

2013

Town of Hermon Maine Charter and Code of Ordinances

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TOWN OF HERMON, MAINE
CODE OF ORDINANCES

AMERICAN LEGAL PUBLISHING CORPORATION

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CODE OF ORDINANCES
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PUBLISHER'S ACKNOWLEDGMENT

In the publication of this Code of Ordinances, every effort was made to provide easy access to local law by municipal officials, the citizens of this municipality, and members of the business community.

We want to express our grateful appreciation to all municipal officials for their untiring efforts in the preparation of this Code of Ordinances.

AMERICAN LEGAL PUBLISHING CORPORATION

Stephen G. Wolf, Esq.
President

CHARTER

CHARTER

Editor's note:

The effective date of this Charter was 3-12-1974. This Charter has been amended on the following dates: 3-8-1976, 12-5-1977, 11-7-1989, 11-8-1994, 11-2-1999, 11-8-2005, 11-3-2009 and 11-6-2012.

ARTICLES SUMMARY

ARTICLE I

Grant of Powers to the Town. The Town continues as a municipal corporation and will have all powers possible for a municipality under the Constitution and laws of Maine.

ARTICLE II

The Town Council. The Town Council will consist of seven members, elected at large, with three-year staggered terms. Any qualified voter at least 21 years of age is eligible to serve. The Town Council, after public hearing, will pass on all ordinances. The Town Council shall appoint the Town Manager, Town Treasurer, Road Commissioner, Tax Collector, Town Attorney, Planning Board and the Zoning Board of Appeals.

ARTICLE III

Town Meeting. An annual Town Meeting will be held for the consideration of the Budget and the transaction of other Town business.

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The Town Manager. The Town Manager will appoint the Town Clerk, and all Department heads subject to confirmation of the Council.

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Personnel Administration. A personnel administration system is created that institutes the merit principle for appointment and promotion of Town officers and employees under the supervision of the Manager. Comprehensive personnel rules must be adopted within two years after the Charter is passed.

ARTICLE VI

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Board of Assessors. The Board of Assessors shall consist of three members elected at large, who shall perform all duties and responsibilities provided for Assessors under General Law.

ARTICLE VIII

Budget. A system is established governing the preparation, public hearing, and adoption of the budget by the Council. All expenditures of \$25,000 or more for capital projects or the issuances of bonds in that amount must be voted upon by the citizens of the Town.

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Initiative, Referendum and Recall. Comprehensive initiative, referendum and recall provisions have been included in Hermon Charter. This article provides an adequate check and balance on the power of Hermon's elected officials and their official acts. Councilmen and School Committeemen are subject to recall.

ARTICLE XI

General Provisions. Conflict of interest and prohibited activities for elected officials are clearly defined in the Charter.

ARTICLE XII

Transitional Provisions. A detailed method for the transition from our present form of government is prescribed.

A municipality like a corporation must have a legislative body and a management team that has sufficient authority to make decisions and to solve problems as they occur.

The Commission feels that the Council-Manager form of government is the best form of government for Hermon and for the future. We sincerely hope that you the citizens agree with us.

The Charter Commission held a meeting on Monday, April 23, 1973, at 7:30 P.M. in the meeting room at the Municipal Building for the purpose of answering questions on the proposed Charter. All Hermon citizens were urged to attend. The Charter will be voted on at a later date and if passed will become effective on March 12, 1974.

ARTICLE I

GRANT OF POWERS TO THE TOWN

Sec. 1.01 - POWERS OF THE TOWN

The inhabitants of the Town of Hermon shall continue to be a municipal corporation by the name of the Town of Hermon. The Town shall have all powers possible for a municipality to have under the Constitution and laws of Maine.

Sec. 1.02 - CONSTRUCTION

The powers of the Town under this Charter shall be construed liberally in favor of the Town, and the specific mention of particular powers in the Charter shall not be construed as limiting in any way the general power stated in this article.

Sec. 1.03 - INTERGOVERNMENTAL RELATIONS

The Town may exercise any of its powers or perform any of its functions and may participate in the financing thereof, jointly or in cooperation, by contract or otherwise, with any one or more states or civil divisions or agencies thereof, or with the United States or any agency thereof.

ARTICLE II**TOWN COUNCIL****Sec. 2.01 - NUMBER, ELECTION AND TERM**

The Town Council shall be composed of seven members, each of whom shall be elected by the registered voters of the entire Town and will serve three-year staggered terms.

Sec. 2.02 - QUALIFICATIONS

1. Councilpersons shall be at least 21 years of age, shall be registered voters of the Town and shall reside in the Town during their term of office. After serving three full consecutive terms as a Councilperson, an individual must wait one year before serving on the Council again. A Councilor shall provide the Town Clerk with the address of their residence, which shall be in the Town of Hermon, upon request of the Town Council. A Councilor will be allowed temporary absences upon approval of the Council. (Amended 11-8-1994 Effective 7-1-1995; Amended 11-2-1999 Effective 7-1-2000; Amended 11-8-205 Effective 7-1-2006; Amended 11-6-2012 Effective 1-6-2012)

2. Procedures and specific Councilor Rules:

a. The Town Council shall adopt a policy governing its rules and procedures.

b. No Councilor or immediate family member of the Councilor shall have a contract with the Town. Any Councilor having a contract with the Town must immediately forfeit the contract or resign from the Council. Failure on the part of the councilor to forfeit the contract or resign will result in removal from office pursuant to § 2.08.

c. No Councilor shall be an employee of the town or obtain employment with the Town within one year from the date he/she left office. Employee of the Town does not include school employees. (Amended 11-8-2005 Effective 7-1-2006)

d. The Town Council shall approve the creation of any new full time, permanent position of employment with the Town. (Amended 11-6-2012 Effective 11-6-2012)

e. No Councilor, during the term for which that Councilor has been elected and for one year thereafter, or any member of the Councilor's immediate family, be appointed to any position of employment in the Town which was created by action of the Council during the Councilor's term. (Amended 11-6-2012 Effective 11-6-2012)

Sec. 2.03 - COMPENSATION

Members of the Council shall receive the sum of \$1000.00 per year in full compensation for their services same payable quarterly. The Chairperson shall be paid an additional \$100.00 per year and the Vice-Chairperson shall be paid an additional \$50.00 per year. (Amended 12-5-1977) (Amended 11-7-1989 Effective 7-1-1990; Amended 11-2-1999 Effective 7-1-2000)

Sec. 2.04 - INDUCTION OF COUNCIL INTO OFFICE

The term of Councilors-elect shall commence on July 1st. They shall be required prior to that date to be sworn to the faithful discharge of their duties by the Town Clerk, Deputy Town Clerk or by a person qualified by law to administer oaths. (Amended 11-7-1989 Effective 7-1-1990)

Sec. 2.05 - COUNCIL TO BE THE JUDGE OF QUALIFICATIONS OF ITS MEMBERS

The Council shall be the judge of the election and qualifications of its members and for such purpose shall have the power to subpoena witnesses and require production of records, but the decision of the Council in any such cases shall be subject to review by the courts.

Sec. 2.06 - REGULAR MEETINGS

1. The Town Council shall, at its first meeting or as soon as possible thereafter, establish by resolution a regular place/time for holding its regular meetings and shall meet regularly at least once a month. It shall also provide a method for calling special meetings. All meetings of the Town Council shall be open to the public in accordance with the revised statutes of the State of Maine. A specific agenda item shall be provided at all regular meetings to allow public input. (Amended 11-8-1994 Effective 7-1-1995)

2. Town Council meeting agendas and all Public Hearings shall be posted, in no fewer than three public locations to be specifically identified in the Town Council Rules; one location must be the Town Office. Town Council meeting agendas and Public Hearings shall be posted on the Town's website. Should a posting location become unavailable, the Council shall immediately identify an alternative location for posting Town Council meeting agendas and Public Hearings. (Amended 11-6-2012 Effective 11-6-2012)

Sec. 2.07 - RULES OF PROCEDURE; JOURNAL

1. The Town Council shall keep a record of its proceedings and shall determine its own rules of procedure and make lawful regulations for enforcing the same; the record shall be retained and disposed of in accordance with the State Law. The Council shall act only by ordinance, order or resolve. All

ordinances, orders and resolves, except orders or resolves making appropriations of money, shall be confined to one subject which shall be clearly expressed in the title. All appropriation orders or resolves shall be confined to the subject of appropriations only. The yeas and nays shall be taken on the passage of all ordinances, orders, and resolves and entered on the record of the proceedings of the Council by the Clerk. Whether a Councilor's vote is recorded as a yea or a nay, all Councilors will sign, as necessary, orders or resolves passed by a majority of the Council. (Amended 11-8-2005 Effective 7-1-2006)

2. The Town Clerk shall establish a record of all Town Council votes for all ordinances, orders, or resolves and record the vote on all ordinances, orders or resolves. (Amended 11-6-2012 Effective 11-6-2012).

3. Before any ordinance shall be passed, at least one public hearing shall be held by the Council, notice of which shall be given at least seven days in advance by publication in a newspaper having a circulation in said Town and by posting a notice in at least three public places in Hermon. Every ordinance shall require on passage the affirmative vote of a majority of the members of the Council. Such ordinances shall be effective 30 days after such passage subject to the provisions of the Article on Referendum and Initiative. (Amended 11-8-1994 Effective 7-1-1995)

Sec. 2.08 - VACANCIES; FORFEITURE OF OFFICE; FILLING OF VACANCIES

1. Vacancies: The office of Councilperson shall become vacant upon the death, resignation, removal from office in any manner authorized by law or forfeiture of his/her office.

2. Forfeiture of Office: A Councilperson shall forfeit his/her office upon final conviction of a felony or crimes of moral turpitude or if he/she lacks at any time during his/her term of office any of the qualifications of the office prescribed by this Charter or by law.

3. Filling Vacancies: If a seat in the Town Council becomes vacant more than six months prior to the next regular election, the Council shall call a special election to fill the unexpired term within 60 days from the date that the vacancy occurred. If a seat in the Council becomes vacant less than six months prior to the next regular election, the Council may call a special election.

4. Forfeiture for Attendance Reasons: A Councilor shall forfeit his/her office if he/she fails to attend five regular meetings of the Council in a fiscal year, without being excused by the Council. (Amended 11-7-2006 Effective 7-1-2007)

Sec. 2.09 - QUORUM AND PRESENT AND VOTING

1. A majority of the Town Council shall constitute a quorum for the transaction of business, but a smaller number may adjourn from time to time or may compel attendance of absent members. At least 24-hours' notice of the time and place of holding such adjourned meeting shall be given to all members who were not present at the meeting from which the adjournment was taken.

2. A Councilor must be present for the entire consideration of a matter in order to participate in deliberations or vote on the matter, without leave of the Council. (Amended 11-8-2005 Effective 7-1-2006)

Sec. 2.10 - CHAIRMAN

At its first meeting in July, the Council shall elect, by majority vote, one of its members as Chairperson and one as Vice-Chairperson for the ensuing year and the Council may fill, by majority vote, for an unexpired term, any vacancies in the offices of Chairperson and Vice-Chairperson that may occur. The Chairperson shall preside at the meetings of the Council, and shall be recognized as head of the Town Government for all ceremonial purposes and by the Governor for purposes of military law, but he/she shall have no regular administrative duties. The Chairperson shall be entitled to vote, and his/her vote shall be counted upon all matters and things as a vote of other members of the Council. (Amended 11-7-1989 Effective 7-1-1990)

Sec. 2.11 - TOWN CLERK

In addition to the statutory duties required of the Town Clerk, Deputy Town Clerk or Assistant Clerk; the Town Clerk, Deputy Town Clerk or Assistant Clerk shall act as Clerk of the Council and shall keep a public record of all proceedings of the Council, including all votes. (Amended 11-8-1994 Effective 7-1-1995)

Sec. 2.12 - INDEPENDENT ANNUAL AUDIT

Prior to the end of each fiscal year, the Council shall designate public certified accountants who, at the end of the fiscal year, shall make an independent audit of accounts and other evidences of financial transactions of the Town Government and shall submit their report to the Town Council and Town Manager. This Audit Report in a summarized manner will be made a part of the Annual Town Report. Such accountants shall not maintain any accounts or records of the Town business, but shall post-audit the books and documents kept by any office, officer, department or agency of the Town Government. (Amended 11-7-1989 Effective 7-1-1990; Amended 11-6-2012 Effective 11-6-2012)

Sec. 2.13 - ENUMERATION OF POWERS

Without limitations of the foregoing, the Council shall have the power to:

1. **Appoint and remove the Town Manager, Town Treasurer, Road Commissioner, Tax Collector, General Assistance Director, Town Attorney, members of the Planning Board, members of the Zoning Board of Appeals, and members of the Assessment Review Board. (Amended 11-8-1994 Effective 7-1-1995)**

2. **The Council may, where appropriate and not prohibited by law, vest in the Town Manager, or his/her appointee, all or part of the duties of any office. (Amended 11-8-1994 Effective 7-1-1995; Amended 11-8-2005 Effective 7-1-2006)**

3. **Provide for an annual audit.**

4. **By ordinance create, change and abolish offices, departments and agencies, other than those offices, departments and agencies established by this Charter. The Council by ordinance may assign additional functions or duties to offices, departments, or agencies established by this Charter, but may not discontinue or assign to any other office, department or agency any function or duty assigned by this Charter to a particular office, department or agency.**

5. **Make, alter, and repeal ordinances, including the power to enact ordinances providing for the grant of licenses and permits for the conduct of any business, as set forth in the statutes of the State of Maine, for such periods of time and in accordance with such rules and regulations not inconsistent with law and upon payment by the licensee of such fees as the Town Council may establish in such ordinance.**

6. **Ordinances in General.**

(a) **Form: Every proposed ordinance shall be introduced in writing and in the form required for the final adoption. The enacting clause shall be "The Town of Hermon hereby ordains..." Any ordinance which repeals or amends an existing ordinance shall set out in full the ordinance sections or subsections to be repealed or amended, and shall indicate matter to be omitted by enclosing it in brackets or by strikeout type and shall indicate new matter by underscoring or by italics.**

(b) **Procedure: A proposed ordinance may be introduced by any member at any regular or special meeting of the Council. Upon introduction of any ordinance, the Secretary to the Council shall distribute a copy to each Council member and to the Town Manager; shall file a reasonable number of copies in the office of the Clerk and such other public places as the Council may designate, and shall publish the same as defined in § 2.07 together with a notice setting out the time and place for a public hearing thereon and for its consideration by the Council. The public hearing shall follow the publication by at least seven days, may be held separately or in connection with a regular or special Council meeting and may be adjourned from time to time. All persons interested shall have a reasonable opportunity to be heard. After the hearing the Council may adopt the ordinance with or without amendment or reject**

it; but if it is amended as to any matter of substance, the Council may not adopt it until the ordinance or its amended sections have been subjected to all the procedure herein before required in the case of a newly introduced ordinance.

(c) **Emergency Ordinances:** To meet a public emergency affecting life, health, property or the public peace, the Council may adopt one or more emergency ordinances. An emergency ordinance may be adopted with or without amendment or rejected at the meeting at which it is introduced, but the affirmative vote of at least the majority plus one member shall be required for adoption. After its adoption the ordinance shall be posted in at least three public places in Hermon. It shall become effective upon adoption or at such later time as it may specify. Every emergency ordinance except one authorizing the issuance of emergency notes shall stand repealed as of the 61st day following the date on which it was adopted, but this shall not prevent re-enactment of the ordinance in the manner specified in this section if the emergency still exists. An emergency ordinance may also be repealed by adoption of a repealing ordinance in the same manner specified in this section for adoption of emergency ordinances.

(d) **Authentication and Recording: Codification; and Printing:**

(1) **Authentication and Recording:** All ordinances adopted by the Council shall be authenticated by the signature of the Clerk of the Council and recorded in full by the Clerk in a properly indexed book kept for the purpose.

(2) **Codification:** Within three years after adoption of this Charter and at least every ten years thereafter, the Council shall provide for the preparation of a general codification of all ordinances, except those required by § 2.13 (5). The general codification shall be adopted by the Council by ordinance and shall be printed promptly in bound or loose-leaf form, together with this Charter and any amendments thereto, pertinent provisions of the Constitution and other laws of the State of Maine and other rules and regulations as the Council may specify. Any codification ordinance may be published by title. This compilation shall be known and cited officially as the Hermon Code. Copies of the code shall be furnished to officials, placed in libraries and public offices for free public reference and made available for purchase by the public at a reasonable price. (Amended 11-7-1989 Effective 7-1-1990)

(3) **Printing of Ordinances:** The Council shall cause each ordinance, except those required by § 2.13 (5) and each amendment to this Charter to be printed promptly following its adoption, and the printed ordinances and Charter amendments shall be distributed or sold to the public at reasonable prices. (Amended 11-7-1989 Effective 7-1-1990)

7. Inquire into the conduct of any office department or agency of the Town and make investigation as to municipal affairs.

8. Recommend the annual budget to the Town meeting.

Sec. 2.14 - PROHIBITIONS

1. Neither the Council nor any of its members shall, in any manner, dictate the appointment or removal of any administrative officers or employees whom the Manager or any of his subordinates are empowered to appoint; but the Council may discuss with the Manager the appointment and removal of such officers and employees. (Amended 11-8-2005 Effective 7-1-2006)

2. Except for the purpose of inquiry, the Council and its members shall deal with the administrative services solely through the Manager and neither the Council or any Councilor shall give orders to any subordinates of the Manager, either publicly or privately. (Amended 11-8-2005 Effective 7-1-2006)

ARTICLE III
TOWN MEETING

Sec. 3.01 - ANNUAL AND SPECIAL TOWN MEETINGS

1. An annual Town Meeting for the consideration of the budget and the transaction of other Town business shall be held on a date to be established annually by the Town Council. The annual and special Town Meetings shall be called by the Council in the manner provided for calling Town Meetings in accordance with provisions of the statutes of the State of Maine. (Amended 12-5-1977)

2. The Annual Town Meeting and any Special Town Meeting shall be governed by the latest edition of Maine Moderator's Manual, published by Maine Municipal Association. The Manual shall be kept and maintained by the Council Chairperson for reference, which must be physically available to him or her at the time of the meeting. The Annual Town Meeting shall be attended by the Town Attorney or his or her designee. (Amended 11-6-2012 Effective 11-6-2012)

Sec. 3.02 - PURPOSE OF THE TOWN MEETING

1. Town Meeting is required for approval of the following:

(a) Annual Budget.

(b) Any appropriation of \$25,000 or more in addition to or supplementary to the annual budget appropriation. (Amended 11-7-1989 Effective 7-1-1990; Amended 11-6-2012 Effective 11-6-2012)

(c) The issuance of bonds or notes, except notes in anticipation of taxes to be paid within the fiscal year in which issued.

(1) The issuance of any bond or note shall be posed as a question on a secret ballot and each qualified voter who desires to cast an absentee vote at a regular or special Town meeting shall be entitled to an official ballot and the right to cast such ballot in accordance with the provisions of the State Law. (Amended 11-3-2009 Effective 7-1-2010).

(d) Funding of a reserve account.

2. The above appropriations shall become effective only after approval at a Town Meeting by the vote of a majority of those voting on the article at such meeting. (Amended 11-7-1989 Effective 7-1-1990)

3. The Town Meeting Shall:

(a) Not increase the amount of any appropriation above the amount recommended by the Council.

(b) Not malce any appropriation not recommended by the Council, and

(c) Not increase the amount of any Bond Issue above the amount recommended by the Council. (Amended 11-7-1989 Effective 7-1-1990)

Sec. 3.03 - METHOD OF ABOLISHING THE TOWN MEETING

1. At any time after the adoption of this Charter, not less than 10% of the registered voters of the Town may petition over their personal signatures for a special Town Meeting to vote upon the question of submitting to a referendum vote on the ballot at a special Town election the proposition of abolishing the Town Meeting. The Council shall call a public hearing to be held within 30 days from the date of the filing of such petition with the Town Clerk, and shall within 14 days after said public hearing call a special Town Meeting for the purpose of submitting to a referendum vote the question of abolishing the Town Meeting in the Town of Hermon. If at such special election a majority of the voters of the Town voting on the question shall vote for the abolition of the Town Meeting of the Town of Hermon, the powers heretofore vested in the Town Meeting shall be conferred upon and exercised by the Town Council.

2. In the event the Annual Town Meeting is abolished, by amendment of the Town Charter, a substitute process for adoption of the annual budget for the Town of Hermon must be approved by the voters by a concurrent vote. (Amended 11-6-2012 Effective 11-6-2012)

ARTICLE IV

TOWN MANAGER

Sec. 4.01 - APPOINTMENT; QUALIFICATION

1. The Town Council shall appoint a Town Manager for an indefinite term and fix his/her compensation. The Manager shall be appointed on the basis of his/her executive and administrative qualifications. He/She need not be a resident of the Town or State at the time of his/her appointment but may reside outside the Town while in office only with the approval of the Council.

2. The appointment of the Town Manager shall be subject to review at the first Council meeting following the annual election of Municipal Officials. (Amended 3-8-1976)

Sec. 4.02 - REMOVAL

The Council may remove the Manager from office in accordance with the following procedures: (Amended 11-7-1989 Effective 7-1-1990)

1. The Council shall adopt by affirmative vote of a majority of all its members a preliminary resolution which must state the reasons for removal and may suspend the Manager from duty for a period not to exceed 30 days. A copy of the resolution shall be delivered within 96 hours to the Manager.

2. Within five days after receiving a copy of the resolution, the Manager may file with the Council a written request for a public hearing. This hearing shall be held at a Council Meeting not earlier than ten nor later than 20 days after the request is filed. The Manager may file with the Council a written reply not later than five days before the hearing.

3. The Council may adopt a final resolution of removal, which may be effective immediately by affirmative vote of a majority of all its members at any time after ten days from the date when a copy of the preliminary resolution was received by the Manager, if he/she has not requested a public hearing, or at any time after the public hearing, if he/she has requested one.

4. The Manager shall continue to receive his/her salary until the effective date of final resolution or removal. In addition, he/she shall receive severance pay and other allowances at the discretion of the Town Council.

Sec. 4.03 - ABSENCE OF TOWN MANAGER

By letter filed with the Town Clerk the Manager shall designate, subject to approval of the Town Council, a qualified Town administrative officer to exercise the powers and perform the duties of Manager during his/her temporary absence or disability. During such absence or disability, the Council may revoke such designation at any time and appoint another officer of the Town to serve until the Manager shall return or his/her disability shall cease. In the event of failure of the Manager to make such designation, the Council may by resolve appoint any administrative officer of the Town to perform the duties of the Manager until he/she shall return or his/her disability shall cease.

Sec. 4.04 - POWERS AND DUTIES OF TOWN MANAGER

The Town Manager shall be the chief administrative officer of the Town. He/She shall be responsible to the Council for the administration of all Town affairs placed in his/her charge by or under this Charter. He/She shall have the following powers and duties:

1. The Town Manager shall appoint the Town Clerk, Tax Assessor and department heads subject to the confirmation of the Town Council and shall have the power to remove such appointees when necessary. He/She shall appoint and remove when necessary all other administrative officers and Town employees, except as he/she may authorize the head of department or office to appoint and remove subordinates in such department or office and except as otherwise provided in this Charter. (Amended 3-8-1976)

2. To direct and supervise the administration of all departments, offices and agencies of the Town, except as **otherwise provided** by this Charter or by law. (Amended 11-7-1989 Effective 7-1-1990)

3. To attend Council Meetings and shall have the right to take part in discussions but may not vote. (Amended 11-8-1994 Effective 7-1-1995)

4. To see that all laws, provisions of this Charter and acts of the Council, subject to his/her direction and supervision, are faithfully executed. (Amended 11-7-1989 Effective 7-1-1990)

5. To prepare and submit the annual budget and capital program to the Council. (Amended 11-7-1989 Effective 7-1-1990)

6. To submit to the Council and make available to the public a complete report on the finances and administrative activities of the Town as of the end of each fiscal year. (Amended 11-7-1989 Effective 7-1-1990)

7. To make such other reports as the Council may require concerning the operations of Town departments, offices and agencies subject to his/her direction and supervision. (Amended 11-7-1989 Effective 7-1-1990)

8. To keep the Council fully advised as to the financial condition and future needs of the Town and make such recommendations to the Council concerning the affairs of the Town as he/she deems desirable. (Amended 11-7-1989 Effective 7-1-1990)

9. To prepare a personnel policy and job descriptions as required, to be proposed to the Council, and the Council may, adopt them with or without amendment. (Amended 11-7-1989 Effective 7-1-1990; Amended 11-8-2005 Effective 7-1-2006)

10. He/She, or an official designated by him/her, shall assist, insofar as possible, residents and taxpayers in discovering their lawful remedies in cases involving complaints of unfair vendor, administrative and governmental practices. (Amended 11-7-1989 Effective 7-1-1990)

11. To perform such other duties as are specified in this Charter or may be required by the Council. (Amended 11-7-1989 Effective 7-1-1990)

ARTICLE V

PERSONNEL ADMINISTRATION

Sec. 5.01 - APPOINTMENTS

All appointments and promotions of Town officials and employees shall be made solely on the basis of merit fitness demonstrated by examination or other evidence of competence.

Sec. 5.02 - PERSONNEL DIRECTOR

The Town Manager or a person appointed by him/her shall be designated Personnel Director and shall administer the personnel system of the Town. (Amended 11-7-1989 Effective 7-1-1990)

Sec. 5.03 - (Amended 11-8-2005 Effective 07-1-2006)

ARTICLE VI

SCHOOL COMMITTEE

Sec. 6.01 - NUMBER, ELECTION AND TERM

1. The School Committee shall consist of five members, each of whom shall be nominated and elected by the registered voters of the entire Town.

2. Each member shall be elected for a term of three years and shall serve until his/her successor is elected and qualified. After serving three full consecutive terms as a School Committeeperson, an individual must wait one year before serving on the Committee again. (Amended 11-8-19 94 Effective 7-1-1995; Amended 11-6-2012 Effective 11-6-2012)

3. In addition to the five members above, there shall also be two members of the School Committee to be appointed by the directors of R.S.U. #87 for as long as secondary school tuition students from R.S.U. #87 d/b/a S.A.D. #23 are contracting with the Town of Hermon compromise no less than 25% of the secondary education student population at Hermon High School. The School Committee shall have all the powers and duties prescribed for school committees by the general laws of the State of Maine, except as otherwise provided by this Charter and as follows:

(a) A specific agenda item shall be provided at all regular meetings to allow public input.

(b) The School Committee shall provide for keeping a verbatim record of its proceedings to be retained and disposed of in accordance with the State Law. (Amended 11-8-1994 Effective 7-1-1995; Amended 11-8-2005 Effective 07-1-2006; Amended 11-6-2012 Effective 11-6-2012)

Sec. 6.02 - QUALIFICATIONS

School Committee candidates shall be at least 21 years of age and registered voters of the Town, and shall reside in the Town during their term of office, except members seated by S.A.D. #23 as provided in § 1. A committeeperson shall provide the Town Clerk with the physical address of their residence, which shall be in the Town of Hermon, upon the request of the School Committee. A vacancy may occur if a Committeeperson no longer resides in Hermon. A Committeeperson will be allowed temporary absences upon approval of the Committee. (Amended 11-2-1999 Effective 7-1-2000; Amended 11-8-2005 Effective 07-1-2006)

Sec. 6.03 - COMPENSATION

Excluding those members seated from R.S.U. #87 d/b/a S.A.D. #23, members of the School Committee shall receive the sum of \$1,500 per year in full compensation for their services same payable quarterly. The Chairperson shall be paid an additional \$250 per year and the Vice-Chairperson \$100. (Amended 11-7-1989 Effective 7-1-1990; Amended 11-2-1999 Effective 7-1-2000; Amended 11-6-2012 Effective 7-1-2013)

Sec. 6.04 - INDUCTION OF MEMBERS INTO OFFICE

The Terms of the School Committee members-elect commence on July 1st. They shall be required prior to that date to be sworn to the faithful discharge of their duties by the Town Clerk, Deputy Town Clerk or by a person qualified by law to administer oaths. (Amended 11-7-1989 Effective 7-1-1990)

Sec. 6.05 - VACANCIES; FORFEITURE OF OFFICE; FILLING OF VACANCIES

1. **VACANCIES:** The office of Committeeperson shall become vacant upon his/her death, resignation, removal from office in any manner authorized by law or forfeiture of his/her office.

2. **FORFEITURE OF OFFICE:** A Committeeperson shall forfeit his/her office upon final conviction of a felony or crimes of moral turpitude or if he/she lacks at any time during his/her term of office any of the qualifications of the office prescribed this Charter or by law.

3. **FILLING VACANCIES:** If a seat on the School Committee becomes vacant more than 6 months prior to the next regular election, the Council shall call a special election to fill the unexpired term within 60 days from the date that the vacancy occurred. If a seat on the School Committee becomes vacant less than 6 months prior to the next regular election, the Council may call a special election.

4. **FORFEITURE FOR ATTENDANCE REASONS:** A Committeeperson shall forfeit his/her office if he/she fails to attend three consecutive meetings of the Committee without being excused by the Committee.

Sec. 6.06 - CHAIRPERSON

At its first meeting in July, the School Committee shall elect by majority vote, one of its members as Chairperson and one as Vice-Chairperson for the ensuing year. The Chairperson and Vice-Chairperson must be residents of the Town of Hermon. (Amended 11-7-1989 Effective 7-1-1990)

Sec. 6.07 - PROHIBITIONS

Except for the purpose of inquiry, the Committee and its members shall deal with the administrative services solely through the Superintendent of Schools and neither the Committee nor any member thereof shall give orders to any subordinates of the Superintendent of Schools, either publicly or privately.

Sec. 6.08 - BUDGET

1. The School Committee shall submit its proposed annual budget to the Town Manager no less than 30 days prior to the Annual Town Meeting or Special Town Meeting called for adoption of the school budget along with explanation of any pending items. (Amended 3-8-1976; Amended 11-6-2012 Effective 11-6-2012)

2. The School Budget will be voted upon at either the Annual or at a special Town Meeting called for that purpose. The proposed expenditures in the School Budget shall be divided into no fewer than the following line items: Debt Service, Reserves, Capital Improvements, and All Other School Expenditures. (Amended 11-7-1989 Effective 7-1-1990; Amended 11-2-1999 Effective 7-1-2000; Amended 11-6-2012 Effective 11-6-2012)

ARTICLE VII**TAX ADMINISTRATION****Sec. 7.01 - ASSESSMENT**

There shall be established a division of Assessment, the head of which shall be the Town Tax Assessor. (Amended 3-8-176) (Amended 11-7-1989 Effective 7-1-1990)

Sec. 7.02 - DUTIES

The assessor shall be empowered with the powers and subject to the duties prescribed in the state Law.

Sec. 7.03 - BOARD OF ASSESSMENT REVIEW

There shall be a Board of Assessment Review to consist of three members who shall be appointed by the Town Council for a term of three years, except that of those first appointed, one shall be for a term of two years and one for a term of one year; and two alternates; one of the alternates must be appointed for one year and one alternate for two years. A quorum shall be a majority of the voting members and they shall elect their own Chairperson. Vacancies in the membership of such a board shall be filled by appointment by the Town Council for the unexpired term. (Amended 11-8-1994 Effective 7-1-1995)

Sec. 7.04 - BOARD OF ASSESSMENT REVIEW; POWERS; DUTIES

The Board of Assessment Review shall have the power to:

1. Review, on complaint of property owners, and revise assessed values for the purpose of taxation of real and personal property within the Town limits made by the Town Tax Assessor.
2. Administer oaths.
3. Take testimony.
4. Hold Hearings; and
5. Adopt regulations regarding the procedure of assessment review not inconsistent with statutory provisions.
6. Shall make findings of fact and conclusion of values. (Amended 11-7-1989 Effective 7-1-1990)

ARTICLE VIII**BUDGET****Sec. 8.01 - FISCAL YEAR**

The fiscal year of the Town government shall begin the first day of July and shall end on the last day of June of each calendar year, or such other fiscal year as the Council may decide. Such fiscal year shall constitute the budget and accounting year as used in this Charter. The term "budget year" shall mean the fiscal year for which any particular budget is adopted and in which it is administered. (Amended 12-5-1977)

Sec. 8.02 - PREPARATION AND SUBMISSION OF THE BUDGET

1. The Town Manager, at a time to be determined by the Town Council, shall submit to the Council a budget and an explanatory budget message. The budget authority of the Town Council shall include amending or approving the budget proposed by the Town Manager and determining the total appropriations made to various municipal offices, departments or agencies. The school budget will be presented to the Town Council, and the Town Council will forward the School Committee's recommendation to the voters in accordance with State law. This budget shall contain: (Amended 12-5-1977; Amended 11-6-2012 Effective 11-7-2012)

(a) A statement of the financial overview of the Town shall be submitted to the Council in time to be included in the published Town budget. (Amended 3-8-1976; Amended 11-6-2012 Effective 11-6-2012)

(b) An itemized statement of appropriation recommended for current expenses, and for permanent improvements, with comparative statements in parallel columns of estimated expenditures for the next preceding fiscal year. An increase or decrease in any item shall be indicated.

(c) An itemized statement of estimated revenue from all sources, other than taxation, and a statement of taxes required, comparative figures from current and next preceding year.

(d) Such other information as may be required by the Town Council.

2. The proposed budget prepared by the Manager shall be reviewed by the Town Council which shall approve the budget with or without amendments. The complete Town budget, including the school budget, as approved by the Town Council shall be published and the Town Council shall fix the time and place for holding a public hearing for the budget, and shall give a public notice of such hearing. The Council shall then review the budget and recommend it, with or without change, to the annual Town Meeting. Each Article shall be accompanied with a record of the School Committee's and Town Council's vote. (Amended 11-8-2005 Effective 07-1-2006)

Sec. 8.03 - BUDGET ESTABLISHED APPROPRIATIONS

Upon adoption of the budget all amounts appropriated shall be so appropriated to the respective offices, departments and agencies of the Town and limit overlay expenditures. (Amended 11-6-2012 Effective 11-6-2012)

Sec. 8.04 - BUDGET ESTABLISHES AMOUNT TO BE RAISED BY PROPERTY TAX; CERTIFICATION TO THE ASSESSOR (Amended 3-8-1996, Amended 11-8-1994)

From the date of adoption of the budget, the amounts stated therein as the amount to be raised by property tax shall constitute a determination of the amount of the levy, excluding State allowable overlay for the purposes of the Town in the corresponding tax year; the overlay shall be established at the time of the determination of the valuation and tax commitment. A copy of the budget as finally adopted shall be certified by the Clerk and filed by him/her with the Assessor, whose duty it shall be to levy such taxes for the corresponding tax year. (Amended 11-8-1994 Effective 7-1-1995)

Sec. 8.05 - BUDGET SUMMARY

With the budget there shall appear a summary of the budget, which need not be itemized further than by principal sources of anticipated revenue, stating separately the amount to be raised by property tax, and shall be also by departments and kinds of expenditures, in such a manner as to present to taxpayers a simple and clear summary of detailed estimates of the budget. (Amended 11-8-2005 Effective 7-1-2006)

Sec. 8.06 - EXPENDITURES AND DEPARTMENTAL REVENUE

The budget for all departments, including the school department, shall include all proposed expenditures; and the Town Meeting shall make a gross appropriation for department, including the school department, for ensuing fiscal year. The gross appropriation for each department shall not be exceeded. The school budget shall be expended under the direction and control of the School Committee. All budgets shall be considered to be line item budgets and monies shall not be transferred from one appropriation to another except as provided in § 8.08. The School Budget shall contain the following four line items: Debt Service, Reserves, Capital Improvements, and All Other School Expenditures. (Amended 3-8-1976; Amended 11-2-1999 Effective 7-1-20 00)

Sec. 8.07 - WORK PROGRAM; ALLOTMENTS

The head of each office, department or agency, shall submit to the Town Manager a work program of the year, showing the requested allotments of appropriations for such office, department or agency, by stated periods, for the entire budget year. The Town Manager shall review the requested allotments

of appropriations for such office, department or agency, by stated periods, for the entire budget year. The Town Manager shall review the requested allotments in the light of the work program of the office, department or agency concerned, and may revise, alter or change such allotments before approving the same. The aggregate of such allotments shall not exceed the total appropriations available to said office, department or agency for the budget year. (Amended 11-8-2005 Effective 7-1-2006)

Sec. 8.08 - TRANSFERS OF APPROPRIATIONS

At the request of the Manager, the Council may by resolution transfer any unencumbered appropriations balance or portion thereof, from one department to another, for expenditures encumbered during the last three months of the fiscal year providing, that no such transfer shall occur more than 30 days following the close of the fiscal year. In the case of the School budget this may be done at the request of the Superintendent with the approval of the School Committee, pursuant to State Law, and notification of the Council, for transfers between Reserves and Capital Improvements. Transfers involving the line item entitled "All Other School Expenditures" shall require approval of the School Committee, pursuant to State Law. (Amended 3-8-1976) (Amended 11-7-1989 Effective 7-1-1990; Amended 11-2-1999 Effective 7-1-2000; Amended 6-12-2012 Effective 7-1-2012)

Sec. 8.09 - INTERIM EXPENDITURES

In the period between the beginning of the fiscal year and the appropriation of funds, the Council may authorize expenditures for current departmental expenses chargeable to the appropriations for the year when made in amounts sufficient to cover the necessary expenses of the departments.

Sec. 8.10 - LAPSE OF APPROPRIATIONS

General Fund appropriations, except for reserve accounts funded by the Town Meeting action and accounts designated by the Council to be continuing, shall lapse at the end of the fiscal year, to the extent that it has not been expended or encumbered. Nothing in this section is intended to prohibit transfers under the provisions of § 8.08 of this Charter. (Amended 11-2-1999 Effective 7-1-2000)

Sec. 8.11 - PAYMENTS AND OBLIGATIONS PROHIBITED

No payment shall be made or obligation incurred against any allotment or appropriations except in accordance with appropriations duly made and unless the Manager or his/her designees first certifies that there is sufficient unencumbered balance in such allotment or appropriation and that sufficient funds therefrom are or will be available to cover the claim or meet the obligation when it becomes due and payable. Any authorization of payment or incurring of obligation in violation of the provisions of this Charter shall be void and any payment so made illegal; such action shall be cause for removal of any officer who knowingly authorized or made such payment or incurred such obligation, and he/she shall

also be liable to the Town for an amount so paid. However, except where prohibited by law, nothing in this Charter shall be construed to prevent the making or authorizing of payments or making of contracts for capital improvements to be financed wholly or partly by the issuance of bonds or to prevent the making of any contract or lease providing for payments beyond the end of the fiscal year, provided such action is made or approved by ordinance.

Sec. 8.12 - CAPITAL PROGRAM

The Town Council shall adopt a Capital Program policy that at least includes a five-year capital program that is adopted at least four months prior to the end of the fiscal year. (Amended 11-5-2005; Effective 07-1-2006; Amended 11-6-2012 Effective 11-6-2012)

Sec. 8.13 - RESERVE ACCOUNTS

1. Reserve accounts may be established by the Town Council. Reserve accounts are defined by State Law 30-A M.R.S.A. § 5801.

2. Town Meeting is required for approval of the following:

(a) Town Meeting is required for approval for funding of a reserve account.

(b) Any expenditures of \$25,000.00 or more from a reserve account excluding the Sewer Maintenance Reserve Account. Expenditures by the Town Council from a given reserve account shall be limited to a total of \$24,999.99 during the fiscal year without a Town Meeting vote.

(c) Transfer of funds from one reserve account to another.

(d) Funding for each reserve account will be contained in an Article to be voted upon at the Town Meeting. Such Article shall contain a breakdown of each reserve account. The total of the reserve accounts approved shall be part of the total appropriation. (Amended 11-8-1994 Effective 7-1-1995; Amended 11-8-2005 Effective 07-1-2006)

Sec. 8.14 - BORROWING FROM RESERVE ACCOUNTS IN ANTICIPATION OF TAX REVENUE

The Town Council, upon the affirmative vote of no less than five members to utilize up to 25 % or \$750,000.00, whichever is less, of Town Reserve Accounts to meet the projected cash flow needs of the Town. Use of Reserve Account funds for this purpose is upon the express condition that: The funds be repaid to the Reserve Account during the then current Fiscal Year. (Amended 11-6-2012 Effective 11-6-2012)

ARTICLE IX

NOMINATIONS AND ELECTIONS

Sec. 9.01 - CONDUCT OF ELECTIONS

The regular municipal election shall be held on a date to be established annually by the Town Council. Except as otherwise provided by this Charter, the provisions of the laws of the State of Maine shall apply to elections held under this Charter according to State Law. Qualified voter shall mean any person qualified and registered to vote under law. (Amended 12-5-1977) (Amended 11-7-9189 Effective 7-1-1990)

Sec. 9.02 - NOMINATIONS

1. **Petitions:** Candidates for election to the Council and the School Committee shall be nominated by petition. Any qualified voter of the Town, being at least 21 years of age, may be nominated for election as Councilperson, or School Committeeperson by a petition signed by not less than 25, qualified voters nor more than 100 qualified voters of the Town. The signature to nominating petition need not all be affixed to one paper, but to each separate paper of a petition there shall be attached an affidavit executed by its circulator stating the number of signers of the paper, that each signature on it was affixed in his/her presence and that he/she believes each signature to be the genuine signature of the person whose name it purports to be. The signature shall be executed in ink or indelible pencil. Each signer shall indicate next to his/her signature the street address where he/she resides. (Amended 11-8-1994 Effective 7-1-1995)

2. **Filing and Acceptance of Nominations Petitions:** All separate papers comprising a nominating petition shall be assembled and filed with the Municipal Clerk as one instrument in compliance with M.R.S.A. Title 30-A as amended regulating the distribution of nomination papers unless otherwise specified by the Council, The Clerk shall make a record of the date and time each petition is filed. No nominating petition shall be accepted unless accompanied by a signed acceptance of the nomination. (Amended 11-8-1994 Effective 7-1-1995; Amended 11-2-1999 Effective 7-1-2000)

3. **Procedure after Filing Nomination Petitions:** Within five days after the filing of a nominating petition, the Clerk shall notify the candidate and the person who filed the petition whether or not it satisfies the requirements prescribed by this Charter. If a petition is found insufficient the Clerk shall return it immediately to the person who filed it with a statement certifying wherein it is found insufficient. Within the regular time for filing petitions such a petition may be amended and filed again as a new petition or a different petition may be filed for the same candidate. The Clerk shall keep on file all petitions found sufficient at least until the expiration of the term for which the candidates are nominated in those petitions.

Sec. 9.03 - NAMES ON BALLOTS

The names and addresses of all candidates nominated for Councilperson and for School Committeeperson, except those who have withdrawn, died, or become ineligible, shall be printed on the official ballots without party designation under headings "Nominees for Councilperson" and "Nominees for School Committeeperson", respectively. The names shall appear LAST NAME, First Name, and optional Middle Initial. If the candidate wishes to use a nickname by which they are more commonly known, the name shall appear as LAST NAME, First Name (Nickname) and optional Middle Initial on the ballot providing the full name plus nickname also appeared on the candidate's nomination paper. (Amended 3-8-1976; Amended 11-2-1999 Effective 7-1-2000)

Sec. 9.04 - DETERMINATION OF ELECTION RESULTS

1. Number of Votes: Every voter shall be entitled to vote for as many candidates as there are vacancies to be filled.

2. Plurality: Election shall be determined by plurality vote. In case of a tie, a run-off election shall be held between (or among, as the case may be) the tied candidates. (Amended 11-8-1994 Effective 7-1-1995)

Sec. 9.05 - BALLOTS FOR ORDINANCES

An Ordinance to be voted on pursuant to Article X shall be presented for voting by ballot title. The ballot title of a measure may differ from its legal title and shall be a clear, concise statement describing the substance of the measure without argument or prejudice. Below the ballot title shall appear the following question: "Shall the above described ordinance be adopted?" Immediately below such question shall appear in the following order, the words "yes" or "no" and to the right of each a square in which the voter may cast his/her vote.

Sec. 9.06 - VOTING MACHINES

The Council may provide for the use of mechanical or other devices for voting or counting the votes not inconsistent with law.

Sec. 9.07 - ORDERING CANDIDATE SURNAMES

When two or more candidates have been nominated for any office, the names of said candidates shall appear on the ballot in alphabetical order by surname. (Amended 11-8-1994 Effective 7-1-1995)

Sec. 9.08 - ABSENTEE VOTING

Each qualified voter who desires to cast an absentee vote at a regular or special election shall be entitled to an official ballot and the right to cast such ballot in accordance with the provisions of State Law.

ARTICLE X**INITIATIVE, REFERENDUM AND RECALL****Sec. 10.01 - ENACTMENT OF ORDINANCES BY INITIATIVE**

1. The qualified voters of the Town shall have the power to propose ordinances to the Council, provided that such power shall not extend to any ordinance relating to the budget, to the capital program, or to the appropriation of money, levy of taxes, or salaries of officers or employees. If the Council should fail to adopt in substance any ordinance so lawfully proposed, the qualified voters of the Town shall have the power to adopt or reject the proposed ordinance at an election.

2. Any five qualified voters may begin initiative proceedings by request in writing to the Town Clerk for the appropriate petition blanks. The complete text of the proposed ordinance shall be included with the request. All papers of the petition shall be uniform in size and style and shall be assembled as one instrument for filing. They shall contain or have attached thereto throughout their circulation the full text of the proposed ordinance. These five qualified voters shall be referred to as the Requesting Committee during the initiative procedure.

3. The Requesting Committee shall have 30 days from the acceptance date of the request by the Town Clerk to cause the petitions to be signed by 10% of the number of votes cast in the Town at the last Gubernatorial Election. The petition shall be signed only by qualified voters of the Town and each voter's signature shall be followed by his address. affidavit-of-the-circulator, similar to that which is required in M.R.S.A. Title 30A, § 2102(3)(b)(3) will be required.

4. Within seven days after the petition circulation period ends, the Clerk shall certify to the Council that the petition has been signed by not less than 10% of the total of qualified voters who cast votes in the last Gubernatorial Election. (Amended 11-8-1994 Effective 7-1-1995)

5. Should fewer qualified voters than required by the Charter sign the petition in the specified time, the petition shall have no further force or effect, and all proceedings thereon shall be terminated. A request to initiate the same ordinance may not be accepted by the Clerk until 120 days after the expiration of the previous filing period. Upon receipt of certification the Council shall within 30 days hold a public hearing and shall within 60 days after said public hearing hold a municipal election for the purpose of submitting to vote the question of adopting such ordinance, unless such ordinances shall be enacted by the Council prior to the call for said Town election, (Amended 11-7-1989 Effective 7-1-1990)

6. Any such proposed ordinance shall be examined by the Town Attorney before being submitted to the voters. The Town Attorney is authorized to correct the form of such proposed ordinance for the purpose of avoiding repetitions, illegalities, and unconstitutional provisions, and to assure accuracy in its text and references, and clearness and preciseness in its phraseology, but he/she shall not materially

change its meaning and effect.

7. Every adopted ordinance shall become effective at the expiration of 30 days after adoption or at any later date specified therein.

Sec. 10.02 - REFERENDUM

1. The qualified voters of the Town shall have power to require reconsideration by the Council of all ordinances and if the Council fails to repeal an ordinance so reconsidered, to approve or reject it at a Town election provided that such power shall not extend to any emergency ordinance, levy of taxes, or salaries of officers or employees.

2. Any five qualified voters may begin referendum proceedings by request in writing to the Town Clerk for the appropriate petition blanks, within seven days after enactment of any ordinance subject to referendum by the Charter. All papers of the petition shall be uniform in size and style and shall be assembled as one instrument for filing. They shall contain or have attached thereto throughout their circulation the full text of the ordinance sought to be reconsidered. These five registered voters shall be referred to as the Requesting Committee during the referendum procedure.

