed a written "first

notice” informing the registered owner that payment has not been received and that the fine amount has doubled. Additionally, the notice will indicate that failure to pay the doubled fine amount now due, within 30 days, will result in the issuance of a “final notice” informing registered owner that payment has still not been received, and that a summons to appear in 6<sup>th</sup> District Court in Wiscasset will be issued if payment is not made within 30 days. Both notices will state that any vehicle which has accumulated 3 or more unpaid parking tickets may be subject to immobilization in place or impoundment of said vehicle as outlined in section 5.3 or this article.

5.3 **IMPOUNDMENT OF VEHICLES:** Purpose: This section is enacted as an enforcement procedure for promotion and protection of the public peace, safety and welfare and the safeguarding of property and shall be used generally for the prevention and removal of traffic hazards, prevention and abatement of public nuisances arising from traffic infractions and for the protection of the public rights in the use of Town Streets, thoroughfares, parking areas, parking lots, and public ways.

- a. **NOTICE.** Written notice shall be mailed to the owner of any vehicle which has accumulated three (3) or more outstanding notices of violation of any parking ordinance or regulation therein prior to immobilization or impoundment of such vehicle as provided in Subsection 2. The notice shall inform said owner of the nature and number of outstanding violations, that such vehicle may be immobilized in place or impounded and that said owner will be provided an opportunity to contest the validity of the proposed immobilization or impoundment upon written request to the Chief of Police within ten (10) days of receipt of the notice described in this subsection.
- b. **HEARING** Any owner who requests an opportunity to contest the validity of proposed immobilization or impoundment of his or her vehicle shall be provided an administrative hearing upon written request to the Chief of Police. Such hearing shall be scheduled as soon as practicable before a hearing officer, who shall be solely responsible for hearing and deciding all contests provided herein. Enforcement of the provisions of Subsection 2 shall be stayed pending the decision of the hearing officer. The purpose of this subsection is to provide an opportunity to contest the validity of a proposed immobilization or impoundment and not to contest the merits of parking violations.
- c. **HEARING OFFICER** The Chief of Police shall designate a hearing officer from time to time as may be needed.

5.3.1 **APPLICABILITY.** Any vehicle which has accumulated three (3) or more notices of violation of any parking ordinance or regulation therein of the ordinances of the Town of Damariscotta for which there has been neither payment of fees nor issuance of court process and which is then parked upon the public way or in a public parking lot at any time may, at the option of any Town of Damariscotta Police Officer or other town employee authorized to enforce said parking ordinance or regulation, be immobilized in place or may be

removed and stored until all fees established pursuant to Article 5 of this ordinance for all such outstanding notices of violation and also the impoundment, storage and other charges authorized under this ordinance have been paid. If impoundment by immobilization is utilized, a charge for such impoundment of twenty-five dollars (\$25) shall be charged and paid prior to such release.

- 5.3.2 **PROCEDURE.** As soon as a vehicle has been removed and stored or immobilized in place under this ordinance, the police officer or other municipal employee taking such action shall so notify the Police Department. Such information shall be recorded by the Secretary or Police Officer for the use of the Chief of Police, the Town Administrator or his or her authorized representatives. In addition, the Chief of Police shall notify by registered mail the registered owner of such vehicle within five (5) business days of the impoundment or immobilization thereof. Said notice shall stated the location of such vehicle and the requirements to release as set forth in this ordinance.
- 5.3.3 **RELEASE OF VEHICLES.** Any person having custody of a motor vehicle impounded pursuant to this chapter or of the means to release such immobilized vehicle shall not release it until the individual requesting its release presents satisfactory evidence of his or her right to possession and signs a receipt therefore. In addition, said vehicle shall not be released until the Treasurer, Chief of Police or their duly authorized representatives certify that all fees and all other charges provided for in this chapter have been paid, including all costs of impoundment, towing, notices and storage or until the Treasurer or his or her duly authorized representatives shall have certified the posting of a bond equal to the total outstanding fees which should have been remitted for said overdue notices of violation and other charges as set forth in this subsection.
- 5.3.4 **BOND.** Whenever any person requests the right to post bond pursuant to this chapter, such bond shall be given in cash and receipt given therefor. Such bond money shall be refunded in the amount of the fee for such alleged violation of this ordinance upon acceptance by such person of service of process initiating a court proceeding to determine his her liability for the described penalty or such alleged violation. Any bond shall be forfeited unless the person posting it requests and accepts service of such process from the Chief of Police or his or her designated representative within thirty (30) days of the posting unless prevented from doing so by actions or inaction of the Town of Damariscotta.
- 5.3.5 **VIOLATIONS.** It shall be a violation of this ordinance for any person to tamper with or attempt to remove any immobilizing device

attached to a vehicle or to extract or attempt to prevent the removal of any vehicle as provided herein. The penalty for any such violation shall be not less than fifty (\$50) nor more than one thousand (\$1000).