3. The Requesting Committee shall have 30 days from the date of enactment *of the ordinance to cause the petitions to be signed by 10%* of the number of votes in the Town at the last Gubernatorial election. Only qualified voters of the Town may sign the petition and each voter's signature shall be followed by his/her address. An affidavit-of-the-circulator, similar to that which is required in M.R.S.A. Title 30A, § 2102(3)(b)(3) will be required. *Corrected 1/25/05; italicized phrase omitted from printed Charters since November 7, 1989 amendment.*

4. Within seven days after the petition circulation period ends, the Clerk shall certify to the Council that the petition has been signed by not less than 10% of the total who cast votes in the last Gubernatorial Election. (Amended 11-8-1994 Effective 7-1-1995)

5. Should fewer qualified voters than required by the Charter sign the petition in the specified time, the petition shall have no further force or effect, and all proceedings thereon shall be terminated.

6. Upon receipt of certification the Council shall within 30 days hold a public hearing and shall within 60 days after said public hearing hold a municipal election for the purpose of submitting to vote the question of repealing such ordinance unless it shall be repealed by the Council prior to the call for said Town election. Such ordinance shall be repealed when a majority of those voting thereon shall have voted in the affirmative. (Amended 11-7-1989 Effective 7-1-1990)

7. After a petition has apparently received sufficient signatures, the referred ordinance shall be suspended from going into operation until it has received a vote of the majority of the voters voting on said question or upon certification by the Town Clerk to the Council that the petition does not contain the signatures of 10% of the qualified voters.

Sec. 10.03 - ORDINANCES SUBMITTED TO POPULAR VOTE

The Town Council shall submit any ordinance appropriating \$7,000 or more for a single capital improvement, and any ordinance authorizing general obligation bonds or notes for capital improvements to the voters at a regular or special Town Meeting. (Amended 11-8-1994 Effective 7-1-1995)

Sec. 10.04 - RECALL

1. Any five qualified voters may begin at any time proceedings to recall a Councilperson or a School Committeeperson by requesting in writing to the Town Clerk for the appropriate petition blanks. These five registered voters shall be referred to as the Recall Committee. All papers of the petition shall be uniform in size and style and shall be assembled as one instrument for filing. Printed at the top or bottom of each set of petition papers shall be the statement detailing the reason or reasons for recall and the names of the Recall Committee. (Amended 11-2-1999 Effective 7-1-2000)

2. The Recall Committee shall have 30 days from the acceptance date of the request by the Town Clerk to cause the petition to be signed by 25% of the number of votes cast in the Town in the last Gubernatorial Election. Other registered voters, in addition to Recall Committee members, may obtain petitions from the Clerk's Office and act as circulators. Each voter's signature shall be followed by his/her address. An affidavit-of-the-circulator, similar to that which is required in M. R.S.A. Title 30A, § 2102(3)(B)(3) will be required. Each petition form shall have printed on its back an affidavit to be executed by the circulator, stating:

(a) That the circulator personally circulated the form;

(b) The number of signatures on the form;

(c) That all the signatures were signed in the circulator's presence;

(d) That the circulator believes them to be genuine signatures of the persons whose names they purport to be; and

(e) That each signer had an opportunity to read the petition before signing.

(Amended 11-2-2000 Effective 7-1-2000)

3. Within 14 days after the petition circulation period ends the Town Clerk shall certify to the Council that the petition has been signed by not less than 25% of the total of qualified voters who cast votes in the Town at the last Gubernatorial Election. (Amended 11-8-1994 Effective 7-1-1995; Amended 11-2-1999 Effective 7-1-2000)

4. Should fewer qualified voters than required by the Charter sign the petition in the specified time, the petition shall have no further force or effect, and all proceedings thereon shall be terminated and request for recall of the same Councilor or member of the School Committee shall not be accepted by the Clerk until 120 days after the expiration of the previous filing period. (Amended 11-7-1989 Effective 7-1-1990)

5. Upon receipt of certification the Council shall within 30 days hold a municipal election for the purpose of submitting to vote the question of recall. A Councilor or member of the School Committee shall be recalled when a majority of those voting thereon shall have voted in the affirmative. The Councilperson, or School Committeeperson that recall proceedings have been initiated against shall continue to exercise all the privileges of his/her office until replaced at a Special Election. There shall be a special election to fill the vacancy 28 days after the voters have recalled a Councilor or member of the School Committee. (Amended 11-7-1989 Effective 7-1-1990; Amended 11-2-2000 Effective 7-1-2000)

6. A Councilperson or School Committeeperson who is recalled by the voters shall be allowed to seek re-election at the special election called for the purpose of filling the vacancy created by the recall. All qualified voters, including those recalled, who seek to fill the seat created by the Recall shall have nomination papers available to them from the Clerk's office, the second day following the Recall vote. Nomination papers shall be available for circulation for ten calendar days; and, absentee ballots shall be available the 14 days prior to the election to fill the seats made available by the Recall vote. (Amended 11-2-1999 Effective 7-1-2000)

7. Pending action by the voters of the Town, the Councilperson, or School Committeeperson that recall proceedings have been initiated against shall continue to exercise all the privileges of his/her office.

8. The ballot for recall shall contain the following question: "Shall (name of person being subjected to recall) be recalled from the office of (name of Office)?" Immediately below such question shall appear in the following order, the words "yes" and "no with appropriate space to indicate voter's choice. (Amended 3-8-1976; Amended 11-2-1999 Effective 7-1-2000)

ARTICLE XI**GENERAL PROVISIONS****Sec. 11.01 - ELECTED OFFICERS TERMS**

The term of any elected officer shall begin on July 1st. Any officer shall serve for his/her prescribed term or until his/her successor is elected and qualified. If a person is elected to fill a vacancy in office, his/her term shall begin immediately upon taking the oath of office. (Amended 11-7-1989 Effective 7-1-1990)

Sec. 11.02 - SWEARING IN OFFICERS

Every Town officer or official shall be sworn to the faithful discharge of the duties incumbent upon him/her according to the Constitution and laws of the State of Maine and the Charter and ordinances of the Town and shall be sworn to support the Constitution of the United States and the Constitution of the State of Maine.

Sec. 11.03 - PERSONAL FINANCIAL INTEREST

Any officer or employee who has a substantial financial interest, direct or indirect or by reason of ownership of stock in any corporation, in any contract with the Town or in the sale of any land, material, supplies or services to the Town or to a contractor supplying the Town shall make known that interest and shall refrain from voting upon or otherwise participating in his/her capacity as an officer or employee in making of such sale or in the making or performance of such contract. Any officer or employee who willfully conceals such a substantial financial interest or willfully violates the requirements of this section shall be guilty of malfeasance in office or position and shall forfeit his/her office or position. Violation of this section with the knowledge express or implied of the person or corporation contracting with or making a sale to the Town shall render the contract or sale voidable by the Council.

Sec. 11.04 - PROHIBITIONS**1. Activities Prohibited:**

(a) No elected Town official shall hold more than one elected Town office concurrently.

(b) No person shall be appointed to or removed from, or in any way favored or discriminated against with respect to any Town position or appointive Town administrative office because of race, sex, political or religious opinions or affiliations.

(c) No person shall willfully make any false statement, certificate, mark, rating or report in regard to any test, certification or appointment under the personnel provisions of this Charter or the rules and regulations made thereunder, or in any manner commit or attempt to commit any fraud preventing the impartial execution of such provisions, rules and regulations.

(d) No person shall, directly or indirectly, give, render, pay, offer, solicit, or accept any money, service, or other valuable consideration for any appointment, proposed appointment, promotion or proposed promotion to, or any advantage in, a position in the municipal service.

(e) No person who holds a compensated appointive Town position shall solicit any assessments, contributions, or services for any political party from any employee in the municipal service.

(f) Nothing herein contained shall affect the of any person to hold membership in, and support, a political party, to vote as he/she chooses, to express privately and publicly his/her all political subjects and candidates, to maintain political neutrality, and to attend political meeting.

2. Penalties:

(a) Any Person found in violation of this section by a Court or competent jurisdiction or by the Council acting in a judicial capacity shall be ineligible for a period of five years thereafter to hold any Town office or employment and shall immediately forfeit his/her office or position.

Sec. 11.05 - SEPARABILITY

If any provision of this Charter is held invalid, the other provisions of the Charter shall not be affected thereby. If the application of the Charter or any of its provisions to any person or circumstance is held invalid, the application of the Charter and its provisions to other persons or circumstances shall not be affected thereby.

Sec. 11.06 - GENERAL PROVISIONS BOARD PROCEDURES

All Boards shall adopt rules of procedure similar in nature to those of the Town Council. These procedures shall include provisions explaining executive sessions and include a method whereby all votes shall be recorded and the yeas and nays shall be taken. The procedures adopted by appointed boards shall be submitted to the Council for Approval. (Amended 3-8-1976)

ARTICLE XII

TRANSITIONAL PROVISIONS

Sec. 12.01 - FIRST ELECTION

At the time of its adoption, this Charter shall become effective immediately, only for the purpose of conducting the election of necessary municipal officials. Said election shall be conducted in accordance with the provisions of this Charter. The first election shall be held on March 11, 1974. The Selectpersons shall prepare and adopt temporary regulations applicable only to the first election and designed to insure proper conduct and to prevent fraud and provide for recount of ballots in case of doubt or fraud.

Sec. 12.02 - TIME OF TAKING FULL EFFECT

This Charter shall be in full effect for all purposes on March 12, 1974.

Sec. 12.03 - FIRST COUNCIL

1. Initial Staggering of Terms: The terms of Councilpersons elected at the first election under this Charter shall be staggered as set forth below and at the next regular municipal election in March 1975, and thereafter Councilpersons shall be elected to fill the terms of those whose terms expire.

2. At the first election after the adoption of this Charter, three Councilpersons shall be elected for terms of three years and one Councilperson shall be elected for a term of one year. Incumbent Selectpersons shall be sworn in as Councilpersons and shall continue to serve as Councilpersons for the remainder of their term or until their successors are elected and qualified.

Sec. 12.04 - FIRST COUNCIL MEETING

1. Date and Action: On March 12, 1974 at 7:30 P.M. the newly elected members of the Council shall meet at the municipal building for the following purposes:

(a) For the purpose of electing a chairperson, the appointment of an acting Town Manager and choosing, if it is so desired, one of its members to act as temporary Clerk.

(b) For the purpose of adopting ordinances and resolutions necessary by the Council or as required by this Charter.

2. Expiration of Terms: The terms of all members of the present Board of Selectpersons and the appointment of the Town Manager shall expire on the day of the first Council meeting.

3. Temporary Ordinances: In adopting ordinances Council shall follow the procedures prescribed in the Charter except at its first meeting and any meeting held within 60 days thereafter, the Council may adopt temporary ordinances to deal with cases in which there is an urgent need for prompt action in connection with the transition of government and in which the delay incident to the appropriate ordinance procedure would probably cause serious hardship or impairment of effective municipal government. Every temporary ordinance shall be plainly labeled as such but be introduced in the form and manner prescribed for ordinances generally. A temporary ordinance may be considered and may be adopted with or without amendment or rejected at the meeting at which it is introduced. After adoption of a temporary ordinance shall become effective upon adoption or at such later time preceding automatic repeal under this subsection as it may specify, and the referendum power shall not extend to any such ordinance. Every temporary ordinance including any amendments made thereto after adoption, shall automatically stand repealed as of the 91st day following the date on which it was adopted, and it shall not be re-adopted, renewed or otherwise contained except by adoption in the manner prescribed in the Charter for ordinances of the kind concerned.

Sec. 12.05 - FIRST SCHOOL COMMITTEE

1. The terms of School Committeepersons elected at the first election under this Charter shall be staggered as provided in the following subsection and at the next regular municipal election in March 1975 and thereafter, School Committeepersons shall be to fill the positions of those whose terms expire.

2. Members of the School Committee in office at adoption of this Charter shall complete their terms, their membership to be counted in making a five member board.

3. On March 18, 1974 the School Committee shall meet and organize.

Sec. 12.06 - FIRST BUDGET

For the first municipal year under this Charter, the budget adopted at the March 11, 1974 annual Town Meeting shall govern.

Sec. 12.07 - CONTINUANCE OF OFFICER, EMPLOYEES

1. Rights and Privileges Preserved: Nothing in this Charter except as otherwise specifically provided shall affect or impair the rights or privileges of persons who are Town officers or employees at the time of its adoption.

2. Continuance of Office or Employment: Except as specifically provided by this Charter, if at the time this Charter takes full effect a Town administrative officer or employee holds any office or position which is or can be abolished by or under this Charter, he/she shall continue in such office or position until the taking effect of some specific provision under this Charter directing that he/she vacate the office or position.

Sec. 12.08 - DEPARTMENTS, OFFICES AND AGENCIES

1. Transfer of Powers: If a department, office or agency is abolished by or under this Charter, the powers and duties given it by law shall be transferred to the Town department, office agency designated in this Charter or, if the Charter makes no provision, designated by the Council.

2. Property and Records: All property, records and equipment of any department, office or agency existing when this Charter is adopted shall be transferred to the department, office or agency assuming its powers and duties, but, in the event that the powers or duties are to be discontinued or divided between units or in the event that any conflict arises regarding a transfer, such property, records, or equipment shall be transferred to one or more departments, offices or agencies designated by the Council in accordance with this Charter.

Sec. 12.09 - PENDING MATTERS

All rights, claims, actions, orders, contracts and legal or administrative proceedings shall continue except as modified pursuant to the provisions of this Charter and in each case shall be maintained, carried on or dealt with by the Town department, office or agency appropriate under this Charter.

Sec. 12.10 - MUNICIPAL LAWS

All ordinances, resolutions, orders and regulations in force at the time that this Charter takes effect, not inconsistent with this Charter, shall continue in force until amended or repealed. All rules and regulations of the municipal officers or of any office of the Town Hermon in force at the time that this Charter takes effect, not inconsistent with the provisions hereof, shall continue in force until amended or repealed.

Sec. 12.11 - STATE LAWS

Upon the effective date of this Charter, all private and special State Laws relating to the Town of Hermon which are inconsistent in whole or in part with the provisions this Charter are hereby repealed.

TITLE I: GENERAL PROVISIONS

Chapter

10. RULES OF CONSTRUCTION; GENERAL PENALTY

CHAPTER 10: RULES OF CONSTRUCTION; GENERAL PENALTY

Section

- 10.01 Title of code
- 10.02 Interpretation
- 10.03 Application to future ordinances
- 10.04 Construction of code
- 10.05 Rules of interpretation; definitions
- 10.06 Severability
- 10.07 Reference to other sections
- 10.08 Reference to offices; name designations
- 10.09 Errors and omissions
- 10.10 Reasonable time
- 10.11 Repeal or modification of code section
- 10.12 Limitation periods
- 10.13 Ordinances unaffected
- 10.14 Ordinances which amend or supplement code
- 10.15 Section histories; statutory references
- 10.16 Preservation of penalties, offenses, rights and liabilities

- 10.99 General penalty

§ 10.01 TITLE OF CODE.

All ordinances of a permanent and general nature of the town, as revised, codified, rearranged, renumbered and consolidated into component codes, titles, chapters and sections, shall be known and designated as the "Hermon Town Code", for which designation "code of ordinances", "codified ordinances" or "code" may be substituted. Code title, chapter and section headings do not constitute any part of the law as contained in the code.

§ 10.02 INTERPRETATION.

Unless otherwise provided herein, or by law or implication required, the same rules of construction, definition and application shall govern the interpretation of this code as those governing the interpretation of state law.

§ 10.03 APPLICATION TO FUTURE ORDINANCES.

All provisions of Title I compatible with future legislation shall apply to ordinances hereafter adopted, amending or supplementing this code unless otherwise specifically provided.

§ 10.04 CONSTRUCTION OF CODE.

(A) This code is a codification of previously existing laws, amendments thereto and newly enacted laws. Any previously existing law or amendment thereto reenacted by this code shall continue in operation and effect, as if it had not been repealed by this code. All rules and regulations adopted under laws reenacted in this code shall remain in full force and effect unless repealed or amended subsequent to the enactment of this code.

(B) Any appropriation repealed and reenacted by this code is continued only for the period designated in the original enactment of that appropriation.

(C) The numerical order and position of sections in this code do not resolve a conflict between two or more sections.

(D) Any irreconcilable conflict between sections shall be resolved by reference to the dates that the sections were originally enacted. The section most recently enacted supersedes any conflicting section or division.

(E) All references within a section of this code to any section of previously existing laws refer to the numbers in the original enactment.

(F) (1) The numerical designations and descriptive headings assigned to the various titles, chapters, subchapters or sections of this code, as originally enacted or as added by amendment, are not law, and may be altered by the compilers of this or any subsequent codification, in any official publication, to more clearly indicate its content. These descriptive headings are for organizational purposes only and do not affect the meaning, application or construction of the law they precede.

(2) Each note following a section of this code is for reference purpose only and is not a part of the section.

(0) All references to any section of this code refer to all subsequent amendments to that section, unless otherwise provided.

§ 10.05 RULES OF INTERPRETATION; DEFINITIONS.

(A) *Rules of interpretation.* This code shall be construed by the following rules unless the construction is plainly repugnant to the legislative intent or context of the provision.

(1) Words and phrases shall be taken in their plain, ordinary and usual sense. Technical words and phrases having a peculiar and appropriate meaning in law shall be understood according to their technical import.

(2) Words imputing joint authority to three or more persons shall be construed as imputing authority to a majority of the persons, unless otherwise declared in the section giving the authority.

(3) Where a section requires an act to be done which, by law, an agent or deputy may perform in addition to the principal, the performance of the act by an authorized deputy or agent is valid.

(4) Words denoting the masculine gender shall be deemed to include the feminine and neuter genders; words in the singular shall include the plural, and words in the plural shall include the singular; the use of a verb in the present tense shall include the future, if applicable.

(B) *Definitions.* For the purpose of this code of ordinances, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

CLERK. The Clerk of the Town of Hermon, Maine.

COUNCIL. The Town Council of the Town of Hermon, Maine.

COUNTY. Penobscot County.

HIGHWAY. Includes bridges, roads and streets, unless otherwise expressly provided.

MONTH. One calendar month.

PERSON. Extends to and includes person, persons, firm, corporation, copartnership, trustee, lessee, receiver and bodies politic. Whenever used in any clause prescribing and imposing a penalty, the terms *PERSON* or *WHOEVER*, as applied to any unincorporated entity, shall mean the partners or members thereof, and as applied to corporations, the officers or agents thereof.

PRECEDING and FOLLOWING. When referring to sections or divisions in this code, refer to the sections or divisions next following or next preceding that in which the words occur, unless some other section is designated.

TOWN. The Town of Hermon, Maine.

STATE. The State of Maine.

WRITTEN and **IN WRITING**. Include printing, lithographing or other modes of representing words and letters. Where the written signature of a person is required, the terms mean the proper handwriting of the person or the person's mark.

YEAR. One calendar year, unless otherwise expressly provided.

§ 10.06 SEVERABILITY.

(A) If any section of this code now enacted or subsequently amended or its application to any person or circumstances is held invalid, the invalidity does not affect other sections that can be given effect without the invalid section or application.

(B) Except in the case of a section or amendment to this code containing a non-severability provision, each division or part of every section is severable. If any portion or application of a section is held invalid, the invalidity does not affect the remainder of the section unless:

(1) The remainder is so essentially and inseparably connected with and so dependent upon the invalid provision or application that it cannot be presumed that the remainder would have been enacted without the invalid provision or application; or

(2) The remainder is incomplete and incapable of being executed in accordance with the legislative intent without the invalid provision or application.

(C) This section applies to every section of this code regardless of whether a section was enacted before or after the passage of this code.

§ 10.07 REFERENCE TO OTHER SECTIONS.

Whenever in one section reference is made to another section hereof, the reference shall extend and apply to the section referred to as subsequently amended, revised, recodified or renumbered unless the subject matter is changed or materially altered by the amendment or revision.

§ 10.08 REFERENCE TO OFFICES; NAME DESIGNATIONS.

(A) *Reference to offices*. Reference to a public office or officer shall be deemed to apply to any office, officer or employee of the municipality exercising the powers, duties or functions contemplated in the provision, irrespective of any transfer of functions or change in the official title of the functionary.

(B) *Name designations*. Whenever any ordinance or resolution of the Council refers to any board, bureau, commission, division, department, officer, agency, authority or instrumentality of any government, and that name designation is incorrectly stated; or at the time of the effective date of that

ordinance or subsequent thereto, the rights, powers, duties or liabilities placed with that entity are or were transferred to a different entity; then the named board, bureau, commission, department, division, officer, agency, authority or instrumentality, whether correctly named in the ordinance at its effective date or not, means that correctly named entity, or the entity to which the duties, liabilities, powers and rights were transferred.

§ 10.09 ERRORS AND OMISSIONS.

(A) If a manifest error is discovered, consisting of the misspelling of any words; the omission of any word or words necessary to express the intention of the provisions affected; the use of a word or words to which no meaning can be attached; or the use of a word or words when another word or words was clearly intended to express the intent, the spelling shall be corrected and the word or words supplied, omitted, or substituted as will conform with the manifest intention, and the provisions shall have the same effect as though the correct words were contained in the text as originally published.

(B) No alteration shall be made or permitted if any question exists regarding the nature or extent of the error.

§ 10.10 REASONABLE TIME.

(A) In all cases where an ordinance requires an act to be done in a reasonable time or requires reasonable notice to be given, *REASONABLE TIME OR NOTICE* shall be deemed to mean the time which is necessary for a prompt performance of the act or the giving of the notice.

(B) The time within which an act is to be done, as herein provided, shall be computed by excluding the first day and including the last. If the last day be a Saturday, Sunday or a state holiday, it shall be excluded.

§ 10.11 REPEAL OR MODIFICATION OF CODE SECTION.

(A) When a section of this code is repealed which repealed a former section or law adopted prior to the enactment of this code, the former section or law is not revived unless it so expressly provides.

(B) The repeal of any section shall not extinguish or release any penalty, forfeiture or liability incurred under the section, unless the repealing section so expressly provides.

(C) The section shall be treated as still remaining in force for the purposes of sustaining any proper action or prosecution for the enforcement of the penalty, forfeiture or liability.

§ 10.12 LIMITATION PERIODS.

The running of any period of limitations or any requirement of notice contained in any law, whether applicable to civil causes or proceedings, to the prosecution of offenses or for the recovery of penalties and forfeitures, contained in a law repealed and reenacted by this code, shall not be affected by the repeal and reenactment; but all suits, proceedings and prosecutions for causes arising or acts committed prior to the effective date of this code may be commenced and prosecuted with the same effect as if this code had not been enacted.

§ 10.13 ORDINANCES UNAFFECTED.

All ordinances of a temporary or special nature and all other ordinances pertaining to subjects not embraced in this code shall remain in full force and effect unless herein repealed expressly or by necessary implication.

§ 10.14 ORDINANCES WHICH AMEND OR SUPPLEMENT CODE.

(A) If the legislative body shall desire to amend any existing chapter or section of this code, the chapter or section shall be specifically repealed and a new chapter or section, containing the desired amendment, substituted in its place.

(B) Any ordinance which is proposed to add to the existing code a new chapter or section shall indicate, with reference to the arrangement of this code, the proper number of the chapter or section. In addition to an indication thereof as may appear in the text of the proposed ordinance, a caption or title shall be shown in concise form above the ordinance.

§ 10.15 SECTION HISTORIES; STATUTORY REFERENCES.

(A) As histories for the code sections, the specific number and passage date of the original ordinance, and amending ordinances, if any, are listed following the text of the code section. Example: (Ord. 10, passed 5-13-1960; Ord. 15, passed 1-1-1970; Ord. 20, passed 1-1-1980; Ord. 25, passed 1-1-1985)

(B) (1) If a statutory cite is included in the history, this indicates that the text of the section reads substantially the same as the statute. Example: (30-A M.R.S.A. § 3004)

this indicates that the reader should refer to that statute for further information. Example:

§ 39.01 PUBLIC RECORDS AVAILABLE.

This municipality shall make available to any person for inspection or copying all public records, unless otherwise exempted by state law.

Statutory reference:

Inspection of public records, see 1 M.R. S.A. § 408

§ 10.16 PRESERVATION OF PENALTIES, OFFENSES, RIGHTS AND LIABILITIES.

All offenses committed under laws in force prior to the effective date of this code shall be prosecuted and remain punishable as provided by those laws. This code does not affect any rights or liabilities accrued, penalties incurred or proceedings begun prior to the effective date of this code. The liabilities, proceedings and rights are continued; punishments, penalties or forfeitures shall be enforced and imposed as if this code had not been enacted. In particular, any agreement granting permission to utilize highway rights-of-way, contracts entered into or franchises granted, the acceptance, establishment or vacation of any highway, and the election of corporate officers shall remain valid in all respects, as if this code had not been enacted.

§ 10.99 GENERAL PENALTY.

(A) Any person, firm or corporation who violates any provision of this code for which another penalty is not specifically provided shall, upon conviction, be subject to the following:

- (1) A fine not exceeding \$250 for the first violation; and
- (2) A fine not exceeding \$750 for second and subsequent violations.

(B) (1) Any vehicle or motorcycle parked in a parking space clearly marked as a disability parking space and that does not bear a special registration plate or placard issued under 29-A M.R.S.A. § 521 or § 523, or a similar plate issued by another state, shall be cited for a fine of not less than \$200 and not more than \$500. CLEARLY MARKED includes painted signs on pavement and vertical standing signs that are visible in existing weather conditions.

(2) Any person, firm or corporation who violates any provision of this code regulating traffic and parking for which another penalty is not specifically provided, shall, upon conviction, be subject to a civil fine not exceeding \$250.

(C) A separate violation shall be deemed committed upon each day during which a violation occurs or continues.

Statutory reference:

Similar provisions, see 30-A M.R.S.A. § 3009

TITLE III: ADMINISTRATION

Chapter

30. TOWN POLICIES

31. TOWN EMPLOYEES AND ORGANIZATIONS

CHAPTER 30: TOWN POLICIES

Section

30.01 Disbursement warrants

30.02 Warrants to be signed between scheduled meetings; process

30.03 Enhanced 911 system; addressing

§ 30.01 DISBURSEMENT WARRANTS.

(A) *Purpose.* The purpose of this section is to provide an alternative to the statutory procedure for approval of warrants authorizing the Treasurer to disburse money.

(B) *Authority.* This section is enacted pursuant to 20-A M.R.S.A. § 15006 and 30-A M.R.S.A. §§ 3001 (municipal home rule) and 5603(2)(A).

(C) *Procedure for approval.*

(1) The Municipal Treasurer is hereby authorized to disburse funds to pay municipal education costs when the Treasurer has been presented with a disbursement warrant signed by the School Superintendent and approved by a majority of the School Board.

(2) Before disbursing any funds on a warrant, however, the Municipal Treasurer shall satisfy himself or herself that the warrant is indeed signed by at least a majority of the School Board. The Treasurer may accept as the satisfaction a written and signed certification of the pertinent fact from the School Superintendent or, if the warrant itself indicates the fact (as, for example, by bearing the statement "being at least a majority of the School Board" beneath the signatures appearing on the warrant), then the Treasurer may rely on the representation of the warrant without further inquiry.

(3) The Treasurer shall not, however, pay any item on a warrant if payment of that item would result in an overdraft, and shall report his or her refusal to honor the item in writing to the Superintendent and to the municipal officers promptly.

(D) *Council review.* School accounts payable and payroll warrants will be presented to the Town Council at the next regularly scheduled meeting after disbursement. (Ord. passed 10-6-2011)

§ 30.02 WARRANTS TO BE SIGNED BETWEEN SCHEDULED MEETINGS; PROCESS.

(A) Warrants which are prepared between Council meetings will require the signature of four Council members for disbursement. Council members will be contacted to sign the warrants by town office staff.

(B) The approved warrants will be available at the next Council meeting for review by any Council members who were unavailable to sign the warrants and for public comment, if any. (Ord. passed 7-10-1996)

§ 30.03 ENHANCED 911 SYSTEM; ADDRESSING.

(A) *Purpose.* The purpose of this section is to enhance the easy and rapid location of properties for the delivery of public safety and emergency services, postal delivery and business delivery.

(B) *Authority.* This section is adopted pursuant to and consistent with the municipal home rule powers as provided for in Art. VIII, Part 2, § 1 of the Constitution of the state and 30-A M.R.S.A. § 3001.

(C) *Administration.* This section shall be administered by the Town Council, who shall assign road names and numbers to all properties, both on existing and proposed roads. The Code Enforcement Officer shall be responsible for maintaining the following official records of this section:

(1) A town map for official use showing road names and numbers;

(2) An alphabetical list of all property owners and current residents thereon identified by current assessment records, by last name, showing the assigned numbers; and

(3) An alphabetical list of all roads with property owners or current residents listed in order of their assigned numbers.

(D) *Naming system.*

(1) All roads in the town that serve two or more addresses shall be named regardless of whether the ownership is public or private. A road name assigned by the Town Council shall not constitute or imply acceptance of the road as a public way.

(2) The following criteria shall govern the naming system.

(a) No two roads shall be given the same or similar-sounding names (e.g., Beach and Peach, Pine Road and Pine Lane).

(b) Each road shall have the same name throughout its entire length.

0 (E) *Number system.* Numbers shall be assigned every 50 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 following criteria shall govern the numbering system.

(I) All number origins shall begin from the designated center of the town or the end of the road closest to the designated center. For dead-end roads, numbering shall originate at the intersection of the adjacent road and terminate at the dead-end.

(2) The number assigned to each structure shall be that of the numbered interval falling closest to the front door or driveway of the structure.

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

(F) *Compliance.* All owners of structures shall, within 60 days of postal notification of address change, display and maintain in a conspicuous place the assigned numbers in the following manner.

(1) *Number on the structure or residence.* Where the residence or structure is within 75 feet of the center of the road, the assigned number shall be displayed on the front of the residence or structure in the vicinity of the front door or entry.

(2) *Number at the street line.* Where the residence or structure is over 75 feet from the center of the road, the assigned number shall be displayed on a post, fence, wall, mailbox or on some structure at the property line adjacent to the walk or access drive to the residence or structure.

(3) *Size and color of number.* Owners shall display a metallic or other suitable number, which contrasts with the structure to which it is attached, at least four inches in height and situated so as to be plainly visible and legible at all times from the street.

(4) *Removal of numbers.* Every person whose duty is to display the assigned number shall remove any different number which might be mistaken for, or confused with, the number assigned in conformance with this section.

(5) *Interior location.* All residents and other occupants are requested to post the assigned number and road name adjacent to their telephone for emergency reference.

(6) *Duty to notify.* It shall be the duty of the Code Enforcement Officer to notify by mail each owner, and the post office, of the new address. It shall be the duty of each property owner to comply with this section within 30 days of notification. On new structures, numbering will be installed prior to final inspection, as required by local ordinance, or when the structure is first used or occupied, whichever comes first.

(G) *New developments and subdivisions.* All new developments and subdivisions shall be named and numbered in accordance with the provisions of this section and as follows.

(1) *New developments.* Whenever any residence or other structure is constructed or developed, it shall be the duty of the new owner to procure an assigned number from the Code Enforcement Officer. This shall be done at the time of the issuance of the building permit.

(2) *New subdivisions.* Any prospective subdivider shall show a proposed road name and lot numbering system on the pre-application submission to the Planning Board. Approval by the Planning Board 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 feet to aid in assignment of numbers to structures subsequently constructed.

(H) *Street signs.*

(1) *Existing street signs.* The town shall provide and install uniform, reflective street name signs at intersections of all current public ways and current approved private ways.

(2) *New street signs.* The town shall provide and install, at the developer's expense, uniform reflective street name signs at intersections of all public ways and approved private ways.

(Ord. passed 12-13-1995)

Editor's note:

This section became effective on 1-13-1996.

CHAPTER 31: TOWN EMPLOYEES AND ORGANIZATIONS

Section

- 31.01 Constable Deputies
- 31.02 Fire Department
- 31.03 Recreation Department

§ 31.01 CONSTABLE DEPUTIES.

(A) *Title.* This section shall be known as the "Town of Hermon Ordinance Governing the Powers of the Constable Deputies".

(B) *Establishment of position.* The town shall recommend Constables to the County Sheriff's Department to be deputized, resulting in the position of Constable Deputy.

(C) *Appointment process.* The Town Manager shall nominate individuals for the position of Constable. The Town Council shall be responsible for appointing Constables, who shall be deputized by the County Sheriff's Department and known as Constable Deputies.

(D) *Duties.* The Constable Deputies shall perform all applicable law enforcement functions under the state law, town ordinances and the letter of agreement with the County Sheriff's Department governing the Constable Deputy program.

(E) *Personnel policy.* The Constable Deputies shall be regulated by the town's personnel policy, state laws and the County Sheriff's Department guidelines.

(Ord. passed 9-5-1991; Ord. passed 8-1-2001)

Editor's note:

The effective date of this section is 30 days from the date of the public hearing or 10-5-1991.

31.02 FIRE DEPARTMENT.

(A) *Title.* This section shall be known as the "Fire Department Ordinance of Hermon, Maine".

(13) *Purpose.* The purpose of this section is to establish a municipal fire department and to define the powers and duties of the chief and members of the department. An additional purpose of this section is to provide the maximum legal protection available to the Fire Chief and municipal firefighters and to best protect the health, safety and welfare of the residents of the town.

(C) *Establishment.* Pursuant to Art. VIII, Part 2, § 1 of the State Constitution, 30-A M.R.S.A. §§ 3001 and 3153 *et seq.*, the municipality hereby establishes a Municipal Fire Department.

(D) *Definitions.* For the purpose of this section, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

MUNICIPAL FIRE DEPARTMENT. The organized firefighting unit established pursuant to this section.

MUNICIPAL FIREFIGHTER. An active member, whether full-time, part-time or on-call, of the Municipal Fire Department, who aids in the extinguishment of fires or an individual that receives compensation from the municipality for aiding in the extinguishment of fires, and is at least 18 years of age.

(E) *Duties.* The Municipal Fire Department shall prevent and extinguish fires and provide firefighting protection within the town and elsewhere as provided by mutual aid or other contractual agreements approved by the municipal officers or municipal legislative body.

(F) *Rescue services.* The Municipal Fire Department shall also be authorized to provide emergency services, internally or contracted by an outside agency, that shall respond to and manage other public safety emergencies, including, but not limited to, medical emergencies, hazardous materials incidents or natural or human-made disasters.

(G) *Fire Chief*

(1) *Appointment.* The Fire Chief shall be appointed by the Town Manager and approved by the Town Council until otherwise removed.

(2) *Compensation.* The Fire Chief's compensation shall be established by the municipal

(3) *Powers and duties.* The Fire Chief shall have the powers and duties set forth in 30-A M.R.S.A. § 3153; except that, administrative rules and regulations promulgated by the Fire Chief shall not be effective until approved by the municipal officers.

officers.

(4) Reports. The Fire Chief shall submit a written monthly report on the activities of the Department and shall discharge other duties as may be required by the municipal officers.

(H) Firefighters. Municipal firefighters shall have the powers and duties set forth in 30-A M.R.S.A. §§ 3151 *et seq.*, and as set forth in any administrative rules and regulations adopted pursuant to division (G)(3) above.

(I) Deputy Fire Chief. A Deputy Fire Chief shall be appointed by the Fire Chief to act with full authority in the absence of the Fire Chief, and shall have responsibilities as set forth in any administrative rules and regulations adopted pursuant to division (G)(3) above.

(I) Other officers. The Fire Chief may appoint other officers as deemed necessary.

(K) Effective date. This section shall be effective 30 days after adoption by the municipal legislative body.

(Ord. passed 5-5-2011)

§ 31.03 RECREATION DEPARTMENT.

(A) Creation. There is hereby established in the town the Department of Recreation which shall be charged with the duty of supervising all public recreation programs and for implementing policies and plans for the maintenance and improvement of public recreation facilities located within the town.

(B) Director. The Department of Recreation shall be headed by a Director appointed by the Town Manager with the approval of the Town Council, who shall have control and direction of the Department subject to the general supervision of the Board of Recreation hereinafter established and of the Town Council and Town Manager. The Director, with the advice of the Board of Recreation, shall with the approval of the Town Manager and Town Council have the power to appoint and remove employees of the Department.

(C) Recreation Board established. There is hereby established a Recreation Board of five members who shall serve without pay. Members of the Board shall be nominated by the Board and/or Town Manager and confirmed by the Town Council for staggered terms of three years. Upon this section's effect, the Council would confirm two people for three-year terms, two people to two-year terms and one person to a one-year term.

(1) The Board shall, with the assistance of the Recreation Director, plan a town-wide recreation program and advise and cooperate with the Recreation Director to the end that a progressive recreation program can be initiated and maintained.

(2) The Board shall elect its own Chairperson and other offices as are deemed necessary by the Board to carry out its function. The Chairperson shall chair all meetings of the Recreation Board and shall have the power to call meetings of the Recreation Board as the duties and the functions of the Board require.

(3) The Chairperson and other officers shall be elected for one-year terms.

(4) The Board shall meet at the call of the Chairperson, but must meet at least once a year.

(D) Annual report. The Recreation Board, with the assistance and advice of the Director of Recreation, shall annually prepare for submission to the Town Council, through the Town Manager, a written review of the operations of the Board's program for the previous year, together with a statement of probable recreational needs for the upcoming year, so far as can be determined, and a statement of advisable and beneficial long-range municipal recreational needs.

(E) Budget. The Recreation **Board**, with the advice and assistance of the Director of Recreation, **shall be responsible for** submitting to the Town Manager and the Town Council an annual budget for the Recreation Department of the town.

(Ord. passed - -)

TITLE V: PUBLIC WORKS

Chapter

- 50. SOLID WASTE; RECYCLING**
- 51. HOLDING TANKS**
- 52. WASTE DISPOSAL FACILITIES**
- 53. PUBLIC SEWER AND DRAIN USE**
- 54. PROPERTY ASSESSED CLEAN ENERGY ASSISTANCE**
- 55. FIRE PROTECTION**

CHAPTER 50: SOLID WASTE; RECYCLING

Section

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GENERAL PROVISIONS**§ 50.01 PURPOSE.**

The purpose of this chapter is to protect the health, safety and general wellbeing of the citizens of the town; enhance and maintain the quality of the environment; conserve natural resources by promoting recycling; prevent water and air pollution by providing for a comprehensive, rational and effective means of regulating the collection, transportation and disposal of solid waste in accordance with the provisions of 38 M.R.S.A. Ch. 13, as amended.
(Ord. passed 5-15-1996)

§ 50.02 DEFINITIONS.

For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

ACCEPTABLE MATERIALS FOR ROADSIDE PICKUP. All solid wastes so defined by the Penobscot Energy Recovery Company or any properly licensed disposal facility and the town as described in § 50.25 of this chapter.

ASHES. The residue remaining from the burning of wood, coal, coke or other combustible materials.

BROWN GOODS. Large discarded items including, but not limited to, television sets, stereos and computer systems.

DEMOLITION MATERIAL. The material from the major repair of, excavation for, construction or destruction of buildings or structures including, but not limited to, piping, earth, plaster, mortar, bricks, building blocks, septic tanks, trees or tree stumps over six inches in diameter and any other similar materials.

DISPOSAL. The discharge, deposit, injection, dumping, leaking, spilling or placing of any solid waste into or on any land or water.

DISPOSAL FACILITY. Any facility(ies) which have been properly licensed for the storage and/or disposal of solid waste.

FREON CONTAINING GOODS. Refrigerators, freezers, air conditioners and similar appliances.

HAZARDOUS WASTE. A waste substance or material, in any physical state, designated as hazardous by the terms of the agreement between the town and the Penobscot Energy Recovery Company, or by definition of other federal, state or local laws.

INFECTIOUS WASTE. Those wastes so defined by the Solid Waste Management Regulations promulgated by the Department of Environmental Protection pursuant to 38 M.R.S.A. § 1304, as amended.

MIXED RESIDENTIAL REFUSE. All materials normally derived through residential use.

MUNICIPAL COLLECTION FACILITY. A building, container or designated area in which waste is temporarily deposited and stored for transfer to a disposal facility.

MUNICIPALITY. The Town of Hermon, Maine.

PERC. The Penobscot Energy Recovery Company.

RECYCLING PROGRAM. A voluntary program for the recycling of materials as approved by the municipal officers.

RESOURCE RECOVERY. The recovery of materials or substances that still have useful physical or chemical properties after serving a specific purpose and can be reused or recycled for the same or other purposes or used to generate energy.

SOLID WASTE. Useless, unwanted or discarded solid material with insufficient liquid content to be free flowing, including by way of example, and not by limitation, rubbish, garbage, scrap materials, refuse derived fuel, scrap, junk, inert fill material and landscape refuse, but shall not include septic tank sludge or agricultural or hazardous wastes.

UNACCEPTABLE MATERIALS FOR ROADSIDE PICKUP. As described in § 50.27 of this chapter.

WASTE HAULER. Any person, firm or corporation which collects residential, institutional, commercial and/or industrial waste for a fee and transports it to a municipal collection or disposal facility and any business or institution which transports its own waste to the designated disposal facility.

WHITE GOODS. Large appliances, including, but not limited to, stoves, washing machines, clothes dryers and dishwashers.
(Ord. passed 5-15-1996)

§ 50.03 APPLICABILITY.

Every owner, tenant, waste hauler or occupant of property within the limits of the town, who has supervision, custody or control of solid waste, garbage or other like waste substance, shall:

(A) Keep, place and store the solid waste, garbage and other like waste substances in a sanitary manner before it shall become foul and putrid, in covered containers to prevent the ingress of flies, rats and other animals;

(B) Keep, place and store ashes in a separate non-combustible covered container; and

(C) Boxes or crates used for the disposal of material shall meet the sanitary requirements of division (A) above and shall not contain unacceptable materials, as defined in § 50.27 of this chapter. (Ord. passed 5-15-1996)

§ 50.04 EXEMPTIONS REPROCESSED OR RECYCLED IN PLANT.

The following categories of waste shall be exempted from regulations pertaining to collection, transport and disposal:

(A) Waste of manufacturing, processing or packaging operations which are segregated from other waste and are salvaged for alternate use, reuse or sale; and

(B) All materials separated from mixed waste by the generator as part of a recycling program approved by the municipal officers. (Ord. passed 5-15-1996)

§ 50.05 DISPOSAL FACILITIES.

(A) The town may designate the disposal facility(ies) for the disposal of solid waste generated within the town as well as the method and amount of separation that may be required before being deposited.

(B) To meet its contract commitment to PERC, the town may require that all acceptable solid waste generated within the town is disposed of at the PERC facility, or any alternate disposal site.

(C) Certain categories of unacceptable waste shall be deposited at disposal site(s) if designated by the town.

(D) The town encourages the recycling of all acceptable materials at the town's recycling facility.

(E) The town has established a roadside pickup of household waste generated from residential structures containing four or fewer units, the Boulier Place Apartments or as approved by the Town Council.

(F) All commercial, industrial, institutional and other residential facilities not served by roadside pickup shall make arrangements with licensed waste haulers to dispose of their solid waste at the sites in a manner as required by this chapter.

(Ord. passed 5-15-1996; Ord. passed 4-15-1998)

Editor's note:

This section became effective on 5-15-1998.

§ 50.06 ADMINISTRATION.

This chapter shall be administered by the municipal officers who shall:

(A) Adopt reasonable rules and regulations as needed to enforce this chapter;

(B) Consider all license applications and grant or deny each application within 30 days after receipt of a completed application at the municipal office or within another time as the municipal officers and the applicant shall agree is reasonable;

(C) Preview any alleged violation of this chapter and to impose appropriate penalties therefore after notice and hearing; and

(D) Institute necessary proceedings, either legal or equitable to enforce this chapter. (Ord. passed 5-15-1996)

§ 50.07 LICENSING OF HAULERS.

(A) (1) No person, firm or corporation shall collect, transport or dispose of solid waste generated within the municipality for a fee without first obtaining a license from the municipal officers with the exception listed in division (A)(6) below.

(2) Any individual, firm or corporation required by this chapter to obtain a license shall make application to the municipal officers, providing the information required. Each application shall be accompanied by a non-refundable application fee of \$50.

(3) With the submission of the application, individuals are required to provide a yearly list of all customers serviced within the town. In addition, after licensing, waste haulers are required to notify the town of deletions or additions to that list by the first of the next month after the change occurs.

(4) The license shall normally be for a period of one year from issue, unless otherwise stated on the license, and may be revoked at any time by the municipal officers, in accordance with the provisions of this division (A).

(5) In the event the municipal officers deny a license application, they shall notify the applicant in writing and shall state the reasons for the denial. The applicant may request a public hearing in accordance with the procedures in § 50.08.

(6) In those situations in which a resident or resident business is hiring an individual to haul away debris from a one-time building project other than an established hauling company or individual, the town may use its discretion to allow the resident or resident business to obtain a temporary landfill permit valid only for the day on which the hauling will take place. The landfill fee schedule will be utilized to determine the fees necessary for dumping when the vehicle enters the landfill.

(B) (1) An individual denied a license issue may be suspended or revoked by order of the municipal officers with benefit of a hearing in accordance with the procedures in this division (B) for the following causes:

(a) Violation of this chapter;

(b) Violation of any provision of any state or local law, ordinance, code or regulation which relates directly to the provisions of this chapter;

(c) Violation of any license provision or regulation; and/or

(d) Falsehoods in the license application.

(2) The limits of suspension or revocation for any license issued shall be as follows:

(a) First offense: 30 days;

(b) Second offense: 90 days; and

(c) Third offense: one year.

(Ord. passed 5-15-1996; Ord. passed 4-15-1998)

Editor's note:

This section became effective on 5-15-1998.

§ 50.08 HEARINGS.

(A) An individual denied a license or any licensee cited for any violation of this chapter shall be entitled to a hearing before the municipal officers, if the request is made in writing.

(1) The hearings shall be held within 30 days after receipt of the written request for a hearing.

(2) The licensee shall be notified, in writing, as to the time and place of the hearing a minimum of ten days prior to the hearing date. The licensee has the right to be represented by counsel, to offer the evidence as he or she may desire, and to cross-examine.

(3) A determination shall be made by the municipal officers within ten days after the conclusion of the hearing.

(B) The municipal officers' final determination relative to the suspension of a license and the period of suspension or the revocation of a license shall take effect no later than ten days after the date of the notice of final determination has been mailed by certified mail, return receipt requested, to the applicant and shall be conclusive. The final determination notice shall set forth the reasons for the suspension or revocation and the effective dates thereof together with a statement that the decision may be appealed as provided in this section.

(C) Any controversy or claim arising out of or relating to the municipal officers' determination shall be directly reviewable by Superior Court pursuant to Rule 80B. (Ord. passed 5-15-1996)

§ 50.09 FEES,

(A) The municipal officers shall establish and maintain a fee schedule for disposal of materials at the town landfill or another disposal facility as the town may direct.

(B) The town shall assess the tipping fee to all haulers of solid waste from commercial, industrial or institutional establishments or from private installation in the town not covered by the roadside pickup which is delivered to PERC or another disposal facility which is properly licensed.

(C) The town reserves the right to adjust the tipping fee as necessary to defray its total cost of solid waste disposal; however, the town will charge the same tipping fee to all waste haulers within the town. Monthly billing will be supported by an itemized breakdown showing the dates and time of delivery, the weigh ticket number and the net tonnage. Payment shall be due and payable within 30 days from the date of invoice.

(Ord. passed 5-15-1996)

§ 50.10 ENFORCEMENT.

(A) All provisions of this chapter are enforceable by duly authorized municipal officials.

(B) Any person who commits a violation of any provision of this chapter is subject to arrest and punishment as hereinafter provided, if convicted.

(C) Whenever the municipal officers determine that there has been a violation by virtue of non-compliance, they shall give notice of the violation to the person(s) responsible by personal service or by certified mail, return receipt requested.

(1) The citation shall include a statement of reasons and shall allow reasonable time for performance of any act it requires.

(2) The citation may contain an outline of remedial action which, if taken, will effect compliance.

(3) It shall state that unless corrections are made within the allotted time, the violator is subject to prosecution pursuant to the provisions of this chapter.
(Ord. passed 5-15-1996)

RESIDENTIAL ROADSIDE PICKUP REQUIREMENTS**§ 50.25 ACCEPTABLE MATERIALS.**

It is the town's intent to provide collection of normal domestic rubbish from households only. The following materials, by way of example and not limitation, are acceptable for roadside collection: mixed residential refuse, unless considered unacceptable by PERC; bulky waste, unless considered unacceptable by PERC.

(Ord. passed 5-15-1996)

§ 50.26 PLACEMENT AT ROADSIDE.

Rubbish will not be collected unless the following conditions are met.

(A) Rubbish shall be placed in rodent-proof, leak-proof and essentially air-tight metal or plastic cans or in tied plastic refuse bags.

(B) Containers or bags shall be placed as accessibly to the roadside as possible so as not to interfere with vehicles, pedestrian traffic or snow removal activities.

(C) Containers, bags or bundles shall not exceed 40 pounds.

(D) Rubbish shall be placed roadside on the designated day of collection by 7:00 a.m.
(Ord. passed 5-15-1996)

§ 50.27 UNACCEPTABLE MATERIALS.

The following rubbish, by way of example and not limitation, shall be considered unacceptable for roadside collection:

(A) Materials which have not been prepared, bound, placed in containers and/or placed for collection in accordance with the rules and regulations of the town;

(B) Materials which have been placed in containers and/or placed for collection which have been pilfered by animals and which constitute litter. The contractor will not be responsible for clean-up;

(C) White goods, such as stoves, refrigerators, washers and other large appliances;

(D) Materials from the major repair of, excavation for, construction or destruction of buildings, or structures, such as earth, plaster, mortar, bricks, building blocks, roofing materials and septic tanks;

(E) Dangerous, hazardous or environmentally unsafe materials or substances, such as cleaning fluids, crankcase oils, paints, asbestos materials, liquid plastics, explosives, acids, caustics, poisons, drugs, radio-active materials, fine powdery earth used to filter cleaning fluids, infected materials, hospital waste and materials of a similar nature;

(F) Body wastes, junk yard wastes or solid industrial wastes;

(G) Hot ashes;

(H) Large or heavy objects exceeding 40 pounds, including, by way of example but not limited to, major automobile parts, cars and trucks, furniture and bed springs;

(I) Liquid wastes or sludge, tannery sludge or water treatment residues;

(J) Tree stumps, tree limbs and Christmas trees;

(K) Waste which could cause jam-ups, slowdowns, stoppages, failures or damage to the facility (propane tanks, box springs, mattresses, fish nets, wire fencing and the like);

(L) Truck tires and no tires with rims;

(M) Yard waste, such as loose or bagged leaves and grass clippings;

(N) Cardboard boxes or crates;

(O) Waste which does not originate, or is not generated, within the bounds of the town; and

(P) Any other materials which may be deemed not acceptable for collection by the town.

(Ord. passed 5-15-1996)

§ 50.28 CONTAINERS OR RECEPTACLES.

(A) All containers or receptacles containing the articles specified in § 50.25 of this chapter must be placed at the outer edge of the roadside shoulder for removal on the day of collection and as short a time as possible before the hour of collection. Under no conditions shall the containers or receptacles be placed for removal more than 24 hours in advance of the collection schedule of the contents.

(B) All containers or receptacles must be removed from the roadway shoulder within 24 hours of the collection of the contents.

(C) The use of portable receptacles or containers larger than 30 gallons is strictly prohibited. (Ord. passed 5-15-1996)

TOWN LANDFILL SITE

§ 50.40 ACCEPTABLE MATERIALS.

Only the following materials generated solely from within the town by residents or resident businesses may be taken to the town disposal site:

(A) White goods, as defined;

(B) Scrap metal;

(C) Brown goods, as defined;

(D) Demolition debris, as defined;

(E) Furniture category: if unacceptable at the energy recovery facility and includes such items as discarded and similar types of items;

(F) Brush category: brush, clean lumber, bark, woodchips, wood shavings, grass cuttings and leaves;

(G) Freon containing goods; and

(H) Propane tanks.

(Ord. passed 5-15-1996; Ord. passed 6-12-2002)

§ 50.41 PERMIT STICKER.

(A) All residents or resident businesses who use the town disposal site must display a permit sticker on their vehicle. The permit may be obtained at the town office.

(B) Each resident or resident business applying for a permit sticker will present the Clerk at the town office with the current registration of the vehicle to which the permit sticker will be applied. A new resident or resident business, whose registration does not show the correct address, must provide proof of residence (i.e., mail to that address, deed and the like). Each vehicle entering the town landfill area shall have a permit sticker affixed to its windshield. No more than two permit stickers shall be issued per resident household or resident business per year.

(C) The permit sticker may not be placed on any other vehicle, transferred or sold. In the event of the change of ownership or transfer of the vehicle, the permit sticker must be removed and returned to the town office in order to receive a replacement sticker for a newly purchased vehicle. (Ord. passed 5-15-1996; Ord. passed 6-12-2002)

§ 50.42 USER FEES.

Fees for the dumping of the following materials at the town landfill area will be:

(A) White goods: the disposal fee shall be \$5 per item;

(B) Scrap metals: the disposal fee shall be \$5 per item;

(C) Brown goods: the disposal fee shall be \$5 per item;

(D) Demolition debris: disposal charges for demolition debris shall be:

(1) Ten dollars/load for pickup trucks, vans or automobiles with a trailer;

(2) Twenty-five dollars/load for a vehicle larger than a pickup truck but smaller than a four-yard dump truck; and

(3) All vehicles four yards or larger: \$250/yard.

(E) Furniture pile: the disposal fee shall be \$5 per item;

(F) Propane tanks: \$10 for a 20-pound tank, \$25 for all larger tanks;

(G) Brush pile: no charge for disposal; and

(H) Freon-containing goods: the fee shall be \$15 per item. This fee shall not be waived. (Ord. passed 5-15-1996; Ord. passed 6-12-2002)

§ 50.43 INSPECTIONS.

(A) In order to determine if the provisions of this chapter, or any rules and regulations adopted pursuant hereto, are being adhered to, the town or its authorized agent, shall have the right to stop and inspect the load of any vehicle, and inquire of any individual entering the landfill.

(B) Any occupant of a vehicle who refuses to allow the town or its authorized agent to inspect the vehicle or the materials contained therein, or refuses to answer questions pertinent to determining whether this chapter or rules and regulations adopted pursuant hereto have been violated, may be refused access to the landfill by the town or its authorized agent and shall not be allowed to dispose of materials. (Ord. passed 5-15-1996; Ord. passed 6-12-2002)

TOWN RECYCLING PROGRAM

§ 50.55 RECYCLING FACILITY.

The town's recycling facility is available for use by all residents, institutions and businesses for materials generated solely within the town.

(Ord. passed 5-15-1996; Ord. passed 4-15-1998)

Editor's note:

This section became effective on 5-15-1998.

§ 50.56 ACCEPTABLE MATERIALS.

(A) The materials currently recyclable are listed below:

(1) Glass: clear/brown/green/gold and beverage containers only rinse clean, labels and covers acceptable;

(2) Metal: aluminum and steel (tin) food and beverage cans rinsed clean, labels acceptable, crush to save space;

(3) **Plastic: narrow-neck bottles with #1 and #2 mark stamped on bottom (rinse clean, crush to save space);**

(4) **Newspaper, magazines and catalogs: newspaper with inserts, magazines with inserts, phone books with covers and catalogs are acceptable; and**

(5) **Corrugated cardboard: corrugated cardboard and brown grocery bags; also include cereal boxes or windowed cardboard boxes such as donut or macaroni boxes.**

**(B) The town reserves the right to change the recyclable materials as needed.
(Ord. passed 5-15-1996; Ord. 4-15-1998)**

Editor's note:

This section became effective on 5-15-1998.

§ 50.57 ENCOURAGED PARTICIPATION.

The town encourages all residents, institutions and businesses to participate in the voluntary recycling program.

(Ord. passed 5-15-1996; Ord. 4-15-1998)

Editor's note:

This section became effective on 5-15-1998.

§ 50.99 PENALTY.

Any person, firm or corporation who violates any provision of this chapter shall be subject to a civil penalty of not less than \$100, nor more than \$500, for each violation, which shall incur to the benefit of the town. Each day that a violation occurs or continues shall be considered a separate violation. (Ord. passed 5-15-1996)

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CHAPTER 51: HOLDING TANKS

Section

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GENERAL PROVISIONS**§ 51.01 TITLE.**

This chapter shall be known and cited as the "Holding Tank Ordinance of the Town of Hermon, Maine" and shall be referred to herein as "this chapter".
(Ord. passed - -)

§ 51.02 PURPOSE.

The purpose of this chapter is to establish requirements for the use and maintenance of holding tanks designed to receive and retain sewage and wastewater from residential use; this chapter is necessary for the protection, benefit and preservation of the public health, safety and welfare of the inhabitants of the town.

(Ord. passed - -)

§ 51.03 AUTHORITY AND ADMINISTRATION.

(A) This chapter is hereby adopted and shall be amended pursuant to and consistent with Art. VIII of the State Constitution, the provisions of 30-A M.R.S.A. §§ 3001 and 4211 *et seq.*, and the State Subsurface Wastewater Disposal Rules (144A C.M.R. 241).

(13) This chapter shall be administered by the municipal officers, the Local Plumbing Inspector and the Code Enforcement Office.

(Ord. passed - -)

§ 51.04 APPLICABILITY.

(A) This chapter applies to the approval for the installation of and the maintenance of holding tanks, as defined below, which are utilized as first time disposal systems for commercial uses generating less than 2,000 gallons of wastewater per day (GPD) in other than Shoreland Districts and for replacement generating less than 2,000 GPD when no other option is available.

(B) Holding tanks shall not be approved for first time disposal systems serving residential uses in areas governed by Ch. 154 of this code of ordinances, nor shall they be utilized to satisfy the requirements for a seasonal conversion permit pursuant to 30-A M.R.S.A. § 4215. Holding tanks may be approved for first time disposal systems for commercial and industrial uses in areas governed by Ch. 154 of this code of ordinances when the design flow does not exceed 100 gallons per day.

(C) The reporting requirements and annual permitting renewal requirements shall apply to all existing holding tank installations in the town.

(Ord. passed - -; Ord. passed 4-21-1999)

Editor's note:

This section became effective on 5-21-1999.

§ 51.05 DEFINITIONS.

For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

AGENT. Any person or persons designated by the authority having jurisdiction to act in its behalf.

AUTHORITY. The municipal officers of the Town of Hermon, Penobscot County, Maine.

HOLDING TANK. A closed, water-tight structure designed and used to receive and store for further treatment wastewater or sewage. A **HOLDING TANK** does not discharge wastewater or sewage effluent to surface or ground water or onto the surface of the ground. **HOLDING TANKS** are designed and constructed to facilitate ultimate disposal of wastewater at another site.

IMPROVED PROPERTY. Any parcel of land within the municipality upon which there is a structure intended for continuous or periodic habitation, occupancy or use by humans or animals and from which structure wastewater or sewage shall or may be discharged.

MUNICIPALITY. The Town of Hermon, Penobscot County, Maine.

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

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

RECORDS. All information pertinent to the holding tank, specifically the name of the installer thereof, the individual components thereof, the pumping dates thereof, the amount of wastewater pumped from, the name of the pumper thereof, any documents, invoices or receipts for required necessary or extraordinary maintenance thereon.

WASTEWATER. Any liquid waste containing animal or vegetable matter in suspension or solution, or the water carried from the discharge of water closets, urinals, laundry tubs, washing machines, sinks, dishwashers, bathtubs and/or showers, lavatories or other source of water-carried waste of human origin. The term specifically excludes industrial, hazardous or toxic wastes and materials.

(Ord. passed - -)

§ 51.06 RULES AND REGULATION TO CONFORM TO STATE LAW AND OTHER ORDINANCES.

(A) All rules and regulations adopted by the authority shall be in conformity with the provisions herein, all other ordinances of the town, all applicable laws and applicable rules and regulations of the administrative agencies of the state.

(B) Holding tanks can not be used for seasonal conversion (see State Plumbing Code, 144A C.M.R. Ch. 241, Subsurface Wastewater Disposal Rules, § 301.3), nor for new construction within the Shoreland Zone of the municipality.

(Ord. passed - -)

§ 51.07 AMENDMENTS.

(A) An amendment to this chapter may be initiated by a majority vote of the Town Council, by a written petition of legal residents equal in number to 10% of the number of votes cast in the municipality in the last gubernatorial election, or by a majority vote of the Town Planning Board.

(B) The Town Council shall utilize the public hearing requirements and time frames for enactment of ordinances specified in § 2.07 of the Charter of the town. (Ord. passed - -)

§ 51.08 EFFECTIVE DATE.

The effective date of this chapter is 30 days subsequent to adoption of this chapter by the Town Council.

(Ord. passed - -)

ADMINISTRATION AND ENFORCEMENT**§ 51.20 NUISANCE DECLARED.**

Any violation of this chapter shall be deemed a nuisance. (Ord. passed - -)

§ 51.21 LOCAL PLUMBING INSPECTOR.

It shall be the duty of the Local Plumbing Inspector (LPI) to enforce the provisions of this chapter. If the LPI shall find that any provision of this chapter is being violated, the LPI shall notify in writing the person responsible for the violation, indicating the nature of the violation, the action necessary to correct it and the time period in which corrections may be made without penalty. A copy of the notice shall be maintained as a permanent record in the Code Enforcement Office.

(Ord. passed - -)

§ 51.22 LEGAL ACTION AUTHORIZED.

When the above action by the LPI does not result in the correction or abatement of the violation or nuisance condition within the specified time period, the LPI shall notify the Code Enforcement Officer in writing. The Code Enforcement Officer, with the approval of the Town Manager, is hereby authorized and directed to institute any and all actions and proceedings, legal or equitable, including seeking injunctions of violations and the imposition of penalties and fines, that may be appropriate or necessary to enforce the provisions of this chapter in the name of the municipality.

(Ord. passed - -)

§ 51.23 FINES, PENALTIES AND COSTS.

(A) Any person including, but not limited to, the landowner, a landowner's agent or a contractor who orders or conducts any activity in violation of this chapter shall be penalized in accordance with 30-A M.R.S.A. § 4452. Each day the violation exists shall be considered a separate violation.

(B) The persons shall be held liable for court costs and attorney fees incurred by the town. (Ord. passed - -)

§ 51.24 INSPECTION AUTHORIZED.

(A) The municipal officers, the Code Enforcement Officer and the Local Plumbing Inspector, or their authorized representatives, are hereby authorized and directed to inspect all installations of holding tanks pursuant to this chapter and to investigate all complaints of illegal or malfunctioning holding tank installations within the town.

(B) Any landowner, tenant-in-possession, landowner's agent or a contractor thereof shall permit inspection of the holding tank system installation during reasonable times upon presentation of appropriate credentials establishing the bona fide intent of the Inspector.

(C) Inspectors are hereby authorized and directed to obtain administrative inspection warrants in the event of refusal of permission to inspect the premises by the landowner or landowner's agent, tenant-in-possession or contractor.

(Ord. passed - -)

APPLICATION, APPROVAL PROCEDURES

§ 5135 APPLICATION PROCEDURE.

(A) All applications for a holding tank permit shall be in writing on forms provided for that purpose by the State Department of Human Services, Division of Health Engineering (specifically forms HHE-200, HHE-233 and HHE-300), shall be prepared and signed by a state-licensed site evaluator, the property owner, the applicant if the applicant is not the property owner, and shall bear the signature of a State Department of Environmental Protection licensed septage waste hauler (pumper) who indicates adequate capacity and a willingness to contract with the applicant for removal of wastewater in conformance with this chapter, the State Subsurface Wastewater Disposal Rules and other laws, rules and regulations which are applicable.

(B) Applications shall be submitted in quadruplicate (four sets) to the Local Plumbing Inspector, accompanied by a plan review fee of \$50 payable to the town.
(Ord. passed - -)

51.36 LOCAL PLUMBING INSPECTOR REVIEW.

(A) The LPI shall investigate the particulars of the application and determine whether the application is complete.

(B) Complete applications bearing the signature of approval of the Local Plumbing Inspector shall be submitted to the Town Council at its next scheduled meeting. (Ord. passed - -)

51.37 COUNCIL APPROVAL.

The Town Council shall, by majority vote, approve or deny the application for a holding tank permit upon finding the application is complete; and, the proposed system offers the only possible avenue for adequate treatment of wastewater due to the specific circumstances of the property; and, the proposed system is fully compliant with all other applicable local ordinances, rules and regulations.

(Ord. passed - -)

§ 51.38 ALTERNATIVE METHOD OF APPROVAL.

The Town Council may authorize the Town Manager to review and approve applications for a holding tank permit under a "delegation order" approved by a majority vote of the Council. (Ord. passed - -)

§ 51.39 RECORDING REQUIRED.

Upon approval, the Town Council shall forward the signed and approved application forms to the Code Enforcement Office. The Code Enforcement Office shall cause one set of approved documents to be recorded at the owner's expense in the County Registry of Deeds and shall forward the remaining three sets to the LPI for issuance of a plumbing permit. (Ord. passed - -)

§ 51.40 PERMITS, RENEWAL PERMITS.

(A) The applicant shall follow the normal process for a new or replacement subsurface wastewater disposal system design as required by the State Plumbing Code - Subsurface Wastewater Disposal Rules (144A C.M.R. Ch. 241) and shall obtain a completed and signed septic system design on an HHE-200 form. In the event a new or replacement septic system cannot be installed in accordance with the rules, submit an HHE-233 form to the LPI which is signed by the property owner, the applicant, the site evaluator who prepared the design and the septage pumper with who the applicant proposes to contract for wastewater removal.

(B) Obtain a holding tank permit from the Town Code Enforcement Office, and a renewal permit each year thereafter.

(C) Improved properties having a legally permitted holding tank shall renew their permit on a yearly basis. The expiration date of all permits shall be June 30. Permit fees and renewal permit fees shall not be pro-rated for tanks installed less than 12 months before the June expiration date. Renewal permits will only be issued after the following conditions have been met:

- (1) Documentation from an approved pumping contractor shall be submitted showing the holding tank system has been pumped and serviced during the previous permit year;
- (2) Submit a renewal form bearing the name, address and signature of the approved pumping contractor contracted to provide service during the upcoming year;
- (3) Submit payment of a renewal permit fee of \$25; and

(4) The Code Enforcement Office has been given the opportunity to inspect the holding tank system during the current year, and that the system complies with all requirements of this chapter. (Ord. passed - -)

§ 51.41 COLLECTION AND TRANSPORTATION.

(A) The collection and transportation of all wastewater from any improved property utilizing a holding tank shall only be completed by an approved pumping contractor.

(B) The Town Code Enforcement Office shall establish and maintain a list of approved pumping contractors.

(1) Only septic waste haulers currently licensed by the State Department of Environmental Protection shall be eligible for placement on the list of approved pumping contractors.

(2) No fee shall be charged to approved pumping contractors for placement on the aforementioned list. (Ord. passed - -)

§ 51.42 DUTIES OF OWNER OF HOLDING TANK PERMIT.

The owner of an improved property that utilizes a holding tank agrees to conform with the following conditions and other conditions of approval which the Town Council found necessary in order to approve a holding tank application:

(A) Maintain the holding tank in conformance with this chapter and any other ordinance of the town, the provisions of any applicable law, the rules of the authority, the State Plumbing Code and administrative agencies of the state;

(B) Notify the Code Enforcement Office with the name of the authorized pumper that will service the holding tank and the expected date of service;

(C) Permit only approved pumping contractors to collect, transport and dispose of the contents of holding tanks to a site approved by the State Department of Environmental Protection; and

(D) Supply the Code Enforcement Office a yearly record of pumping and other maintenance records performed on the holding tank system prior to, and as a condition of, yearly renewal. (Ord. passed - -)

a**§ 51.43 APPEALS.**

(A) *Appeals of decisions on new applications.* Appeals of a decision by the Local Plumbing Inspector or the Town Council on an application for a new holding tank installation shall be made to the Town Board of Appeals within 30 days of the date the decision is rendered.

(B) *Appeals of decisions on renewal applications.* Appeals of a decision by the Code Enforcement Office to not renew a permit for a holding tank installation shall be made to the Town Board of Appeals within 30 days of the date the decision is rendered.

(C) *Appeals limited.* The Town Board of Appeals shall only rule upon the action taken by the Town Council and/or Local Plumbing Inspector on new applications and the Code Enforcement Office on renewal applications. Holding tank applications are variances from the rules; no further variance of the rules is allowed.

(D) *Further appeals.* Appeals of a decision by the Town Board of Appeals shall be taken to State Superior Court, pursuant to Rule 80b of the State Rules of Civil Procedure. (Ord. passed - -)



CHAPTER 52: WASTE DISPOSAL FACILITIES

Section

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§ 52.01 PURPOSE.

(A) To provide the town with a means of overseeing the activities of waste disposal facilities to ensure that they comply with regulations the town deems essential to protect the health, safety and welfare of its residents, pursuant to 30-A M.R.S.A. § 3001 and 38 M.R.S.A. § 1310-U.

(B) To protect air, surface and ground water and land resources of the town from contaminants which can reasonably be expected to accompany the activities of waste disposal facilities and thereby to preserve the quantity and quality of these resources for present and future use.
(Ord. passed 1-2-1991)

§ 52.02 DEFINITIONS.

For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

DISPOSAL. The discharge, deposit, injection, dumping, incineration or placing of any waste in or on any land or water, except for subsurface wastewater disposal systems regulated under the State Subsurface Wastewater Disposal Rules.

FRESHWATER WETLAND. Any freshwater swamp, marsh, bog or similar area that is of one or more contiguous acre, and characterized predominantly by wetland vegetation. **FRESHWATER WETLANDS** may contain small inclusions of land that do not conform to the criteria of this definition.

HAZARDOUS WASTE. As defined in 38 M.R.S.A. § 1303-C(15), means a waste substance or material, in any physical state, designated as hazardous by the Board of Environmental Protection under 38 M.R.S.A. § 1319-0. It does not include wastes resulting from normal household or agricultural activities.

LIQUID WASTE. Any free-flowing, semi-solid or liquid waste generated by a municipal, commercial or industrial wastewater treatment plant, water supply treatment plant, air pollution control facility or any other waste having similar characteristics and effect. The term shall not include waste, refuse, effluent, sludge or any other materials from septic tanks, cesspools or any other similar facilities.* (*The definition of "septage", pursuant to 38 M.R.S.A. § 1303-C(27),)

LIQUID WASTE LAGOON. A facility or part of a facility which is a natural topographic depression, human-made excavation or diked area formed primarily of earthen materials, although it may be lined with human-made materials, which is designed to hold an accumulation of liquid wastes, special wastes or wastes containing free liquids.

SOLID WASTE. Useless, unwanted or discarded solid material with insufficient liquid content to be free flowing, including, but not limited to, rubbish, garbage, scrap materials, junk, refuse, inert fill material and landscape refuse. The term shall not include septic tank sludge or agricultural wastes.

SPECIAL WASTE. Any non-hazardous waste as defined in 38 M.R.S.A. § 1303-C (34) generated by sources other than domestic and typical commercial establishments that exists in an unusual quantity or in a chemical or physical state, or any combination thereof, which may disrupt or impair effective waste management or threaten the public health, human safety or the environment and requires special handling, transportation and disposal procedures.

WASTE. This term shall include solid waste, liquid waste, sludge, hazardous waste and special waste.

WASTE DISPOSAL FACILITY. Any land area, structure, location, equipment or combination thereof used for the treatment or disposal of waste, including liquid waste impoundments. (Ord. passed 1-2-1991)

§ 52.03 LICENSING PROCEDURES.

(A) No person, firm or corporation shall locate, establish, construct, expand disposal capacity or operate any waste disposal facility within the town without obtaining a license from the town. Therefore, the disposal of any solid waste, liquid waste, hazardous waste or special waste (hereafter referred to as "waste") is strictly prohibited within the town, except at the site of a waste disposal facility which has secured all necessary state and local licenses and/or permits.

(B) The license shall not be transferable without the prior written approval of the Town Council (hereafter "Council") where the purpose and consequence of the transfer is to transfer any of the obligations of the developer as incorporated in the license. The approval shall be granted only if the applicant or transferee demonstrates to the Council that the transferee has the technical capacity and financial ability to comply with conditions of the license and with all proposals, plans and supporting documents contained in the application for license.

(C) The license shall be posted on the premises.

(D) All licenses shall expire three years from the date of issue unless otherwise stated on the license or revoked or suspended prior to expiration in accordance with the provisions of § 52.10. It shall be the responsibility of the licensee to reapply for license renewal at least 90 days prior to the expiration of the waste disposal facility license. A licensee applying for license renewal may continue to operate the waste disposal facility while the application is pending; provided, the licensee applied for license renewal in accordance with the foregoing requirement.

(E) All owners of waste disposal facilities which are currently in operation shall apply for a license within 180 days of the effective date of this chapter.

(F) Pursuant to the terms of 38 M.R.S.A. § 2173, a permit may be issued to the State Solid Waste Management Agency or a regional association located within the municipality's jurisdiction. (Ord. passed 1-2-1991)

§ 52.04 APPLICATIONS.

(A) The applicant shall have the burden of proof that the facility will be in full compliance with the requirements of this chapter.

(B) (1) An application for a new license shall be submitted to the Council, including the following information:

(a) The name and address of the applicant;

(b) A complete copy of the application submitted to the State Department of Environmental Protection under the requirements of the Site Location of Development Rules (Ch. 372 *et seq.*) and/or DEP's Solid Waste Management Rules (Ch. 400 *et seq.*), and any amendments thereto or substitutions therefor. This copy shall include all submissions required under Ch. 372 *et seq.* of the Site Location of Development Rules and Ch. 400 through 409 of the Solid Waste Management Rules;

(c) If not included in division (B)(1)(b) above, a description of methods to control leachate generation and movement;

(d) If not included in division (B)(1)(b) above, plans for final closure of the facility and post-closure monitoring, care and maintenance of the site, including information on the timing of closure, cover materials to be used, frequency and methods of ground water, surface water, gas, leachate and cover maintenance and monitoring, and methods to control methane generation and movement post-closure;

(e) Plans for an alternate water supply to replace private wells which could be affected by the disposal facility, including proof of the availability of an alternate source of supply, and estimates of the cost to develop this alternate source of supply (*as outlined in § 52.07(B)*);

(f) General characterization of wastes proposed for disposal; estimate of the proportions of different types of waste proposed for disposal; compatibility of different wastes with each other; compatibility of wastes with the liner; and

(g) For good cause shown, the Council may, in its sole discretion, waive any or all of the submittal requirements of this chapter, or accept other documentation in lieu thereof.

(2) The Council shall, within 30 days of receiving a license application, notify the applicant whether the application is complete. If the application is determined to be incomplete, the Council shall notify the applicant in writing of the specific information necessary to complete it. In reviewing applications determined to be complete, the Council may require additional relevant information which is necessary to determine whether the proposed facility fulfills the purpose of the chapter and its specific standards of review, as listed in § 52.05(B).

(C) An application for a new license, or for a license to expand disposal capacity (area or volume) beyond that duly licensed by the state as of the effective date of this chapter, shall be accompanied by a fee of 3% of the estimated construction cost of the waste disposal facility or the expansion thereof. Construction costs, defined as the cost to design, engineer and construct the waste disposal facility or expansion thereof, including all on-site and off-site improvements, shall be estimated by the design

O engineer. The fee shall be deposited in a special account designated for that application, to be used by the Council for hiring independent engineering, geological, planning, legal or other consulting services necessary to review the proposal. If the balance in this special account is drawn down by 90% of the original deposit, the Council shall notify the applicant and require an additional 0.5% to be deposited by the applicant. The Council shall continue to notify the applicant and require an additional 0.5% whenever the balance is drawn down by 90 % of the original deposit. The unexpended balance on the account shall be returned to the applicant after a final decision on the application is rendered. If the Council and the applicant mutually agree upon the qualifications and acceptability of all technical experts employed in the design and construction of the facility, the Council may waive all or part of this requirement; provided, the public health, safety and welfare are protected and the purposes of these regulations are met.

(D) An application to renew a license, or an application for an original license for an existing facility as it was duly licensed by the state as of the effective date of this chapter, shall be submitted to the Council accompanied by a fee of \$5,000 payable to the town, a written report on the facility's operation which demonstrates the facility's compliance with the chapter and any license issued by the state, and copies of all ground water, surface water, gas, leachate and cover monitoring results from the prior year or the previous license, whichever is applicable.

(Ord. passed 1-2-1991)

§ 52.05 PROCEDURES; HEARINGS AND CONDITIONS.

(A) A hearing shall be held by the Council within 90 working days of its determination that an application is complete for a new license or 30 working days for a license renewal. The Council may elect to have a hearing on an application for an original license for an existing facility, or it may consider the application without a hearing. When considering an application for a new license, the Council may extend this period to no more than 180 days if more time is necessary to conduct a thorough review of the application. At the hearing, the Council shall receive evidence on the location and operation of the proposed facility, including, but not limited to, location and design, volume of traffic generated, condition of screening, proximity of residences to the site, proximity of drinking water wells, proximity of aquifers, freshwater wetland, rivers, streams or brooks, as defined in 38 M.R.S.A. § 480-C(9), adequacy of methods to control leachate generation and movement, compatibility of liner and wastes, and other factors relevant to the proposed facility and its operation.

(B) (1) Within 30 days of the hearing, or within 30 working days after the application is determined to be complete if there is no hearing, the Council shall issue a license only if it finds, based on clear and convincing evidence, that:

(a) The proposed facility meets the specific requirements set forth in this chapter;

(b) Adequate provision has been made for the containment and treatment of leachate so as to prevent ground or surface water contamination;

- (c) Wastes proposed for disposal are compatible with each other and with the liner(s);
 - (d) The proposed use will meet fire safety standards by providing adequate access for emergency vehicles to the site and to buildings on the site;
 - (e) The provisions for buffers and on-site landscaping adequately protect neighboring properties from detrimental features of the facility which could be avoided by reasonable modification of the plan;
 - (f) The proposed use will not have a significant detrimental effect on the use and peaceful enjoyment of abutting property as a result of noise, vibrations, fumes, odor, dust, glare or other nuisances which could be avoided by reasonable modification of the plan;
 - (g) Adequate provision has been made for routing truck traffic through the town in a manner which will not create safety hazards;
 - (h) The design of the site will not result in significant flood hazards or flood damage and is in conformance with applicable flood hazard protection requirements;
 - (i) Adequate provision has been made to control erosion and sedimentation;
 - (j) Adequate provision has been made to control storm water runoff and prevent drainage problems;
 - (k) Adequate provision has been made for the transportation, storage and disposal of hazardous materials as defined by state law;
 - (l) The proposed facility will not have an adverse impact on significant scenic vistas or significant wildlife habitat as identified in the comprehensive plan;
 - (m) The proposed facility will not have an adverse impact upon freshwater wetlands, and the boundary of the facility shall not be located less than 75 feet from a freshwater wetland;
 - (n) The proposed facility will not have an adverse impact upon a classified surface water body, river, stream or brook, as defined in 38 M.R.S.A. § 480-C; and
 - (o) The closure and post-closure monitoring and maintenance plans shall provide adequate protection that the waste disposal facility will not create future health or safety hazards, and will meet the minimum standards contained in Ch. 400 through 401 of the State Solid Waste Management Rules of the DEP.
- (2) The Council shall issue a written report stating its findings of fact and its decision and, if a license is issued, and conditions attached to the license which the Council finds necessary to fulfill the purposes of this chapter.

(C) Licenses are subject to the condition that the applicant secure and comply with all applicable federal, state and local licenses and permits prior to and during construction and operation of the waste disposal facility.
(Ord. passed 1-2-1991)

§ 52.06 PERFORMANCE STANDARDS.

(A) The facility shall comply with all operational and performance standards included in the State Department of Environmental Protection's Solid Waste Management Rules (Ch. 400 *et seq.*) and any amendments thereto or substitution therefor.

(B) Access to the disposal site shall be strictly controlled, and all access roads to public or private ways shall be secured when the facility is not open for operation to ensure that unauthorized or unsupervised dumping does not occur.

(C) The operator shall continuously supervise the unloading of waste to ensure that only permitted wastes are handled at the facility. The operator shall maintain a record of every vehicle which brings waste to the facility, including the following information:

- (1) Name of driver;
- (2) Name of person, firm or corporation which owns the vehicle;
- (3) License plate of vehicle;
- (4) Type/characterization of waste; and
- (5) Source and origin of waste. (Ord. passed 1-2-1991)

§ 52.07 PERFORMANCE GUARANTEES.

(A) (1) The Council may, as a condition of the license, establish any reasonable requirements to ensure that the owner has the ongoing technical ability to meet state air, water and land pollution control standards, such as:

(a) Requiring the owner to employ a capable engineer or other professional who is sufficiently knowledgeable and experienced in the disciplines necessary to ensure that state air, water and land pollution control standards are met;

(b) Requiring a training program for the appropriate personnel to ensure proper installation, operation and maintenance of pollution control equipment, and proper operation of the facility; and

(c) Requiring on-site inspection during construction by an independent consultant, at the developer's expense, to ensure proper execution of plans as approved, including any conditions imposed by the Council.

(2) If an independent consultant is required by the Council the developer shall establish an account, in an amount to be determined by the Council, to provide for the hiring of engineering, geological or other expertise to monitor and inspect construction of the facility. The unexpended balance on the account shall be returned to the applicant. As an alternative, the Council and the applicant may agree upon who the applicant will use to monitor construction.

(B) (1) The owner must submit with his or her application proof of adequate provision for accidental occurrences during the active life of the facility and for 30 years following closure, consisting of either:

(a) Liability insurance; or

(b) Establishment of a Trust Fund.

(2) The insurance and Trust Fund shall be equivalent in coverage or dollar amount to the greater of:

(a) Cost of installing or extending a public water supply to serve the area susceptible to contamination by landfill leachate and meeting the specific requirements of this division (13)(2); or

(b) The estimated costs for the closure and post-closure care, sampling, leachate removal and treatment, testing and maintenance, for the solid waste facility for 30 years.

(3) A certified geologist shall identify and map the areas susceptible to contamination by the waste disposal facility based on local ground water and surface water flow patterns, directions of flow, volume of water present and other relevant factors. Geologists and engineers shall identify and provide proof of the availability of an alternate water source adequate in amount to supply the susceptible area, and shall provide an estimate of the cost of providing this area with a public water supply.

(a) Liability insurance shall provide coverage equivalent in amount to the greater of the cost set forth in division (B)(2) above. This coverage shall meet the following criteria.

1. Coverage must be provided for sudden and accidental occurrences during active life and for 30 years following closure.

2. Coverage must be provided for non-sudden and accidental occurrences during active life and for 30 years following closure.

3. If a liability insurance policy is written as a "claims made" policy, an endorsement must provide for a discovery period of at least one year beyond the date of expiration or cancellation of the policy. The endorsement must also provide that the underwriter will notify the public in the following manner: at least 60 days prior to the date upon which the policy will expire or be cancelled, give written notification to all owners of property abutting the facility and to the chief elected official of the town, that insurance for the facility will expire or be cancelled, give date of expiration or cancellation and that claims against the insured must be filed within one year from the date of expiration or cancellation, specifying where and how claims can be filed.

(b) A Trust Fund shall meet the following criteria.

1. The greater of the costs set forth in this division (B), as re-evaluated annually, shall be divided by the total estimated volume to be handled by the facility over its lifetime to determine a per unit of volume contingency fee. The owner shall deposit monthly into the Trust Fund a per unit of volume fee multiplied by the total volume received during the previous month.

2. The Trust Fund shall be administered jointly by the owner and the town.

3. The trust shall be handled by a trust company which manages no less than \$200,000,000 worth of funds. Funds in the account shall be invested in SEC-approved securities only, using the "prudent man" standard of investment. Real estate investments are prohibited. Accumulated interest shall be re-invested in the fund.

4. The Trust Fund shall meet any additional criteria set forth in Ch. 400, § 10, of the DEP Solid Waste Management Rules, or any amendments thereto or substitutions therefor.

(C) (1) For all facilities proposing on-site disposal of more than 50 tons of waste, the owner shall establish a Closure/Post-Closure Trust Fund adequate in terms and amount to assure closing of the site at the end of its useful life in accordance with all state and federal requirements and maintenance of the site subsequent to its closure. The total amount of the Trust Fund shall be based upon a registered professional engineer's estimate, approved by the Council or its agent, of closure costs and post-closure maintenance costs.

(2) The owner or operator shall pay into this fund according to the following requirements.

(a) The total estimated closure cost and an endowment sufficient in amount to generate interest the annual post-closure maintenance cost, plus a 10 % contingency, shall be divided by the total estimated volume handled by the facility over its lifetime to determine a per unit of volume closure fee.

The owner/operator shall deposit monthly into the Trust Fund an amount equal to the per unit of volume closure fee multiplied by the volume deposited in the landfill during the previous month. Estimated closure and post-closure maintenance costs and total landfill capacity shall be reassessed annually and adjusted to reflect current conditions as a condition of license renewal.

(b) The Trust Fund shall be administered jointly by the town or an agent approved by the town and the owner.

(c) The trust shall be handled by a trust company which manages no less than \$200,000,000 worth of funds. Funds in the account shall be invested in SEC-approved securities only using the "prudent man" standard of investment. Real estate investments are prohibited.

(d) The Trust Fund shall meet all additional requirements set forth in Ch. 400, § 10, of the DEP Solid Waste Management Rules.

(D) The requirements of this section may be waived if the Council makes written findings that alternative performance guarantees, such as trust funds administered between State DEP and the applicant, are adequate, appropriate and fulfill the purposes of this chapter.
(Ord. passed 1-2-1991)

§ 52.08 RIGHT OF ENTRY.

(A) Any duly authorized representative or agent of the town may, upon presentation of appropriate credentials, at any reasonable time, enter and inspect the facility, obtain samples of any waste, inspect and copy any records, reports, information or test results relating to the disposal of solid waste, take photographs or other actions necessary to ensure compliance with the license.

(B) An agent or representative of the town shall be permitted to independently sample monitoring wells installed around the waste disposal facility. (Ord. passed 1-2-1991)

§ 52.09 ENFORCEMENT.

(A) All provisions of this chapter are enforceable by the Code Enforcement Officer, the Council or its agent.

(B) Any person who violates any provision of this chapter is subject to fines, if convicted, as provided in § 52.99 of this chapter.
(Ord. passed 1-2-1991)

§ 52.10 LICENSE REVOCATION.

(A) Any license issued hereunder may be suspended or revoked, subsequent to procedures hereafter set forth by order of the Council for the following causes:

- (1) Violation of this chapter;
- (2) Violation of any provision of any state or local law, ordinance, code or regulation which relates directly to the provisions of this chapter;
- (3) Violation of any license conditions;
- (4) Falsehoods, misrepresentations or omissions in the license application;
- (5) Failure to construct or operate the facility in accordance with the plans; and
- (6) Failure to meet air, water and land pollution control standards.

(B) Whenever the Council or Code Enforcement Officer determine that there has been a violation by virtue of one of the conditions listed in divisions (A)(1) through (A)(6) above, they shall give written

notice of the violation to the person, firm or corporation responsible.

(1) The citation shall include a description of the violation and shall allow reasonable time for remedial action.

(2) The citation may contain an outline of remedial action which, if taken, will effect compliance.

(3) The citation shall state that unless corrections are made within the allotted time, the violator is subject to prosecution and/or license suspension or revocation pursuant to the provisions of this chapter.

(C) The Council or the Code Enforcement Officer may institute, or cause to be instituted, any and all proceedings, either legal or equitable, that may be necessary or appropriate to enforce the provisions of this chapter.

(D) If the violator does not meet the terms of the citation issued under division (B)(2) above, the Council may, after written notice and an opportunity for a hearing, suspend or revoke the license. The Council shall notify the license holder in writing of any suspension or revocation, setting forth the reasons therefor.

(E) Whenever it appears to the Council, after investigation, that there is a violation of this chapter or a condition of the license which is creating or is likely to create a substantial and immediate danger to public health or safety, the Council may suspend or revoke the license and shall notify the license

holder in writing of any suspension or revocation, setting forth the reasons therefor. In the event of an emergency suspension or revocation, the person, firm or corporation whose license has been revoked/suspended is entitled to a public hearing conducted by the Council if the licensee requests a hearing within seven days of the revocation/suspension. The Council shall schedule the hearing within 14 days of receiving the request. At least seven days prior public notice of the hearing shall be given. (Ord. passed 1-2-1991)

§ 52.11 CONFLICT.

If any provision of this chapter conflicts with any provisions in another municipal ordinance, the stricter provision shall apply.
(Ord. passed 1-2-1991)

§ 52.12 APPEAL.

An aggrieved party may appeal any decision under these regulations to Superior Court within 30 days after the decision is rendered.
(Ord. passed 1-2-1991)

§ 52.13 EXISTING FACILITIES.

(A) The Council may waive any provision of this chapter as it relates to the issuance of an original license to an existing facility that was duly licensed by the state as of the effective date of this chapter.

(B) In the event that a waiver is granted under division (A) above, the Council may attach reasonable conditions to the license to ensure compliance with the intents and purposes of this chapter. (Ord. passed 1-2-1991)

§ 52.14 VARIANCES.

Applicants may apply for the following types or variances in accordance with DEP Solid Waste Management Regulations (§ 400.11):

- (A) Variances affecting site location, facility design and construction;
- (B) Variances affecting the contents of the site location application and facility closure plans;
- (C) Variances affecting operation; and

(D) Three-hundred foot law variance.
(Ord. passed 1-2-1991)

§ 52.99 PENALTY.

Any person, firm or corporation violating any of the provisions of this chapter or any conditions of the license shall, upon conviction, be subject to a civil penalty of not less than \$100, nor more than \$10,000, for each day of that violation or, if the violation relates to hazardous waste, of not more than \$25,000 for each day of violation. The maximum civil penalty may exceed \$10,000 for each day of that violation, but shall not *exceed* \$25,000 for each day of that violation, if there had been a previous violation by the same party within the preceding five years. All civil penalties shall inure to the benefit of the town. Reasonable attorney's fees and court costs incurred by the town in prosecuting a violation shall be awarded to the town if the town is the prevailing party.
(Ord. passed 1-2-1991)

CHAPTER 53: PUBLIC SEWER AND DRAIN USE

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GENERAL PROVISIONS**§ 53.001 PURPOSE AND POLICY.**

(A) This chapter sets forth uniform requirements for users of the POTW for the town and enables the town to comply with all current state and federal laws, and future amendments, including the Clean Water Act (33 U.S.C. §§ 1251 *et seq.*) and the General Pre-Treatment Regulations (40 C.F.R. part 403). The objectives of this chapter are:

- (1) To prevent introduction of pollutants into the POTW that will interfere with the operation of the POTW;
- (2) To prevent the introduction of pollutants into the POTW which will pass through the POTW inadequately treated, into receiving waters or otherwise be incompatible with the POTW;
- (3) To ensure that the quality of the wastewater treatment plant sludge is maintained at a level which allows its use and disposal in compliance with applicable statutes and regulations;
- (4) To protect POTW personnel who may be affected by wastewater and sludge in the course of their employment and to protect the general public;

(5) To provide for fees for the equitable distribution of the cost of operation, maintenance and improvement of the POTW; and

(6) To enable the town to comply with its NPDES permit conditions, sludge use and disposal requirements, and any other federal or state laws to which the POTW is subject.

(B) This chapter shall apply to all domestic sewage dischargers and other users of the POTW. This chapter authorizes the issuance of wastewater discharge permits; authorizes monitoring, compliance and enforcement activities; establishes administrative review procedures; requires user reporting; and provides for the setting of fees for the equitable distribution of costs resulting from the operation of the POTW.

(Ord. passed 5-18-1994)

§ 53.002 ADMINISTRATION.

Except as otherwise provided, herein, the Superintendent of the POTW shall administer, implement and enforce the provision of this chapter. Any powers granted to or duties imposed upon the Superintendent may be delegated by the Superintendent to other qualified town personnel.

(Ord. passed 5-18-1994)

§ 53.003 APPLICABLE LAW.

(A) Any reference in this chapter to a state or federal statute of regulation of local ordinance shall mean the statute; regulation or ordinance in force on the effective date of this chapter or of any statute, regulation or ordinance may be amended from time to time thereafter.

(B) Except as otherwise provided herein, the Superintendent of the POTW shall administer, implement, and enforce the provision of this chapter. Any powers granted to or duties imposed upon the Superintendent may be delegated by the Superintendent to other qualified city personnel.

(C) Wastewater and other wastes discharged to the POTW are treated by the City of Bangor Wastewater Treatment Plant under an interlocal agreement between Bangor and the town regarding the use of Bangor's Wastewater Treatment Plant Complex by the town. Accordingly, this chapter shall be interpreted consistently with the Code of the City of Bangor, Ch. 252, Sewers and Drains. In the event that there is a conflict between this chapter and Ch. 252 of the Code of the City of Bangor, the provision imposing greater regulation or retaining greater municipal authority or control shall prevail. (Ord. passed 5-18-1994; Ord. passed 7-9-2009)

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§ 53.004 DEFINITIONS,

For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

ACT or **THE ACT**. The Federal Water Pollution Control Act, also known as the Clean Water Act, 33 U.S.C. §§ 1251 *et seq.*

APPROVAL AUTHORITY. Regional Administrator of the EPA

Boston. **ASTM**. American Society for Testing and Materials.

AUTHORIZED REPRESENTATIVE OF THE USER.

(1) If the user is a corporation:

(a) The president, secretary, treasurer or a vice-president of the corporation in charge of a principal business function, or any other person who performs similar policy of decision-making functions for the corporation; or

(b) The manager of one or more manufacturing, production or operation facilities employing more than 250 persons or having gross annual sales or expenditures exceeding \$25,000,000 (in second-quarter 1980 dollars), if authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures.

(2) If the user is a partnership of sole proprietorship; a general partner or proprietor, respectively;

(3) If the user is a federal, state or local government facility; a director or highest official appointed or designated to oversee the operation and performance of the activities of the government facility, or his or her designee; and

(4) The individuals described in divisions (1) through (3) above may designate another **AUTHORIZED REPRESENTATIVE** if the authorization is in writing, the authorization specifies the individual or position responsible for the overall operation of the facility from which the discharge originates or having overall responsibility for environmental matters for the company, and the written authorization is submitted to the town.

BEST MANAGEMENT PRACTICES (BMPs). Schedule of activities, prohibitions of practices, maintenance procedures and other management practices to implement the prohibitions listed in §§ 53.040 through 53.050 of this chapter. **BMPs** include treatment requirements, operating procedures and practices to control plant site runoff, spillage or leaks, sludge or waste disposal, or drainage from raw materials storage.

BIOCHEMICAL OXYGEN DEMAND. The quantity of oxygen utilized in biochemical oxidation of organic matter under standard laboratory procedures for five days at 20°C expressed in milligrams per liter (mg/l).

BOD. Biochemical oxygen demand.

BUILDING DRAIN. The part of the lowest piping of a drainage system which receives the discharge from soil, waste and other drainage pipes inside a building and conveys it to the building sewer, beginning eight feet (two and one-half meters) outside of the building wall.

BUILDING SEWER. The extension from the building drain to the POTW or other place of disposal.

CATEGORICAL PRE-TREATMENT STANDARD or **CATEGORICAL STANDARD.** Any regulation containing pollutant discharge limits promulgated by the EPA in accordance with § 307(b) and (c) of the Act (33 U.S.C. § 1317) which apply to a specific category of users and which appear in 40 C.F.R. Ch. 1, Subch. N, parts 405 through 471.

CATEGORICAL USER. Any user of the town's wastewater treatment system whose discharges are regulated under 40 C.F.R. part 403 and 40 C.F.R. parts 405 through 471, or who is otherwise subject to U.S. EPA pre-treatment requirements as a **CATEGORICAL USER**.

C.F.R. Code of Federal Regulations

COD. Chemical oxygen demand.