## **ARTICLE 6**

### **Notification and Traffic Control**

#### **Section I: Notification**

It is, in part, the responsibility of the Police Department to ensure the safety of our citizens. To that end, it is important that the Police Department is made aware of any disruption or potential disruption to our roads, streets and ways, etc.

It is the responsibility of any person, group, organization, or entity; construction or otherwise, whose work, event or activity may in any way affect the normal flow of traffic to any road, street or way to notify the Police Department no less than ten (10) days prior to said work, event or activity. Such notification shall be in written form and may be addressed to the Damariscotta Police Department at P O Box 274, Damariscotta, ME 04543. The requirement may be waived in emergency situations, to be determined by the Chief of Police or his / her designee. The Town of Damariscotta shall be exempt from this requirement for special events. It will still be required that the Chief of Police be notified no less than ten (10) days prior to said event.

It shall be the responsibility of the Chief of Police or his/her designee to notify the Town Office, Road Commissioner, and any area emergency service provider, of the disruption in traffic flow.

#### **Section II: Traffic Control**

Any time the Police Department receives notification as outlined in Section I, the Chief of Police or his/her designee shall review the location and circumstances to ensure appropriate steps are taken to safe guard our citizens. Such steps should include; adequate signage warning the public, the proper use of traffic cones and barricades, safe alternate traffic or pedestrian routes, and the proper use of traffic control personnel, etc.

Any activity requiring notification under Section I that occurs on any portion of Main Street, Bristol Road, School Street, or Biscay Road shall require the presence of at least one (1) Police Officer and may, at the Police Chief's discretion, require the use of more than one (1) Police Officer for traffic control. The Chief of Police may waive this requirement as circumstances warrant. The Chief of Police may impose the same requirements on any road, street, or way in the town if the circumstances should warrant. Any such use of Police personnel shall be billed to the responsible party in accordance with Section IV of this Article.

In accordance with Maine Law, the Chief of Police or any Police Officer who finds a situation to be hazardous shall take action to stop such activity until it can be corrected.

#### **Section III: Penalties**

Any person, group, organization, or entity; construction or otherwise, accused of a violation of any portion of this article of the Damariscotta Traffic & Parking Ordinance may be assessed a mandatory minimum penalty of \$250.00 per occurrence. All Penalties shall be paid to the Town Treasurer as outlined in Article 4, paragraph 4.1.

**Section IV: Payment**

If the Chief of Police determines that Police Officers are required, to ensure the safe movement of pedestrian / vehicle traffic, the fee for said use of Police Officers will be \$38.00 per hour, per Officer. \$8.00 per hour, per Officer will go to the Town of Damariscotta to defer administrative costs. All fees shall be paid to the Town Treasurer as outlined in Article 4, paragraph 4.1. Hours accrued on a special detail are not eligible for use toward an Officer's 40 hour work week or employment benefits.

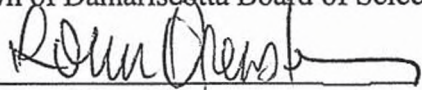
**Section V: Waiver**

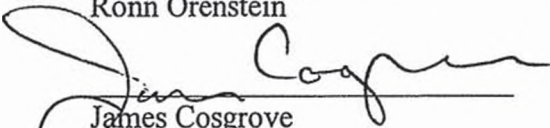
The Board of Selectmen may, at their discretion, grant a waiver of all or any part of the requirements set forth in this article.

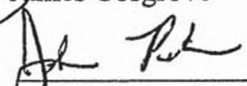
**Section VI**

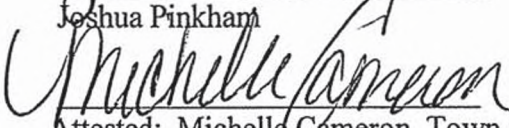
This Traffic and Parking Ordinance of the Town of Damariscotta, Maine, as amended by the Board of Selectmen of this \_\_ day of July, 2015, supersedes and replaces any and all previously enacted traffic and parking ordinances.


Town of Damariscotta Board of Selectmen

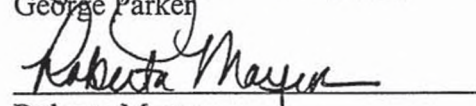
  
\_\_\_\_\_  
Ronn Orenstein

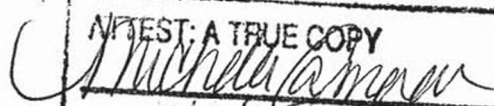
  
\_\_\_\_\_  
James Cosgrove

  
\_\_\_\_\_  
Joshua Pinkham

  
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Attested: Michelle Cameron, Town Clerk

  
\_\_\_\_\_  
George Parker

  
\_\_\_\_\_  
Roberta Mayer

  
\_\_\_\_\_  
7/17/15 DATE

## **TOWN OF DAMARISCOTTA PUBLIC VENDING ORDINANCE**

Be it ordained and enacted by the inhabitants of the Town of Damariscotta, Maine:

For the protection of the general public, its health and welfare, pursuant to the general police powers of the said Municipality and Title 30, Section 2151 et seq. Maine Revised Statutes, it is hereby enacted that:

No person, business or business corporation shall peddle, hawk, vend, sell or offer for sale at retail, any good of any kind from any type of vehicle parked within the Business Section of the Town of Damariscotta as such Business Section or District is defined in the Traffic and Parking Ordinance of the Town of Damariscotta.