COLOR. The optical density at the visual wave length of maximum absorption, relative to distilled water. One-hundred percent transmittance is equivalent to zero optical density.

COMBINED SEWER. A sewer receiving both surface runoff and wastewater.

COMPOSITE SAMPLE. The sample resulting from the combination of individual wastewater samples taken at selected intervals based on an increment of either flow or time.

DEP. Maine Department of Environmental Protection.

DISCHARGE. Any substance knowingly put or allowed to flow into any part of the town's POTW.

DISCHARGE. All industrial users, including "categorical users" and "significant industrial users", as defined in this section.

DISCHARGER. Any non-industrial user of the town's POTW who discharges wastewater into the POTW.

DOMESTIC SEWAGE. Water and water-carried wastes and sewage normally discharged into the sanitary sewers from dwellings, including single-family homes, multi-family homes and hotels, from office buildings, factories and institutions, but not including, storm water drainage or surface water drainage and not including industrial wastes as defined in this section.

ENVIRONMENTAL PROTECTION AGENCY. The U.S. Environmental Protection Agency or, where appropriate, the Regional Water Management Division Director or other duly authorized official of the agency.

EPA. U.S. Environmental Protection Agency.

EXCESSIVE LOADING. Any discharge resulting in BOD or TSS loading in excess of 350 mg/l or a loading of fats, oils or greases of animal or vegetable origin or oil and grease or other petroleum or mineral oil products in excess of 140 mg/l. Where a correlation is established between BOD and COD or TOC, a discharge in excess of the equivalent COD of TOC, loading shall constitute ***EXCESSIVE LOADING.***

EXISTING SOURCE. Any source of discharge, the construction or operation of which commenced prior to the publication by the EPA of proposed categorical pre-treatment standards, which will be applicable to the source if the standard is thereafter promulgated in accordance with § 307 of the Act.

GARBAGE. Solid waste from the domestic and commercial preparation, cooking and dispensing of food, and from the handling, storage and sale of food products and produce.

gdb. Gallons per day.

GRAB SAMPLE. A sample which is taken from a wastestream on a one-time basis without regard to the flow in the wastestream and without consideration of time.

HAZARDOUS WASTE. A hazardous waste as that term is defined in 40 C.F.R. part 261 of State Department of Environmental Protection Regulations Ch. 850.

HIGH STRENGTH CONVENTIONAL WASTE. Any non-industrial waste of a substantially greater density, toxicity or acidity than normal domestic sewage, including all wastes likely to cause "excessive loading", as defined in this section.

INDIRECT DISCHARGE OF DISCHARGE. The introduction of pollutants into the POTW from any non-domestic source regulated under § 307(b), (c) or (d) of the Act.

INDUSTRIAL USER or USER. A source of indirect discharge. This term covers discharges from any source, including agriculture, forestry, fishing, mining, manufacturing, transportation, communication, electrical, gas and sanitary services and other industrial services discharging into the

POTW any industrial waste, or discharging into the POTW any waste other than domestic sewage as defined in this section. This term may also apply to any other source of pollutant which adversely affects the POTW.

INDUSTRIAL WASTE. All water, water-carried solids, liquid and gas wastes resulting from any industrial, manufacturing or food processing operation or process or from the development of any natural resource or any mixture of these fluids and domestic sewage, or any mixture of these fluids with any other water or with any other liquid.

INSTANTANEOUS MAXIMUM ALLOWABLE DISCHARGE LIMIT. The maximum concentration or loading pollutant allowed to be discharged at any time, determined from the analysis of any grab or composite sample collected, independent of the industrial flow rate and the duration of the sampling event.

INTERFERENCE. A discharge that, alone or in conjunction with a discharge or discharges from other sources, either:

(1) Inhibits or disrupts the town's POTW, treatment processes or operations, or its sludge processes, use or disposal; or

(2) Which thus contributes to cause a violation of any requirement of the town's NPDES permit, including an increase in the magnitude or duration of a violation, or of the prevention of sludge use or disposal in compliance with statutory provisions and regulations or permits issued under § 405 of the Clean Water Act, RCRA (being 42 U.S.C. §§ 6901 *et seq.*), the Clean Air Act (being 42 U.S.C. §§ 7401 *et seq.*), SWDA (42 U.S.C. §§ 6901 *et seq.*), the Toxic Substances Control Act (being 15 U.S.C. §§ 2601 *et seq.*), the Marine Protection, Research and Sanctuaries Act (being 16 U.S.C. §§ 1431 *et seq.* and 33 U.S.C. §§ 1401 *et seq.*) and any state regulations contained in any state sludge management plan prepared pursuant to Subtitle D of RCRA.

l. Liter.

MAY. The act referred to is permissive.

MEDICAL WASTE. Isolation wasted, infectious agents, human blood and blood products, pathological wastes, sharps, body parts, contaminated laboratory wastes and dialysis wastes.

mg. Milligrams.

MILLIGRAMS PER LITER or *mg/l.* This term shall mean a weight to volume ratio. The figure appearing before the symbol "mg/l" shall be the number of milligrams to be found in one liter of the substance being tested. This figure can be transposed to pounds per million gallons of water by multiplying the figure by 8.34.

NATURAL OUTLET. Any outlet into a watercourse, pond, ditch, lake or other body of surface or ground water.

NEW SOURCE.

(1) Any building, structure, facility or installation from which there is or may be a discharge of pollutants, the construction of which commenced after the publication of proposed pre-treatment standards under § 307(c) of the Act which will be applicable to the source if the standards are thereafter promulgated in accordance with that section of the Act; provided that:

(a) The building, structure, facility or installation is constructed at a site at which no other source is located;

(b) The building, structure, facility or installation totally replaces the process or production equipment that causes the discharge of pollutants at an existing source; or

(c) The production or wastewater generating processes of the building, structure, facility or installation are substantially independent of an existing source at the same site. In determining whether the sources are substantially independent, factors such as the extent to which the new facility is integrated with the existing plant, and the extent to which the new facility is engaged in the same general type of activity as the existing source, should be considered.

(2) Construction on a site at which an existing source is located results in a modification rather than a new source if the construction does not create a new building, structure, facility or installation meeting the criteria of divisions (1)(b) or (c) above, but otherwise alters, replaces or adds to existing process or production equipment.

(3) Construction of a *NEW SOURCE*, as defined hereunder, has commenced if the owner or operator has:

(a) Begun, or caused to begin as part of a continuous on site construction program:

1. Any placement, assembly or installation of facilities or equipment; or

2. Significant site preparation work including clearing, excavation or removal of existing buildings, structures or facilities which is necessary for the placement, assembly or installation of new source facilities or equipment.

(b) Entered into a binding contractual obligation for the purchase of for equipment which is intended to be used in its operation within a reasonable time; and/or

(c) Options to purchase or contracts which can be terminated or modified without substantial loss, and contracts for feasibility, engineering and design studies do not constitute a contractual obligation under this division (3).

NON-CONTACT COOLING WATER. Water used for cooling which does not come into direct contact with any raw material, intermediate product, waste product or finished product.

NORMAL DOMESTIC SEWAGE. Sewage in which the average concentration of TSS does not exceed 250 mg/l and in which the five day BOD does not exceed 250 mg/l and fats, oils or greases of animal or vegetable origin or oil and grease and other petroleum or mineral oil products does not exceed 100 mg/l.

NPDES. The National Pollutant Discharge Elimination System permit program of the EPA. ***O&M.*** Operation(s) and maintenance.

OWNER. The owner, tenant, occupant or person in charge of any building or premises, or any person acting in the owner's behalf.

PASS-THROUGH. Any discharge from the town's POTW into waters of the United States in quantities or concentrations which, alone or in conjunction with a discharge or discharges from other sources, causes a violation of any requirement of the town's NPDES permit, including an increase in the magnitude or duration of a violation.

PERSON. Any individual, partnership, firm, company, association, society, corporation, group joint stock company, trust, estate, governmental entity or any other legal entity of whatever relationship; or their legal representatives, agents or assigns. This definition includes all agents or assigns. This definition includes all federal, state or local governmental entities.

pH. The logarithm (base 10) of the reciprocal of the hydrogen ion concentration expressed in moles per liter. *pH* shall be determined by standard methods as defined in this section.

POLLUTANT. Any dredged spoil, solid waste, incinerator residue, sewage, garbage, sludge, pre-treatment byproducts, munitions, wastewater, medical wastes, chemical wastes, biological materials, metals, oil and grease, radioactive materials, heat, wrecked or discharged equipment, rock, sand, cellar dirt, agricultural and industrial wastes, and other waste or material that alters or adversely affects the characteristics of the wastewater (i.e., pH, temperature, TSS, turbidity, color, BOD, COD, toxicity, TTO, TOC or odor).

POTW. Publicly owned treatment works.

PREMISES. Any building or lot under individual ownership or individual use where water service is metered independently or that discharges wastewater to the POTW.

PRE-TREATMENT. The reduction of the amount of pollutants, the elimination of pollutants, or the alteration of the nature of pollutant properties in wastewater prior to or in lieu of introducing such pollutants into the POTW. This reduction or alteration can be obtained by physical, chemical or biological processes; by process changes; or by other means, except by diluting the concentration of the pollutants unless allowed by an applicable pre-treatment standard.

PRE-TREATMENT PROGRAM COORDINATOR. The Town's Superintendent or a designated assistant responsible for supervision of the town's wastewater pre-treatment program.

PRE-TREATMENT REQUIREMENTS. Any substantive or procedural requirement related to pre-treatment imposed on a user, other than a pre-treatment standard.

PRE-TREATMENT STANDARD or STANDARDS. Prohibited discharge standards, categorical pre-treatment standards and local limits.

PROHIBITED DISCHARGE STANDARD OF PROHIBITED DISCHARGES. Absolute prohibitions against the discharge of certain substances. These prohibitions appear in §§ 53.040 through 53.050 of this chapter.

PROPERLY SHREDDED GARBAGE. The wastes from the preparation, cooking and dispensing of food that have been shredded to a degree that all particles will be carried freely under the flow conditions normally prevailing in public sewers, with no particle greater than one-half inch (1.27 centimeters) in any dimension.

PUBLIC SEWER. A sewer in which all owners of abutting properties have equal rights and is controlled by a public authority.

PUBLICLY-OWNER TREATMENT WORKS. A treatment works as defined by § 212 of the Act (33 U.S.C. § 1292) which is owned by the town. This definition includes any devices or systems used in the collection, storage, treatment, recycling and reclamation of wastewater of a liquid nature and any conveyances which convey wastewater to a treatment plant.

RCRA. Resource Conservation and Recovery Act, being 42 U.S.C. §§ 6901 *et seq.*

SANITARY SEWER. A sewer which carries wastewater and to which storm, surface and ground waters are not intentionally admitted.

SEPTIC TANK WASTE. Any wastewater from holding tanks such as vessels, chemical toilets, campers, trailers and septic tanks.

SEWAGE. Human excrement and gray water (household showers, dishwashing operations and the like).

SEWAGE TREATMENT PLANT. Any arrangement of devices and structures used for treating wastewater.

SEWAGE WORKS. All facilities for collecting, pumping, treating and disposing of wastewater.

SEWER. A pipe or conduit for carrying wastewater.

SEWER EXTENSION. The connection of any public or private sewer to the existing sewer system, except as required under § 53.025(D) of this chapter.

SHALL. The act referred to is mandatory.

SIC. Standard Industrial Classification Code.

SIGNIFICANT INDUSTRIAL USER.

(1) A user subject to categorical pre-treatment standards;

(2) A user that:

(a) Discharges an average of 25,000 gpd or more of process wastewater to the POTW, excluding sanitary, non-contact cooling and boiler blowdown wastewater;

(b) Contributes a process wastestream which makes up 5% or more of the average dry weather hydraulic or organic capacity of the POTW; or

(c) Is designated as such by the town on the basis that it has a reasonable potential for adversely affecting the POTW's operation or for violating any pre-treatment standard or requirement.

(3) Upon a finding that a user meeting the criteria in division (2) above has no reasonable potential for adversely affecting the POTW's operation or for violating any pre-treatment standard or requirement, the town may at any time, on its own initiative or in response to a petition received from a user, and in accordance with procedures in 40 C.F.R. § 403.8(0(6), determine that the user should not be considered a **SIGNIFICANT INDUSTRIAL USER**.

SIGNIFICANT NON-COMPLIANCE. As applied within this chapter, includes the following:

(1) Chronic violations of wastewater discharge limits (i.e., those violations in which 66% or more of all measurements taken during a six-month period exceed by any magnitude the daily maximum limit or average limit for the same pollutant parameter);

(2) Technical review criteria (TRC) violations (i.e., those violations in which 33% or more of all measurements for each pollutant parameter taken during a six-month period equal or exceed the product of the daily average maximum limit or average limit multiplied by the applicable TRC (TRC = 1.4 for BOD, TSS, fats, oil and grease; and 1.2 for all other pollutants, except pH));

(3) Any other violation of a pre-treatment effluent limit daily maximum or longer-term average, that the Superintendent or Pre-Treatment Program Coordinator determines has caused, alone and in combination with other discharges, interference or pass-through, as defined in this section;

(4) Any discharge of a pollutant that has caused an imminent danger to human health, including the health of the town's POTW personnel or the environment, or has required an exercise of the town's emergency authority to halt the discharge under 40 C.F. R. § 403.9(f)(2)(vi)(B);

(5) Failure to meet a compliance schedule milestone imposed under this chapter or imposed by administrative or court order or negotiated agreement within 90 days of the scheduled date;

(6) Failure to provide any report required under this chapter or permit or under EPA regulations within 30 days of the due date;

(7) Failure to accurately report any non-compliance with permit requirements; or

(8) Any other violation or group of violations which the Superintendent determines adversely affect the operation or implementation of the town's pre-treatment program.

SLUDGE. A byproduct of the primary and secondary treatment processes of the POTW, also known as *BIOSOLIDS*. This term does not include byproducts resulting from the pre-treatment of industrial wastes.

SLUG or SLUG LOAD. Any discharge that could cause a violation of the general prohibitions of § 53.040 and the specific prohibitions of § 53.041 of this chapter.

STANDARD INDUSTRIAL CLASSIFICATION CODE. A classification pursuant to the *Standard Industrial Classification Manual* issued from time to time by the U.S. Office of Management and Budget.

STANDARD METHODS. Testing methods and techniques prescribed in 40 C. F.R. part 136, or if not found therein, other appropriate procedures approved by the EPA.

STORM DRAIN or STORM SEWER. A sewer which carries storm and surface waters and drainage, but excludes domestic sewage and industrial wastes, other than unpolluted cooling water.

STORM WATER. Any flow occurring during or following any form of natural precipitation, and resulting from the precipitation, including snowmelt.

SUPERINTENDENT. The Wastewater Treatment Plant Superintendent of the town's POTW, or his or her authorized deputy, agent or representative.

SUSPENDED SOLIDS. Solids or other matter that either float on the surface of, or are in suspension in water, wastewater or other liquids, and which are removable by laboratory filtering.

SWDA. Solid Waste Disposal Act, being 42 U.S.C. 6901 *et*

seq. ***TOC.*** Total organic carbon.

TOTAL TOXIC ORGANICS. The summation of all quantifiable values greater than 0.01 mg/l for the toxic organics listed at 40 C.F.R. § 413.02(1).

TOWN. The Town of Hermon.

TOWN ENGINEER. The town official appointed and designated by the Town Manager as the Town Engineer for the town.

TOXIC POLLUTANT. One of the 126 pollutants, or combination of those pollutants listed as toxic in regulations promulgated by the EPA pursuant to § 307 (33 U.S.C. § 1317) of the Act. This term also includes any pollutants that may be added to this promulgated list by amendment.

TREATMENT PLANT EFFLUENT. The discharge from the POTW into waters of the United States.

TREATMENT PLANT INFLUENT. The wastewater in the POTW which is presented for treatment at the town's wastewater plant.

TSS. Total suspended solids.

TTO. Total toxic organics.

UPSET. An exceptional incident in which a discharger is in a state of non-compliance with the categorical pre-treatment standards due to factors beyond the reasonable control of the discharger. This term excludes non-compliance due to the extent caused by operational error, improperly designed treatment facilities, inadequate treatment facilities, lack of preventive maintenance, careless or improper operation of the treatment facilities or other similar reason.

U.S.C. United States Code.

WASTEWATER. Liquid- and water-carried industrial wastes and domestic sewage from residential dwellings, commercial buildings, industrial and manufacturing facilities, and institutions, whether treated or untreated, which are contributed to the POTW.

WASTEWATER PLANT. Any facility owned by the town and used for receiving and treating wastewater.

WATERCOURSE. A channel in which a flow of water occurs, either continuously or intermittently.

WPCF. Water Pollution Control Federation or its successor organization. (Ord. passed 5-18-1994; Ord. passed 8-10-1994; Ord. passed 7-9-2009) *Editor's note:*

Certain definitions in this section became effective on 9-10-1994.

§ 53.005 CONFIDENTIAL INFORMATION.

Information and data on a user obtained from reports, surveys, wastewater discharge permit and monitoring programs, and from the town's inspection and sampling activities, shall be available to the public without restriction, unless the user specifically requests, and is able to demonstrate to the satisfaction of the town, that the release of the information would divulge information, processes or methods of production entitled to protection as trade secrets or proprietary information of the user under state law. When requested and demonstrated by the user furnishing a report that the information should be held confidential, the portions of a report which might disclose the confidential information shall not be made available for inspection by the public, but shall be made available immediately upon request to state and federal governmental agencies for uses related to the NPDES program or pre-treatment program, and in enforcement proceedings involving the person furnishing the report. Wastewater constituents and characteristics and other "effluent data", as defined by 40 C.F.R. part 2.302 will not be recognized as confidential information and will be available to the public without restriction.

(Ord. passed 5-18-1994)

§ 53.006 PUBLICATION OF USERS IN SIGNIFICANT NON-COMPLIANCE.

The town shall publish annually, in the largest daily newspaper published in the town where the POTW is located, a list of the users, which, during the previous calendar year, were in significant non-compliance with applicable pre-treatment standards and requirements. The term significant non-compliance shall be defined herein.

(Ord. passed 5-18-1994)

§ 53.007 PRIVATE SEWAGE DISPOSAL.

(A) Where a public sanitary or combined sewer is not available under the provisions of § 53.025 of this chapter, the building sewer shall be connected to a private sewage disposal system complying with the provisions of this section. Connections shall also comply with the State Plumbing Code, Part II, Subsurface Wastewater Disposal Regulations.

(B) Before commencement of construction of a private sewage disposal system the owner shall first obtain a permit from the town's Plumbing Inspector. The application for the permit shall be made on a form furnished by the State Department of Human Services, Division of Health Engineering, which the applicant shall supplement by any plans, specifications and other information as are deemed necessary by the Plumbing Inspector.

(C) A permit for a private sewage disposal system shall not become effective until the installation is completed to the satisfaction of the Town's Plumbing Inspector. The Plumbing Inspector shall be allowed to inspect the work at any stage of construction and, in any event, the applicant for the permit shall notify the Plumbing Inspector when the work is ready for final inspection, and before any underground portions are covered.

(D) The type, capacities, location and layout of a private sewage disposal system shall comply with all requirements of the State Department of Human Services, and shall be in compliance with the State Plumbing Code, Part II, Subsurface Wastewater Disposal Regulations, the Minimum Lot Size Law (12 M.R.S.A. §§ 4807 *et seq.*) and Ch. 154 of this code of ordinances. No permit shall be issued for any private sewage disposal system employing subsurface soil absorption facilities where the area of the lot is less than one acre. No septic tank or cesspool shall be permitted to discharge to any natural outlet.

(E) At such time as a public sewer becomes available to a property served by a private disposal system, as provided in § 53.025 of this chapter, a direct connection shall be made to the public sewer in compliance with this chapter, and any septic tanks, cesspools and similar private sewage disposal facilities shall be abandoned and filled with suitable materials.

(F) The owner shall operate and maintain the private sewage disposal facilities in a sanitary manner at all times, at no expense to the town.

(G) No statement contained in this section shall be construed to interfere with any additional requirements that may be imposed by the Plumbing Inspector.

**(H) When a public sewer becomes available as outlined in § 53.025(D), the building sewer shall be connected to the sewer within 90 days and a private sewage disposal system shall be cleaned of sludge and filled with clean bank-run gravel or dirt.
(Ord. passed 5-18-1994)**

§ 53.008 HAULED WASTEWATER.

(A) Septic tank waste and hauled industrial waste may be introduced into the POTW and at the times as are established by the Superintendent. The wastes shall not violate §§ 53.040 through 53.050 of this chapter or any other requirements established or adopted by the town. Wastewater discharge permits for individual vehicles to use the facilities may be issued by the Superintendent.

(B) The Superintendent may issue wastewater discharge permits to original sources of hauled industrial waste. The Superintendent shall also have the authority to prohibit the disposal of hauled industrial wastes.

(C) Waste haulers may only discharge loads at locations specifically designated by the Superintendent. No load may be discharged without prior consent of the Superintendent. The Superintendent may collect samples of each hauled load to ensure compliance with this chapter. The Superintendent may require the hauler to provide a waste analysis of any load prior to discharge.

(D) Waste haulers must provide a waste-tracking form for every load. This form shall include, at a minimum, the name and address of the waste hauler, permit number, truck identification, sources of waste and volume and characteristics of waste. **In** addition, for hauled industrial waste, the form shall identify the type of industry, known or suspected constituents and whether any wastes are RCRA hazardous wastes.

(E) Waste haulers must dispose of hauled wastewater at the designated receiving structure only between the hours of 7:00 a.m. and 4:30 p.m., Monday through Friday, holidays excluded. Waste haulers using trucks having a volume gauge or sight glass will be charged at the applicable rate per 1,000 gallons of wastewater discharged. Trucks lacking such a volumetric measuring device or other means satisfactory to the Superintendent to measure the volume of wastewater discharged will be presumed full and will be charged accordingly.

(F) Any person who discharges hauled wastewater at any other location in the town or at the designated receiving structure at other than the times allowed shall be subject to applicable civil and criminal penalties, including those proscribed at 30-A M.R.S.A. § 4452 and 38 M.R.S.A. § 1319-T.

(G) A suitable odor control chemical approved by the Superintendent shall be introduced to the hauled wastewater prior to its transportation to the designated receiving structure. Sufficient quantities of the chemical shall be used by the waste hauler to adequately control odors emanating from the hauled wastewater.

(H) If, at any time in the opinion of the Superintendent, the discharge of hauled wastewater is placing an excessive burden on the POW's treatment process or is otherwise causing a nuisance, the Superintendent can refuse to accept the wastewater for treatment in the POTW.

(Ord. passed 5-18-1994)

§ 53.009 OPERATION OF PRIVATE PUMP STATIONS AND TREATMENT PLANTS.

(A) The operation of all **privately owned pump stations, lift stations or ejector stations** for the purpose of pumping wastewater shall be subject to the approval of the town, and shall be subject to inspection as outlined in §§ 53.105 and 53.106 of this chapter.

(B) All private pump stations lift stations or ejector stations shall be equipped with at least two pumps, each of which shall have a capacity to pump the total design flow of the facility, and each being provided with automatic switches which will ensure uninterrupted operation in case of overload or failure of the other. In addition, the pump station facility shall have an approved standby gasoline or diesel generator system of sufficient capacity to operate the pumps in case of power failure, and shall also be equipped with an approved alarm system designed to provide warning in case of mechanical failure.

C.)

(C) All private pump stations lift stations and ejector stations and attendant facilities shall be properly maintained by a qualified mechanic or operator, and a proposed schedule and method of maintenance shall be subject to the approval of the town.

(D) No person or firm shall construct or operate a private sewage treatment facility without first obtaining the necessary waste discharge permits from the DEP. If, in the opinion of the town, the operation of any privately owned sewage treatment plant is considered to be unsatisfactory and is creating a nuisance, then the town shall immediately notify the DEP of the problem. Any other duly authorized employee of the town shall have the right to inspect the facilities as provided in §§ 53.105 and 53.106 of this chapter.
(Ord. passed 5-18-1994)

§ 53.010 CONFLICTS.

All other ordinances and parts of other ordinances inconsistent or conflicting with any part of this chapter are hereby repealed to the extent of the inconsistency or conflicts.
(Ord. passed 5-18-1994)

INSTALLATION AND CONNECTION REQUIREMENTS

§ 53.025 USE OF PUBLIC SEWERS REQUIRED.

(A) It shall be unlawful for any person to place, deposit or permit to be deposited in any unsanitary manner on public or private property within the town, or in any area under the jurisdiction of the town, any human or animal excrement, garbage or other objectionable waste.

(B) It shall be unlawful to discharge to any natural outlet within the town, or in any area under the jurisdiction of the town, any wastewaters, except where suitable treatment has been provided in accordance with this chapter.

(C) Except as hereinafter provided, it shall be unlawful to construct or maintain any privy, privy vault, septic tank, cesspool or other facility intended or used for the disposal of domestic sewage.

(D) The owner of all houses, buildings or properties, used for human occupancy, employment, recreation or other purposes, situated within the town and abutting on any street, alley or right-of-way in which there is now located or may in the future be located a public sanitary or combined sewer of the town, is hereby required, at his or her expense, to install suitable toilet facilities therein, and to connect the facilities directly with the proper public sewer in accordance with the provisions of this chapter, within 90 days after date of official notice to do so; provided that, the public sewer is within 100 feet (30.5 meters) of the property line.

(Ord. passed 5-18-1994) Penalty, see § 53.999

§ 53.026 CONNECTION PERMIT REQUIRED.

(A) No person shall uncover, make any connections with or opening into, use, alter or disturb any public sewer or appurtenance thereof without first successfully obtaining a written street opening/utility connection permit from the town. Any person proposing a new discharge into the system shall notify the town at least 60 days prior to the proposed change or connection.

(B) (1) The permit shall specify whether the connection is:

(a) For residential and commercial service; or

(b) For service to establishments producing or handling industrial wastes.

(2) In either case, the owner or his or her agent shall make application on a special form furnished by the town. The permit application shall be supplemented by any plans, specifications or other information considered pertinent in the judgment of the town. The permit will be issued in accordance with the provisions of this chapter and any other applicable ordinances of the town.

(C) (1) Except on an emergency basis to serve existing structures only (e.g., following failure of an existing private septic system, no street opening/utility connection permit shall be issued authorizing connection to any public or private sewer line or sewer extension which, as found by the Town Engineer):

(a) Is inadequate by reason of its design, condition or lack of hydraulic capacity to accommodate the additional volume of flow or types of wastes to be discharged from the premises concerned; or

(b) By reason of its design, condition or hydraulic capacity causes or materially contributes to upsets, surcharges, slug loads or untreated outfalls at any downstream or other location.

(2) All permits issued on an emergency basis under this section shall bear the designation "emergency permit" and shall be subject to annual review by the Local Plumbing Inspector. Any emergency permit shall be deemed terminated upon correction of the condition that led to its issuance.

(D) Except for the purposes of correcting the violation concerned, no new street opening/utility connection permit shall be issued to any person who has been cited by the Local Plumbing Inspector for a violation of §§ 53.040 through 53.050, 53.065, 53.066 and 53.080 through 53.094 of this chapter, if the violation remains uncorrected at the time of the application.

(Ord. passed 5-18-1994; Ord. passed 9-18-1996) Penalty, see § 53.999

Editor's note:

This section became effective on 10-18-1996.

§ 53.027 INSTALLATION AND CONNECTION TO PUBLIC SEWER.

(A) All costs and expenses incident to the installation and connection of the building sewer shall be borne by the owner. The owner shall indemnify the town from any loss or damage that may directly or indirectly be occasioned by the installation of the building sewer.

(B) A separate and independent building sewer shall be provided for every building; except where one building stands at the rear of another on an interior lot and no private sewer is available or can be constructed to the rear building through an adjoining alley, court, yard or driveway, in which case, the building sewer from the front building may be extended to the rear building and the whole considered as one building sewer.

(C) Old building sewers may be used in connection with new buildings only when they are found, on examination and test by the town to meet all requirements of this chapter.

(D) (1) The size, slope, alignment, materials of construction of a building sewer and the methods to be used in excavating, placing of the pipe, jointing, testing and backfilling of the trench shall all conform to the requirements of the Building and Plumbing Code or other applicable rules and regulations of the town or state.

(2) In the absence of code provisions and in amplification thereof, the materials and procedures set forth in appropriate specifications of ASTM and WPCF Manual of Practice No. 9 shall apply.

(E) Whenever possible, the building sewer shall be brought to the building at an elevation below the basement floor. In all buildings in which any building drain is too low to permit gravity flow to the public sewer, wastewater carried by any building drain shall be lifted by a means approved by the town and discharged in the building sewer.

(F) No person shall make connection of roof downspouts, exterior foundation drains, areaway drains or other sources of surface runoff or ground water to a building sewer or building drain which in turn is connected directly or indirectly to a public sanitary sewer.

(G) The applicant for the building sewer permit shall notify the town when the building sewer is ready for inspection and connection to the public sewer. The connection shall be made under the supervision of the Town Engineer or the Superintendent.

(H) All excavations for building sewer installation shall be adequately guarded with barricades and lights so as to protect the public from hazard. Streets, sidewalks, parkways and other work shall be restored in a manner satisfactory to the town.

(Ord. passed 5-18-1994) Penalty, see § 53.999

§ 53.028 SEWER EXTENSIONS.

(A) Any extension of the town sewer system, whether for a public or private sewer, will only be allowed by vote of the Town Council. The Council will authorize the extensions only after receipt of a written report from the Town Engineer outlining the engineering, feasibility and estimated cost of the proposed extension, as well as an assessment of the potential properties benefitting from the action. The Council must also receive prior written comments from the Director of Community and Economic Development as to the compliance of an extension with relevant sections of the town's comprehensive plan before issuing authorization for the extension.

(B) The Council will base its decision on any sewer extension request on the request's consistency with the provisions, and furtherance of the objectives, of the town's comprehensive plan and the specific criteria established in this chapter.

(C) (1) Specifically, the Town Council will authorize sewer extensions in consideration of the following mandatory requirements:

(a) The sewer extension lies within a defined primary service area and if the area is defined on an adopted primary service area map as provided for in the comprehensive plan; or

(b) The sewer extension lies within the urban growth boundary:

1. The proposed sewer extension does not extend more than 500 feet beyond a primary service area boundary;

2. The immediate adjacent primary service area has not been declared service deficient; and

3. It shall have been determined that it is feasible to provide other critical services to the area to be served including water, fire and police protection and adequate traffic capacity on existing or proposed streets.

(2) In either case under divisions (C)(1)(a) or (C)(1)(b) above, an extension will not be installed in or through environmentally sensitive areas such as wetlands or in or through areas of extensive shallow depth to bedrock or other extreme physiographic conditions which would render, in the opinion of the town, the cost of installation and maintenance of a sewer prohibitive.

(3) Nothing in this section will prohibit the Town Council, at its discretion, from extending public sewer service for public health reasons. (Ord. passed 5-18-1994)

GENERAL SEWER USE REQUIREMENTS

§ 53.040 GENERAL PROHIBITIONS.

No discharger or user shall introduce or cause to be introduced into the POTW any pollutant or wastewater which causes pass-through or interference. These general prohibitions apply to all users of the POTW, whether or not they are subject to categorical pre-treatment standards or any other federal, state or local pre-treatment standards or requirements. The provisions of this section shall apply to wastewater originating in the town, as well as wastewater originating in the Town of Hampden, which is introduced to the town's POTW.

(Ord. passed 5-18-1994) Penalty, see § 53.999

§ 53.041 SPECIFIC PROHIBITIONS.

No discharge or user shall introduce or cause to be introduced into the POTW the following pollutants, substances or wastewater:

(A) Pollutants which create a fire or explosive hazard in the POTW, including, but not limited to, wastestreams with a closed-cup flashpoint of less than 150°F (60°C) using the test methods specified in 40 C.F.R. § 261.21;

(B) Wastewater having a pH less than 5.0 or more than 12.0, or otherwise causing corrosive structural damage to the POTW or equipment. Any pH above 12.5 is considered hazardous under 40 C.F.R. § 261.22;

(C) Solid or viscous substances in amounts which will cause obstruction of the flow in the POTW resulting in interference, but in no case shall solids greater than three inches or 7.6 centimeters in any dimension be introduced to the POTW;

(D) Pollutants, including oxygen-demanding pollutants (BOD, COD and the like) released in a discharge at a flow rate and/or pollutant concentration which, either singly or by interaction with other pollutants, will cause interference with the POTW;

(E) Wastewater having a temperature greater than 150°F (65°C), or which will inhibit biological activity in the POTW resulting in interference, but in no case wastewater which causes the temperature of the treatment plant influent of the POTW to exceed 104°F (40°C);

(F) Petroleum oil, non-biodegradable cutting oil or products of mineral oil origin, in amounts that will cause interference or pass-through;

(G) Pollutants which result in the presence of toxic gases, vapors or fumes within the POTW in a quantity that may cause acute worker health and safety problems;

(H) Trucked or hauled pollutants, except at discharge points designated by the Superintendent pursuant to § 53.008 of this chapter;

(I) Noxious or malodorous liquids, gases, solids or other wastewater which, either singly or by interaction with other wastes, are sufficient to create a public nuisance or a hazard to life, or prevent entry into the sewers for maintenance or repair;

(J) Wastewater which imparts color which cannot be removed by the treatment process, such as, but not limited to, dye wastes and vegetable tanning solutions, which consequently imparts color to the treatment plant's effluent, thereby violating the town's NPDES permit;

(K) Storm water, ground water, roof runoff, subsurface drainage or any water from downspouts, yard drains, fountains and ponds, swimming pool drainage, sump pumps, septic tanks, lawn sprays or geothermal type heating or cooling systems unless the drainage from such sources is discharged into drains specifically designated for those purposes by the Superintendent. Industrial cooling water may be discharged only after approval, and to a receptor site designated by the Superintendent. The industrial cooling water discharges shall comply with the requirements of 38 M.R.S.A. § 413;

(L) Sludges, screenings or other residues or byproducts from the pre-treatment of industrial wastes;

(M) Wastewater containing any radioactive wastes or isotopes, except as specifically approved by the Superintendent. The approval shall only be given upon certification by the discharger or user that applicable federal and state regulations concerning the wastewater have been complied with before such a discharge. Radioactive waste includes, but is not limited to, any substance required by the United States Department of Transportation to have Type A or B packaging, pursuant to 49 C.F.R. § 173.426;

(N) Medical wastes, except as specifically authorized by the Superintendent in a wastewater discharge permit;

(O) Wastewater causing, alone or in conjunction with other sources, the treatment plant's effluent to fail a toxicity test;

(P) Fats, oils or grease of animal or vegetable origin or oil and grease and other petroleum or mineral oil products in concentrations greater than 200 mg/l;

(Q) Toxic pollutants or any other toxic substances hereinafter determined by the Superintendent to not be amenable to treatment or reduction by the wastewater treatment processes of the town or which might interfere with the effectiveness of the POTW's sludges;

(R) Any substance or material prohibited under 40 C.F.R. part 403, in particular § 403.5(a) and (b). Also any other substance or material the discharge or which results in a violation by the town of the regulations, now or hereinafter existing, of any public entity, including the EPA, or results in a violation of the town's NPDWS permit;

(S) Any gasoline, benzene, naphtha, fuel oil or other flammable or explosive liquids, solids or gases;

(T) Any garbage except properly shredded garbage; and

(U) Any hazardous waste.

(Ord. passed 5-18-1994; Ord. passed 8-10-1994; Ord. passed 7-9-2009) Penalty, see § 53.999

Editor's note:

Certain divisions of this section became effective on 9-10-1994.

§ 53.042 SUPERINTENDENT'S REQUIREMENTS.

(A) If any wastewater or other wastes are discharged, or proposed to be discharged, to the public sewers, which wastewaters or other wastes contain the substances or possess the characteristics enumerated in the section or cause pass-through or interference and which in the judgment of the Superintendent may have a deleterious effect upon the town's POTW, processes, equipment or receiving waters, or which otherwise create a hazard to life or constitute a public nuisance, the Superintendent may:

- (1) Reject the wastewater or other wastes;
- (2) Require pre-treatment to an acceptable condition for discharge to the POTW;
- (3) Require control over the quantities and rates of discharge;
- (4) Require payment to cover the added cost of handling and treating the wastes; and/or

(5) Take any appropriate enforcement action against an industrial user or user which violates the prohibitions of this section.

(B) If the Superintendent permits the pre-treatment or flow-equalization of waste flows, the design and installation of the plant and equipment for the pre-treatment or flow-equalization shall be subject to the review and approval of the Superintendent, and subject to the requirements of all applicable town, state and federal codes, ordinances and laws. Without limiting the authority of the Superintendent with regard to pre-treatment or flow equalization, the Superintendent is authorized to require pre-treatment or flow equalization in order to meet numerical limits based on the specific characteristics of waste flow or may require the use of best management practices to achieve the compliance with the performance standards of this section. The Superintendent's approval, if granted, shall not be deemed to relieve the discharger of its responsibility to comply with its wastewater discharge permit requirements and shall not constitute an acceptance of the adequacy of the pre-treatment process equipment selected. Where preliminary treatment or flow-equalizing facilities are provided for any wastewater or other wastes, they shall be maintained continuously in satisfactory and effective operation by the owner at the owner's expense.

(C) Whenever the Superintendent has reason to believe that a particular discharger is discharging unmetered flows into the city's POTW or public sewers in the form of sewer runoff, ground water, roof runoff, subsurface drainage or from other sources listed in § 53.041(K) of this chapter or otherwise, and that the volume of the flows, on a percentage basis, exceeds the city-wide average for the flows, the Superintendent may install, or require the discharger to install, an overflow metering device, and may thereafter charge the discharger the city's cost if any of installing the overflow metering device and the city's cost of treating the flows as provided in the city's approved schedule of sewer fees. All charges imposed by the Superintendent under this section shall be collected in the same manner as other sewer fees established under 30-A M.R.S.A. § 5405.

(D) Prior to imposing charges under this section, the Superintendent shall give the discharger written notice of a show cause hearing, as provided in § 53.123 of this chapter. At the show cause hearing, the discharger shall be afforded an opportunity to show that its discharges into the city's POTW of public sewers do not include excessive unmetered flows, or that the flows were caused by an upset or unavoidable malfunction. For this purpose, the term *UNAVOIDABLE MALFUNCTION* shall be excessive unmetered flows caused by an unavoidable malfunction, the Superintendent shall issue an order directing correction of the malfunction within 90 days of the order date. This period may be extended for an additional period of up to 90 days if the malfunction cannot be corrected within the original 90-day period due to winter weather conditions. If the malfunction remains uncorrected upon expiration of the specified period, the Superintendent shall impose the additional charges provided in this section retroactively to the date of the Superintendent's order.

(E) Imposition of additional charges as provided in this section shall not bar or be a prerequisite for other enforcement action under §§ 53.120 through 53.127, 53.140 through 53.142 and 53.999 of this chapter.

(Ord. passed 5-18-1994; Ord. passed 9-18-1996)

Editor's note:

This section became effective on 10-18-1996.

§ 53.043 GREASE, OIL AND SAND INTERCEPTORS.

Grease, oil and sand interceptors shall be provided when, in the opinion of the Superintendent, they are necessary for the proper handling of liquid wastes containing grease in excessive amounts, or other harmful ingredients; except that, the interceptors shall not be required for private residential living quarters or dwelling units. All interceptors shall be of a type and capacity approved by the Superintendent and shall be located so as to be readily and easily accessible for cleaning and inspection. (Ord. passed 5-18-1994)

§ 53.044 COMPLIANCE; PROHIBITED PRACTICES.

No discharger or user shall increase the use of potable or process water, in any way, for the purpose of diluting a discharge as a partial or complete substitute for adequate treatment to achieve compliance with the standards set forth in this chapter. Pollutants, substances or wastewater prohibited by this section shall not be processed or stored in a manner that would allow them to be discharged to the POTW.

(Ord. passed 5-18-1994) Penalty, see § 53.999

§ 53.045 FEDERAL CATEGORICAL PRE-TREATMENT STANDARDS.

(A) The categorical pre-treatment standards found at 40 C.F.R. Ch. I, Subch. N, parts 405 through 471 are incorporated herein by reference.

(B) These standards must be adhered to by dischargers to, or users of, the POTW. (Ord. passed 5-18-1994) Penalty, see § 53.999

§ 53.046 LOCAL LIMITS.

(A) Limits for certain pollutants will be established to protect against pass-through or interference. No person shall discharge wastewater containing in excess of the instantaneous maximum allowable discharge limits as identified on the user's wastewater discharge permit. All discharge local limits shall be technically based and approved by the EPA.

O (B) Local limits may be set for the following pollutants: arsenic, barium, cadmium, chromium, copper cyanide, lead, mercury, nickel, fats, oils or other greases of animal or vegetable origin or oil and grease and other petroleum or mineral oil products, silver, TTO and zinc. This list may be amended or local limits may be developed for any other pollutants deemed appropriate, including pollutants that can cause pass through, interference, worker health and safety problems, fume toxicity and the like. The town will provide advanced written notice of new local limits to users prior to initiating enforcement actions.

(C) The discharge local limits must be met at the point where the user's wastewater is discharged to the POTW. All concentrations for metallic substances are for "total" metal unless otherwise indicated on the wastewater discharge permit. The Superintendent may impose mass limitations in addition to or in place of concentration-based limitations.

(Ord. passed 5-18-1994; Ord. passed 8-10-1994) Penalty, see § 53.999

Editor's note:

This section became effective on 9-10-1994.

§ 53.047 TOWN'S RIGHT OF REVISION.

The town reserves the right to establish, by ordinance or in wastewater discharge permits, more stringent standards or requirements on discharges to the POTW. (Ord. passed 5-18-1994)

§ 53.048 SPECIAL AGREEMENT.

The town reserves the right to enter into special agreements with users setting out special terms under which it may discharge to the POTW. In no case will a special agreement waive compliance with a pre-treatment standard or requirement. However, the user may request a net gross adjustment to a categorical standard in accordance with 40 C.F.R. § 403.15. They may also request a variance from the categorical pre-treatment standard from the approval authority. A request will be approved only if the user can prove the factors relating to its discharge are fundamentally different from the factors considered by the EPA when establishing that categorical pre-treatment standard. A user requesting a fundamentally different factor variance must comply with the procedural and substantive provisions in 40 C.F.R. § 403.13. The town is authorized to set appropriate fees or other charges for the agreements. (Ord. passed 5-18-1994)

§ 53.049 PRE-TREATMENT FACILITIES.

U Users shall provide necessary wastewater treatment as required to comply with this chapter and shall achieve compliance with all categorical pre-treatment standards, local limits and the prohibitions set out in this chapter within the time limitations specified by the EPA, the state or the Superintendent, whichever is more stringent. Any facilities required to pre-treat wastewater to a level acceptable to the

town shall be provided, operated and maintained at the user's expense. Detailed plans showing the pre-treatment facilities and operating procedures shall be submitted to the town for review, and shall be approved by the town before construction of the facility. The review of the plans and operating procedures will, in no way, relieve the user from the responsibility of modifying the facility as necessary to produce an acceptable discharge to the town's POTW under the provisions of this chapter. (Ord. passed 5-18-1994)

§ 53.050 ACCIDENTAL DISCHARGE/SLUG CONTROL PLANS.

(A) The Superintendent may require any user to develop and implement an accidental discharge/slug control plan. At least once every two years, the Superintendent shall evaluate whether each significant industrial user needs a plan.

(B) Any user required to develop and implement an accidental discharge/control slug plan shall submit a plan which addresses, at minimum, the following:

- (1) Description of discharge practice, including non-routine batch discharges;
- (2) Description of stored chemicals;

(3) Procedures for immediately notifying the POTW of any accidental or slug discharge. The notification must also be given for any discharge which would violate any of prohibited discharges in this section of this chapter; and

(4) Procedures to prevent adverse impact from any accidental or slug discharge. The procedures include, but are not limited to, inspection and maintenance of storage areas, handling and transfer of materials, loading and unloading operations, control of plant site runoff, worker training, building of containment structures or equipment, measures for containing toxic organic pollutants (including solvents), and/or measures and equipment for emergency response. (Ord. passed 5-18-1994)

PERMITS

§ 53.065 WASTEWATER DISCHARGE PERMIT APPLICATION.

(A) It shall be unlawful to discharge wastewater to the town's POTW, or to any public or private sewer or drain in the Town of Hampden where the discharged wastewater reaches the town's POTW, without having first complied with the provisions of this chapter.

(B) (1) When requested by the Superintendent, all users must complete a wastewater survey form, on a form supplied by the town, which contains information on the nature and characteristics of their wastewater. This form must be submitted to the Superintendent prior to discharge of the user's wastewater into the town's POTW. The Superintendent is authorized to prepare a form for this purpose and may periodically require users to update the survey. Failure to complete this wastewater survey form shall be reasonable grounds for terminating service to the user and shall be considered a violation of this chapter. Existing industrial dischargers shall file wastewater survey forms within 30 days after being notified by the town, and proposed new dischargers shall file the forms at least 90 days prior to connecting to the POTW.

(2) The information to be supplied to the Superintendent by the user shall include, but not be limited to, the following information:

(a) The name, address and location of the user and the number of employees;

(b) The SIC of the user;

(c) The known or suspected to be present wastewater constituents and characteristics, including, but not limited to, those mentioned in this chapter. Any sampling and analysis that is required by the town shall be performed in accordance with standard methods and/or those contained in 40 C.F.R. part 136. The costs of all sampling, analysis and reporting shall be fully borne by the user;

(d) The time and duration of discharges;

(e) The average daily and instantaneous peak wastewater flow rates, in gallons per day, including daily, monthly and seasonal variations, if any. All flows shall be as actually measured unless other verifiable techniques are approved by the town due to cost or non-feasibility;

(f) The site plans, floor plans, mechanical and plumbing plans and details to show all sewers, sewer connections, inspection manholes, sampling chambers and appurtenances by size, location and elevation adjacent to or at the user's premises;

(g) The activities, facilities and plant process on the premises including all materials which are or may be discharged to the POTW;

(h) The nature and concentration of any known or suspected pollutants or materials prohibited by this chapter from being included in the discharge, together with a statement regarding whether or not compliance is being achieved with this chapter on a consistent basis and, if not, whether additional pre-treatment is required for the user to comply with this chapter;

(i) The identification of each product produced by the user by type, amount, process or processes and rate of production; and

(j) The type and amount of raw materials utilized, average and maximum per day, by the user.

(C) All disclosures forms and any periodic reports submitted by a user and shall be signed by the principal executive officer of the user and shall contain the following certification: "I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."

(D) The town will evaluate the completed wastewater survey forms and material safety data furnished by the user and may require the user to furnish additional information. The user shall provide all requested additional information within 15 days after receiving notification from the town that additional information is required. After full evaluation and acceptance of all submitted data, the Superintendent shall make the determination as to whether the user is subject to EPA pre-treatment requirements. If the Superintendent determines that the user is subject to EPA pre-treatment requirements, the town shall require the user to apply for a wastewater discharge permit as required by § 53.066 of this chapter. The user shall make application for a wastewater discharge permit, on a form provided by the town, within 30 days after having received notification from the town to do so. The user shall provide with the permit application, at the user's own expense, the results of all sampling and analysis of the user's wastewater effluent as the town may require to accompany the permit application. If so required by the town, the user shall collect all required samples in the presence of the Superintendent.

(Ord. passed 5-18-1994) Penalty, see § 53.999

§ 53.066 WASTEWATER DISCHARGE PERMITS.

(A) Every new or existing user of the town's POTW or wastewater plant who is determined to be a categorical user or significant industrial user as defined in § 53.004 of this chapter is required to obtain a wastewater discharge permit form the Superintendent.

(B) The Superintendent may prescribe special license, disclosure and reporting requirements for non-industrial users of high strength conventional waste distinct from the requirements imposed on industrial users under this section. The requirements shall not be more burdensome than the requirements imposed on industrial users by this section.

(C) Wastewater discharge permits shall be subject to all provisions of this chapter and all other regulations, user charges and fees established by the town. The conditions of wastewater discharge permits shall be enforced in accordance with this chapter, and applicable state and federal regulations.

(D) Wastewater discharge permits may impose effluent restrictions or limits on the user if the Superintendent determines that the limits are necessary to protect the quality of the treatment plant influent, effluent or sludge, or to maintain compliance with any applicable federal or state law, including requirements under the town's NFDES permit and national categorical pre-treatment standards for new and existing sources set out in 40 C.F.R. Ch. I, Subch. N, parts 401 through 471.

(E) The Superintendent will evaluate the data furnished by user and may require additional information to complete the user's wastewater discharge permit application. Within 14 days of receipt of a complete wastewater discharge permit application, the Superintendent will determine whether a wastewater discharge permit is required and, if so, whether a wastewater discharge permit should be issued. The Superintendent may deny any application for a wastewater discharge permit. The Superintendent shall notify the user in writing of the decision on the wastewater discharge permit application.

(F) Wastewater discharge permits shall be issued for a specified time period, not to exceed five years. A wastewater discharge permit may be issued for a period of less than five years. Each wastewater discharge permit shall indicate a specific date upon which it will expire.

(G) Wastewater discharge permits are issued to a specific operation. A wastewater discharge permit shall not be reassigned or transferred or sold to a new owner or a new user, different premises or a new or changed operation. To facilitate the issuance of new, separate permits, the Superintendent may allow new owners of individuals to operate under an existing wastewater discharge permit for a period not to exceed 90 days.

(H) Wastewater discharge permits shall include such conditions as are reasonably deemed necessary by the Superintendent to prevent pass-through or interference, protect the quality of the water body receiving the treatment plant's effluent, protect worker health and safety, facilitate sludge management and disposal and protect against damage to the POTW.

(1) Wastewater discharge permits shall contain the following conditions:

(a) A statement that indicates the wastewater discharge permit duration;

(b) A statement that indicates the wastewater discharge permit is non-transferable pursuant to division (G) above, and a provision requiring any new owner or operator to be furnished with a copy of the existing wastewater discharge permit by the prior user;

(c) Pre-treatment standards and effluent limits based on the general and specific prohibited discharge standards, local limits and all applicable law;

(d) Self-monitoring, sampling, reporting, notification and record-keeping requirements. These requirements shall include a sampling frequency and sample type based on federal, state and local law;

(e) A statement of applicable penalties for violation of pre-treatment standards and requirements, and any required compliance schedule. The schedule may not extend the time for compliance beyond that required by federal, state and local law; and

(f) Other specific conditions the Superintendent deems necessary to ensure compliance with this chapter, and federal and state regulations and statutes.

(2) Wastewater discharge permits may contain, but need not be limited to, the following conditions:

(a) Limits on the average and/or maximum rate of discharge, time of discharge and/or requirements for flow regulation and flow-equalization;

(b) Limits on the instantaneous, daily and monthly average, and/or maximum concentration, mass or other measure of identified wastewater pollutants or properties;

(c) Requirements for the installation of pre-treatment technology, pollution control or construction of appropriate containment devices, any of which would be designed to reduce, eliminate or prevent the introduction of pollutants into the POTW;

(d) Requirements for the development and implementation of spill control plans or other special conditions including management practices necessary to adequately prevent accidental, unanticipated or routine discharge;

(e) Development and implementation of waste minimization plans to reduce the amount of pollutants discharged to the POTW by the user;

(f) The unit charge or schedule of user charges and fees for the management of the user's wastewater discharged to the POTW;

(g) Requirements for the installation and maintenance of inspection and sampling facilities and equipment;

(h) A statement that compliance with the wastewater discharge permit does not relieve the permittee of responsibility for compliance with all applicable federal and state pre-treatment standards, including those which become effective during the term of the wastewater discharge permit;

(i) Identification by the user of the location of the user's outfall to the POTW; and

0) Other specific conditions the Superintendent deems necessary to ensure compliance with this chapter and federal and state regulations and statutes.

(I) Any aggrieved person, including the user, may file a petition with the town in writing to reconsider the terms of a wastewater discharge permit or the denial of a wastewater discharge permit application within 15 days of the permit's issuance or notification of the Superintendent's denial.

(1) Failure to submit a timely petition for review shall be deemed to be a waiver of any administrative appeal.

(2) In its petition, the petitioner must indicate the wastewater discharge permit provisions objected to, the reasons for this objection, and the alternative condition, if any, it seeks to place in the wastewater discharge permit. A petitioner seeking review of a permit denial must specifically allege reasons why a permit should be issued, along with conditions of issuance that petitioner believes should satisfy and concerns the town may have about the suitability of the users' wastewater for discharge to the town's POTW.

(3) The requirements or conditions of any wastewater discharge permit shall not be stayed by the town pending the outcome of the administrative appeal.

(4) Upon receipt of the petition, the Superintendent may act to grant the petitioner's request. The action must take place within 14 days of receipt of the petition. If the Superintendent refuses to grant the petitioner's request, however, the Superintendent shall notify, in writing, the Committee of the Town Council having oversight responsibility for the operation of the town's POTW. The Committee shall schedule an administrative hearing, which shall be recorded, within 30 days of notification by the Superintendent or as soon thereafter as may be arranged. The Committee shall conduct the hearing so as to develop an adequate administrative record and the Committee may choose to limit the asking of questions to the members of the Committee only. The petitioner will bear the burden of proof at the hearing and will present its case first. The Committee shall issue its decision in writing within 45 days of the hearing. The Committee's decision must be guided by the provisions of this chapter. Failure by the Committee to issue a decision within that time period shall constitute a denial of the administrative appeal; however, the record of the administrative hearing, including any exhibits, shall be made a part of any further judicial reviews. Committee decisions not to reconsider a wastewater discharge permit, not to issue a wastewater discharge permit, not to modify a wastewater discharge permit or to issue a modified wastewater discharge permit shall be considered final administrative actions for purposes of judicial review.

(5) Parties seeking judicial review of the final administrative action must do so by filing a complaint with the County Superior Court pursuant to M.R.Civ.P. 80B.

(1) The Superintendent may modify at any time the wastewater discharge permit for good cause including, but not limited to, the following;

(1) To incorporate any new or revised federal, state or local pre-treatment standards or requirements;

- (2) To address significant alterations or additions to the user's operation, processes or wastewater volume or character since the issuance of the wastewater discharge permit;**
- (3) A change in the POTW that requires either a temporary or permanent reduction or elimination of the authorized discharge;**
- (4) Information is received by the town indicating that the permitted discharge poses a threat to the town's POTW, town personnel or the receiving waters;**
- (5) Violation of any terms or conditions of the wastewater discharge permit;**
- (6) Misrepresentations or failure to fully disclose all relevant facts in the wastewater survey forms, wastewater discharge permit application or in any other required reporting;**
- (7) Revision of, or a grant of a variance from, categorical pre-treatment standards pursuant to 40 C.F.R. § 403.13; and**
- (8) To correct typographical or other errors or omissions in the wastewater discharge permit. Challenges to any modifications can be made pursuant to the provisions of division (I) above.**

(K) Any user who violates any condition of its permit, or of this chapter, or of applicable state and federal statute and regulations, may have its permit revoked by the Superintendent. Violations subjecting a user to possible revocation of its permit include, but not limited to, the following:

- (1) Failure of a user to accurately report the wastewater constituents and characteristics of its discharge;**
- (2) Failure of a user to report significant changes in operations or its wastewater constituents and characteristics;**
- (3) Refusal of reasonable access by the Superintendent to the user's premises during regular business hours for the purpose of inspection or monitoring;**
- (4) Violations of the conditions of the permit;**
- (5) Failure to provide advance notice of the transfer of the ownership of a permitted user;**
- (6) Misrepresentation or failure to fully disclose all relevant facts in the wastewater discharge permit application, any required wastewater surveys or other required reporting;**
- (7) Falsifying monitoring reports or tampering with monitoring equipment;**
- (8) Failure to pay surcharges, user fees, permit fees, fines or other required payments; or**

(9) Failure to meet the requirements of a compliance schedule.

(L) Compliance schedules.

(1) Where additional pre-treatment and/or O&M activities will be required to comply with this chapter, the user shall provide a declaration of the shortest schedule by which the user will provide additional pre-treatment and/or implementation of additional O&M activities.

(2) The schedule shall contain milestone dates for the commencement and completion of major events leading to the construction and operation of additional pre-treatment required for the user to comply with the requirements of this chapter, including, but not limited to, dates relating to hiring an engineer, completing preliminary plans, completing final plans, executing contracts for major components, commencing construction, completing construction and all other acts necessary to achieve compliance with this chapter.

(3) Under no circumstances shall the town permit a time increment for any single step directed toward compliance which exceeds nine months.

(4) No later than 14 days following each milestone date in the schedule and the final date for compliance, the user shall submit a progress report to the town including, a minimum, a statement as to whether or not it complied with the increment of progress represented by that milestone date and, if not, the date on which it expects to comply with this increment of progress, the reason for delay and the steps being taken by the user to return the construction to the approved schedule. In no event shall more than nine months elapse between the progress reports to the town.

(Ord. passed 5-18-1994)

REPORTING REQUIREMENTS

§ 53.080 BASELINE MONITORING REPORTS.

(A) Within either 180 days after the effective date of a categorical pre-treatment standard, or the final administrative decision on a category determination under 40 C.F.R. § 403.6(a)(4), whichever is later, existing categorical users currently discharging to or scheduled to discharge to the POTW shall be required to submit to the town a report which contains the information listed in division (B) below. At least 90 days prior to commencement of their discharge, new sources and sources that become categorical users subsequent to the promulgation of an applicable categorical standard shall be required to submit to the town a report which contains the information listed in division (B) below. A new source shall also give estimates of its anticipated flow and quantity of pollutants discharged.

(B) Users described in division (A) above shall submit the information set forth below:

- (1) The name and address of the facility, including the name of the operator and owner;
- (2) A list of any environmental control permits held by or for the facility;
- (3) A brief description of the nature, average rate of production, and SIC of the operation(s) carried out by the user. This description should include a schematic process diagram which indicates points of discharge to the POTW from the regulated processes;
- (4) Information showing the measured average and maximum daily flow, in gallons per day, to the POTW from regulated process streams and other streams, as necessary, to allow use of the combined wastestream formula set out in 40 C.F.R. § 403.6(e);
- (5) (a) The categorical pre-treatment standards applicable to each regulated process; and
 (b) The results of sampling and analysis identifying the nature and concentration, and/or mass where required by the standard or by the town, of regulated pollutants in the discharge from each regulated process. Instantaneous, daily maximum and long-term average concentrations or mass, where required, shall be reported. The sample shall be representative of daily operations and shall be sampled and analyzed in accordance with the provisions of §§ 53.088 and 53.089 of this chapter.
- (6) A statement, reviewed by the user's authorized representative and certified by a qualified professional, indicating whether pre-treatment standards are being met on a consistent basis and, if not, whether additional O&M and/or pre-treatment is required to meet the pre-treatment standards and requirements;
- (7) If additional pre-treatment and/or O&M will be required to meet the pre-treatment standards, the shortest schedule by which the user will provide the additional pre-treatment and/or O&M. The completion date in this schedule shall not be later than the compliance date established for the applicable pre-treatment standard. A compliance schedule pursuant to this section must meet the requirements set out in § 53.066(L) of this chapter; and
- (8) All baseline monitoring reports must be signed and certified in accordance with § 53.065(C) of this chapter. (Ord. passed 5-18-1994)

§ 53.081 COMPLIANCE SCHEDULE PROGRESS REPORT.

The requirements imposed by § 53.066(L) of this chapter shall apply to the compliance schedule required by § 53.080(B)(7) of this chapter.
 (Ord. passed 5-18-1994)

§ 53.082 REPORT ON COMPLIANCE WITH CATEGORICAL PRE-TREATMENT STANDARD DEADLINE.

Within 90 days following the date for final compliance with applicable categorical pre-treatment standards, or in the case of a new source following commencement of the introduction of wastewater into the POTW, any user subject to the pre-treatment standards and requirements shall submit to the town a report containing the information described in § 53.080(B)(4) through (6) of this chapter. For users subject to equivalent mass or concentration limits established in accordance with the procedures in 40 C.F.R. § 403.6(c), this report shall contain a reasonable measure of the user's long-term production rate. For all other users subject to categorical pre-treatment standards expressed in terms of allowable pollutant discharge per unit of production or other measure of operation, this report shall include the user's actual production during the appropriate sampling period. All compliance reports must be signed and certified in accordance with § 53.065(C) of this chapter.

(Ord. passed 5-18-1994)

§ 53.083 PERIODIC COMPLIANCE REPORT.

(A) All significant industrial user(s) shall, at a frequency determined by the Superintendent, but in no case less than twice per year in June and December, submit a report indicating the nature and concentration of pollutants in the discharge which are limited by pre-treatment standards and the measured or estimated average and maximum daily flows for the reporting period. All periodic compliance reports must be signed and certified in accordance with § 53.065(C) of this chapter.

(B) All wastewater samples must be representative of the user's discharge. Wastewater monitoring and flow measurement facilities shall be properly operated, kept clean and maintained in good working order at all times. The failure of a user to keep its monitoring facility in good working order shall not be grounds for the user to claim that sample results are unrepresentative of its discharge.

(C) If a user subject to the reporting requirement in this section monitors any pollutant more frequently than required by the POTW, using the analytical requirements and sampling procedures prescribed in §§ 53.088 and 53.089 of this chapter, the results of this monitoring shall be included in the report.

(Ord. passed 5-18-1994)

§ 53.084 REPORT OF CHANGED CONDITIONS.

(A) Each user must notify the Superintendent of any planned significant changes to the user's operations or process systems which might alter the nature, quality or volume of its wastewater at least 60 days before the change.

(B) The Superintendent may require the user to submit the information as may be deemed necessary to evaluate the changed condition, including the submission of a wastewater discharge permit application under § 53.065 of this chapter.

(C) The Superintendent may issue a wastewater discharge permit under § 53.066 of this chapter or modify an existing wastewater discharge permit under § 53.066(J) of this chapter in response to changed conditions or anticipated changed conditions.

(D) No user shall implement the planned changed condition(s) until and unless the Superintendent has responded in writing to the user's notice.

(E) For purposes of this section, significant changes include, but are not limited to, flow increases of 10% or greater, and the discharge of any previously unreported pollutants. (Ord. passed 5-18-1994) Penalty, see § 53.999

§ 53.085 REPORTS OF POTENTIAL PROBLEMS.

(A) In the case of any discharge, including, but not limited to, hazardous waste discharges, accidental discharges, discharges of a non-routine or episodic nature, a non-customary batch discharge or a slug load, that may cause potential problems for the POTW, the user shall immediately telephone and notify the Superintendent of the incident. This notification shall include the location of the discharge, type of waste, concentration and volume, if known, and corrective actions taken by the user.

(B) Within five days following a discharge, the user shall submit a detailed written report describing the cause(s) of the discharge and the measures to be taken by the user to prevent similar future occurrences. The notification shall not relieve the user of any expense, loss, damage or other liability which may be incurred as a result of damage to the POTW, natural resources or other damage to person or property; not shall the notification relieve the user of any fines, penalties or other liability which may be imposed pursuant to this chapter.

(C) A notice shall be permanently posted on the user's bulletin board or other prominent place advising employees who to call in the event of a discharge described in division (A) above. Employers shall ensure that all employees, who may cause a discharge to occur, are advised of the emergency notification procedure.
(Ord. passed 5-18-1994)

§ 53.086 NOTIFICATION OF THE DISCHARGE OF HAZARDOUS WASTE.

In addition to all other requirements of this chapter, any user who discharges hazardous waste into the POTW shall notify the POTW, the EPA Regional Waste Management Division Director and state hazardous waste authorities, in writing, within five days of the discharge, of any discharge. The notification must include the name of the hazardous waste as set forth in 40 C.F.R. part 261, the EPA

hazardous waste number, the type of discharge (continuous, batch or other) and the user's plan to avoid future discharges of the same or other hazardous waste. The loss, damage or other liability which may be incurred as a result of damage to the POTW, natural resources or other damage to person or property; nor shall the notification relieve the user of any fines, penalties or other liability which may be imposed pursuant to this chapter.

(Ord. passed 5-18-1994)

§ 53.087 NOTICE OF VIOLATION/REPEAT SAMPLING AND REPORTING.

If sampling performed by a user indicates a violation, the user must notify the Superintendent within 24 hours of becoming aware of the violation. The user shall also repeat the sampling and analysis and submit the results of the repeat analysis to the Superintendent within 30 days after becoming aware of the violation. The user is not required to resample if the POTW monitors at the user's facility at least once a month, or if the POTW samples between the user's initial sampling and when the user receives the results of this sampling.

(Ord. passed 5-18-1994)

§ 53.088 ANALYTICAL REQUIREMENTS.

All pollutant analyses, including sampling techniques, to be submitted as part of a wastewater discharge permit application or a report required by this chapter shall be performed in accordance with the techniques prescribed in 40 C.F.R. part 136, unless otherwise specified in an applicable categorical pre-treatment standard. If 40 C.F.R. part 136 does not contain sampling or analytical techniques for the pollutant in question, sampling and analyses must be performed in accordance with appropriate procedures approved by the EPA.

(Ord. passed 5-18-1994)

§ 53.089 SAMPLE COLLECTION.

Except as indicated herein, the user must collect wastewater samples using flow proportional composite collection techniques. In the event flow proportional sampling is infeasible, the Superintendent may authorize the use of time proportional sampling or a minimum of four grab samples where the user demonstrates that this will provide a representative sample of the effluent being discharged. In addition, grab samples may be required to show compliance with instantaneous discharge limits.

(Ord. passed 5-18-1994)

§ 53.090 DETERMINATION OF NON-COMPLIANCE.

The Superintendent will use appropriate sampling to determine non-compliance with pre-treatment standards, including the use of standard methods.

(Ord. passed 5-18-1994)

§ 53.091 TIMING.

(A) Written reports will be deemed to have been submitted on the date postmarked.

(B) For reports which are not mailed, postage prepaid, into a mail facility serviced by the United States Postal Service, the date of receipt of the report shall control. (Ord. passed 5-18-1994)

§ 53.092 RECORD KEEPING.

(A) Users subject to the reporting requirements of this chapter shall retain and make available for inspection and copying all records or information obtained pursuant to any monitoring activities required by this chapter and any additional records or information obtained pursuant to monitoring activities undertaken by the user independent of the requirements.

(B) Records shall include, but not be limited to, the date, exact place, method and time of sampling and the name of the person(s) taking the samples; the dates analyses were performed; who performed the analyses; the analytical techniques or methods used; and the results of the analyses.

(C) These records shall be retained by the user for a period of at least three years.

(D) This period shall be automatically extended for the duration of any litigation concerning the user or the POTW, or where the user has been specifically notified of a longer retention period by the Superintendent.

(Ord. passed 5-18-1994)

§ 53.093 STATE REQUIREMENTS.

State requirements and limitations on discharges to the POTW shall be met by all users which are subject to the requirements and limitations; provided, however, that, the requirements and limitations are more stringent than the provisions of this chapter or federal law requirements or limitations. (Ord. passed 5-18-1994)

53.094 REPORTS FROM UNPERMITTED USERS.

All users not required to obtain a wastewater discharge permit shall provide appropriate reports to the city upon the request of the Superintendent.
(Ord. passed 5-18-1994)

COMPLIANCE MONITORING

§ 53.105 INSPECTION AND SAMPLING.

(A) The town shall have the right to enter the facilities of any user to ascertain whether the purpose of this chapter, and any permit or order issued hereunder, is being met and whether the user is complying with all requirements thereof. All users shall allow the Superintendent ready access to all parts of the premises for the purpose of inspection, sampling, records examination and copying, and the performance of any additional duties as the Superintendent deems necessary.

(B) Each user shall provide and operate at its own expense, a monitoring facility to allow inspection, sampling and flow measurement of the user's wastewater discharge to the POTW.

(C) When a user has security measures in force which require proper identification and clearance before entry into its premises, the user shall make necessary arrangements with its security guards so that upon presentation of suitable identification, the Superintendent will be permitted to enter without delay for the purposes of performing compliance monitoring.

(D) The Superintendent shall have the right to set up on the user's property, or require installation of, such devices as are necessary to conduct sampling and/or metering of the user's operations. The user shall bear the costs of the setup or installation.

(E) The Superintendent shall require the user to install monitoring equipment as the Superintendent deems necessary. The user's sampling and monitoring equipment shall be maintained at all times in a safe and proper operating condition by the user at its own expense. All devices used to measure wastewater flow and quality shall be calibrated quarterly (four times) to ensure their accuracy.

(F) Any temporary or permanent obstruction to the safe and easy access to the facility to be inspected and/or sampled shall be promptly removed by the user at the written or verbal request of the Superintendent and the obstruction shall not be replaced. The costs of clearing the access shall be born by the user.

(G) Unreasonable delays in allowing the Superintendent access to the user's premises shall be a violation of this chapter.

(H) In the event that user is in or has previously been in non-compliance with this chapter or with the user's wastewater discharge permit, the user shall be required to pay the full cost of all additional sampling and analysis that the town may conduct to determine the user's compliance with this chapter.

(I) All monitory facilities shall be constructed and maintained in accordance with Ch. 154 of this code of ordinances and all applicable construction codes, standards or specification. Construction, if required, shall be completed within 120 days of receipt of the wastewater discharge permit by the user. (Ord. passed 5-18-1994)

§ 53.106 ADMINISTRATIVE INSPECTION WARRANTS.

If the Superintendent has been refused access to any building, structure or property, or any part thereof, for the purpose of inspecting, sampling or otherwise monitory compliance with this chapter, the Superintendent shall seek to secure an administrative inspection warrant pursuant to M.R. Civ.P. 80E. The warrant, if issued by the District Court, shall be executed pursuant to M.R. Civ.P. 80E and the Superintendent shall be accompanied by a uniformed town police officer during the execution. (Ord. passed 5-18-1994)

ADMINISTRATION AND ENFORCEMENT

§ 53.120 ADMINISTRATIVE ENFORCEMENT REMEDIES.

At the time of enactment of this chapter, the town will have developed an enforcement response plan (**ERP**) which outlines the town's general procedure for the enforcement of this chapter. The ERP shall be initially adopted by the Town Council order and be subsequently amended by order. The town will follow the ERP to the greatest extent possible when contemplating compliance with an enforcement of this chapter; however, nothing in the ERP or this chapter will preclude or otherwise limit the town from taking any action, including emergency actions or other enforcement actions, prior to undertaking any initial enforcement procedure in the ERP including issuance of notice of violation (NOV). (Ord. passed 5-18-1994)

§ 53.121 NOTICE OF VIOLATION.

When the Superintendent finds that a user has violated or continues to violate any provision of this chapter, a wastewater discharge permit or order issued hereunder, of any other pre-treatment standard or requirement, the Superintendent may serve upon that user a written NOV. Within 30 days of the receipt of this notice, an explanation of the violation and a plan for the satisfactory correction and prevention thereof, which must include specific required actions, shall be submitted by the user to the

Superintendent. Submission of this plan in no way relieves the user of liability for any violations occurring before or after receipt of the NOV.

(Ord. passed 5-18-1994)

§ 53.122 CONSENT ORDERS.

The Superintendent may enter into consent orders, assurances of voluntary compliance or other documents establishing an agreement with any user responsible for non-compliance. The documents will include specific action to be taken by the user to correct the non-compliance within a time period specified by the document. The documents shall have the same force and effect as the administrative orders issued pursuant to §§ 53.124 and 53.125 of this chapter and shall include language which makes them judicially enforceable. The orders may require the payment of administrative fines pursuant to § 53.126 of this chapter.

(Ord. passed 5-18-1994)

§ 53.123 SHOW CAUSE HEARING.

The Superintendent may order a user which has violated or continues to violate any provision of this chapter, a wastewater discharge permit or order issued hereunder, or any other pre-treatment standard or requirement, to appear before the Superintendent and show cause why the proposed enforcement should not be taken. Notice shall be served on the user specifying the time and place for the meeting, the proposed enforcement action, the reasons for the action, and a request that the user show cause why the proposed enforcement action should not be taken. The notice of the meeting shall be served personally by the Superintendent or by registered or certified mail, return receipt requested, at least 14 days prior to the hearing. The notice may be served on any authorized representative of the user. A show cause hearing shall not be a bar against, or prerequisite for, taking any other action against the user. Failure to appear for a show cause hearing may be grounds for revocation of the user's wastewater discharge permit and disconnection from or termination of discharge to the POTW.

(Ord. passed 5-18-1994)

§ 53.124 COMPLIANCE ORDERS.

When the Superintendent finds that a user has violated or continues to violate a provision of this chapter, a wastewater discharge permit or order issued hereunder, or any other pre-treatment standard or requirement, the Superintendent may issue an order to the user responsible for the discharge directing that the user comes into compliance within 30 days. If the user does not come into compliance within 30 days, sewer service shall be discontinued unless adequate treatment facilities, devices or other related appurtenances are installed and properly operated. Compliance orders may also contain other requirements to address the non-compliance, including additional self-monitoring and management practices designed to minimize the amount of pollutants discharged to the POTW. A compliance order may not extend the deadline for compliance established for a federal pre-treatment standard or

requirement, nor does a compliance order relieve the user of liability for a violation, including any continuing violation. Issuance of a compliance order shall not be a bar against, or a prerequisite for, taking any other action against the user.

(Ord. passed 5-18-1994)

§ 53.125 CEASE AND DESIST ORDERS.

(A) When the Superintendent determines that a user violated or continues to violate any provision of this chapter, a wastewater discharge permit or order issued hereunder, or any other pre-treatment standard or requirement, or that the user's past violations are likely to recur, the Superintendent may issue an order to the user directing the user directing it to cease and desist any violations and directing the user to:

(1) Immediately comply with all requirements; and

(2) Take such appropriate remedial or preventative action as may be needed to properly address a continuing or threatened violation, including halting operations and/or terminating the discharge to the POTW.

(B) Issuance of a cease and desist order shall not be a bar against, or a prerequisite for, taking any other action against the user.

(Ord. passed 5-18-1994)

§ 53.126 EMERGENCY SUSPENSIONS.

(A) The Superintendent may immediately suspend a user's discharge either with or without written or verbal notice to the user whenever the suspension is necessary to stop an actual or threatened discharge which reasonably appears to present or cause an imminent or substantial endangerment to the health or welfare of the public. The Superintendent may also immediately suspend a user's discharge, with or without written or verbal notice, that threatens to interfere with the operation of the POTW, or which presents or may present an endangerment to the environment.

(B) Any user notified of a suspension of its discharge shall immediately stop or eliminate its discharge to the POTW. In the event of a user's failure to immediately comply voluntarily with the suspension order, the Superintendent shall take the steps as deemed necessary, including immediate severance of the connection to the POTW, to prevent or minimize damage to the POTW, its receiving waters or endangerment to any persons. The Superintendent shall allow the user to recommence its discharge when the user has demonstrated to the satisfaction of the town that the period of endangerment has passed, unless the termination proceedings in § 53.127 of this chapter are initiated against the user.

(C) A user that is responsible, in whole or in part, for any discharge presenting imminent endangerment shall submit a detailed written statement to the Superintendent describing the causes of the harmful contribution and the measures taken to prevent any future occurrence. The report must be submitted at least seven days prior to the date of any show cause or termination hearing held pursuant to §§ 53.123 and 53.127 of this chapter.

(D) Nothing in this section shall be interpreted as requiring a hearing prior to any emergency suspension under this section. (Ord. passed 5-18-1994)

§ 53.127 TERMINATION OF DISCHARGE.

(A) In addition to the provisions in § 53.066(K) of this chapter, any user that violates the following conditions is subject to termination of the user's discharge to the POTW:

- (1) Violation of wastewater discharge permit conditions;
- (2) Failure to accurately report the wastewater constituents and characteristics of the user's discharge;
- (3) Failure to report significant changes in operations or wastewater volume, constituents and characteristics prior to discharge;
- (4) Refusal of reasonable access to the user's premises for that purpose of inspection, monitoring or sampling; or
- (5) Violation of the pre-treatment standards in §§ 53.040 through 53.050 of this chapter.

(B) The user will be notified of the proposed termination of its discharge and be offered an opportunity to show cause pursuant to § 53.123 of this chapter why the proposed action should not be taken. Additionally, the user may request an administrative hearing in writing within 30 days of the decision of the show cause hearing. The hearing shall be conducted in accordance with the procedures delineated in § 53.999(A) of this chapter. Exercise of this option by the town shall not be a bar to, or a prerequisite for, taking any other action against the user.

(Ord. passed 5-18-1994)

*SUPPLEMENTAL ENFORCEMENT ACTION***§ 53.140 PERFORMANCE BONDS.**

The Superintendent may decline to issue or reissue a wastewater discharge permit to any user which has failed to comply with any provision of this chapter, a previous wastewater discharge permit or order issued hereunder, or any other pre-treatment standard or requirement, unless the user first files a satisfactory bond with the town, payable to the town, in a sum not to exceed a value determined by the Superintendent to be necessary to achieve consistent compliance with this chapter.
(Ord. passed 5-18-1994)

§ 53.141 LIABILITY INSURANCE.

The Superintendent may decline to issue or reissue a wastewater discharge permit to any user which has failed to comply with any provision of this chapter, a previous wastewater discharge permit or order issued hereunder, or any other pre-treatment standard or requirement, unless the user first submits proof that it has obtained financial assurances sufficient to restore or repair damage to the POTW caused by its discharge, which shall include naming the town as an additional insured.
(Ord. passed 5-18-1994)

§ 53.142 WATER SUPPLY SEVERANCE.

Whenever a user violates or continues to violate any provision of this chapter, a wastewater discharge permit or order issued hereunder, or any other pre-treatment standard or requirement, the town will work with the Bangor Water District to sever water service to the user under District regulations, if applicable. Service will only recommence at the user's expense, after the user has satisfactorily demonstrated its ability to comply with this chapter.
(Ord. passed 5-18-1994)

*AFFIRMATIVE DEFENSES TO DISCHARGE VIOLATIONS***§ 53.155 UPSET.**

(A) An upset shall constitute an affirmative defense to an action brought for non-compliance with categorical preordainment standards if the requirements of division **(B)** below are met.

(B) A user who wishes to establish the affirmative defense of upset shall demonstrate, through properly signed, contemporaneous operating logs or other relevant evidence that:

(1) An upset occurred and the user can identify the cause(s) of the upset;

(2) The facility was at the time being operated in a prudent and workman-like manner and in compliance with applicable O&M procedures; and

(3) The user has submitted the following information to the Superintendent within 24 hours of becoming aware of the upset. If this information is provided orally, a written submission must be provided within five days:

(a) A description of the indirect discharge and cause of non-compliance;

(b) The period of non-compliance, including exact dates and times or, if not corrected, the anticipated time period the non-compliance is expected to continue; and

(c) Steps being taken and/or planned to reduce, eliminate and prevent reoccurrence of the non-compliance.

(C) In any enforcement proceeding, the user seeking to establish the occurrence of an upset shall have the burden of proof.

(D) Users will have the opportunity for a judicial determination on any claim of upset only in an enforcement action brought for non-compliance with categorical pre-treatment standards.

(E) Users shall control production of all discharges to the extent necessary to maintain compliance with categorical pre-treatment standards upon reduction, loss or failure of its treatment facility until the facility is restored or an alternative method of treatment is provided. This requirement applies in the situation where, among other things, the primary source of power of the treatment facility is reduced, lost or fails.

(Ord. passed 5-18-1994)

§ 53.156 PROHIBITED DISCHARGE STANDARDS.

A user shall have an affirmative defense to an enforcement action brought against it for non-compliance with the general prohibitions in § 53.040 of this chapter or the specific prohibitions in § 53.041(C) through (R) and (T) of this chapter if it can prove that it did not know, or have reason to know, that its discharge, alone or in conjunction with discharges from other sources, would cause pass-through or interference and that either:

\.....) (A) A local limit exists for each pollutant discharged and the user was in compliance with each limit directly prior to, and during, the pass-through or interference; or

(B) **No local limit** exists, but the discharge did not change substantially in nature or constituents from the user's prior discharge when the town was regularly in compliance with its NPDES permit and, in the case of interference, was in compliance with applicable sludge use or disposal requirements. (Ord. passed 5-18-1994)

§ 53.157 **BYPASS.**

(A) For the purpose of this section, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

BYPASS. The intentional diversion of wastestreams from any portion of a user's treatment facility.

SEVERE PROPERTY DAMAGE. Any substantial physical damage to property, damage to the treatment facilities which causes them to become inoperable, or substantial and permanent loss of natural resources which can reasonably be expected to occur in the absence of a bypass. **SEVERE PROPERTY DAMAGE** does not mean economic loss caused by delays in production.

(B) A user may allow any bypass to occur which does not cause pre-treatment standards or requirements to be violated, but only if it also is for essential maintenance to assure efficient operation. These bypasses are not subject to the provision of divisions (C) and (D) below.

(C) (1) If a user knows in advance of the need for a bypass, it shall submit prior notice to the Superintendent at least ten days before the date of the bypass, if possible.

(2) A user shall submit oral notice to the Superintendent of an unanticipated bypass that exceeds applicable pre-treatment standards within 24 hours from the time it becomes aware of the bypass. A written submission shall also be provided within five days of the time the user becomes aware of the bypass. The written submission shall contain a description of the bypass and its cause; the duration of the bypass, including exact dates and times, and if the bypass has not been corrected, the anticipated time it is expected to continue; and steps taken or planned to reduce, eliminate and prevent reoccurrence of the bypass. The Superintendent may waive the written report on a case-by-case basis if the oral report has been received within 24 hours.

(D) (1) Bypass is prohibited, and the Superintendent may take an enforcement action against a user for a bypass, unless:

(a) Bypass was unavoidable to prevent loss of life, personal injury or severe property damage;

(b) There were no feasible alternatives to the bypass, such as the use of auxiliary treatment facilities, retention of untreated wastes or maintenance during normal periods of equipment should have been installed in the exercise of reasonable engineering judgment to prevent a bypass which occurred, during normal periods of equipment downtime or preventive maintenance; and

(c) The user submitted notices as required under division (C) above.

(2) The Superintendent may approve an anticipated bypass, after considering the adverse effects, if the Superintendent determines that it will meet the three conditions listed in division (D)(1) above.

(Ord. passed 5-18-1994)

WASTEWATER TREATMENT RATES

§ 53.170 ESTABLISHMENT.

All persons within the town who are, or will be, connected into the town's POTW shall be subject to a sewer use charge. A schedule of charges shall be established from time to time by Town Council order. The sewer use charges are to be based on water meter readings of the user, type of wastewater discharged to the POTW based on the use of the user's premises and/or other parameters determined by the town to be necessary to cover the cost of construction and O&M of the town's POTW. There shall be no discounts or abatements given for sewer use charges unless the discounts or abatements are provided in accordance with the provisions outlined in § 53.179 of this chapter. So long as users in the town are billed by the city, town users may be billed in a manner that is the same or different from, the city's users.

(Ord. passed 5-18-1994; Ord. passed 9-18-1996)

Editor's note:

This section became effective on 10-18-1996.

§ 53.171 SCHEDULE SUBJECT TO APPROVAL.

The schedule of sewer user charges shall be subject to the approval of the DEP and the EPA. The schedule of charges may be changed from time to time to conform to new state and/or federal criteria and to conform to the current costs of construction and O&M associated with the town's POTW. The current schedule of user charges, the method of measurement and collection, and all other regulations pertaining thereto shall be available for public inspection in the office of the Town Clerk and the Superintendent.

(Ord. passed 5-18-1994)

§ 53.172 PRE-TREATMENT CHARGES AND FEES.

The town may adopt reasonable fees for reimbursement of the costs of setting up and operating the town's pre-treatment program including, but not limited to, the following:

(A) Wastewater discharge permit fee, which includes administrative processing of applications, reviewing monitoring reports submitted by the discharger and cost of inspection and collection of discharges: \$250 per year;

(B) Cost of analyzing the discharge of a wastewater discharge permit applicant or holder: the discharger will pay the actual lab costs for analyzing the particular sample whether billed directly by the lab or by the town;

(C) Administrative appeal filing fee: \$100;

(D) Surcharges fee for excessive loading parameter:

(1) BOD: \$0.71 per pound;

(2) TSS: \$0.52 per pound; and

(3) Fats, oil or greases of whatever origin: \$0.19 per pound.

(E) Surcharge fee for cost of treating excess flows of wastewater: \$778 per million gallons. (Ord. passed 5-18-1994; Ord. passed 8-10-1994)

Editor's note:

This section became effective on 9-10-1994.

§ 53.173 SURCHARGE FEES.

(A) In addition to any penalties and fines required by this chapter and state or federal law, as well as regular sewer use charges, the town may impose surcharge fees on any user that discharges into the POTW and the discharge causes or constitutes the following:

(1) Slug or slug load;

(2) Interference;

(3) Pass-through;

(4) Excessive loadings, including excessive loading caused by high strength conventional waste from a non-permitted user;

(5) **Violations of §§ 53.040 through 53.050 of this chapter; or**

(6) Any other discharge which adversely affects the POTW or increases the town's costs of treating wastewater in the town's POTW.

(B) Surcharges shall not exceed 50% of the normal sewer user charges unless the amount is necessary to offset the city's cost of treating the discharged material, including any costs incurred by the city for violations of the city's NPDES permit.

(Ord. passed 5-18-1994; Ord. passed 9-18-1996)

Editor's note:

This section became effective on 10-18-1996.

§ 53.174 FEES AND CHARGES SET AND ON FILE.

All surcharge fees and pre-treatment charges and fees shall be set from time to time by Town Council order and shall be kept on file for public inspection with the Town Clerk and the Superintendent. (Ord. passed 5-18-1994)

§ 53.175 FEES FOR HAULED WASTEWATER AND SPECIAL AGREEMENTS.

The town may establish fees for the disposal of hauled wastewater and special agreements. These fees shall be consistent with, but not necessarily the same as, regular sewer use charges. They shall be set from time to time by Town Council order and be kept on file for public inspection with the Town Clerk and the Superintendent.

(Ord. passed 5-18-1994)

§ 53.176 INTEREST.

Interest shall be collected upon all unpaid sewer use charges, surcharges hauled wastewater fees and fees and charges associated with pre-treatment which remain unpaid after the due date. The rate of interest shall be as set by the Council for the payment of delinquent property taxes, which rate shall not exceed the highest interest rate allowed by state law for municipal property taxes.

(Ord. passed 5-18-1994)

§ 53.177 ROOF DRAINS.

An additional quarterly charge which may be established from time to time by Council order shall be assessed against any property where roof drains are directly connected to the city's sanitary and/or combined sewer systems. In instances where a single account includes multiple dwelling units or commercial or industrial establishments, this charge shall be increased by multiplying the quarterly fee

by the number of the residential, commercial and industrial units. The quarterly charge shall be billed in arrears and shall only be charged against those accounts where roof drains remain connected to the sanitary and/or combined sewer systems as of the date the water meter is read. These charges shall be made on accounts read on 12-31-1996. It shall be the responsibility of the property owner or his or her agents to provide information satisfactory to the Superintendent of the treatment plant that all roof drains have been disconnected from the sanitary and/or combined sewer systems in order to avoid the charges. (Ord. passed 5-18-1994; Ord. passed 9-18-1996)

Editor's note:

This section became effective on 10-18-1996.

§ 53.178 AVAILABILITY FEE.

(A) An availability fee shall be charged to all properties with the exception of vacant land to which sanitary sewer connection is available but not used.

(B) This charge shall be set at an amount equal to the capital portion of the city's minimum sewer use charge.

(C) The resulting increase in this fee shall be phased in proportionately over a 24-month period commencing upon the effective date of this section.

(Ord. passed 5-18-1994; Ord. passed 9-18-1996)

Editor's note:

This section became effective on 10-18-1996.

§ 53.179 ABATEMENT OF AND DISCOUNTS TO SEWER USE CHARGE.

(A) Abatements of sewer use charges may be granted by the Superintendent of the Wastewater Treatment Plant upon application of a rate payer where the rate payer can demonstrate that a "loss" of water occurred due to no fault of the rate payer, his or her agents or employees. Rate payers are responsible for exercising due care in the maintenance of their water and sewer systems to prevent water losses for purposes of abatement, *DUE CARE* shall be defined as the normal and reasonable steps which would be taken by a prudent individual in operating and maintaining their water and sewer systems. To be considered, request for abatement must be made within 120 days of the billing date of the bill in question.

(B) Valid reasons for a request for abatement include, but are not necessarily limited to, unanticipated water pipe breakage, plumbing fixture malfunction, heating system malfunction and vandalism. Upon notice or knowledge of the circumstances, the rate payer is responsible for taking appropriate and timely action to remedy the problem.

(C) The Superintendent shall be responsible for researching the basis for the requested abatement in light of the "due care" standard established in division (A) above. He or she shall make a record of the results of the investigation which shall include an estimate of the amount of water lost. The estimate of water lost shall be based on a minimum of the previous four quarters of water consumption, if available, and consideration of seasonal water use patterns. This estimate of water loss shall be used to calculate the amount of the abatement should one be granted.

(D) When abatement is granted, the amount of the abatement shall be calculated based on the total sewer use charge for the estimated amount of water loss less the cost to convey and pump the estimated amount of water lost through the sewer system and treatment plant. The Superintendent shall be responsible for calculating, on an annual basis, the cost to convey and pump uncontaminated water through the sewer system and treatment plant. The basis for this calculation shall be the prior fiscal year's operation and maintenance costs of the system and plant.

(E) When abatement is granted, the Superintendent shall be responsible for taking the necessary steps to correct the appropriate billing records to reflect the abatement or to process a credit where the sewer use charge in question has been paid.

(F) Any abatement exceeding \$500 must be reported to and confirmed by the appropriate committee of the City Council prior to final approval and the processing of a correction or credit.

(G) (1) Any rate payer who disagrees with the decision of the Superintendent to deny abatement or with the amount of an abatement calculated by the Superintendent, may, within 30 days of the date the rate payer is notified of the Superintendent's decision, appeal the decision to the appropriate committee of the City Council. Appropriate city staff shall notify the rate payer of the date, time and location of the meeting at which the appeal will be considered.

(2) In order for the appeal to be considered, the rate payer and/or his or her representative must be present at the meeting. At the request of the rate payer, consideration of the appeal may be postponed to a future meeting to be held within 60 days of the date established for the original meeting. Failure of the rate payer to appear before the committee at the originally scheduled meeting or at a subsequent meeting called at the rate payer's request shall result in the denial of the appeal. The decision of the appropriate committee of the City Council shall be final.

(H) Abatements shall not be granted for water used for watering lawns, gardens, filling swimming pools or other outside water uses. Rate payers may, however, at their own cost, install a secondary water meter that will measure only water used for outside water use purposes and/or only for purposes of filling indoor swimming pools. Installation of the meter must be by a permit granted by the Superintendent or his or her designee. The installation must also be permitted by appropriate city staff to ensure that the meter meets all requirements of the Plumbing and Building Codes and is used only to measure water actually used for outside water use purposes. The City Council may establish, by order, appropriate fees for this permit. The city reserves the right to periodically inspect the meters to ensure continued compliance with the requirements of this section. Should it be determined that violations of this section have occurred, the permit for this secondary meter shall be revoked and the rate payer shall

be subject to a fine equal to the amount the rate payer would have been charged in sewer use fees since the date of installation of the secondary meter or for eight full quarters, whichever shall be the lesser. The rate payer shall be responsible for reporting to the Superintendent or his or her designee the reading on the secondary meter. This report must be made no later than three working days after the date the rate payer's primary water meter is normally read. Failure to report the reading in a timely manner will result in any adjustment appearing on the rate payer's next quarterly bill. Where a secondary meter is installed, the rate payer will be granted an abatement which will be calculated in the same manner as outlined in division (D) above for lost water.

(I) Any rate payer who uses water in its end manufactured product which is shipped from the rate payer's facility or in the process of manufacturing a product or providing a service and where the water does not enter into the sewer system, either in whole or in part, may apply for an abatement of the sewer use fee equal to that portion of the water which does not reach the city's sewer system. The applicant shall bear the burden of providing the necessary proof and documentation as to the amount of water used which does not enter into the sewer system. Adequate documentation must accompany the request for abatement and must clearly demonstrate the quantity of water used which does not enter into the sewer system. All requests for abatement shall be made to the Superintendent who shall be responsible for researching the basis for the abatement as well as the adequacy of the information provided. The Superintendent shall provide to the appropriate Council committee his or her recommendation as to whether the abatement should or should not be granted. The appropriate Council committee shall make the final determination as to whether the abatement shall or shall not be granted. All such abatements shall be limited to a period of no more than three years. At the end of this period, the rate payer may apply for a new abatement. During the period in which abatement is in effect and for one year following the expiration of the abatement, the city reserves the right to periodically inspect the rate payer's premises and records to ensure that the rate payer is in compliance with the abatement. Should it be determined that the information provided by the rate payer is invalid, that changes have occurred in the rate payer's processes which have the effect of increasing the amount of water reaching the sewer system, or that more water is reaching the sewer system than reported by the taxpayer, the Superintendent may revoke the abatement and the rate payer shall be subject to a revised user charge equal to the full value of the abatement for the prior three-year period or the period in which a current or prior abatement was in effect, whichever is lesser. The amount of the abatement shall equal the full sewer use charge for water documented to not reach the sewer system less a quarterly charge established by order adopted by the City Council to recover expenses associated with administering the abatement. (Ord. passed 5-18-1994; Ord. passed 9-18-1996)

Editor's note:

This section became effective on 10-18-1996.

§ 53.999 PENALTY.

(A) (1) When the Superintendent finds that a user violated or continues to violate any provision of this chapter, a wastewater discharge permit or order issued hereunder, or any other pre-treatment standard or requirement, including a user's failure to obtain a wastewater discharge permit pursuant to § 53.066 of this chapter, the Superintendent may fine the user in an amount not to exceed \$2,500 per day. Each day of violation shall constitute a separate offense subject to fine. In the case of monthly or other long-term average discharge limits, fines shall be assessed for each day during the period of violation. In the case of failure to obtain a require wastewater discharge permit, the fine shall accrue on a daily basis commencing on the day the user first was notified or became aware of the need for a permit. The town may add the costs of preparing administrative enforcement actions, such as notices and orders, to any fine assessed.

(2) Any and all unpaid charges, fines and penalties under this chapter shall, after 30 calendar days from the due date, be assessed an additional penalty of 12% of the unpaid balance, and interest shall accrue thereafter at a rate of 1% per month. A lien against the user's property may be sought for unpaid charges, fines and penalties as allowed under state law.

(3) Users desiring to dispute the fines must file a written request for the Superintendent to reconsider the fine along with full payment of the fine amount within 30 days of being notified of the fine. The Superintendent shall convene an administrative hearing on the matter and this chapter. Failure to timely request an administrative hearing constitutes a waiver of any administrative appeal. The decision of the Committee conducting the administrative hearing, including a decision to not reduce the fine, shall be final and any appeal must follow the requirements of M.R. Civ.P. 80B. In the event the user's appeal is successful, the payment, together with any interest accruing thereto, shall be returned to the user.

(4) Issuance of an administrative fine shall not be a bar against, or a prerequisite for, taking any other action against the user.

(B) (1) *Injunctive relief* When the Superintendent determines that a user has violated or continues to violate any provision of this chapter, a wastewater discharge permit or order issued hereunder, or any other pre-treatment standard or requirement, the Superintendent may request that the Town Solicitor seek appropriate injunctive relief pursuant to the laws of the state which restrains or compels the specific performance of the conditions of the wastewater discharge permit, order or other requirements imposed by this chapter on activities of the user. The town may also seek such other action as is appropriate for legal and/or equitable relief, including a requirement for the user to conduct environmental remediation. The decision whether to seek injunctive relief shall not be a bar against, or a prerequisite for, taking any other action against a user.