No person, business or business corporation shall sell or offer for sale, peddle, hawk, vend or attempt to vend or otherwise distribute at retail, any meat, fish, poultry, fruit, vegetables, dairy products, furniture, clothing, or goods of any kind upon any other streets or sidewalks, parking lots or parking areas within the Town of Damariscotta without first obtaining a license to do so from the Municipal officers of the Town.

Any person, business or business corporation may apply to the Town for a license to sell the said specified goods in the places above mentioned. Such application shall state with specificity the item or items to be offered, the hours of operation, the specific place where the item or items are to be sold, the name(s) of the owner(s) of the business if operation under a trade name and what health or other precaution may be necessary to preserve the quality of the item being sold. Push-carts and similar sidewalk sales vehicles shall specify the route or area in which the operator intends to sell his goods.

Notice of the application shall be published in the same manner as for liquor sales licenses and a hearing on the granting or denial of such license shall be held in the same manner as specified for liquor licenses.

In considering whether to grant such a license the Selectmen shall consider:

1. The health and safety of the general public and pedestrian traffic in the area to be utilized by the vendor.
2. Whether the sale of such products would create a nuisance to the public, congestion on the sidewalks and/or other unacceptable interference with the public's free use of the streets and sidewalks of the Town.
3. Any prior complaints concerning the vendor, method of vending or other public concern including traffic or pedestrian congestion.

The application fee shall be the amount included in the Town's fee schedule. The Board of Selectmen shall determine the application fees based on the Town's average administrative cost to process permit and license applications. These costs shall reflect the Town's estimated costs associated with the permitting or licensed activity including the administrative time for processing the application, any required initial and follow-up inspections, legal and other professional fees and the cost for public notices.

Exceptions:

This ordinance shall not apply to any business which operates out of a permanent structure which is immediately adjacent to a sidewalk where the owner wishes to sell goods or to local charitable, benevolent or non-profit organizations raising funds or charitable purposes.

Penalties:

Any person or business or business corporation found in violation of this ordinance shall be subject to a fine of \$100.00 for the first offense and \$150.00 for subsequent offenses. Each day or part thereof that such a violation continues shall be considered a separate violation.

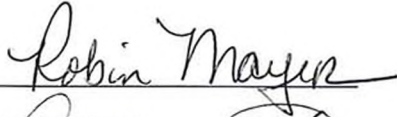
Enforcement:

This ordinance shall be enforced by the duly sworn police officers of the Town of Damariscotta, Maine who shall issue appropriate summons or notice of violation forms.

Separability:

If any section, sentence, clause or paragraph of this ordinance shall be determined to be unconstitutional by a court of competent jurisdiction, such section, sentence, clause or paragraph shall be considered a separate, distinct and independent portion of this ordinance and such holding shall not affect the validity of the remaining portions of this ordinance.

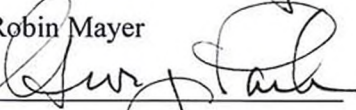
The enactment of this ordinance hereby revises the Public Vending Ordinance for the Town of Damariscotta, Maine as enacted on June 17, 1985.



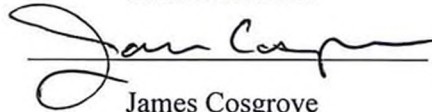
Robin Mayer



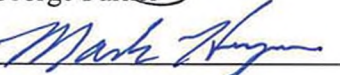
Ronn Orenstein



George Parker



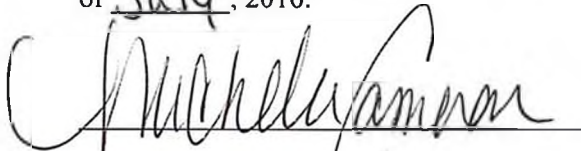
James Cosgrove



Joshua Pinkham



Attest: A true copy of an ordinance entitled "Public Vending Ordinance" for the Town of Damariscotta, Maine-June 15, 2016, as certified to me by the municipal officers of Damariscotta, Maine on the 6 day of July, 2016.



Michelle Cameron, Town Clerk  
Damariscotta, Maine

**Legislative History**

Enacted June 17, 1985

Revised June 15, 2016