(2) *Civil penalties and criminal referral.*

(a) Any person who violates the provisions of this chapter shall be subject to civil penalties pursuant to 30-A M.R.S.A. § 4452, as well as applicable civil or criminal penalties pursuant to 38 M.R.S.A. §§ 349 and 1319-T. The penalties in those statutes shall be in addition to the specific penalties in this chapter.

(b) A user which has violated or continues to violate any provision of this chapter, a wastewater discharge permit, or other permit issued hereunder, or any other pre-treatment standard or requirement shall be required to pay a fine of not less than \$1,000 per day and not more than \$2,500 per day for each and every day of a violation for a first offense. These fines shall increase to a minimum of \$2,500 per day and a maximum of \$25,000 per day for a second offense of the same or a similar nature occurring within two years of the first offense. Each day of violation shall constitute a separate offense subject to fine. In the case of a monthly or long-term average discharge limit, penalties shall accrue for each day during the period of the violation.

(c) Pursuant to 30-A M.R.S.A. § 4452 and M.R. Civ.P. 80K, the town may seek reasonable attorneys' fees, court costs and other expenses associated with enforcement activities, including sampling and monitoring expenses, and the cost of any actual damages incurred by the town.

(d) In determining the amount of civil liability, the Court shall be asked to take into account all relevant circumstances, including, but not limited to, the extent of harm caused by the violation, corrective actions undertaken by the user, the compliance history of the user and any other factor, as justice requires.

(e) No person shall willfully or negligently break, damage, destroy, uncover, deface, tamper with, prevent access to any structure, appurtenance or equipment, or other part of or otherwise harm the POTW. Penalties for violations of this provision of this chapter shall be a minimum \$1,000 and maximum \$10,000 fine for the first offense. A second offense committed within five years shall be punished by a minimum \$10,000 and a maximum of \$25,000 fine. These penalties are in addition to any penalties associated with other civil or criminal provisions of state and federal law which the person may be subject to for the action.

(3) *Filing.* Filing a suit for civil penalties or making a criminal referral shall not be a bar against, or a prerequisite for, taking any other action against a user.

(4) *Reserves the right.* The town reserves the right to make appropriate referrals for criminal prosecution pursuant to the provisions of 38 M.R.S.A. §§ 349 and 1319-T, as well as any other applicable federal or state law. Additionally, enforcement of this chapter shall not preclude criminal prosecution for other violations of state or federal law and the town will cooperate in any prosecutions.

(5) *Non-exclusivity.* The provisions of §§ 53.120 through 53.127 and this division (B) are not exclusive remedies. The town reserves the right to take any and all enforcement actions or combinations thereof against a non-compliant user.

(Ord. passed 5-18-1994)

CHAPTER 54: PROPERTY ASSESSED CLEAN ENERGY ASSISTANCE

Section

General Provisions

- 54.01 Purpose
- 54.02 Enabling legislation
- 54.03 Title
- 54.04 Definitions

PACE Program

- 54.15 Establishment; funding
- 54.16 Amendment to PACE program
- 54.17 Conformity with the requirements of the Trust
- 54.18 Program administration
- 54.19 Liability of municipal officers, municipality

GENERAL PROVISIONS

§ 54.01 PURPOSE.

By and through this chapter, the town declares as its public purpose the establishment of a municipal program to enable its citizens to participate in a property assessed clean energy ("PACE") program so that owners of qualifying property can access financing for energy saving improvements to their properties located in the town. The town declares its purpose and the provisions of this chapter to be in conformity with federal and state laws.

(Ord. passed 6-23-2011)

§ 54.02 ENABLING LEGISLATION.

The town enacts this chapter pursuant to Pub. Law No. 2009, Ch. 591 of the 124th 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. §§ 10151 *et seq.*).

(Ord. passed 6-23-2011)

§ 54.03 TITLE.

This chapter shall be known and may be cited as "the Town of Hermon Property Assessed Clean Energy (PACE) Ordinance" (the "chapter").

(Ord. passed 6-23-2011)

§ 54.04 DEFINITIONS.

For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

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

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

(a) Meets or exceeds applicable U.S. Environmental Protection Agency and U.S. Department of Energy Energy Star program or similar energy efficiency standards established or approved by the Trust; or

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

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

MUNICIPALITY. The Town of Hermon.

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 municipality establishes a PACE program hereunder, which is all that area within the municipality'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 municipality under which property owners can finance energy savings improvements on qualifying property.

QUALIFYING PROPERTY. Real property located in the PACE district of the municipality.

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. § 10103 and/or its agent(s), if any.
(Ord. passed 6-23-2011)

PACE PROGRAM

§ 54.15 ESTABLISHMENT; FUNDING.

(A) The municipality hereby establishes a PACE program allowing owners of qualifying property located in the PACE district who so choose to access financing for energy saving improvements to their property through PACE loans administered by the Trust or its agent.

(B) PACE loan funds are available from the Trust in municipalities that:

(1) Adopt a PACE ordinance;

(2) Adopt and implement a local public outreach and education plan;

(3) Enter into a PACE administration contract with the Trust to establish the terms and conditions of the Trust's administration of the municipality's PACE program; and

(4) Agree to assist and cooperate with the Trust in its administration of the municipality's PACE program.

(Ord. passed 6-23-2011)

§ 54.16 AMENDMENT TO PACE PROGRAM.

In addition, the municipality may from time to time amend this chapter to use any other funding sources made available to it or appropriated by it for the express purpose of its PACE program, and the municipality shall be responsible for administration of loans made from those other funding sources. (Ord. passed 6-23-2011)

§ 54.17 CONFORMITY WITH THE REQUIREMENTS OF THE TRUST.

If the Trust adopts standards, promulgates rules or establishes model documents subsequent to the municipality's adoption of this chapter and those standards, rules or model documents substantially conflict with this chapter, the municipality shall take necessary steps to conform this chapter and its PACE program to those standards, rules or model documents.

(Ord. passed 6-23-2011)

§ 54.18 PROGRAM ADMINISTRATION.

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

(1) The Trust will enter into PACE agreements with owners of qualifying property in the municipality'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 non-payment of the assessment; and

(7) The Trust or its agent on behalf of the municipality, promptly shall record the discharges of PACE mortgages upon full payment of the PACE loan.

(B) *Adoption of education and outreach program.* In conjunction with adopting this chapter, the municipality shall adopt and implement an education and outreach program so that citizens of the municipality 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 municipality will assist and cooperate with the Trust in its administration of the municipality'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. (Ord. passed 6-23-2011)

§ 54.19 LIABILITY OF MUNICIPAL OFFICERS, MUNICIPALITY.

(A) Notwithstanding any other provision of law to the contrary, municipal officers and municipal officials, including, without limitation, tax assessors and tax collectors, are not personally liable to the Trust or to any other person for claims, of whatever kind or nature, under or related to a PACE program, including, without limitation, claims for or related to uncollected PACE assessments.

(B) Other than the fulfillment of its obligations specified in a PACE administration contract with the Trust entered into under division (A) above, a municipality has no liability to a property owner for or related to energy savings improvements financed under a PACE program. (Ord. passed 6-23-2011)

CHAPTER 55: FIRE PROTECTION

Section

- 55.01 Purpose
- 55.02 General provisions
- 55.03 Static water systems
- 55.04 Pressurized water systems
- 55.05 Fire lanes
- 55.06 Key boxes
- 55.07 Turnaround for fire fighting apparatus
- 55.08 Exceptions

55.01 PURPOSE.

(A) The purpose of this chapter is to foster greater public safety by instituting policies, controls, rules, and laws that promote fire safety and enhance the ability of the town's emergency service providers to react with a semblance of order to a catastrophe or disaster.

(B) The provisions of this chapter shall not be construed to repeal or offer an alternative to existing zoning and/or building code requirements. If conflict exists between the lawful statutes or ordinances, the most stringent requirement shall prevail.

(C) Redundancy in this chapter is intended to show the importance of specific items but is not intended to detract from other items or other town ordinances.

(1) (a) Residential subdivisions/land developments or multi-family housing projects consisting of three or more lots/units where the applications for same were submitted after the effective date of this chapter, 6-25-2012, and additions **to** existing subdivisions or land developments in which three or more additional lots or units are proposed after the effective date.

(b) In the case where lots or units are added which total three after the effective date of this chapter but are not proposed at one time, the requirement for compliance with this chapter shall commence in the application where the third lot or unit is proposed and shall apply to all lots or units

included in that submission. The town will presume that this chapter applies to the lots or units in any subdivision submitted after the effective date and the burden shall be upon the applicant to submit adequate proof in the form of approved maps or plans to show that it does not apply under the provisions set forth herein.

(2) Commercial land developments proposing buildings(s) of an aggregate 5,000 square feet or more.

(3) All land developments proposing buildings or places of public assembly, regardless of size.

(4) All commercial structures, regardless of size, considered severe or high hazard occupancies (occupancy hazard classification of three or four) in accordance with the National Fire Protection Association Publication No. 1142.

(D) The systems and facilities described in this chapter herein shall be required improvements under the zoning, subdivision and land development, and building code ordinances of the town upon the effective date of this chapter.

(Ord. passed 5-17-2012)

§ 55.02 GENERAL PROVISIONS.

(A) Developments and subdivisions meeting the above criteria of this chapter shall provide an adequate and reliable water source for fire protection. The entire system design shall be submitted as part of any subdivision and/or land development application and shall conform with the standards set forth in this section. The fire protection water source shall be provided by means of a pressurized water system, static water source, or a combination thereof. Provisions of this section are for non-sprinklered structures; sprinklered structures shall be designed in accordance with N.F.P.A. 13 and may be evaluated on a case-by-case basis for reductions of these standards at the discretion of the Fire Chief.

(B) The plans submitted shall be reviewed by the Fire Chief prior to road/street acceptance by the town or prior to the subdivisions final approval by the Planning Board if no new road/streets are needed to access the development. Hydrants or other provisions for drafting water shall be provided to the specifications of the Fire Department. Minimum pipe size connecting dry hydrants to ponds or cisterns shall be six inches.

(C) Should the proposed subdivision and/or development be located in close proximity (within 2,000 feet) to an existing fire protection water source owned, operated, and/or located on property unrelated to the applicant, the developer will pay a onetime fee of \$7,000 to use the hydrant and to help cover maintenance costs over the lifetime use of the hydrant.

(D) Adequate access shall be provided to all types of water sources at all times. In situations where the source is to be located not within the right-of-way from an existing or proposed roadway, an easement to the municipality shall be provided to allow access. A suitable access way to the hydrant or other water source shall be constructed by the developer.

(E) Access roads to water sources shall be maintained and kept clear of all debris, snow, or any impediment, which would limit access to, from, and/or around all water sources. After construction it will be the municipality and/or Fire Department's responsibility to maintain access to the hydrant or other water source.

(F) Water sources shall be available to fire companies for use in any fire event regardless of where the event is located so long as the use is reasonably related to the event and the water used in the event is restored and any maintenance required by virtue of said use is performed by the fire company or the property owner whose property was serviced in the event.

(Ord. passed 5-17-2012)

§ 55.03 STATIC WATER SYSTEMS.

(A) Static water sources for the purposes of fire protection may include ponds, streams, cisterns etc. Where streams and ponds are proposed as a water source, applicant must be able to prove, to the satisfaction of the Fire Chief, that source will prove reliable during all seasons.

(B) For fire protection sources serving up to three residential lots/units, a minimum storage capacity of a fire pond shall be 120,000 gallons of useable water. A cistern shall be used whenever topography and geographical conditions limit the use of a fire pond. Cisterns will have a 10,000-gallon capacity for a project not served by a public water supply, unless the Fire Chief certifies the adequacy of an existing supply within 2,000 feet of the proposed subdivision. Additional storage of 2,000 gallons per lot or commercial development unit shall be provided. If multiple principal buildings are present in the project, storage capacity shall be provided sufficient for initial flows to automatic fire suppression systems required by the building code.

(C) For all of the following, all water source design (including sizing), and installation standards shall be in accordance with town building code, and the location of the static water source shall be no more than 2,000 feet from any area of the proposed structure:

- (1) Multi-family housing consisting of ten or more units;
- (2) Commercial subdivisions and/or land developments proposing building(s) of an aggregate 5,000 square feet or more;
- (3) All land developments proposing building(s) of public assembly/use;

(4) An commercial structures, regardless of size, considered severe or high hazard occupancies (occupancy hazard classification of three or four) in accordance with N.F.P.A. 1142, year of latest revision;

(D) Dry hydrants shall be installed at all static sources and located as required to satisfy the distance requirements stated above.

(E) Dry hydrants shall be terminated with a 90-degree dry hydrant head with a four-inch female connection and cap. Hydrant centerline shall *be* three feet from finished grade. All piping shall be minimum six-inch schedule 80 PVC and installed below the frost line (four-foot minimum cover). The strainer shall be located a minimum of three feet below the average ice depth and no less than two feet above the source invert. The vertical distance from the source to the centerline of the hydrant shall be 17 feet maximum. Any exceptions must be approved by the Fire Chief.

(F) All *static* systems shall be designed and installed in accordance with town building code.

(G) Dry hydrants shall be tested and inspected at least two times per year by the Fire Department. Maintenance and repairs shall also be the responsibility of the Fire Department. (Ord. passed 5-17-2012)

§ 55.04 PRESSURIZED WATER SYSTEMS.

(A) The design criteria for all pressurized water systems shall comply with this section.

(B) The system shall be designed to sustain a minimum flow of (1,000) gpm with a residual pressure of 20 psi for a two-hour duration for all commercial structures and a one-half-hour duration for all residential structures. All system piping shall be a minimum of six inches in diameter.

(C) Fire hydrants shall be provided in sufficient locations to enable the needed fire flow to be delivered to all required areas of the development. In no case shall a structure requiring fire protection be located closer than 40 feet nor further than 2,000 feet from a fire hydrant. All fire hydrants shall be of the dry barrel type with 2 two and one-half-inch NST discharges and 1 four and one-half-inch NST discharge and be acceptable to the Fire Department having jurisdiction.

(D) When the system relies on electric pumping units for supply of fire flow, a reliable source of back-up power shall be provided. This back-up power source shall be equipped with automatic transfer capabilities and be capable of sustaining back-up power for a minimum of two hours.

(E) The system shall be in accordance with N.F.P.A. 24, and must be reviewed and approved by the Fire Chief and Code Enforcement Officer. (Ord. passed 5-17-2012)

§ 55.05 FIRE LANES.

All commercial buildings shall provide a fire lane immediately adjacent to and surrounding all structures to provide adequate access by fire department equipment and personnel. Fire lanes shall be located a minimum of 125% and a maximum of 200% of the building height away from the building exterior and shall be not less than 20 feet of unobstructed width, have a minimum of 13 feet six inches of vertical clearance, and be able to withstand live loads of fire fighting apparatus. Fire lanes shall be marked with freestanding signs that have the words "Fire Lane - NO PARKING" painted in contrasting colors at a size and spacing approved by the town. Fire lanes providing access to the rear of a building may also be used as short-term loading and unloading areas. Fire lanes located at the front of buildings shall remain clear at all times without exception.

(Ord. passed 5-17-2012)

§ 55.06 KEY BOXES.

(A) When access to or within a structure or an area is unduly difficult because of secured openings or where immediate access is necessary for lifesaving or firefighting purposes, one or more key boxes, padlocks, hazardous materials cabinets, or key switches shall be installed in accessible locations approved by the Fire Chief. In the interest of uniformity and security, the box shall be a Knox Box (or approved equal) restricted key way, U.L. listed, and furnished with locks and keys for the exclusive use of the Fire Department having jurisdiction to gain necessary access. The following occupancies/businesses shall install the key box, padlock, or key switch:

- (1) All occupancies (except single-family dwellings) served by an internal automatic fire/smoke detection system or fire suppression system;
- (2) All businesses that are required to file a business plan for using or storing hazardous materials;
- (3) All public and private schools and places of public assembly.

(B) Within one year of the effective date of this chapter, all existing occupancies and businesses listed above shall come into compliance with this section of the chapter. (Ord. passed 5-17-2012)

§ 55.07 TURNAROUND FOR FIRE FIGHTING APPARATUS.

Where access to any commercial or multi-family structure(s) is a dead-end and in excess of 150 feet in length, a turnaround with a minimum of a 90-foot diameter shall be provided for fire fighting apparatus. At the Fire Department's discretion, travel lanes of parking areas providing a continuous loop

may act as a turnaround, provided that the layout is conducive to the movement of fire fighting apparatus into, through, and out of the developed area.

(Ord. passed 5-17-2012)

§ 55.08 EXCEPTIONS.

If an applicant, at a duly advertised public hearing held at a regularly or specially scheduled Council meeting, has shown that the application of any mandated provisions of chapter of these regulations are unreasonable and cause extraordinary hardships as they may apply to his or her proposed application, the Town Council may, after consultation with the Fire Department, approve a reduction in the requirements set forth in this chapter as follows:

(A) When the application of any provision of the chapter is found by the Council to be, due to unusual topography or conditions beyond the control of the applicant, impractical and unnecessary, the Council may, after consultation with the Fire Department, increase the distance and/or decrease the minimum water supply requirements set forth in this chapter as deemed reasonable and necessary.

(B) Exceptions may be granted only on the majority vote of the entire Council, when such exception will not have the effect of nullifying the intent and purpose of these regulations. The Council may also impose any conditions which, in their judgment, are necessary to substantially secure the objectives of the standards or requirements so modified.

(Ord. passed 5-17-2012)



TITLE VII: TRAFFIC CODE

Chapter

70. GENERAL PROVISIONS

71. PARKING SCHEDULES

72. VEHICLE WEIGHT

O

CHAPTER 70: GENERAL PROVISIONS

Section

70.01 Motorized vehicles, unlicensed or unregistered, on municipal or school property

70.02 Vehicle excise tax exemption

70.99 Penalty

§ 70.01 MOTORIZED VEHICLES, UNLICENSED OR UNREGISTERED, ON MUNICIPAL OR SCHOOL PROPERTY.

(A) (1) No person shall operate or allow to be operated any unlicensed or unregistered motorized vehicle within the property bounds of any municipal/school-owned property.

(2) Licensed and registered vehicles may only be operated in the area specifically designated for vehicle use.

(3) For the purpose of this section, municipally-owned property so designated shall include, but not be limited to, school grounds, cemeteries, recreational areas, town hall grounds, lands which are subject to control by the municipality by virtue of conversation easements granted to the municipality and other properties of the town.

(B) *MOTORIZED VEHICLES*, defined for the purpose of this section, shall include all vehicles propelled by a motor regardless of horsepower capacity and shall include motorized minibikes and snowmobiles so called and shall include all those commercially manufactured or the homemade variety.

(C) This section shall be effective 30 days after passage by the Town Council. (Ord. passed - -) Penalty, see § 70.99

Editor's note:

This section became effective on 6-18-1983.

§ 70.02 VEHICLE EXCISE TAX EXEMPTION.

(A) *Authority.* This section is enacted pursuant to 36 M.R.S.A. § 1483-A which expressly authorizes such legislation.

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(B) Excise tax exemption; qualifications. Vehicles owned by a resident of the town who is on active duty serving in the United States Armed Forces and who is either permanently stationed at a military or naval post, station or base outside this state or deployed for military service for a period of more than 180 days and who desires to register that resident's vehicle(s) in this state are hereby exempted from the annual excise tax imposed pursuant to 36 M.R.S.A. §1482.

(1) To apply for this exemption, the resident must present to the municipal excise tax collector certification from the commander of the resident's post, station or base, or from the commander's designated agent, that the resident is permanently stationed at that post, station or base or is deployed for military service for a period of more than 180 days.

(2) For purposes of this section, *UNITED STATES ARMED FORCES* includes the National Guard and the Reserves of the United States Armed Forces.

(3) For purposes of this section, *DEPLOYED FOR MILITARY SERVICE* has the same meaning as in 26 M.R.S.A. § 814(1)(A).

(4) For purposes of this section, *VEHICLE* has the same meaning as in 36 M.R.S.A. § 1481

(5) and does not include any snowmobiles as defined in 12 M.R.S.A. 13001.

(C) Effective date; duration. This section shall take effect immediately upon enactment and shall be aless by by the Town Council, or shall become void in the event that 36 M.R.S.A. § 1483-A is repealed.

(Ord. passed - -)

§ 70.99 PENALTY.

(A) Any person violating any provision of this chapter for which no specific penalty is prescribed shall be subject to § 10.99.

(B) Any person violating § 70.01 shall be subject to a fine of not more than \$100, which fine shall be recovered on complaint to the use of the town.

(Ord. passed - -)

Cross-reference:

Civil fines for traffic/parking violations, see § 10.99

CHAPTER 71: PARKING SCHEDULES

Schedule

I. "No parking" regulations

SCHEDULE I. "NO PARKING" REGULATIONS.

(A) *"No parking" areas.* The following listing of areas shall be banned from having parking at any time:

<i>Street/Bridge</i>	<i>Location</i>
	Designated fire lanes at elementary school, middle school and Hermon High School (i.e., fire lanes shall be free of unattended, parked vehicles at all times)
	Hydrants (dry or pressure); no vehicle shall park within 25 feet of dry or pressure hydrants or obstruct access to hydrants at any time
Blackstream Bridge on Fuller Road	Both sides, 50 feet on each side of the bridge and on the bridge
Bridge on Blackstream Road	Both sides, 50 feet on each side of the bridge and on the bridge
Bridge on Newburgh Road	Both sides, 100 feet on each side of the bridge and on the bridge
Odlin Road	Both sides of the road from the Bangor/Hermon Town Line to 1194 Odlin Road (Map/Lot 008-033-000)
School roads	327 feet <i>in</i> front of the Elementary School Gym
	150 feet on each side of the Elementary School Gym

(B) *Fine.*

(1) Any individual or company parking in the above-listed areas shall receive a parking ticket from the town through a duly authorized police officer, or a police officer may determine it necessary to request vehicles parked in violation of this schedule be towed.

(2) The fine shall be \$25 per violation. Vehicle owner(s) shall be responsible for all towing fees incurred as a result of violating this schedule.

(3) Any individual or company not paying the fine within 30 days shall receive a summons to court.

(4) The fine shall be payable to the town.
(Ord. passed 4-25-1990; Ord. passed 9-12-1990; Ord. passed 9-23-1992; Ord. passed 1-4-2007)

CHAPTER 72: VEHICLE WEIGHT

Section

- 72.01 Purpose and authority
- 72.02 Definitions
- 72.03 Restrictions and notices
- 72.04 Exemptions
- 72.05 Permits
- 72.06 Administration and enforcement
- 72.07 Amendments
- 72.08 Effective date

- 72.99 Penalty

§ 72.01 PURPOSE AND AUTHORITY.

The purpose of this chapter (hereinafter, the "chapter") is to prevent damage to town ways and bridges in the town which may be caused by vehicles of excessive weight, to lessen safety hazards and the risk of injury to the traveling public, to extend the life expectancy of town ways and bridges, and to reduce the public expense of their maintenance and repair. This chapter is adopted pursuant to 30-A M.R.S.A. § 3009 and 29-A M.R.S.A. §§ 2395 and 2388.

(Ord. passed 10-6-2011)

§ 72.02 DEFINITIONS.

The definitions contained in Title 29-A M.R.S.A. shall govern the construction of words contained in this chapter. Any words not defined therein shall be given their common and ordinary meaning.

(Ord. passed 10-6-2011)

§ 72.03 RESTRICTIONS AND NOTICES.

(A) The municipal officers may, either permanently or seasonally, impose such restrictions on the gross registered weight of vehicles as may, in their judgment, be necessary to protect the traveling public and prevent abuse of the highways, and designate the town ways and bridges to which the restrictions shall apply.

(B) Whenever notice has been posted as provided herein, no person may thereafter operate any vehicle with a gross registered weight in excess of the restriction during any applicable time period on any way or bridge so posted unless otherwise exempt as provided herein.

(C) The notice shall contain, at a minimum, the following information: the name of the way or bridge, the gross registered weight limit, the time period during which the restriction applies, the date on which the notice was posted, and the signatures of the municipal officers. 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.

(D) Whenever a restriction expires or is lifted, the notices shall be removed wherever posted. Whenever a restriction is revised or extended, existing notices shall be removed and replaced with new notices. No person may remove, obscure or otherwise tamper with any notice so posted except as provided herein.

(Ord. passed 10-6-2011) Penalty, see § 72.99

§ 72.04 EXEMPTIONS.

Vehicles that are exempt from the Maine Department of Transportation's (MDOT) *Rules and Regulations Restricting Heavy Loads on Closed Ways* dated 12-31-1996 and amended on 3-4-1998, a copy of which is hereby incorporated as part of this chapter, are exempt from this chapter. In addition, any vehicle delivering home heating fuel and operating in accordance with a permit issued by the Maine DOT under 29-A M.R.S.A. § 2395(4) and, when necessary during a period of drought emergency declared by the Governor, any vehicle 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 purpose and operating in accordance with a permit issued by the Maine DOT under 29-A M.R.S.A. § 2395(4-A).

(Ord. passed 10-6-2011)

O, § 72.05 PERMITS.

(A) The owner or operator of any vehicle not otherwise exempt as provided herein may apply in writing to the municipal officers for a permit to operate on a posted way or bridge notwithstanding the restriction. The municipal officers or their designee 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) The 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 reasonably result from the applicant's use of same.

(B) Even if the municipal officers make the foregoing findings, they need not issue a permit if they determine the applicant's use of the way or bridge could reasonably be expected to create or aggravate a safety hazard or cause substantial damage 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 municipal officers shall consider the following factors:

- (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 other circumstances as may, in their judgment, be relevant.

(D) The municipal officers may issue permits subject to reasonable conditions, including but not limited to restrictions on the actual load weight and the number or frequency of vehicle trips, which shall be clearly noted on the permit.

(Ord. passed 10-6-2011)

§ 72.06 ADMINISTRATION AND ENFORCEMENT.

This chapter shall be administered and may be enforced by the municipal officers or their duly authorized designee (such as road commissioner, assistant road commissioner, code enforcement officer or law enforcement officer.)

(Ord. passed 10-6-2011)

§ 72.07 AMENDMENTS.

This chapter may be amended by the municipal officers at any properly noticed meeting. (Ord. passed 10-6-2011)

§ 72.08 EFFECTIVE DATE.

This chapter shall take effect immediately upon enactment by the municipal officers at any properly noticed meeting.

(Ord. passed 10-6-2011)

§ 72.99 PENALTY.

Any violation of this chapter shall be a civil infraction subject to a fine of not less than \$250 nor more than \$1,000. 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 municipality and shall be brought in the Maine District Court.

(Ord. passed 10-6-2011)

TITLE IX: GENERAL REGULATIONS

Chapter

- 90. ANIMAL CONTROL**
- 91. CONSUMER FIREWORKS**
- 92. CONCOURSE GATHERING**
- 93. CEMETERIES**



CHAPTER 90: ANIMAL CONTROL

Section

General Provisions

- 90.01 Title
- 90.02 Purpose
- 90.03 Definitions
- 90.04 Animal Control Officer; duties and responsibilities

Licensing and Control of Dogs, Other Animals

- 90.15 Running at large
- 90.16 Female dogs in heat
- 90.17 Impoundment procedures
- 90.18 Impoundment fees
- 90.19 Number of dogs limited
- 90.20 Disposition of dogs which have bitten persons
- 90.21 Animals creating a nuisance
- 90.22 Removal of animal waste

- 90.99 Penalty

GENERAL PROVISIONS

§ 90.01 TITLE.

This chapter shall be known and may be cited as the "Animal Control Ordinance" of the town. (Ord. passed - -)

§ 90.02 PURPOSE.

The purpose of this chapter is to require that all animals in the town be kept under the control of their owners or keepers so as to assure the comfort, convenience, safety, health and public peace of the people.

(Ord. passed - -)

§ 90.03 DEFINITIONS.

(A) For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

ANIMAL CONTROL. The control of dogs, cats and domesticated or undomesticated animals in accordance with 7 M.R.S.A. § 3948.

AT LARGE. Off the premises of the owner and not under the control of any person whose personal presence and attention would reasonably control the conduct of the animal.

DOG. A member of the genus and species known as *Canis familiaris* or any canine, regardless of generation, resulting from interbreeding of a member of *Canis familiaris* with a wolf hybrid, as defined in 7 M.R.S.A. § 3907.

DANGEROUS DOG. A dog that bites an individual who is not trespassing on the dog owner's or keeper's premises at the time of the bite or a dog that causes a reasonable and prudent person who is not on the dog owner's or keeper's premises and is acting in a reasonable and non-aggressive manner to fear bodily harm by attacking or threatening to attack that individual or individual's domestic animal. **DANGEROUS DOG** does not include a dog certified by the state and used for law enforcement use. For the purpose of this definition, "dog owner's or keeper's premises" means the residence or residences, including buildings and land and motor vehicles, belonging to the owner or keeper of the dog.

ENFORCEMENT OFFICER. The following shall have the authority to enforce this chapter.

(a) **ANIMAL CONTROL OFFICER.** Any person acting in the capacity of **ANIMAL CONTROL OFFICER**, as defined by state statute and this chapter, pursuant to 7 M.R.S.A. Ch. 725.

(b) **LAW ENFORCEMENT OFFICER/CONSTABLE.** Any person who, by virtue of that person's public employment, is vested by law with a duty to maintain public order, enforce any law of the state or municipality establishing a civil violation, prosecute offenders or make arrest for crimes, whether that duty extends to all crimes or is limited to specific crimes.

KEEPER. A person in possession of control of a dog or other animal.

OWNER. A person owning, keeping or harboring a dog or other animal.

PERSON. An individual, corporation, partnership, association or any other legal entity.

(B) Any term not defined in this chapter shall be defined in accordance with its customary dictionary meaning.

(Ord. passed - -)

§ 90.04 ANIMAL CONTROL OFFICER; DUTIES AND RESPONSIBILITIES.

(A) The Town Manager is responsible for appointing or contracting an Animal Control Officer and setting the compensation, subject to confirmation of the Town Council. Term of office or contract may be one to three years, at the option of the Town Manager and approved by the Town Council.

(B) The Animal Control Officer is hereby authorized and empowered to seize and impound any domestic animal found running at large. Additionally, the Animal Control Officer is responsible for causing to have removed any wild animal affecting the safety, health and public peace of the people. Additionally, the Animal Control Officer shall be responsible for enforcing this chapter.

(Ord. passed - -; Ord. passed 10-5-2006)

LICENSING AND CONTROL OF DOGS, OTHER ANIMALS

§ 90.15 RUNNING AT LARGE.

(A) (1) No person shall cause or permit any dog owned or kept by him or her to run at large within the town.

(2) Dogs while on any premises other than those of the owner or while on any public way or place shall be under the restraint, within the meaning of this chapter, if he or she is controlled by a leash, or at "heel" beside a competent person and obedient to that person's commands or on or within a vehicle being driven or parked on the streets, or within the property limits of its owner or keeper or when used for hunting purposes.

(B) Nothing in this chapter shall be held to require the leashing of any dog while on the private premises of the owner.

(Ord. passed - -) Penalty, see § 90.99

Editor's note:

This section became effective on 3-3-1988.

§ 90.16 FEMALE DOGS IN HEAT.

The owner of any bitch in heat shall keep the same confined or on a leash at all times and shall not permit the dog to be at large within the town limits or on any premises other than those of the owner. Every bitch found running at large in violation hereof is hereby declared to be a public nuisance and shall be impounded and the owner, keeper or person harboring the bitch shall be deemed guilty of a misdemeanor.

(Ord. passed - -) Penalty, see § 90.99

§ 90.17 IMPOUNDMENT PROCEDURES.

(A) Unlicensed dogs, or dogs running at large, shall be taken up and impounded in the shelter designated by the town, and there confined in a humane manner for a period of not less than eight days; and may, thereafter, be disposed of in a humane manner if not claimed by their owner.

(B) The town or its duly authorized agent may transfer title of all animals held by it at its animal shelter after the legal detention period has expired and the animal has not been claimed by its owner.

(C) When dogs are found running at large, and their ownership is known, the dogs need not be impounded; provided that, the dogs are wearing current license and rabies tags, but the town, through its duly authorized agents, may, at its discretion, cite the owner of the dogs to appear in court to answer charges of violation of this chapter.

(D) The owner shall be entitled to resume possession of any impounded dog upon compliance with the license provisions of 7 M.R.S. A . Ch. 721 and the payment of impoundment fees as set forth herein. Any other animal impounded under the provisions of this chapter and not reclaimed by its owner within eight days may be humanely destroyed or placed in the custody of some person deemed to be a responsible and suitable owner, who will agree to comply with the provisions of this chapter.

(Ord. passed - -)

Editor's note:

Divisions (A) and (C) of this section became effective on 3-3-1988.

§ 90.18 IMPOUNDMENT FEES.

(A) Any animal impounded hereunder may be reclaimed during town office business hours, as herein provided, upon payment by the owner to the town of the following fees for each animal.

(B) Impound fees for cats and dogs shall be:

(1) Thirty-five dollars for first offense;

- (2) Fifty dollars for second offense; and
- (3) Seventy-five dollars for each additional offense.

(C) In addition to the impoundment fees, there shall be a charge for the boarding, plus the cost of shots given to the animal while impounded.

(Ord. passed - -; Ord. passed 5-7-2009; Ord. passed 10-7-2010)

Editor's note:

This section became effective on 3-3-1988, 7-1-2009 and 10-7-2010.

§ 90.19 NUMBER OF DOGS LIMITED.

(A) (1) It shall be unlawful for any person or persons to keep or harbor within the town more than five dogs over six months old on April 1 in or about any premises, house, barn or other building, or in or about all buildings on any premises occupied by any one family, and the keeping or harboring of dogs as aforesaid is hereby declared to be a nuisance.

(2) This limitation shall not apply to any person, group of persons or corporation engaged in the commercial business of breeding, buying, selling or boarding of dogs, or operating a veterinary hospital.

(B) Any person, group of persons or corporation engaged in the commercial business of breeding, buying, selling or boarding of dogs, or operating a veterinary hospital shall also seek approval through the Code Enforcement Office under a land use permit. Note: not all zoning districts allow for this type of commercial use.

(C) The payment of a licenses or licenses on dogs shall not be construed to allow the keeping of more than five dogs, as aforesaid, on any one premise. (Ord. passed - -; Ord. passed 3-5-2009) Penalty, see § 90.99

§ 90.20 DISPOSITION OF DOGS WHICH HAVE BITTEN PERSONS.

It shall be unlawful for the owner or person keeping, or harboring any dog, when notified that the dog has bitten any person or has so injured any person as to cause abrasion of the skin, to sell or give away the dog or to permit or allow the dog to be taken beyond limits of the town, except under the care of a licensed veterinarian. It shall be the duty of the owner or keeper, upon receiving notice of the character aforesaid, to immediately place the dog under confinement for a period of 14 days or deliver the dog to the Police Department. The Director of Public Health shall be notified immediately by the person in charge of the death of any dog while under confinement.

(Ord. passed - -) Penalty, see § 90.99

§ 90.21 ANIMALS CREATING A NUISANCE.

(A) Anyone owning, possessing or harboring any animal, excluding livestock, 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 have caused a nuisance, and shall be liable for a civil penalty under this chapter.

(B) For the purposes hereof, a separate offense shall be deemed committed for each hour during which a violation occurs or continues. (Ord. passed - -) Penalty, see § 90.99

§ 90.22 REMOVAL OF ANIMAL WASTE.

It shall be a violation of this section for any person who owns, possesses or controls a dog to fail to immediately remove and dispose of any feces left by his or her dog on any street, sidewalk, publicly-owned property or private property of another. (Ord. passed - -) Penalty, see § 90.99

§ 90.99 PENALTY.

Any person found to be in violation of any of the provisions of this chapter shall be subject to a fine not less than \$75, nor more than \$250, for each offense, plus all additional attorneys' fees incurred by the town for prosecution of the offense. All penalties shall inure to the benefit of the town.

(Ord. passed - -)

Editor's note:

This section became effective on 8-23-1990.

CHAPTER 91: CONSUMER FIREWORKS

Section

- 91.01 Purpose
- 91.02 Definitions
- 91.03 Prohibition
- 91.04 Exception
- 91.05 Seizure and disposal

- 91.99 Penalty

§ 91.01 PURPOSE.

The Town Council recognizes that, while the state has legalized the use of consumer fireworks, they still present a danger of injury and fire. To enhance the public safety and welfare of its citizens and community, the Council adopts this chapter to prohibit use and sale of consumer fireworks in the town. (Ord. passed 12-15-2011)

§ 91.02 DEFINITIONS.

For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

CONSUMER FIREWORKS. The same meaning as in 27 C.F.R. § 555.11 or subsequent provision, but includes only products that are tested and certified by a third-party testing laboratory as conforming with United States Consumer Product Safety Commission standards, in accordance with 15 U.S.C. Ch. 47. **CONSUMER FIREWORKS** does not include the following products:

- (1) Missile-type rockets, as defined by the State Fire Marshal by rule;
- (2) Helicopters and aerial spinners, as defined by the State Fire Marshal by rule; and

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(3) Sky rockets and bottle rockets. For purposes of this division (3), ***SKY ROCKETS AND BOTTLE ROCKETS*** means cylindrical tubes containing not more than 20 grams of chemical composition, as defined by the State Fire Marshal by rule, with a wooden stick attached for guidance and stability that rise into the air upon ignition and that may produce a burst of color or sound at or near the height of flight.

DISPLAY. An entertainment feature where the public or private group is admitted or permitted to view the display or discharge of the fireworks or special effects. (Ord. passed 12-15-2011)

§ 91.03 PROHIBITION.

No person shall use, possess with the intent to use in the town, sell, possess with the intent to sell in the town or offer for sale consumer fireworks.
(Ord. passed 12-15-2011) Penalty, see § 91.99

§ 91.04 EXCEPTION.

This section does not apply to a person issued a fireworks display permit by the state pursuant to 8 M.R.S.A. § 227-A.
(Ord. passed 12-15-2011)

§ 91.05 SEIZURE AND DISPOSAL.

The town may seize consumer fireworks that the town has probable cause to believe are used, possessed or sold in violation of this section and shall forfeit seized consumer fireworks to the state for disposal.
(Ord. passed 12-15-2011)

§ 91.99 PENALTY.

Whoever violates any of the forgoing sections of this chapter shall be punished by a fine of not less than \$100, nor more than \$1,000, for each offense. In the event legal action by the town is required to enforce this chapter and the town is the prevailing party, it must be awarded reasonable attorney fees, expert witness fees and costs.
(Ord. passed 12-15-2011)



CHAPTER 92: CONCOURSE GATHERING

Section

General Provisions

- 92.01 Title
- 92.02 Purpose
- 92.03 Definitions
- 92.04 Effective date

Permit Requirements and Regulations

- 92.15 Permit required
- 92.16 Permit application
- 92.17 Notice of rejection
- 92.18 Appeal procedure
- 92.19 Notice to town officials and other officials
- 92.20 Contents of permit
- 92.21 Duties of permittee
- 92.22 Revocation of permit
- 92.23 Release of corporate surety bond

Standards of Permit Issuance

- 92.35 Generally
- 92.36 Water supply
- 92.37 Off-street parking facilities
- 92.38 Sanitation facilities
- 92.39 Medical facilities
- 92.40 Police protection
- 92.41 Fire prevention facilities
- 92.42 Setbacks

- 92.99 Penalty

GENERAL PROVISIONS**§ 92.01 TITLE.**

This chapter shall be known and may be cited as "Concourse Gathering Ordinance of the Town of Hermon, Maine", and will be referred to herein as "this chapter". (Ord. passed - -)

§ 92.02 PURPOSE.

The purposes of this chapter are to further the maintenance of safe and healthful conditions for the masses of people which attend public outdoor gatherings and to assure the comfort, convenience, safety, health and welfare of the citizens of the town and surrounding communities. (Ord. passed - -)

§ 92.03 DEFINITIONS.

For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

CONCOURSE. An outdoor space where crowds of people gather.

CONCOURSE GATHERING. A gathering of 500 or more persons in an outdoor space or a temporary structure.

CONCOURSE GATHERING PERMIT. A permit as required by this

chapter. **MUNICIPALITY.** The Town of Hermon, Maine.

PARKING SPACE. A minimum area of 200 square feet, exclusive of drives, aisles or entrances, fully accessible for the storage or parking of vehicles.

PERSON. Any person, firm, partnership, association, corporation, company or organization of any kind.

(Ord. passed - -; Ord. passed 1-30-1991)

§ 92.04 EFFECTIVE DATE.

(A) This chapter shall take effect and be in force 30 days after passage by the Town Council.

(B) The effective date of this chapter is 10-13-1978.

(Ord. passed - -)

PERMIT REQUIREMENTS AND REGULATIONS

§ 92.15 PERMIT REQUIRED.

(A) No person shall engage in, participate in, aid, form or start any concourse gathering unless a concourse gathering permit shall have been obtained from the municipal officers.

(B) This chapter shall not apply to any governmental agency acting within the scope of its functions. (Ord. passed - -) Penalty, see § 92.99

92.16 PERMIT APPLICATION.

(A) A person seeking issuance of a concourse gathering permit shall file an application with the municipal officers.

(B) An application for a concourse gathering permit shall be filed with the municipal officers not less than 45 days before the date on which it is proposed to commence the event.

(C) If the concourse gathering is designed to be held by, and on behalf of or for, any person other than the applicant, the applicant for the concourse gathering permit shall file with the municipal officers a communication in writing from the person proposing to hold the concourse gathering event authorizing the applicant to apply for the permit on his or her behalf.

(D) The application for a concourse gathering permit shall set forth the following information:

(1) The name, address and telephone number of the person applying to conduct the event requiring a concourse gathering permit;

(2) If the concourse gathering event is proposed to be conducted for, on behalf of, or by an organization, the name, address and telephone number of the headquarters of the organization, and the names, addresses and telephone numbers of the authorized and responsible officials of the organization;

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(3) The name, address and telephone number of the person who will be the chairperson of the event and who will be responsible for its conduct;

(4) The name, address and telephone number of the person or persons providing the site or sites for the concourse gathering event to be held;

(5) A written statement from the property owner or owners providing the site or sites for the concourse gathering event stating that he or she authorizes the use of his or her land for the event;

(6) The commencing date of the concourse gathering and the termination date of the concourse gathering and the commencing time and termination time on each date of the gathering;

(7) The location or locations of the concourse gathering event;

(8) The number of persons who, the number and kind of animals which, and the number and types of vehicles which are expected to attend and/or take part in concourse gathering event;

(9) A plain view drawing of the site or specifically showing the location and size of the site, location and extent of water supply facilities, location and extent of sanitary facilities, location and extent of fire protection facilities, location and extent of first aid facilities, location and extent of dining facilities, location and extent of off-street parking facilities, and other pertinent data; and

(10) A corporate surety bond from a company authorized to do business in the state insuring that after the event is over and the mass of people have vacated the site or sites the grounds shall be left in a clean and neat fashion, and damages to public and/or private property arising out of or in connection with the event will be paid promptly. The bond shall be in the amount of \$5,000 for each 1,000 persons, or fractional part thereof, expected to be in attendance.

(E) The municipal officers may request any additional information which is deemed reasonably necessary for a fair determination to issue a concourse gathering permit.

(F) There shall be paid at the time of filing the application for a concourse gathering permit a fee of \$50.

(G) The municipal officers may waive any division of this section if they deem the action necessary. (Ord. passed - -; Ord. passed 1-30-1991; Ord. passed 9-6-2000)

§ 92.17 NOTICE OF REJECTION.

(A) The municipal officers shall act upon the application for a concourse gathering permit within 30 calendar days after the filing thereof.

(B) The municipal officers shall send a letter to the abutters of the property on which the gathering is proposed, notifying them of the date of the Council meeting at which the event shall be discussed and that a copy of the application is on file with the town.

(C) If the municipal officers disapproved the application, they shall mail to the applicant, within 15 days after the date upon which the application was filed, a notice of their action, stating the reasons for their denial of the permit.

(Ord. passed - -; Ord. passed 1-30-1991)

§ 92.18 APPEAL PROCEDURE.

(A) Any person aggrieved by the denial of the municipal officers to issue a concourse gathering permit shall have the right to appeal the denial of the concourse gathering permit to the Town Board of Appeals.

(B) The appeal shall be taken within seven days after notice. The Board of Appeals shall act upon the appeal at its next regularly scheduled meeting.

(Ord. passed - -)

§ 92.19 NOTICE TO TOWN OFFICIALS AND OTHER OFFICIALS.

Immediately upon issuance of a concourse gathering permit, the municipal officers shall send a copy thereof to the following:

(A) The Town Manager;

(B) The Town Attorney;

(C) The Fire Chief;

(D) The State Police Chief; and

(E) The municipal officers of:

(1) Town of Levant;

(2) Town of Glenburn;

(3) City of Bangor;

(4) Town of Hampden;

(5) Town of Newburgh; and

(6) Town of Carmel.

(Ord. passed - -)

§ 92.20 CONTENTS OF PERMIT.

Each concourse gathering permit shall state the following information:

(A) Starting date;

(B) Ending date;

(C) Location; and

(D) Other information as the municipal officers shall find necessary for the enforcement of this chapter. (Ord. passed - -)

§ 92.21 DUTIES OF PERMITTEE.

(A) A permittee hereunder shall comply with all permit directions and conditions and with all applicable laws and ordinances.

(B) The concourse gathering chairperson or other person heading the activity shall post the permit in a conspicuous place on the site of the concourse gathering. (Ord. passed - -)

§ 92.22 REVOCATION OF PERMIT.

The municipal officers shall have the authority to revoke a concourse gathering permit issued hereunder upon application of the standards for issuance herein set forth. (Ord. passed - -)

§ 92.23 RELEASE OF CORPORATE SURETY BOND.

Before a permittee may be released from any obligation required by his or her corporate surety bond, the municipal officers will require from the Town Manager, and whatever other agencies may be involved, certification that the concourse site or sites have been satisfactorily cleaned up and that all damages to public and private property have been settled.

(Ord. passed - -)

STANDARDS OF PERMIT ISSUANCE

§ 92.35 GENERALLY.

(A) The Code Enforcement Officer may issue a permit after approval by the municipal officers for hereunder when, from a consideration of the application and from other information as may otherwise be obtained, they find that:

(1) The conduct of the gathering of people will not interfere with the normal movement of traffic;

(2) The concentration of persons, animals and vehicles at the concourse gathering site will not unduly interfere with proper fire and police protection of, or ambulance service to, areas contiguous to the assembly areas; and

(3) The conduct of the gathering of people will not create a fire hazard such as to grassland or woodland.

(B) Control over the concourse gathering will be such that the entire group of people understand that this chapter does not grant any property rights, it does not authorize any person to trespass, it does not authorize any person to infringe upon or injure the property of another and it does not excuse any person of the necessity of complying with other laws and regulations.

(Ord. passed - -)

§ 92.36 WATER SUPPLY.

(A) The water supply shall be adequate, of a safe, sanitary quality and from a source approved by the Town Plumbing Inspector.

(B) All water supplies shall be subject to inspection at all times by the Town Plumbing Inspector. Water from these sources shall not be used or supplied to the public unless samples therefrom have been tested and approved by the State Department of Health and Welfare within the preceding six months. A copy of the water analysis shall be available on the premises.

(C) Supplies of safe, sanitary, potable water shall be located throughout the concourse gathering area at reasonable intervals or sequence. The volume of water available at these locations shall be such that it will serve each person a minimum of one and one-half gallons per day. There shall be an adequate number of spigots, drinking cups and dispensers provided at these water supply locations.

(Ord. passed - -)

§ 92.37 OFF-STREET PARKING FACILITIES.

(A) Adequate off-street parking facilities shall be provided and shall be subject to approval of the Town Road Commissioner.

(B) Off-street parking facilities shall be provided at a minimum rate of one parking space for each four persons reasonably expected to attend.

(C) All entrances to the off-street parking facility from a public street shall be approved by the Town Road Commissioner or the State Department of Transportation or both. Any expense involved with the provision of these entrances shall be borne by the permittee.

(D) Traffic officers shall be provided at each off-street parking entrance during periods of substantial use. It shall be the obligation of the permittee to provide the traffic officers and bear any and all expenses involved.

(Ord. passed - -)

§ 92.38 SANITATION FACILITIES.

(A) Solid waste containers constructed of metal, wood or plastic shall be located throughout the concourse gathering area at a reasonable interval for the disposal of material such as paper, cans, bottles and garbage. These containers shall be emptied of all their contents at least every 24 hours. The material from these containers shall be disposed of by removal from the gathering site and taken to a municipal dump.

(B) Separate male and female toilet facilities shall be provided at the rate of one toilet facility for each 40 persons. One-third of the male facilities may consist of urinals. Hand washing provisions shall be available at each toilet facility and shall consist of stored water in containers equipped with spring-operated spigots, soap dispensers and paper towels. Adequate provision for the disposal of hand washing wastewater shall be made such as by dry wells or soakage pits.

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(C) All sanitary facilities shall be subject to inspection at all times by the Town Plumbing Inspector. (Ord. passed - -)

§ 92.39 MEDICAL FACILITIES.

(A) (1) A first aid facility shall be provided. This facility shall consist of a structurally stable enclosure and stocked with medical supplies sufficient to administer necessary medical attention to the number of people attending the concourse gathering.

(2) The first aid facility shall be staffed with a minimum of two licensed ambulance attendants.

(B) A minimum of two vehicles, in a safe and **good** running condition, shall be available at all times (with a driver for each vehicle) to be used as ambulances.

(C) The first aid facility shall be subject to inspection at all times by the State Health and Welfare Department. (Ord. passed - -)

§ 92.40 POLICE PROTECTION.

Police protection shall be set by Council for each individual application based upon the perceived need.

(Ord. passed - -; Ord. passed 1-30-1991)

§ 92.41 FIRE PREVENTION FACILITIES.

(A) Fire prevention facilities shall be provided throughout the concourse gathering area.

(B) Equipment such as fire extinguishers, spades, brooms, sand and water shall be provided.

(C) The fire prevention facilities shall be approved by the Town Fire Chief and shall be subject to inspection at all times by the Town Fire Chief. (Ord. passed - -)

§ 92.42 SETBACKS.

(A) All activities, including parking, shall be set back at least 200 feet from property lines.

(B) The Council may increase/decrease this distance if it feels that the increase/decrease is warranted to protect the health, safety and welfare of the community and its residents. (Ord. passed - -; Ord. passed 1-30-1991)

§ 92.99 PENALTY.

Any person, firm or corporation convicted of violating any of the provisions of this chapter shall be fined an amount not less than \$50 or an amount exceeding \$1,000 per day for each separate violation. (Ord. passed - -)



CHAPTER 93: CEMETERIES

Section

General Provisions

- 93.01 Cemetery Sexton
- 93.02 Purchase of lots; additional fees
- 93.03 Ownership of lots
- 93.04 Care of lots; annual care
- 93.05 Cemetery funding

Regulations and Prohibitions

- 93.20 Vaults
- 93.21 Trespass
- 93.22 Vandalism
- 93.23 Theft or damage; responsibility
- 93.24 Vehicles

GENERAL PROVISIONS

§ 93.01 CEMETERY SEXTON.

The Cemetery Sexton shall be appointed by the Town Manager. The Sexton shall serve until removed by the action of the Manager. The Sexton shall be responsible to the Town Manager for the control and management of all municipal cemeteries; for the direction of all assistants under the Sexton's supervision; and for the administration of this chapter adopted by the Town Council. The Sexton or a designee is expected to attend every interment.
(Ord. passed 5-3-2003)

§ 93.02 PURCHASE OF LOTS; ADDITIONAL FEES.**(A) *General.***

(1) Persons desiring to purchase a lot in the cemeteries are referred to the Cemetery Sexton. The Sexton will have available suitable plots showing size and price of lots and other information as may be required and will be pleased to render assistance to those desiring to make lot purchases. Upon having made a lot selection, the Sexton will issue a lot order to the Town Clerk, where the lot sale will be made and the deed issued. The Cemetery Sexton may act as the agent of the town whenever necessary.

(2) The purchase price of lots and opening fees shall be determined by the Town Council. These fees shall be set out in division (13) below and may be adjusted from time to time as the Council sees necessary.

(B) *Fees, rates.*

(1) *Definition.* A *RESIDENT* means any person or son or daughter of person that can show proof of residency. Residency shall be proven to the satisfaction of the Sexton or Town Clerk and can include, but is not limited to, birth certificate, voter registration, tax bill, motor vehicle registration, lease agreement or affidavit of a current resident.

(2) *Lot prices.*

(a) Resident: \$150; and

(b) Non-resident: \$300.

(3) *Interment prices.*

(a) Adult grave, greater than three feet: \$250; and

(b) Cremation grave, or graves less than three feet: \$125.

(4) *Additional fees.*

(a) Funeral homes will pay \$45 per hour for services required by the town after 3:00 p.m.

(b) There will be a \$45 fee for the Sexton for burials on Sundays and holidays.

(Ord. passed 5-3-2003)

§ 93.03 OWNERSHIP OF LOTS.

(A) The terms *LOT OWNER* and *OWNERSHIP* shall mean the right to use a lot purchased from the town for burial purposes only.

(B) Upon payment of the purchase price, the town shall issue a deed under its seal and the deed will be recorded in the records of the town as proof of ownership of the lot.

(C) The title to a cemetery lot invests in the owner the right to use the lot for burial purposes only, for himself or herself, his or her heirs or for any persons as he or she may choose to admit; provided, the admission is free of charge and without compensation and in accordance with this chapter.

(D) The lot owner cannot resell or transfer his or her lots to any person or persons whomsoever, without written notification to the Cemetery Sexton. A cemetery lot that an owner may desire to dispose of may be listed for sale with the Cemetery Sexton. The town is under no obligation for making a satisfactory sale of the lots.

(Ord. passed 5-3-2003)

§ 93.04 CARE OF LOTS; ANNUAL CARE.

(A) All cemetery lots in the town are provided with annual care. A lot sold or created prior to the existence of this chapter shall be afforded all rights to annual care. Any lot sold in accordance with § 93.02(B) will be afforded annual care as part of the purchase price of the lot. Annual care shall include mowing of the lot, trimming around monuments and markers, fertilizing when necessary and pruning trees and shrubs.

(B) In addition to annual care, the town reserves the right under the direction of the Town Manager and Cemetery Sexton to make minor repair to cemetery monuments and markers and to clean the monuments and markers as they deem appropriate. This does not require the town to take the action, but merely grants it the authority when it is necessary to maintain the overall appearance of the cemeteries in a dignified manner.

(C) Each lot in the cemetery will, prior to its sale, be suitably marked by the Sexton with an iron or metal marker, placed on each lot corner and set level with the adjacent ground.

(D) No mounds shall be raised upon any grave above the general level of the lot. Mounds are difficult to maintain, and the town reserves the right at any time to remove unsightly mounds and to level the grave at the general level of the lot.

(E) The Cemetery Sexton or a designee will clean the cemetery grounds. Cleaning of the grounds shall happen on or about May 1 of every year, but no earlier, and on or about October 15 of every year, but no earlier. Cleaning shall occur to maintain the appearance of the cemeteries and shall include, but is not limited to, removal of flowers (artificial or real), removal of unsightly structures, damaged or

broken containers, pottery and the like and items deemed inappropriate. Persons wishing to assure the care of specific items shall remove them prior to these dates or contact the Cemetery Sexton to make necessary arrangements.

(F) The Cemetery Sexton or designee may remove items from the lots during the year in order to maintain the lots in accordance with division (A) above. Further, any person placing items on a lot does so at his or her own responsibility. The town is not responsible for damage, loss, vandalism or the elements (weather).

(G) Under the authority of the Cemetery Sexton, a person may decorate a lot with a permanent plant, shrub or tree. The care of these items is not the responsibility of the town. Further, no addition shall interfere with any adjacent lot or, in any way, change the general plan or landscaping of the cemetery.

(H) (1) The Cemetery Sexton or designee may remove trees and shrubs from a lot that is hindering the care of the cemetery or damaging stones, lots or grounds. The Cemetery Sexton shall meet with the Town Clerk to determine if any family members are available for contact.

(2) If not, a note should be made and left in the cemetery file dating and stating a reason for the removal of the tree.

(I) A family member may also request the removal of items including trees from a lot. This request must also be in writing and signed. This letter will be kept on file in the town office. The town reserves the right to deny the request if the item is deemed to not be hindering the cemetery or damaging a lot. (The town is not responsible for differing opinions of family members on the removal of items.)

(J) Employees or contractors hired by the town will, under no conditions, enter a cemetery vault deemed to be a confined space for maintenance or any other purpose. The lot owner assumes responsibility for the vault's maintenance. It is the sole responsibility of the lot owner to make certain the individual entering the confined space has the required qualifications to do so. The town is not liable for any injuries to individuals entering the vaults deemed to be a confined space, nor is the town responsible for any damages to the vault or its contents while the individual is in the vault.

(Ord. passed 5-3-2003; Ord. passed 7-8-2010)

Editor's note:

This section became effective on 8-8-2010.

§ 93.05 CEMETERY FUNDING.

(A) One hundred percent of the purchase price of lots, as described in § 93.02(B), shall be placed in a Cemetery Maintenance Reserve maintained by the town.

(B) The town will expend the interest of the Reserve for the annual care of all lots. The town will also expend principle, as is necessary, for the care and appearance of the cemeteries. The Reserve will always maintain a balance of \$25,000.

(C) The Cemetery Maintenance Reserve shall also be used towards the purchase price of land for the expansion of town cemeteries.

(D) The town may appropriate funds to the Reserve account at the annual town meeting. (Ord. passed 5-3-2003)

REGULATIONS AND PROHIBITIONS

§ 93.20 VAULTS.

The casket shall be enclosed in a permanent outside container. The following are considered permanent outside containers: concrete boxes; concrete, copper or steel burial vaults; and sectional concrete crypts.

(Ord. passed 5-3-2003) Penalty, see § 10.99

§ 93.21 TRESPASS.

No unauthorized person shall be allowed upon the grounds after dark. (Ord. passed 5-3-2003) Penalty, see § 10.99

§ 93.22 VANDALISM.

No person shall injure any tree or shrub, or mar any landmark, marker, memorial or structure or, in any way, deface the grounds of the cemetery.

(Ord. passed 5-3-2003) Penalty, see § 10.99

§ 93.23 THEFT OR DAMAGE; RESPONSIBILITY.

The town shall not be responsible for any theft or damage to anything left on the grave lots or in the cemetery.

(Ord. passed 5-3-2003) Penalty, see § 10.99

§ 93.24 VEHICLES.

Any person driving in the cemetery shall be responsible for any damage done by his or her vehicle. Speeds of over ten mph will not be permitted and no person shall drive a vehicle upon the lawns. (Ord. passed 5-3-2003) Penalty, see § 10.99

TITLE XI: BUSINESS REGULATIONS

Chapter

110. CABLE TELEVISION FRANCHISES

111. SPECIAL AMUSEMENTS

CHAPTER 110: CABLE TELEVISION FRANCHISES

Section

- 110.01 Authorization to enter into non-exclusive franchise agreements
- 110.02 Agreement to be in compliance with federal and state law
- 110.03 Notification of changes in regulations and charges
- 110.04 Construction and maintenance of system in compliance with federal and state law
- 110.05 Liability for damages; indemnifying and holding town harmless
- 110.06 Public hearing to determine special local needs and interests
- 110.07 Agreement provisions and inclusions
- 110.08 Imposition of franchise fee
- 110.09 Placement of agreement in public records; reasonable notice
- 110.10 Effective date

§ 110.01 AUTHORIZATION TO ENTER INTO NON-EXCLUSIVE FRANCHISE AGREEMENTS.

The Town Council is hereby authorized to enter into non-exclusive franchise agreements, and to renew existing franchise agreements, with providers of cable television services for terms not to exceed 15 years, authorizing cable system operators to construct, maintain, repair and operate cable television systems throughout the corporate limits of the town, including the areas as may be subsequently annexed thereto.

(Ord. passed 12-8-2005)

§ 110.02 AGREEMENT TO BE IN COMPLIANCE WITH FEDERAL AND STATE LAW.

(A) Any franchise agreement shall be issued in compliance with the requirements of the Cable Communications Policy Act of 1984, being 47 U.S.C. §§ 521 *et seq.*, as amended by the Cable Consumer Protection and Competition Act of 1992, being U.S.C. §§ 521 through 559, as further amended, the rules and regulations of the Federal Communications Commission, 30-A M.R.S.A. § 3008 and this chapter.

(B) In the event of a conflict between the provisions of the franchise agreement and this chapter, the provisions of the franchise agreement shall control. (Ord. passed 12-8-2005)

§ 110.03 NOTIFICATION OF CHANGES IN REGULATIONS AND CHARGES.

Any franchise agreement entered into by the Town Council shall provide that, consistent with federal law, the franchise holder shall be required to notify the town and its subscribers at least 30 days prior to the implementation of any changes in its rates or services, if the change is within the control of the cable operator, including charges for connecting and disconnecting customers to its cable system. (Ord. passed 12-8-2005)

§ 110.04 CONSTRUCTION AND MAINTENANCE OF SYSTEM IN COMPLIANCE WITH FEDERAL AND STATE LAW.

The cable system must be constructed and operated in accordance with Federal Communication Commission regulations, and must be maintained in a safe manner so as not to bring harm to persons, property, animals, trees or shrubbery. The town may inspect all construction or installation work performed pursuant to any franchise agreement. (Ord. passed 12-8-2005)

§ 110.05 LIABILITY FOR DAMAGES; INDEMNIFYING AND HOLDING TOWN HARMLESS.

Any cable operator providing cable service within the town shall be liable for all damages resulting from the cable operator's construction, operation and maintenance of its cable television system, including, but not limited to, all damages to streets, alleys and public rights-of-way as well as to property owned by private individuals and corporations. Any franchise agreement shall contain a provision requiring the cable operator to indemnify and hold harmless the town and to carry sufficient liability insurance. (Ord. passed 12-8-2005)

§ 110.06 PUBLIC HEARING TO DETERMINE SPECIAL LOCAL NEEDS AND INTERESTS.

Before the town issues a request for proposals for cable television services, or before the town acts upon an application for a franchise agreement or renewal of a franchise agreement, the town will hold a public hearing, with reasonable prior notice, to determine special local needs or interests related to the provision of cable television services. (Ord. passed 12-8-2005)

§ 110.07 AGREEMENT PROVISIONS AND INCLUSIONS.

Any franchise agreement must contain provisions concerning: the area or areas to be served; a line extension policy; a provision for renewal, the term of which may not exceed 15 years; and procedures for the investigation and resolution of complaints by the cable television company; and any other terms and conditions that are in the best interests of the town.

(Ord. passed 12-8-2005)

§ 110.08 IMPOSITION OF FRANCHISE FEE.

The Town Council is hereby authorized to impose a franchise fee in an amount of up to 5 % of gross revenues derived from the operation of any cable television system within the town to defray the costs of public notice, advertising and any other expenses incurred by the town in negotiating and entering franchise agreements or in regulating cable television systems in the town.

(Ord. passed 12-8-2005)

§ 110.09 PLACEMENT OF AGREEMENT IN PUBLIC RECORDS; REASONABLE NOTICE.

Prior to execution, any franchise application, proposed franchise agreement or renewal of a franchise agreement and related documents shall be placed in the town's public records with reasonable notice to the public that all the records are open to inspection by the public during reasonable hours. The public shall be given reasonable opportunity to comment on any proposed franchise agreement prior to it being executed by the Town Council.

(Ord. passed 12-8-2005)

§ 110.10 EFFECTIVE DATE.

This chapter shall be effective immediately upon adoption. (Ord. passed 12-8-2005)

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CHAPTER 111: SPECIAL AMUSEMENTS

Section

General Provisions

- 111.01 Title**
- 111.02 Purpose and authority**
- 111.03 Definitions**
- 111.04 Dancing permitted**
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- 111.45 Tumultuous conduct**
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111.99 Penalty

GENERAL PROVISIONS

§ 111.01 TITLE.

This chapter shall be known and may be cited as the "Special Amusement Ordinance of the Town of Hermon, Maine".

(Ord. passed - -)

§ 111.02 PURPOSE AND AUTHORITY.

The purpose of this chapter is to control the issuance of special amusement permits for music, dancing or entertainment in facilities licensed by the state to sell liquor within the municipality. Statutory authority for enactment of this chapter is 28-A M.R.S.A. § 1054.

(Ord. passed - -)

§ 111.03 DEFINITIONS.

For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

DANCER. A person, male or female, other than a patron, under the licensee's control and dancing on the licensee's premises to entertain patrons.

ENTERTAINMENT. Any amusement, performance, exhibition or diversion for patrons or customers of the licensed premises whether provided by professional entertainers or by full-time or part-time employees of the licensed premises whose incidental duties include activities with an entertainment value.

EXOTIC DANCING. The appearance of a person or persons, under the licensee's direct control, other than a patron, and on the licensee's premises, in a manner or attire as to expose to view any portion of the pubic area, anus, buttocks, vulva or genitals or any simulation thereof, or when any dancer appears on a licensee's premises in a manner or attire as to expose to view any portion of the female breast referred to as the areola, nipple or simulation thereof.

EXPOSE TO VIEW. Without limitation, clear, see-through, transparent and all other clothing which is otherwise non-opaque.

LICENSEE. The holder of a license issued under the alcoholic beverages statutes of the state by the State Liquor Commission, or to whom a bottle club license has been issued by the town, or any person, individual, partnership, firm, association, corporation or other legal entity, or any agent, or employee of any licensee or acting on behalf of any licensee or left in charge of or in control of the licensee's premises.

PREMISES. All parts of the contiguous real estate occupied by the licensee over which the licensee has direct or indirect control or interest, which the licensee uses in the operation of the licensed business and which have been approved by the State Liquor Commission and/or the town as a proper place for the exercise of the license privilege.

(Ord. passed - -)

§ 111.04 DANCING PERMITTED.

(A) Entertainment which consists of dancing, or an exhibition by a dancer or dancers, is permitted on a licensed premises holding a special amusement permit, subject to the following requirements.

(B) No dancer shall dance closer than ten feet to any patron.

(C) No dancer shall dance in the premises, except on a raised platform intended for that purpose which platform is raised at least two feet from the floor.

(D) There shall be no fondling, mingling or caressing on the premises between any patron and any dancer with the intent to sexually arouse, excite or stimulate a patron's sexual desire.

(E) No patron shall directly pay or give any gratuity to any dancer and no dancer shall solicit any pay or gratuity from any patron.

(F) The licensee shall provide on the premises a separate dressing room and toilet facilities for use by dancers only.

(G) Dancers on the premises who remove any outer garments shall not toss or throw those outer garments at or in the direction of patrons.

(H) The licensee shall post a licensed security guard or an individual authorized to act as a law enforcement officer (whether full-time or part-time and whether on-duty or off-duty), at the licensee's expense, at each entrance and exit to the premises during each performance by dancers on the premises and for one hour after each performance.

(I) No one under 21 years of age shall be permitted on the premises or the portion of the premises where a performance by dancers is conducted during any performance.

(J) (1) Any premises upon which entertainment, including a dancer or dancers, is proposed to be conducted shall be located at least 500 feet from any church; school; park; other facility holding a special amusement permit under this chapter and which provides "dancers", as defined in this chapter; or any area for which residential uses are a permitted use under Ch. 154 of this code of ordinances.

(2) In each of the above instances, the distance shall *be* measured in a straight line from the nearest point of egress from one premises to the nearest point of egress of the adjacent premises.

(K) An applicant for a special amusement permit for entertainment, including a dancer or dancers, must demonstrate that at the time of permit application and during the duration of the permit, the applicant will have available, during the hours that the entertainment is provided, one parking space for each three (persons) the premises is capable of accommodating plus two parking spaces for each three employees, including the dancer or dancers who are on the premises to provide the entertainment.

(L) (1) There shall be no graphic evidence of the dancers on the exterior of any premises licensed under this chapter, either live or simulated, requiring the licensee, if necessary, to block out windows or install curtains to prevent viewing of the dancers from the outside.

(2) Nothing in this division (L) shall prohibit the licensee from advertising by words the nature of the entertainment.

(Ord. passed - -) Penalty, see § 111.99

§ 111.05 EFFECTIVE DATE.

The effective date of this chapter shall be 6-29-1996.

(Ord. passed - -)

PERMIT REQUIREMENTS

§ 111.20 PERMIT REQUIRED.

No licensee for the sale of liquor to be consumed on the premises, nor a bottle club licensee, shall permit on the premises any music, except radio or other mechanical device, any dancing or entertainment of any sort unless the licensee shall have first obtained from the town a special amusement permit. (Ord. passed - -)

O § 111.21 PERMIT APPLICATION.

Applications for all special amusement permits shall be made in writing to the Town Council and shall state the name of the applicant, the applicant's business address, the nature of the business, the location to be used, whether the applicant has ever had a license to conduct business therein described either denied or revoked and, if so, the applicant shall describe those circumstances specifically. The applicant shall indicate whether the applicant, including all partners or corporate officers, has ever been convicted of a felony and, if so, the applicant shall describe specifically those circumstances; and any additional information as may be required by the Town Council prior to the permit being issued, including, but not limited to, a copy of the applicant's current liquor license. (Ord. passed - -)

§ 111.22 CODE COMPLIANCE A PREREQUISITE FOR ISSUANCE.

No permit shall be issued for any thing, act or premises, if the premises and the building to be used do not fully comply with all ordinances, codes and regulations of the town. (Ord. passed - -)

O § 111.23 PERMIT FEE.

(A) The application fee for a special amusement permit shall be paid when application is made for the permit.

(B) If an application is withdrawn or denied, there shall be no refund, except due to extraordinary circumstances on approval of the Town Manager.

(C) All applications for a special amusement permit shall be accompanied by a non-refundable fee of \$150.

(D) The cost of legal advertising of a hearing on the application shall be included in the application fee.

(E) If an application for a special amusement permit is approved or approved with conditions, the permit shall be issued to the licensee upon payment of a \$25 permit fee. (Ord. passed - -)

§ 111.24 ADMISSION FEE AUTHORIZED.

A licensee who has been issued a special amusement permit may charge admission to the designated areas approved in the permit. (Ord. passed - -)

§ 111.25 ADDITIONAL INFORMATION REQUIRED.

The application for a special amusement permit shall contain a detailed description of the type(s) of amusement or entertainment proposed, the day or days the amusement or entertainment will be presented and the hours during which the proposed activities will take place. All special amusement permits approved shall be limited as to the type of amusements, the day or days of operation and the hours of operation set forth in the application, unless the Town Council direct otherwise.

(Ord. passed - -)

§ 111.26 HEARING REQUIRED PRIOR TO GRANTING OF PERMIT.

The Town Council shall, prior to granting a permit and after reasonable notice to the municipality and the applicant, hold a public hearing at which the testimony of the applicant and that of any interested members of the public shall be taken.

(Ord. passed - -)

§ 111.27 ACTION AFTER HEARING.

(A) (1) The Town Council shall approve, approve with conditions or deny an application for a special amusement permit within 15 days after receipt of a complete application.

(2) The Town Council shall approve a request for a special amusement permit unless it finds that issuance of the permit would be detrimental to the public health, safety or welfare, or would violate municipal ordinances, rules, regulations, articles or bylaws.

(B) If the Town Council denies a licensee a permit, it shall provide the licensee with the reasons for the denial in writing.

(C) The licensee may not reapply for a special amusement permit within 30 days after denial of an application for a permit.

(Ord. passed - -)

§ 111.28 RESTRICTIONS; IMPOSITION OF REASONABLE RESTRICTIONS.

In approving a special amusement permit, the Town Council may impose reasonable restrictions or conditions to protect property owners in the vicinity of the licensed premises from any nuisance aspects of the proposed amusement, including the location and size of the premises, the facilities that may be required for the permitted activities on those premises, the hours during which the permitted activities will be allowed and the lighting levels required, which may be lowered when entertainment is provided. (Ord. passed - -)

§ 111.29 EXPIRATION OF LICENSE; TERM.

A special amusement permit shall be valid only for the license year of the applicant's existing license, unless revoked or suspended prior to the expiration of the existing license. (Ord. passed - -)

§ 111.30 SUSPENSION OR REVOCATION OF LICENSE.

The Town Council may, after a public hearing preceded by notice to interested parties, suspend or revoke any special amusement permit on the grounds that the music, dancing or entertainment so permitted is detrimental to the public health, safety or welfare, or violates any applicable state law or town ordinance. If the Town Council revokes or suspends a licensee's special amusement permit, the licensee shall be notified in writing within 15 days of the reasons for the action. (Ord. passed - -)

§ 111.31 APPEAL PROCEDURE.

(A) Any licensee who has applied for a special amusement permit and has been denied, or whose permit has been revoked or suspended, may appeal the decision to the Town Board of Appeals. The appeal must be taken within 30 days of the denial, suspension or revocation. The burden of proof is upon the appellant.

(B) The Board of Appeals may grant or reinstate the permit only if it finds:

(1) The permitted activities would not constitute a detriment to the public health, safety or welfare, or violate municipal ordinances or regulations; or

(2) The denial, revocation or suspension was arbitrary or capricious. (Ord. passed - -)

§ 111.32 INSPECTIONS AUTHORIZED.

(A) The licensee shall permit access to the licensed premises at any reasonable time by all law enforcement officers, agents of the State Liquor Commission, municipal inspectors of the Code Enforcement Office and other authorized employees of the municipality for the purpose of enforcing the standards and terms of the ordinances, articles, bylaws or rules and regulations of the municipality and any conditions set by the Town Council as a part of its approval of a special amusement permit.

(B) Whenever any analysis of any commodity or material is reasonably necessary to secure performance with any ordinance provision or detect violations thereof, it shall be the duty of the licensee, or the person in charge of the premises, to give to any authorized officer, official or municipal employee requesting the same sufficient samples of the material or commodity for the analysis or investigation upon request.

(Ord. passed - -)

§ 111.33 REVOCATION FOR NON-COOPERATION AUTHORIZED.

In addition to any other penalty which may be provided, the municipal officers may revoke the liquor license and/or special amusement permit of any licensee in the municipality who refuses to permit any officer, official or employee of the municipality, while in the performance of official duties, to make the inspection or take an adequate sample of the commodity, or who interferes with the officer, official or employee while in the performance their duty in making the inspection; provided, however, that, no special amusement permit shall be revoked for the cause unless written demand is made upon the licensee or person in charge of the premises, in the name of the municipality, stating that the inspection or sample is desired at the time it is sought to make the inspection or take the sample.

(Ord. passed - -)

OFFENSIVE CONDUCT

§ 111.45 TUMULTUOUS CONDUCT.

The licensee shall not knowingly allow, on any licensed premises, any person or persons to disturb, tend to disturb, aid in disturbing the peace of others of ordinary sensibilities or to be disorderly by violent, tumultuous, offensive or obstreperous conduct. The licensee shall not knowingly permit or allow gathering a crowd, audience or patrons to witness any entertainment, amusement or show in a manner so as to create a dangerous condition because of fire or other risks in derogation of the public health, comfort, convenience, safety or welfare.

(Ord. passed - -) Penalty, see § 111.99

§ 111.46 RIOTS PROHIBITED.

The licensee shall not allow, on any licensed premises, any public entertainment or amusement or show of any kind which tends to or is calculated to cause any riot, disturbance or civil disobedience. (Ord. passed - -) Penalty, see § 111.99

§ 111.47 UNNECESSARY NOISE.

The licensee shall not allow, on any licensed premises, the making, creation or maintenance of excessive, unnecessary, unnatural or unusually load noise which disturbs, annoys, injures or prejudices or endangers the comfort, repose, health, peace or safety of individuals of ordinary sensibilities or the public in general, or the property rights of others, and which noises affect and are a detriment to public health, comfort, convenience, safety, welfare or the prosperity of the residents of the municipality. (Ord. passed —) Penalty, see § 111.99

§ 111.48 NUISANCES PROHIBITED.

The licensee shall not allow any licensed premises to be operated or conducted so as to amount to a nuisance in fact under any ordinance or sections of any ordinances, articles, bylaws or rules and regulations of the municipality, or under any statutes of the state. (Ord. passed - -) Penalty, see § 111.99

§ 111.49 PROSTITUTION PROHIBITED.

The licensee shall not allow, on any licensed premises, or aid in, offer, agree to or allow in or near to the licensed premises, any prostitution, prostitutes or any public indecency in derogation of the statutes of the state. The licensee shall not knowingly receive, or agree to receive, any person on the licensed premises for the purpose of performing a lewd act, or an act of prostitution or moral perversion, or to knowingly permit any person to remain on the licensed premises for any purpose, or to aid, abet, allow, permit or participate in the commission of any such acts. (Ord. passed - -) Penalty, see § 111.99

§ 111.50 SOLICITATION OF DRINKS PROHIBITED.

The licensee shall not allow, on any licensed premises, any person to frequent or loiter with the purpose of soliciting any other person, customer or patron to purchase any drink of any kind. (Ord. passed - -) Penalty, see § 111.99

§ 111.51 GAMBLING PROHIBITED.

The licensee shall not allow, on any licensed premises, the use or occupancy thereof for gambling or games of chance as prohibited by the statutes of the state or ordinances, articles, bylaws or rules and regulations of the municipality. (Ord, passed - -) Penalty, see § 111.99

§ 111.52 EXOTIC DANCING PROHIBITED.

(A) No special amusement permit shall be issued to conduct the activity of exotic dancing on the applicant's premises.

(B) It shall be unlawful and a violation of this chapter for a licensee holding a special amusement permit hereunder to permit exotic dancing on the premises. (Ord. passed - -) Penalty, see § 111.99

§ 111.99 PENALTY.

(A) Anyone found liable of violating any provision of this chapter shall be subject to a penalty of not less than \$500, nor more than \$2,500, in addition to equitable relief as is necessary to ensure compliance with the terms of this chapter. Each day a violation continues shall be deemed a new offense.

(B) All fines shall inure to the town.

(C) Recovery of all attorneys' fees and expenses of prosecution is specifically authorized and shall be requested of the court in all actions brought for violations of this chapter. (Ord. passed - -)

TITLE XIII: GENERAL OFFENSES

[Reserved]

TITLE XIII: GENERAL OFFENSES

[Reserved]

TITLE XV: LAND USAGE

Chapter

150. PROPERTY MAP

151. PROPERTY MAINTENANCE

152. MAINE UNIFORM BUILDING AND ENERGY CODE

**153. DIRECTIONAL SIGNS; ELECTION, POLITICAL
SIGNS**

154. LAND USE AND DEVELOPMENT

CHAPTER 150: PROPERTY MAP

Section

- 150.01 Title
- 150.02 Purpose
- 150.03 Effective date
- 150.04 Map and property descriptions

§ 150.01 TITLE.

This chapter shall be known and may be cited as the "Town Property Use Map Ordinance of the Town of Hermon, Maine".

(Ord. passed - -)

§ 150.02 PURPOSE.

This chapter established uses allowed on town property as depicted on the plan attached to the ordinance codified herein, as may be amended from time to time. The plan designates areas for school use, town use, roads and shared use.

(Ord. passed - -)

§ 150.03 EFFECTIVE DATE.

This chapter shall be effective 30 days after passage by the Town Council. (Ord. passed - -)

§ 150.04 MAP AND PROPERTY DESCRIPTIONS.

(A) The Council adopts the boundary plan prepared by Shyka, Sheppard & Garster dated 7-6-2010 as the official use map for town property. The plan is attached to the ordinance codified herein and made a part hereof.

Hermon - Land Usage

(B) The uses within designated areas of the property, depicted on the plan are further described by narrative description attached to the ordinance codified herein and made a part hereof.

(C) The area bordered by Billings Road, Community Lane and Education Way is hereby set aside for use as a Veterans Memorial Park.

**(D) The property map is incorporated herein by reference and made a part hereof as if appearing in total. Copies of the property map are on file in the town offices.
(Ord. passed - -)**

CHAPTER 151: PROPERTY MAINTENANCE

Section

General Provisions

- 151.01 Title
- 151.02 Authority and purpose
- 151.03 Conflict with other ordinances
- 151.04 Scope
- 151.05 Effective date
- 151.06 Definitions

Administration and Enforcement

- 151.20 Enforcement generally
- 151.21 Violations
- 151.22 Notice and orders
- 151.23 Unsafe structures and equipment; condemnation
- 151.24 Emergency measures
- 151.25 Demolitions

Property Maintenance

- 151.40 Exterior property maintenance
- 151.41 Interior maintenance 151.42
- Rubbish and garbage

GENERAL PROVISIONS

§ 151.01 TITLE.

This chapter shall be known and cited as "Property Maintenance Ordinance of the Town of Hermon, Maine" and will be referred to herein as "this chapter".
(Ord. passed 10-6-2005)

§ 151.02 AUTHORITY AND PURPOSE.

This chapter is intended to establish minimum conditions for the maintenance of structures and exterior property appearances.

(Ord. passed 10-6-2005)

§ 151.03 CONFLICT WITH OTHER ORDINANCES.

This chapter shall govern the minimum acceptable conditions and responsibilities for maintenance of structures and exterior property. This chapter shall not repeal, annul or, in any way, impair or remove the necessity of full compliance with any rule, bylaw, regulation, permit or ordinance of the town. Whenever regulations or restrictions imposed by this chapter are more restrictive than regulations or restrictions imposed by the state or United States, the regulations or restrictions which are less restrictive or impose a lower standard, shall govern. In event there are no applicable state or federal regulations or restrictions, the provisions of this chapter are to be applied to any regulated structure, property or activity.

(Ord. passed 10-6-2005)

§ 151.04 SCOPE.

All property owners and tenants in possession shall cause their properties, occupied or unoccupied, to be maintained to meet the standards set forth in this chapter. (Ord. passed 10-6-2005)

§ 151.05 EFFECTIVE DATE.

This chapter shall be effective 30 days after enactment.

(Ord. passed 10-6-2005)

§ 151.06 DEFINITIONS.

For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

BASEMENT. The portion of a structure either partly or totally below

grade. ***EXTERIOR PROPERTY.*** Open space on any property.

EXTERMINATION. The control and elimination of insects, rodents and other pests by eliminating nesting places; removing or eliminating access to food sources; by poison spraying, trapping or utilizing any other approved pest control and elimination methods.

GARBAGE. Waste resulting from the cooking and consumption of food.

INFESTATION. The presence of insects, rats, rodents, vermin or other pests within a structure or on the property.

LET FOR OCCUPANCY or **LET.** To allow occupancy by a person or persons other than the legal owner of record to occupy or possess a dwelling, a dwelling unit, rooming unit, building or structure pursuant to a written or unwritten lease agreement or pursuant to a recorded or unrecorded agreement of contract for the sale of property.

OCCUPANT. Anyone living, sleeping or possessing space in a building.

OPERATOR. Any person in charge or control of a structure which is let or offered for occupancy.

OWNER. Any person, agent, operator, firm or corporation having a legal or equitable interest in the property; or recorded in official state, county or municipal records as holding title to the property or otherwise having control of the property; including guardians of the estate of any person and the executor or administrator of the estate of the person if ordered to take possession of real property by a court.

PERSON. An individual, corporation, partnership or other group acting as a unit.

PROPERTY. The lot or parcel of land, including any and all structures thereon.

PUBLIC NUISANCE. Includes the following:

- (1) The physical condition or occupancy of any property regarding as a public nuisance by common law;
- (2) Abandoned wells, shafts, basements, excavations, unsafe fences or structures, among other nuisance conditions which might attract children;
- (3) Property with unsafe or unsanitary plumbing facilities;
- (4) Property designated as unfit for human habitation;
- (5) Property determined to be a fire hazard; or determined to be unsafe or unsecured and a threat to human life or limb;

(6) Property where plumbing, heating or other facilities required by town ordinances have been removed; or from which utilities have been disconnected, destroyed, removed or caused to be ineffective; or no precautions were taken to prevent trespassing;

(7) Property that is unsanitary or littered with rubbish or garbage or has an uncontrolled growth of weeds; and

(8) Any dilapidated, deteriorating or decaying structure. Any structure of faulty construction, any structure which is overcrowded, open, vacant or abandoned. Any fire damaged structure to the extent that it cannot provide shelter, is in danger of collapse or failure and poses a potential danger to anyone on or near the property.

RUBBISH. Includes: combustible and non-combustible materials excluding garbage; residue from the burning of wood, coal and other combustible materials; paper, rags, cartons, boxes, wood, excelsior, rubber, leather, tree branches, yard trimmings, tin cans, metals, mineral matter, glass, crockery, dust and other similar materials.

(Ord. passed 10-6-2005)

ADMINISTRATION AND ENFORCEMENT

151.20 ENFORCEMENT GENERALLY.

(A) This chapter shall be enforced by the Code Official. Any person, firm or corporation violating any of the provisions of this chapter shall be liable for a civil violation under 30-A M.R.S.A. § 4452.3.

(B) Each day a violation continues after issuance of a notice of violation, pursuant to § 151.21(B) shall constitute a separate offense.
(Ord. passed 10-6-2005)

§ 151.21 VIOLATIONS.

(A) *Unlawful acts.* It shall be unlawful for a person, firm or corporation to be in conflict with or in violation of any of the provisions of this chapter.

(B) *Notice of violation.* The Code Official shall serve a notice of violation or order in accordance with § 151.22.

(C) Prosecution of violation. Any person failing to comply with a notice of violation or order served in accordance with § 151.22 shall be liable to a civil penalty. If the notice of violation is not complied with, the Code Official shall institute the appropriate proceedings at law or in equity to restrain, correct or abate the violation, or to require the removal or termination of the unlawful occupancy of the structure in violation of the provisions of this chapter or of the order or direction made pursuant thereto.

(D) Abatement of violation. The imposition of the penalties herein prescribed shall not preclude the legal officer of the jurisdiction from instituting appropriate action to restrain, correct or abate a violation, or to prevent illegal occupancy of a building, structure or premises, or to stop an illegal act, conduct, business or utilization of the building, structure or premises.

(Ord. passed 10-6-2005) Penalty, see § 10.99

§ 151.22 NOTICE AND ORDERS.

(A) Notice to person responsible. Whenever the Code Official determines that there has been a violation of this chapter or has grounds to believe that a violation has occurred, notice shall be given in the manner prescribed in § 151.21 to the person responsible for the violation as specified in this chapter.

(B) Form. The notice prescribed in § 151.21 shall:

- (1) Be in writing;
- (2) Include a description of the real estate sufficient for identification;
- (3) Include a statement of the violation or violations and why the notice is being issued; and
- (4) Include a correction order allowing a reasonable time to make the repairs and improvements required to bring the dwelling unit or structure into compliance with the provisions of this chapter.

(C) Method of service. A notice shall be deemed to be properly served if a copy is:

- (1) Delivered personally;
- (2) Sent by certified or first class mail addresses to the last known address; or
- (3) If the notice is returned showing that the letter was not delivered, a copy thereof shall be posted in a conspicuous place in or about the structure affected by the order.

(D) Transfer of ownership. It shall be unlawful for the owner of any dwelling unit or structure who has received a compliance order or upon whom a notice of violation has been served to sell, transfer, mortgage, lease or otherwise dispose of the dwelling unit or structure to another until the provisions of the compliance order or notice of violation have been complied with or until the owner shall first furnish the grantee, transferee, mortgagee or leasee a true copy of any compliance order or notice violation

issued by the Code Official and shall furnish to the Code Official a signed and notarized statement from the grantee, transferee, mortgagee or leasee, acknowledging the receipt of the compliance order or notice of violation and fully accepting the responsibility without condition for making the corrections or repairs required by the compliance order or notice of violation.

(Ord. passed 10-6-2005) Penalty, see § 10.99

§ 151.23 UNSAFE STRUCTURES AND EQUIPMENT; CONDEMNATION.

(A) *General.* When a structure or equipment is found by the Code Official to be unsafe, or when a structure is found unfit for human occupancy, or is found unlawful, the structure shall be condemned pursuant to the provisions of this chapter.

(B) *Unsafe structures.* An unsafe structure is one that is found to be dangerous to the life, health, property or safety of the public or the occupants of the structure by not providing minimum safeguards to protect or warn occupants in the event of fire, or because the structure contains unsafe equipment or is so damaged, decayed, dilapidated, structurally unsafe or of the faulty construction or unstable foundation, that partial or complete collapse is possible.

(C) *Unsafe equipment.* Unsafe equipment includes any boiler, heating equipment, electrical wiring, flammable liquid containers or other equipment on the premises or within the structure which is in disrepair or condition so that the equipment is a hazard to life, health, property or safety of the public or occupants of the premises or structure.

(D) *Structure unfit for human habitation.* A structure is unfit for human occupancy whenever the Code Official finds that the structure is unsafe, unlawful or, because of the degree to which the structure is in disrepair or lacks maintenance, is unsanitary, vermin or rat infested, contains filth and contamination, or lacks ventilation, illumination, sanitary or heating facilities or other essential equipment required by this chapter, or because the location of the structure constitutes a hazard to the occupants of the structure or to the public.

(E) *Closing of vacant structures.* If the structure is vacant and unfit for human habitation and occupancy, and is not in danger of structural collapse, the Code Official is authorized to post a placard up so as not to be an attractive nuisance. Upon failure of the owner to close *up* the premises within the time specified in the order, the Code Official shall cause the premises to be closed and secured through any available public agency or by contract or arrangement by private persons and the cost thereof shall be charged against the real estate which the structure is located and shall place a lien upon the real estate or the cost may be collected by any other legal resource.

(F) *Notice.* Whenever the Code Official has condemned a structure or equipment under the provisions of this section, notice shall be posted in a conspicuous place in or about the structure affected by such notice and served on the owner or persons responsible for the structure or equipment, it shall also be in the form prescribed in § 151.22(B) and (C).

(G) Placarding. Upon failure of the owner or person responsible to comply with the notice provisions within the time given, the Code Official shall post on the premises or on defective equipment a placard bearing the word "Condemned" and a statement of the penalties provided for occupying the premises, or operating the equipment removing the placard.

(H) Placard removal. The Code Official shall remove the condemned placard whenever the defect or defects upon which the condemnation and placarding action were based have been eliminated. Any person who defaces or removes a condemnation placard without the approval of the Code Official shall be subject to the penalties provided by this chapter.

(I) Prohibited occupancy. Any occupied structure condemned and placarded by the Code Official shall be vacated as ordered by the Code Official. Any person who shall occupy a placarded premises and any owner or any person responsible for the premises who shall let anyone occupy a placarded premises shall be liable for the penalties provided by this chapter.

(Ord. passed 10-6-2005) Penalty, see § 10.99

151.24 EMERGENCY MEASURES.

(A) Imminent danger.

(1) When, in the opinion of the Code Official, there is imminent danger of failure or collapse of a building or structure which endangers life, or when any structure or part of a structure has fallen and life is endangered by the occupancy of the structure, or when there is actual or potential danger to the building occupants or those in close proximity of any structure because of explosives, explosive fumes or vapors or the presence of toxic fumes, gases or materials, the Code Official is hereby authorized and empowered to order and require the occupants to vacate the premises forthwith. The Code Official shall cause to be posted at each entrance to the structure a notice reading as follows: "This Structure Is Unfit and Its Occupancy Has Been Prohibited by the Code Official."

(2) It shall be unlawful for any person to enter the structure, making the required repairs, removing the hazardous condition or of demolishing the same until approval is granted by the Code Official.

(B) Temporary safeguards. Notwithstanding other provisions of this chapter, whenever, in the opinion of the Code Official, there is imminent danger due to an unsafe condition, the Code Official shall order the necessary work be done, including the boarding up of openings, to render the structure temporarily safe whether or not the legal procedure herein described has been instituted; and shall cause other action to be taken as the Code Official deems necessary to meet the emergency.

(C) Emergency repairs. For the purposes of this section, the Code Official shall employ the necessary labor and materials to perform the required work as expeditiously as possible.

(D) Cost of emergency repairs. Costs incurred in the performance of emergency work shall be paid by the town. The legal counsel of the town shall institute appropriate action against the owner of the premises where the unsafe structure is or was located for the recovery of the costs.

(E) Hearing. Any person ordered to take emergency measures shall comply with the order forthwith. Any affected person shall thereafter, upon petition directed to the Appeals Board, be afforded a hearing as described in this chapter.

(Ord, passed 10-6-2005) Penalty, see § 10.99

§ 151.25 DEMOLITIONS.

(A) General. The Code Official shall order the owner of any premises upon which is located any structure, which in the Code Official's judgment is so old, dilapidated or has become so out of repairs as to be dangerous, unsafe, unsanitary or otherwise unfit for human habitation or occupancy, and so that it is unreasonable to repair the structure, to demolish and remove at the owner's option; or where there has been a cessation of normal construction of any structure for a period of more than two years, to demolish and remove the structure.

(B) Notice and orders. All notices and orders shall comply to § 151.22.

(C) Failure to comply. Anyone failing to comply will be subject to 17 M.R.S.A. § 2851, Dangerous Buildings. (Ord. passed 10-6-2005)

PROPERTY MAINTENANCE

§ 151.40 EXTERIOR PROPERTY MAINTENANCE.

(A) Sanitation. Exterior property shall be maintained in a clean, safe and sanitary manner.

(B) Grading and drainage. All premises shall be maintained to prevent the erosion of soil and to prevent the accumulation of stagnant water thereon or within any structure located thereon. Exception: approved retention areas and drainage easement areas.

(C) *Rodent harborage.* All structures and exterior property shall be kept free from rodent harborage and infestation. Where rodents are found, they shall be promptly exterminated by an approved process which will not be injurious to human health. After extermination, proper precautions shall be taken to eliminate reinfestation.

(1) *Owner.* The owner of any property shall be responsible for extermination.

(2) *Single occupancy.* The occupant of a single dwelling unit or of a non-residential structure shall be responsible for extermination of or on the property.

(3) *Multiple occupancy.* The owner of a two or more dwelling unit, a rooming house or a non-residential structure shall be responsible for extermination in the public or shared areas of the structure and shall be responsible for extermination of the exterior property.

(D) *Motor vehicles.*

(1) No more than two unlicensed, unserviceable motor vehicles shall be parked, kept or stored on any premises, and no vehicle shall, at any time, be in a state of major disassembly, disrepair or in the process of being stripped or dismantled. Painting of vehicle is prohibited unless conducted inside an approved spray booth.

(2) Exception: a vehicle of any type may undergo major overhaul, including body work as long as the work is preformed inside a structure or enclosed area designed and approved for that purpose.

(E) *Handrails and guardrails.* Every exterior and interior flight of stairs having more than four risers shall have a handrail on one side of the stair and every open portion of a stair, landing, balcony, porch, ramp or other walking surface which is more than 30 inches above floor or grade below shall have guards not less than four inches in spacing between.

(F) *Stair dimensions.* New residential construction:

(1) Maximum riser height: seven and three-fourths inches;

(2) Minimum tread depth: ten inches; and

(3) Minimum width of stairs: 36 inches.

(Ord. passed 10-6-2005)

§ 151.41 INTERIOR MAINTENANCE.

Refer to the CABO One- and Two-Family Dwelling Code, as adopted. All other structures shall refer to the BOCA Building Code, as adopted.

(Ord. passed 10-6-2005)

§ 151.42 RUBBISH AND GARBAGE.

(A) The interior of all structures and the exterior of all properties shall be free from any accumulation of garbage and rubbish.

(B) Refrigerators and similar equipment not in operation shall not be discarded, abandoned or stored on premises without first removing the doors. (Ord. passed 10-6-2005) Penalty, see § 10.99

CHAPTER 152: MAINE UNIFORM BUILDING AND ENERGY CODE

Section

152.01 Adopted by reference

Cross-reference:

Property Maintenance, see Ch. 151

Zoning, see Ch. 154

§ 152.01 ADOPTED BY REFERENCE.

The Maine Uniform Building and Energy Code (MUBEC) consisting of the following codes:

- (A) 2009 International Residential Code (IRC);
- (B) 2009 International Building Code (IBC);
- (C) 2009 International Existing Building Code (IEBC); and
- (D) 2009 International Energy Conservation Code

are adopted by reference and made a part hereof as if appearing in total.

CHAPTER 153: DIRECTIONAL SIGNS; ELECTION, POLITICAL SIGNS

Section

Directional Signs

- 153.01 Title
- 153.02 Purpose
- 153.03 Location requirements
- 153.04 Materials
- 153.05 Reflectorized signs
- 153.06 Waivers
- 153.07 Seasonal basis
- 153.08 Permits
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DIRECTIONAL SIGNS

§ 153.01 TITLE.

This subchapter shall be known and may be cited as the "Directional Sign Ordinance of the Town of Hermon, Maine" and will be referred to herein as "this subchapter".
(Ord. passed - -)

§ 153.02 PURPOSE.

The purpose of this subchapter is to regulate the installation and maintenance of official business directional *signs* on the public ways. These regulations set forth comprehensive standards for the location, number, design, size, maintenance and permit procedures for the installation and maintenance of each sign.

(Ord. passed - -)

§ 153.03 LOCATION REQUIREMENTS.**(A) General requirements.**

(1) Official business directional signs shall be located within the highway right-of-way approaches to intersections where travelers must change direction from one public way to another to reach a business, service or point of interest or where appropriate at the end of T intersections. A business, service facility or point of interest shall not be permitted more than one *sign* at any one intersection approach. Each place of business service, or point of interest shall be eligible for a maximum number of six official business directional signs. To qualify for an official business directional sign, the business, service or point of interest must be within a ten mile radius of the proposed location of the sign.

(2) Official business directional signs shall be located so as to avoid visual conflict with other signs, to have the least impact on the scenic environment and to take advantage of the natural terrain. Official business directional signs shall not be permitted at locations where the directional information contained thereon may be misinterpreted, misleading or otherwise confusing to the traveling public.

(B) Lateral clearances. The near edge of official business directional signs shall be located at least ten feet outside the highway shoulder; except that, in areas where insufficient right-of-way exists to maintain this clearance, or where physical obstructions make a distance impossible, the near edge shall be located the maximum practical lateral distance from the edge of the traveled way. In urban areas, signs shall be at least one foot from the curb face.

(C) Distances.

(1) Official business directional signs must be within 2,500 feet of the intersection where a change in direction is required unless otherwise permitted under § 153.06.

(2) Official business directional signs shall be located so as not to interfere with, obstruct or divert a driver's attention from a traffic control sign or device. Traffic control signs or devices placed at intersection approaches subsequent to the placement of official business directional signs shall have precedence as to location and may require the relocation of official business directional signs. Unless traffic safety is not adversely affected, official business directional signs in general shall be at least 200 feet from traffic control signs or devices.

(3) Successive business directional sign assemblies shall be spaced sufficiently apart for drivers to comprehend the messages contained thereon.

(D) *Sign assemblies.* There shall be a maximum of three official business directional signs per assembly and each sign shall be mounted three inches from the next sign below or above it.

(E) *Sign clusters.* Notwithstanding division (D) above, sign clusters may be permitted whenever the town determines that highway safety and visual quality will not be adversely affected.

(F) *Vertical distances.* Sign assemblies shall be erected so as to provide a minimum of five feet vertical clearance between the lower edge of the bottom sign and the surfaces of the highway. Signboards located near pedestrian and parking areas may be required to have a vertical clearance of seven feet. (Ord. passed - -)

§ 153.04 MATERIALS.

Sign panel material shall be high density overlaid plywood with a minimum of one-half inch thick or other material sufficiently stable not to deform under normal conditions of weather and use. All materials furnished under this section shall be durable and weather resistant. (Ord. passed - -)

§ 153.05 REFLECTORIZED SIGNS.

(A) *General.*

(1) ReflectORIZED signs shall be standard in design, color and reflectORIZATION.

(2) Sign legends shall be specific in identifying the name of the appropriate business or other service. Messages, symbols and logos which interfere with, imitate or resemble any official traffic control device or serve to advertise rather than identify a business are prohibited.

(B) *Size.*

(1) Sign size, layout and letter size shall conform to the dimension and details shown in Figure 2. To protect highway safety and visual quality, the town or Department of Transportation (herein known as DOT) may require smaller signs than 12 inches by 48 inches for certain intersections and areas.

(2) All signs in a sign assembly shall be the same size. Sign sizes at a particular location must be consistent with the visual and aesthetic character of that location and with sign sizes which have been previously approved.

(C) Color.

(1) The background color of all signs shall be blue and shall be in accordance with highway blue color tolerance charts PR-Color #3.

(2) All legend and border shall be silver. The edges and back of the signboards shall be sealed and painted brown. Specific color requirements shall be in accordance with the latest color tolerance charts published by the Federal Highway Administration and available for view at the office of the State Department of Transportation in Augusta.

(D) Lettering and layout.

(1) All lettering used in the name of the business or service, including the directional legend, shall be in Helvetica medium lower-case lettering with initial upper-case. Letter sizes shall be as shown in Figure 2.

(2) Sign legends shall begin in the upper left-hand corner of the space provided. Single-line legends, if used, shall occupy the top line of the space starting in the upper left-hand corner.

(3) Directional legend shall be located on the left edge or the right edge of the sign depending upon whether a left turn or right turn is required. The distance in miles from the intersection to the business, service facility or point of interest shall be shown below the directional arrow.

(4) The logo or symbol, if used, shall be located on the opposite end of the sign from the directional arrow.

(5) Layout of the signboard and legend including the logo and symbol shall conform to good graphic layout practices.

(E) Symbols and logos. A symbol or logo may be used at the owner's option which may be any color or colors. If symbol is used, it shall be identical to the appropriate design as set forth in Figure 1.

(F) Reflectorization.

(1) The background, sign legend and border of all signs shall be reflectorized with reflective sheeting to show the same shape and color for both day and night. Reflective sheeting shall consist of a smooth, flat exterior film with spherical glass lens elements embedded beneath the surface and a precoated adhesive backing protected by a removable liner. Reflective sheeting shall meet the requirements of Federal Specifications LS-300B available for view at the office of the DOT in Augusta.

(2) Illumination by special interior or exterior supplemental lighting is not permitted.

(G) Installation and maintenance.

(1) Official business directional signs shall be furnished by the owner or the applicant. The signs shall be installed by the DOT at approved locations on sign posts furnished by DOT. DOT shall be responsible for maintenance of the sign supports.

(2) Signboards which become lost, stolen, defaced or otherwise damaged or deteriorate shall be replaced by the owner and reinstalled by DOT.

(3) The owners of official business directional signs which represent businesses, service facilities or points of interest no longer offering the traveler assistance, or signs which are no longer applicable because of business name changes, business relocations or for any reason, shall notify DOT to have the signs removed.

(4) Failure to properly maintain the sign panel by the owner or to notify DOT that signs are no longer applicable may result in removal of the signs by DOT. (Ord. passed - -)

§ 153.06 WAIVERS.

(A) Whenever the Town Council determines that at a particular approach to an intersection the standards for sign assemblies as set forth in § 153.03 will adversely affect highway safety of the visual quality of the immediate neighborhood, the Town Council may impose more stringent standards including prohibition.

(B) When the Town Council determines that a change in the distances, number of signs per assembly and number of assemblies at an approach to an intersection will not interfere with highway safety nor adversely impact the visual quality of the immediate neighborhood, the Town Council may waive the requirements contained in § 153.03(C) and (D).

(C) The Town Council may waive the specific requirements for location and numbers if an applicant can show unusual hardship due to conditions to topography, access or other physical characteristics.

(D) In place of official directional signs, the Town Council may order the installation of an official information center to be located within a reasonable distance of the intersection. Once a center is established, no official business directional sign shall be permitted at the intersection.

(E) The Town Council may designate members of the town office staff to exercise the responsibilities of this section.

(F) Waivers authorized will be subject to further approval by the State Department of Transportation. (Ord. passed - -)

§ 153.07 SEASONAL BASIS.

The owner of a business, service or point of interest which is temporarily or seasonally closed may cover the sign during the off-season. The cover will be of a waterproof material tightly wrapped and secured by sturdy cord or wire. The cover will be held in place so as not to injure or deface the signboard.

(Ord. passed - -)

§ 153.08 PERMITS.

(A) *Review and approval of application.* Application for an official directional sign shall be made on forms furnished by DOT. Application will be returned by the applicant to the town. Any application for an official business directional sign is subject to review and approval by the Council. Signs not deemed to meet the requirements of these regulations shall not be approved by the Town Council. After action by the Council, the application shall be returned to the DOT for its consideration.

(B) *Conformity with laws.* No application for a business directional sign shall be accepted unless that business is in conformance with all applicable laws concerning licensing, zoning, development and applicable sign regulations.

(C) *Application fees.* Application shall be accompanied by an initial fee of \$25 payable to the state and a \$10 fee payable to the town. The initial permit fee will apply to installation for the remainder of the calendar year, but will not be prorated for an fraction of a year.

(D) *Renewal fees.*

(1) Permits are to be renewed annually on January 1 through the DOT at an annual cost of \$25 for each reflectorized sign. There will be no charge for the annual town review.

(2) Failure to pay renewal fees within 30 days will result in removal of signs by the state. Renewal fees are not refundable for installations of less than a full year.

(E) *Non-transferable.* Permits for the installation of directional signs are not transferable. Any change of ownership of a business, service or point of interest shall require reapplication and approval.

(F) *Variances.* The Town Council may alter the specific requirements for the size, number and/or location of signs as set forth in this regulation if an applicant for a permit can show unusual hardship due to conditions of topography, access or other physical characteristics. This is subject to the further variance approval by the State DOT.

(Ord. passed - -)

§ 153.09 DEFINITIONS.

For the purpose of this subchapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

DOT. State of Maine Department of Transportation.

LOGO. A single or multicolor symbolic design or a business, service facility or point of interest used to identify its product or services.

OFFICIAL BUSINESS DIRECTIONAL SIGN.

(1) An official business directional sign is a sign erected and maintained in accordance with the State Traveler Information Service Act, being 23 M.R.S.A. Ch. 21, and these regulations to indicate to the traveling public the route and distance to public accommodations, facilities, commercial services for the traveling public and points of scenic, historical, cultural, recreational, educational and religious interest.

(2) The second line of the legend may be used to indicate additional directional information such as next right or left, route number or the name of the street.

PUBLIC WAY. Any road capable of carrying motor vehicles, including, but not limited to, any state highway, municipal road, country road, unincorporated territory or other road dedicated to the public.

SIGN ASSEMBLY. The tiering of more than one official business directional sign on a support assembly.

SYMBOL. A symbol is a design used to identify traveler services approved for use by the National Advisory Council on Uniform Traffic Control Devices by the State Department of Transportation as set forth in Figure 1.

TRAFFIC CONTROL SIGN OR DEVICE. An official route marker, warning sign, sign directing traffic to or from a community, bridge, ferry or airport, or sign regulating traffic which has been erected by officials having jurisdiction over the public way.

(Ord. passed - -)

*ELECTION AND POLITICAL SIGNS***§ 153.20 PURPOSE.**

(A) (1) The purpose of the "Town of Hermon Election and Political Sign Ordinance" is to instill the highest levels of ethics and integrity in the campaign process for local offices.

(2) All regulations set herewith shall apply to all local elections and be limited solely to the campaigning process, but, in no way, shall regulate campaign finance.

(B) All regulations set forth in this subchapter shall comply with and, in no way, violate federal or state laws concerning the campaign process. (Ord. passed 1-19-2011)

§ 153.21 POLITICAL SIGNAGE.

(A) All outdoor displays of signs, to include election and campaign signs, for or against candidates or issues, are regulated by state law and Ch. 154 of this code of ordinances.

(B) (1) Political signage may only be placed six weeks before the election date and must be removed within seven days after the election has occurred, or upon cessation of the candidacy.

(2) Political signs may be erected on private property by a landowner at any time. In the event of a runoff election, candidates may maintain their political signage in their current locations until the runoff election has occurred, at which point the candidate shall have seven days to remove the signage.

(C) Signs bearing a political message relating to the election for Town Council, School Board or referendum question shall not be more than 24 square feet, may not contain animated or moving elements, nor resemble any recognizable traffic signs.

(D) (1) Signs shall not be placed on utility poles, street lights or light fixtures, or trees.

(2) Signs shall not be placed on the paved or gravel surface of any road, in any location that may obscure a driver's vision on the right-of-way, within ten feet of any intersection or within ten feet of any driveway.

(3) The Registrar and/or the Road Commissioner and/or his or her designee shall have the authority to remove or move signs in violation to a nearby compliant location.

(4) Upon removal or relocation of a sign, the Road Commissioner and/or his or her designee or the Registrar shall notify the party whose sign was removed or relocated.

(E) (1) No person at any time may remove, tamper with or destroy political signage that has lawfully been placed.

(2) Political, or any other, signage may not be placed within five feet of another candidate's sign.

(3) Signs may only be removed if a political sign has been placed on an individual's private property without permission from the landowner. (Ord. passed 1-19-2011)

§ 153.22 VIOLATION NOTICE.

<p>NOTICE OF VIOLATION OF THE TOWN OF HERMON ELECTION AND POLITICAL SIGN ORDINANCE</p> <p>_____ is hereby ordered by the Hermon Town Council to pay a local fine of \$250 for violating the Town of Hermon Election and Political Sign Ordinance on this _____, 20 _____</p> <p>The offending party shall have 30 days from the date the Town Council resolved a violation has occurred to pay the fine balance in full to the Town of Hermon. Payment shall be made payable to the Town of Hermon to the following address:</p> <p style="margin-left: 40px;">Town of Hermon PO Box 6300 Hermon, ME 04402</p> <p>Failure to pay the fine in full shall result in Civil action by the Town of Hermon.</p> <p>SIGNED this _____ of _____, 20 _____</p>
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(Ord. passed 1-19-2011)

§ 153.99 PENALTY.

(A) Any person violating any provision of this chapter for which no specific penalty is prescribed shall be subject to § 10.99.

(B) (1) If at any time a candidate for local office, or any other resident, believes that §§ 153.20 through 153.22 have been violated, the violation must be reported in writing to the Town Manager, any member of the Town Council, the Town Clerk or the Registrar, which shall then be brought before the Town Council for action at the next regularly scheduled Town Council meeting.

(2) All Council members not a party to the proposed violation must have four or more in the majority confirming the violation.

(3) If the Town Council believes a violation has occurred, the violating person shall be issued a local fine of \$250 per offense. (Ord. passed 1-19-2011)

CHAPTER 154: LAND USE AND DEVELOPMENT

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GENERAL PROVISIONS

§ 154.001 TITLE.

This chapter shall be known and may be cited as the "Land Use Ordinance of the Town of Hermon, Maine" and will be referred to herein as "this chapter".
(Ord. passed 1-3-2013)

§ 154.002 AUTHORITY.

This chapter is adopted in accordance with the home rule, subdivision control, land use regulation, and shoreland zoning, provisions of Title 30-A M.R.S.A., as amended, and Article VIII, Part 2, of the Maine Constitution.
(Ord. passed 1-3-2013)

154.003 PURPOSE.

The purposes of this chapter are:

- (A) To encourage the most appropriate use of land throughout the town consistent with the comprehensive plan;**
- (B) To shape the future of the landscape by regulating the types and intensities of development allowed in various parts of town;**
- (C) To ensure that allowed development does not overtax the community's infrastructure and carefully plan growth of infrastructure to meet the needs of the growing community;**
- (D) To provide adequate light and air;**
- (E) To prevent overcrowding of real estate;**
- (F) To conserve natural resources and protect critical resource areas from the impacts of development;**
- (G) To prevent housing development in unsanitary areas;**
- (H) To promote traffic safety;**
- (I) To promote the coordinated development of unbuilt areas;**
- (J) To provide opportunities for and access to a reasonable level of consumer products and services in the village center;**
- (K) To promote development of industrial zones near Bangor and transportation corridors (rail, 1-95, etc.);**
- (L) To insure the maintenance of the public health and safety respecting the features of land, buildings, and premises;**
- (M) To provide for the preservation of open space and aesthetic appearance;**
- (N) To avoid overcrowded housing;**
- (O) To promote the development of the town as a desirable place to live;**
- (P) To encourage the formation of community units;**

(Q) To conserve and enhance the taxable value of land and buildings by protecting the integrity of the districts created herein from encroachment by incompatible uses;

(R) To provide safety from fire and other elements; and generally;

(S) To promote the health, safety, convenience and welfare of the inhabitants of the town. (Ord. passed 1-3-2013)

§ 154.004 VALIDITY AND SEVERABILITY.

In the event that any article, section, subsection, or other provision of this chapter is held or becomes invalid or void, by virtue of any decision of any court of competent jurisdiction, or by virtue of any controlling Federal, State, or other law, then only such article, section, subsection or other provision which is specifically mentioned in such decision of the court, or which is specifically controlled by such Federal, State, or other law, shall be affected and the remaining portions of this chapter shall continue to be valid, and remain in full force and effect.

(Ord. passed 1-3-2013)

§ 154.005 BASIC REQUIREMENTS.

All buildings or structures hereinafter erected, constructed, reconstructed, moved, structurally altered, enlarged, and uses of land in the town, shall be in conformity with the provisions of this chapter. 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.

(Ord. passed 1-3-2013)

§ 154.006 AMENDMENTS.

(A) *Initiation of amendments.* An amendment of this chapter may be initiated by a written petition as detailed in § 10.01 of the Charter, or by recommendation of the Planning Board, or by a recommendation of the Town Council. The Town Council may approve such proposed amendments by a majority vote.

(B) *Zoning amendments.*

(1) The Town Council shall refer proposed amendments to the Planning Board at least thirty days before the legislative meeting at which said amendment is to be considered. The Planning Board shall make investigation of the proposed amendment, including whether the requested amendment is compatible with the purposes and provisions of this chapter and the current comprehensive plan, and present a written report to the Council.

(2) The Town Council shall fix the time and place of a public hearing on the proposed amendments in accordance with its Charter, and the requirements of 30-A M.R.S.A. § 4352(9), and where applicable, (10), and such public hearing shall be so held.

(3) Proposed amendments disapproved by the Planning Board may be enacted only by two-thirds" vote of the Town Council members present and voting.

(4) Amendments shall go into effect 30 days after enactment.

(5) Whenever an amendment to the Zoning Map is made, the Planning Board shall make such change on the official zoning map.

(6) Notwithstanding the provisions of division (B)(1), above, the *Planning* Board may initiate the amendment process by recommending an ordinance amendment, including the finding that the amendment is compatible with the purposes and provisions of the ordinance and the current comprehensive plan, without prior referral from the Town Council.

(C) *Repetitive petitions.* No proposed change in this chapter which has been unfavorably acted upon by the Town Council shall be considered on its merits by the Town Council within one year after the date of such unfavorable action unless adoption of the proposed change is recommended by six affirmative votes on the part of the Planning Board.
(Ord. passed 1-3-2013)

§ 154.007 CONTRACT ZONING.

Pursuant to 30-A M.R.S.A § 4352(8), property in the town may be re-zoned through the process of contract zoning in accordance with the following provisions:

(A) *Purpose.* On occasion, where competing and incompatible uses conflict, traditional zoning methods and procedures, such as variances, site plan approval and special exception approval are inadequate. In these special situations, more flexible and adaptable zoning methods are needed to permit differing land uses in both developed and undeveloped areas. In consideration of a change of zoning classification of a particular property or group of properties, it may be determined that public necessity, convenience, or the general welfare require that provisions be made to impose certain limitations or restrictions on the use or development of that property. Such conditions are deemed necessary to protect the best interests of the property owner, the surrounding property owners in the neighborhood, all other property owners and citizens of the town, and to secure appropriate development consistent with the town's comprehensive plan.

(B) *Definition.* **CONTRACT ZONING** is the process by which a property owner, in consideration of the re-zoning of his or her property, agrees to the imposition of certain conditions or restrictions not imposed on similarly zoned properties.

(C) *Mandatory conditions.* Any zone change adopted pursuant to this division shall:

- (1) Be consistent with the comprehensive plan of the town;**
- (2) Only include conditions and restrictions which relate to the physical development and operation of the subject property; and**
- (3) Be subject to an agreement executed by authorized representatives of both the property owner and the town providing for the implementation and enforcement of all terms and conditions imposed and agreed to by the parties pursuant to this division.**

(D) *Discretionary conditions.* Any zone change adopted pursuant to this division may include reasonable conditions and restrictions relating to one or more of the following:

- (1) Limitations on the number and types of authorized uses on the property;**
- (2) Limitations on the height and lot coverage of any structure or structures built on the property;**
- (3) Increased setbacks and side yards for any structure or structures built on the property;**
- (4) The installation, operation and maintenance of physical improvements for the convenience of the general public, including but not limited to off street parking lots, traffic control devices, lighting, fencing, shrubbery, screening, open spaces and buffer areas;**
- (5) The dedication or conveyance of property for public purposes, including but not limited to streets, drainage, scenic and conservation easements, parks and utility systems; and**
- (6) Any additional conditions and restrictions which relate to the physical development and operation of the subject property that the Town Council deems reasonably necessary to accomplish the purposes of this division, to protect the general welfare, the best interests of the property owner, surrounding property owners, the neighborhood, and all other property owners and citizens of the town, or to secure appropriate development consistent with the comprehensive plan.**

(E) *Procedure.*

(1) *Application and documents required.* Amendments considered under this division shall be initiated by application to the Town Council on an application form supplied by the Code Enforcement Officer for that purpose. Eight copies of the complete application, including the documents listed below, shall be submitted which detail:

- (a) The names and addresses of all record owners of the property to be re-zoned;**

(b) The names and addresses of the owners of all property located within 500 feet of the property to be re-zoned;

(c) A detailed description of the proposed use that necessitates re-zoning;

(d) An architect's plan of the proposed development to be undertaken should the re-zoning be approved;

(e) An architect's estimate of the total cost of the proposed development to be undertaken should the re-zoning be approved;

(f) A scaled map depicting all structures currently located on the subject property and within 500 feet of the boundaries of the subject property;

(g) Photographs of the subject property including, but not limited to, photographs of all structures and other improvements on the property, photographs from adjacent public ways and photographs showing the existing vegetation and landscaping on the site;

(h) Written evidence of the applicant's legal interest in the subject property;

(i) The tax map and lot number(s) of the subject property;

(j) A copy of the town's most recent tax map depicting the subject property;

(k) The name of the zone in which the subject property is currently situated; (1) The name of the zone to which the applicant desires to have the property re-zoned;

(m) A list of all uses permitted, whether with a permit from the Code Enforcement Officer or with special exception approval granted by the Zoning Board of Appeals, in the zone to which the applicant desires to have the subject property re-zoned;

(n) The lots standards for the zone to which the applicant wishes to have the property re-zoned;

(o) A copy of the Zoning Map of the town on which is indicated the location of the subject property;

(p) A copy of any conditions and restrictions proposed by the applicant to be placed upon the property should the re-zoning be granted; and

(q) Such other information as may be requested by the Town Council, Planning Board, Town Manger or Code Enforcement Officer.

(2) *Fees.* No application for contract zoning shall be considered until the applicant has paid a \$300 fee. All fees shall be payable to the town and shall be for the cost of processing the application and shall not be refundable regardless of the final decision.

(3) *Staff input.* Following the submission of all application materials, fees and bonds, the applicant shall meet with the Town Manager, Code Enforcement Officer and all appropriate department heads, to review the proposal and to elicit input concerning proposed conditions and restrictions.

(4) *Planning Board.* Following the applicant's meeting with the staff, the applicant shall meet with the Planning Board to review the proposal and to elicit input concerning proposed conditions and restrictions.

(5) *Town Council.* Following the applicant's meeting with the Planning Board, the applicant shall meet as often as may be necessary with the Town Council or its designees until the Council and the applicant have agreed upon all of the terms and conditions of a written contract providing for the implementation and enforcement of the proposed re-zoning. Upon agreement, the proposed re-zoning shall be presented to the Planning Board to conduct a hearing prior to the Town Council's vote on the agreement.

(6) *Hearing.* If the Planning Board recommends a proposed amendment, such zoning change, subject to the conditions and restrictions agreed upon by the Town Council and the applicant, may be adopted, after notice and hearing as prescribed in 30-A § 4352(8)(C), by a majority vote of the Town Council. If the Planning Board does not recommend the proposed zoning change, such zoning change may be adopted only by two-thirds' vote of the Town Council members present and voting

(7) *Shoreland.* A copy of the zoning change related to property in a Shoreland Zone, attested and signed by the Town Clerk, shall be submitted to the Commissioner of the Department of Environmental Protection in accordance with 38 M.R.S.A. § 4-A, subsection 3.

(8) *Recording.* No contract zoning change approved by the Town Council shall be effective until after the execution and recording in the Penobscot County Registry of Deeds a written contract containing a complete description of the zone change together with all of the conditions and restrictions agreed upon by the Town Council and the applicant and appropriate provisions for implementation and enforcement of same. The contract shall be executed by the applicant and by at least a majority of the members of the Town Council. Following recording, the zone change, together with all conditions and restrictions, shall run with the subject property.

(9) *Contract zoning not permit or site approval.* Approval of a contract zoning change does not and shall not be construed to constitute either permit or site plan approval for any proposed project, development or use. Following the approval of any contract zone change, any proposed project, development or use must, before commencement or construction, be submitted to any review process otherwise required by local ordinance. During the review process, the reviewing authority shall ensure

the applicant's compliance not only with the minimum review standards set forth as part of this chapter, but also with any additional conditions and restrictions imposed by the agreement between the Town Council and the applicant.

(Ord. passed 1-3-2013)

§ 154.008 EFFECTIVE DATE.

This chapter shall be effective 30 days after passage by the Town Council. (Ord. passed 1-3-2013)

§ 154.009 DEFINITIONS; RULES OF INTERPRETATION.

(A) Rules of interpretation. 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.

(B) Definitions. For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

ACCESSORY STRUCTURE OR USE. A use or structure on the same lot 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.

ADJACENT GRADE. The natural elevation of the ground surface prior to construction next to the proposed walls of a structure.

ADMINISTRATIVE APPEAL. An appeal to the Board of Appeals from a determination made by the Code Enforcement Officer in enforcing this chapter and/or the Planning Board in interpreting this chapter. Such determination may involve an interpretation of the provisions of this chapter or a finding of fact made by the Code Enforcement Officer or Planning Board.

AFFORDABLE HOUSING. Housing units which will meet the sales price and/or rental targets established by the comprehensive plan for housing affordability.

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 chapter; 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.

AGRICULTURAL LAND SPREADING OF PRE-TREATED SEPTAGE. The land spreading of pre-treated septage upon sites which meet the requirements for "agricultural use sites" specified by the Maine Septage Management Rules adopted by the Maine Department of Environmental Protection Regulations, Chapter 420, Section 11.C. (06-096 C.M.R. 420), as amended or superseded.

AGRICULTURE. The production, keeping or maintenance for sale or lease, of plants including, but not limited to, forages and sod crops; grains and seed crops; fruits and vegetables, and ornamental and green house products. ***AGRICULTURE*** does not include forest management and timber harvesting activities.

AGRICULTURE, COMMERCIAL. The use of land for growing and/or production of field crops, fruits, vegetables, flowers, nursery stock (including ornamental plants) and trees. This section is not intended to regulate non-commercial growing or production of the above items or casual sales of the above items.

ALTERATION. A change, or modification in construction, or a change in structural members of a building such as bearing walls, columns, or beams.

ANIMAL HUSBANDRY. Dairying; raising of livestock; breeding or keeping of animals, birds or fish as a business or gainful occupation. Specifically excluded are fur farms, raising of pigs and dog kennels.

APARTMENT HOUSE. A multiple-family dwelling for three or more families, living independently of each other, each in a separate dwelling unit within the one building.

APPLICANT. The person applying for subdivision approval under these regulations.

AQUACULTURE. The growing or propagation of harvestable freshwater, estuarine, or marine plant or animal species.

ARCADE . Any business containing six or more coin or token operated video games or pinball machines.

AREA OF SPECIAL FLOOD HAZARD. The land in the floodplain having a 1% or greater chance of flooding in any given year, as specifically identified in the Flood Insurance Rate Map or Flood Hazard Boundary Map cited in §§ 154.155 through 154.166.

AUTOMOTIVE BODY SHOP. A business establishment engaged in rebuilding or reconditioning of motor vehicles, or body, frame or fender straightening and repair, or painting and undercoating, but not the sale of gasoline, other motor fuels, or motor oil.

AUTOMOTIVE SERVICE STATION. Automotive service station—premises used or designed to be used for the supply of gasoline, kerosene or any other motor oil or lubricating oil, or grease; such premises may include facilities for minor repairs, sales and installation of minor automotive parts, and installation or sale of major parts such as engines and automobile dealership or annex thereof.

AVERAGE DAILY TRAFFIC (ADT). The average number of vehicles per day that enter and exit the premises or travel over a specific section of road.

AVIATION FIELD. A place where aircraft can land and take off, which is equipped with hangers, facilities for refueling and repair and various accommodations for passengers.

BARBER SHOP, BEAUTY SHOP. A commercial establishment whose business is cutting and dressing hair, shaving and performing related services.

BASE FLOOD. The flood having a 1% chance of being equaled or exceeded in any given year, commonly called the 100-year flood.

BASEMENT - FLOODPLAIN AREAS. Any area of the building having its floor subgrade (below ground level) on all sides.

BASEMENT - NON FLOODPLAIN AREAS, NON SHORELAND AREAS. A portion of a building partly underground but having less than half its clear height below the grade of the adjoining ground.

BASEMENT - SHORELAND AREAS. Any portion of a structure with a floor-to-ceiling height of six feet or more and having more than 50% of its volume below the existing ground level.

BED AND BREAKFAST. Any dwelling in which transient lodging, boarding and lodging are provided and offered to the public for compensation for less than one week. This dwelling shall also be the full-time, permanent residence of its proprietors. There shall be no cooking in any individual guest room.

BERM. A man-made mound of earth used to shield or buffer properties from adjoining uses, highways, or noise, or to control the direction of surface water flow.

BILLBOARD. A sign, structure or surface larger than six square feet which is available for advertising purposes off the premises, but excluding directional or traffic signs.

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.

BUFFER AREA. A part of a property or an entire property, which is not built upon and is specifically intended to separate and thus minimize the effects of a land use activity (e.g. noise, dust, visibility, glare, etc.) on adjacent properties or on sensitive natural resources.

BUILDING. Any structure, either temporary or permanent, with a roof, awning or other covering, containing three or more enclosed sides, and designed or used for the shelter or enclosure of any person, animal or property of any kind.

BUILDING HEIGHT. The vertical distance measured from the mean elevation of the finished grade at the front of the building to the highest point of the building for flat roofs, to the deck line of mansard roofs, and to the mean height between eaves and ridge for gable, hip and gambrel roofs.

BUSINESS AND PROFESSIONAL OFFICE. Offices for lawyers, engineers, architects, accountants, building contractors, doctors, dentists or other similar professionals, and banking, security and commodity brokerage, real estate sales, travel agency, employment counseling, insurance sales, advertising, mailing and stenographic services and other services of a similar nature.

(a) ***BUSINESS AND PROFESSIONAL OFFICE, CLASS 1.*** A business office or professional office having less than 2,000 square feet of floor area.

(b) ***BUSINESS AND PROFESSIONAL OFFICE, CLASS 2.*** A business office or professional office having 2,000 square feet or more of floor area.

BUSINESS PARK. A tract of land that is planned, developed and operated as an integrated facility for a number of individual commercial uses, with consideration to transportation facilities, circulation, parking, utility needs, aesthetics, and compatibility. Business Parks shall not include incompatible industrial uses, such as junkyards, recycling facilities, truck terminals, warehousing, manufacturing or other similar uses.

BUSINESS VEHICLE. A device, customarily and regularly used in the conduct of a business, legal for passage over a public way under its own motive power, as a towed vehicle, or upon a towed vehicle. ***BUSINESS VEHICLES*** include, but are not limited to, automobiles, vans, pick-ups, trucks, tractors, tractor-trailer combinations, "low-boy" or flat bed equipment trailers, construction equipment, bulldozers, excavators, loaders, backhoes, compressors, drilling rigs and paving equipment. Excluded are mobile homes, recreational vehicles and utility trailers as defined above.

CAMPGROUND. Any area or tract of land to accommodate two or more parties in temporary living quarters, including, but not limited to, tents, recreational vehicles or other shelters.

CASUAL SALES. A general term for the occasional sales at retail which are also known as yard sales, garage sales, barn sales, moving sales. Casual sales exhibit the following characteristics: they are infrequently held (more than ten days per calendar year is deemed frequent) they do not entail the purchase for resale; the volume of goods sold is not such that it necessitates a special place for storage and/or display; goods offered for sale are not transported from another location for the purpose of resale;

and, signs advertising such sales are small, generally less than four square feet, and temporary in nature as regards construction and materials. Purchased advertising is of such size and detail as befits the infrequent nature of sales at retail from that location.

CELLAR. See ***BASEMENT.***

CEMETERY. Land used or intended to be used for the burial of dead human beings or animals and dedicated for such purpose, including mausoleums and mortuaries when operated as part of a cemetery and within its boundaries, but excluding crematoria.

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 chapter.

CHURCH. A building or structure, or group of buildings and structures, designed, primarily intended and used for the conduct of religious services.

CLINIC- MEDICAL/DENTAL. An establishment where patients are admitted for examination and treatment by one or more physicians, dentists, psychologists or social workers and where patients are not lodged overnight.

CLINIC- SUBSTANCE ABUSE. A program or facility operated for the purpose of providing treatment for persons with heroin or other opiate addictions, when the treatment provided includes administration of prescriptions of methadone or other opiate replacements for either detoxification or maintenance purposes. For purposes of this definition the ***SUBSTANCE ABUSE*** includes but is not limited to substance abuse treatment programs licensed by the State of Maine Department of Behavioral and Development Services Office of Substance Abuse to provide opiate supervised withdrawal and maintenance treatment services on an out patient basis.

CLUB. An association of persons for social, fraternal, educational, political, athletic, literary or other like purposes so long as any such purposes is not conducted for profit.

CODE ENFORCEMENT OFFICER. A person appointed by the Town Manager and confirmed by the Town Council to administer and enforce town ordinances. Reference to the Code Enforcement Officer shall include Building Inspector, Plumbing Inspector, Electrical Inspector, and the like where applicable.

CO-LOCATION. The use of communications facility by more than one communications company or telecommunications provider.

COMMERCIAL COMPLEX (SHOPPING CENTER). Defined as a grouping of two or more commercial units built primarily for retailing purposes on common property planned, developed, owned or managed as a unit with common off street parking provided for the same site.

COMMERCIAL DIVISION UNIT (CDU). A separate and distinct leasable space in a commercial development or multi-tenanted non-residential development.

COMMERCIAL FEEDLOT. A place where large numbers of beef cattle or hogs are kept for a relatively short period of time prior to being shipped to a slaughter house.

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.

COMMUNICATIONS FACILITY. A structure or structures used for transmitting and receiving radio, microwave, or similar electromagnetic signals, not including antennae and satellite dishes designed for ordinary home or farm use or a use that requires radio dispatching as an accessory use to the permitted use. Communications facilities shall not mean a utility pole that supports electric or telephone transmission lines, and which is owned by a public utility.

COMMUNITY SERVICE ORGANIZATION. A non-profit charitable institution, not to include private clubs, the primary function of which is serving the public health or social welfare of the community.

COMPLETE APPLICATION. An application shall be considered complete upon submission of the required fee and all information required by this chapter or by a vote by the Planning Board to waive the submission of required information.

COMPLETE SUBSTANTIAL CONSTRUCTION. The completion of no less than 75 % of the costs of the proposed improvements within a development. If the project is to consist of individual lots to be sold or leased by the applicant, the cost of construction of buildings on those lots shall not be included. If the project is a multifamily development, or if the applicant proposes to construct the buildings within the project, the cost of building construction shall be included in the total costs of proposed improvements.

COMPREHENSIVE PLAN. A document or interrelated documents adopted by the Town Council containing an inventory and analysis of existing conditions, a compilation of goals for the development of the community, an expression of policies for achieving these goals, and strategies for implementation of the policies. Specifically, the town comprehensive plan, 5-1-1995, as amended and adopted on 1-17-1996, and subsequently amended from time to time.

CONDOMINIUM . The term means real estate, portions of which are designated for separate ownership and the remainder of which is designated for common ownership through an established owners association. A **CONDOMINIUM** shall also mean a group of two or more detached or semi-detached one family, duplex or multiple dwellings.

CONFORMING USE. The use of buildings, structures or land which complies with all applicable provisions of this chapter.

CONSERVATION EASEMENT. A nonpossessory interest in real property imposing limitations or affirmative obligations, the purposes of which include retaining or protecting natural, scenic or open space values of real property; assuring its availability for agricultural, forest, recreational or open space use; protecting natural resources; or maintaining air or water quality.

CONSTRUCTED. Includes built, erected, reconstructed, moved upon, or any physical operations on the premises which are required for construction.

COVENANT. An agreement or promise of two or more parties, reduced to writing, signed and delivered, by which either of the parties pledges himself or herself that something is done or shall be done.

CREMATORIA. Facilities used for the cremation of human or animal remains. ***DAY CARE.***

HOME DAY CARE. A registered/licensed day care facility that regularly provides care for up to eight children at one time from zero to 13 years of age. The facility shall be located in the family dwelling or an approved structure on the same lot occupied by the family dwelling.

ADULT DAY CARE. A program of care and activities carried out on a regular basis by a person or persons in a family dwelling or an approved structure on the same lot occupied by the family dwelling. Care shall be given for up to eight adults, 19 years of age or older.

CHILD or ADULT DAY CARE CENTER. A licensed person/persons or agency that provides for the care of children outside of a residential dwelling or any center caring for persons over the age of 19.

DENSITY. The number of dwelling units per acre of land.

DESIGN REVIEW. The comprehensive evaluation of a proposed development and its impact on neighboring properties and the community as a whole, from the standpoint of site and landscape design, architectural, materials, colors and lighting and signs in accordance with adopted criteria and standards.

DEVELOPED AREA. Any area on which a site improvement or change is made, including buildings, landscaping, parking areas, and streets.

DEVELOPMENT. Any change caused by individuals or entities to improved or unimproved real estate, including but not limited to the construction of buildings or other structures; the construction of additions or substantial improvements to buildings or other structures; mining, dredging, filling,

grading, paving, excavation, drilling operations or storage of equipment or materials; and the storage, deposition, or extraction of materials, public or private sewage disposal systems or water supply facilities.

DIMENSIONAL REQUIREMENTS. Numerical standards relating to spatial relationships including but not limited to setback, lot area, shore frontage and height.

DIRECT WATERSHED OF A GREAT POND. That portion of the watershed which drains directly to the great pond without first passing through an upstream great pond. For the purpose of this chapter, the watershed boundaries shall be as delineated in the comprehensive plan, or upon maps provided for that purpose to the town by the Maine Department of Environmental Protection, Bureau of Water Quality, Division of Water Quality Control. Due to the scale of the map, there may be small inaccuracies in the delineation of the watershed boundary. Where there is a dispute as to exact location of a watershed boundary, the Board or its designee and the applicant shall conduct an on-site investigation to determine where the drainage divide lies. If the Board and the applicant can not agree on the location of the drainage divide based on the on-site investigation, the burden of proof shall lie with the applicant to provide the Board with information from a registered land surveyor showing where the drainage divide lies.

DISTRICT. A specified portion of the town, delineated on the official zoning map, upon which are imposed certain regulations and requirements or various combinations thereof, in accordance with the provisions of this chapter.

DRIVEWAY. A vehicular access way serving two dwelling units or less, or serving a single business which generates average daily traffic (ADT) of fewer than ten trips.

DWELLING. A building or portion thereof used for residential occupancy, including single-family, two-family, and multiple-family dwellings, but excluding hotels, motels, lodging houses, or overnight cabins. A mobile home shall be considered a dwelling for the purpose of this chapter.

DWELLING, DETACHED. A dwelling entirely surrounded by open space.

DWELLING, MULTIPLE-FAMILY. A residential building designed for and occupied by three or more families living independently of each other, and containing a separate dwelling unit for each family.

DWELLING, SINGLE-FAMILY. A dwelling unit detached from any other dwelling unit, designed for and occupied by single family only.

DWELLING, TWO-FAMILY. A detached dwelling containing two dwelling units designed for and occupied by not more than two families living independently of each other, and containing a separate dwelling unit for each family.

DWELLING UNIT. A room or group of rooms designed and equipped exclusively for use as living quarters for only one family, including provisions for living, sleeping, cooking and eating. The term shall include mobile homes but shall not include utility trailers or recreational vehicles.

EARTH. Topsoil, sand, gravel, clay, peat, rock or other geologic minerals.

EARTH-MOVING ACTIVITY. The removal of topsoil, rock, minerals, sand, gravel, and similar earth materials, from a location.

EDUCATIONAL USE AND STRUCTURE. Any use of structure or land where instruction, teaching, or training in any field of knowledge is provided as a public service or for a fee.

ELDER LIVING QUARTERS (ELQ). A temporary self-contained dwelling unit, attached or detached, established, used and maintained solely for the purpose of domicile for the parent(s) or elderly kin of the owner(s) or occupants of an existing single-family dwelling located upon a conforming lot of record.

ELEVATED BUILDING.

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

(b) *In the case of Zone A, ELEVATED BUILDING also includes a building elevated by means of fill or solid foundation perimeter walls with openings sufficient to facilitate the unimpeded movement of flood waters.*

ELEVATION CERTIFICATE. An official form (FEMA Form 81-31, 02/06, as amended) that:

(a) Is used to verify compliance with the floodplain management regulations of the National Flood Insurance Program; and

(b) Is required for purchasing flood insurance.

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.

ENGINEERED SUBSURFACE WASTE WATER DISPOSAL SYSTEM. A subsurface waste water disposal system designed, installed, and operated as a single unit to treat 2,000 gallons per day or more; or any system designed to be capable of treating waste water with characteristics significantly

different from domestic waste water (i.e. BOD5 and total suspended solid concentrations higher than domestic waste water as specified in Table 703.1 of the Maine Subsurface Waste Water Disposal Rules (144A CMR 241, dated 7-1-1995, as amended).

ESSENTIAL SERVICES. Gas, electrical or communication facilities (not otherwise defined in this section); 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. Structures such as high voltage transmission towers, microwave relay towers, groups of high voltage transformers (so-called "substations", which are used more in transmission of utility products than in their distribution, shall be considered "structures necessary for essential services" rather than essential service components.

EXCAVATION. Removal of earth or earth material from its original position.

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 months to a uses operating season; or the use of more floor area or ground area devoted to a particular use.

FACADE. The exterior wall of a building exposed to public view.

FAMILY. An individual or a group of two or more persons occupying a premises and living as a single housekeeping unit, as distinguished from a group occupying a lodging house or hotel.

FARM STAND. A building or structure from which agricultural products grown on the premises are sold to the general public. The farm stand shall be accessory to the use of the premises for agricultural purposes.

FENESTRATION. The design and placement of windows and doors in a building. **FILLING.** Depositing matter on or into the ground or water.

FINAL PLAN. The final drawings on which the applicant's plan of development or subdivision is presented to the Planning Board for approval and which, if approved, may be recorded at the Registry of Deeds.

FIREWOOD PROCESSING. A place where firewood is delivered, cut and split, and from which it is sold.

FLOOD or FLOODING.

(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 division (a)(1) of this definition.

FLOOD ELEVATION STUDY. An examination, evaluation and determination of flood hazards and, if appropriate, corresponding water surface elevations.

FLOOD INSURANCE RATE MAP (FIRM). An official map of a community, on which the Administrator of the Federal Insurance Administration has delineated both the special hazard areas and the risk premium zones applicable to the community.

FLOODPLAIN OR FLOOD-PRONE AREA. Any land area susceptible to being inundated by water from any source (see *FLOODING*).

FLOODPLAIN MANAGEMENT. 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. 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. 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*.

FLOOR AREA - NON SHORELAND AREAS . The sum, in square feet, of the floor areas of all roofed portions of a building, as measured from the interior faces of the exterior walls.

FLOOR AREA - SHORELAND AREAS ONLY. 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.

FLOOR SPACE, GROUND. The sum, in square feet, of the floor space on the ground level of all roofed portions of a building, as measured from the interior faces of the exterior walls.

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

FORESTED WETLAND. A freshwater wetland dominated by woody vegetation that is six meters tall or taller.

FORESTRY. The planting, cultivating or the harvesting of trees or shrubs in a ten acre or more area, excepting activities associated with approved site plans and subdivisions.

FOUNDATION. The supporting substructure of a building or other structure including, but not limited to, basements, slabs, sills, posts or frost walls.

FREEBOARD. 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.

FRESHWATER WETLAND.

(a) Freshwater swamps, marshes, bogs and similar areas, other than forested wetlands, which are:

1. Of ten or more contiguous acres; or of less than ten 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 ten 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.

(b) Freshwater wetlands may contain small stream channels or inclusions of land that do not conform to the criteria of this definition.

FRONTAGE. The horizontal distance measured in a straight line between the intersections of the side lot lines with the front lot line bounding a public street.

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

GOVERNMENTAL USE. Any building or land held, used, or controlled exclusively for public purposes by any department or branch of government, federal, state, county or municipal, without reference to ownership of building or of the real estate upon which it is situated.

GRADE. In relation to buildings, the average of the finished ground level at the center of each wall of a building.

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 30 acres except for the purposes of this chapter, where the artificially formed or increased inland body of water is completely surrounded by land held by a single owner.

GREAT POND CLASSIFIED GPA. Any great pond classified GPA, pursuant to 38 M.R.S. A. Art. 4-A, § 465-A. This classification includes some, but not all impoundments of rivers that are defined as great ponds.

GROUND COVERAGE. The sum, in square feet, of the total surface area of a lot covered by the principal structure, accessory structures and impervious surfaces.

GROUP HOME. A housing facility for eight or fewer mentally handicapped or developmentally disabled persons which is approved, authorized, certified or licensed by the state.

GYMNASIUM, FITNESS CENTER. A building which contains facilities and equipment for exercising, physical training, and sports activities.

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.

HIGH INTENSITY SOIL SURVEY. A map prepared by a certified soil scientist, identifying the soil types down to one-eighth acre or less, at a scale equivalent to the development plan submitted. The soils shall be identified in accordance with the National Cooperative Soil Survey. The map shall show the location of all test pits used to identify the soils, and shall be accompanied by a log of each sample point identifying the textural classification and the depth to seasonal high water table or bedrock at that location. Single soil test pits and their evaluation for suitability for subsurface waste water disposal systems shall not be considered to constitute high intensity soil surveys.

HIGH WATER MARK. See **NORMAL HIGH WATER MARK.**

HISTORIC STRUCTURE. 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.

HOME OCCUPATION. An occupation or profession which is customarily conducted on or in a residential structure or property and which is clearly incidental to and compatible with the residential use of the property and surrounding residential uses. (See § 154.080.)

HOSPICE. A building or structure which is used for the housing and care of terminally ill human beings. It shall also include accessory uses which are directly associated with the housing and care of terminally ill human beings such as kitchen facilities, solariums, physicians' office, etc.

HOTEL. A building with rooms which are occupied or are designed or intended to be occupied for sleeping purposes by more than 15 persons.

HOUSEHOLD PETS. Those domestic animals normally considered household companions but excluding horses, cows, sheep, goats, llamas, ostriches, mink, swine, chickens, turkeys, or any animals raised for sale or for sale of their products.

INCREASE IN NONCONFORMITY OF A STRUCTURE. Any change in a structure or property which causes further deviation from the dimensional standard(s) creating the nonconformity such as, but not limited to, reduction in water body, tributary stream or wetland setback distance, increase in lot coverage, or increase in height of a structure. Property changes or structure expansions which either meet the dimensional standard or which cause no further increase in the linear extent of nonconformance of the existing structure shall not be considered to increase nonconformity. For example, there is no increase in nonconformity with the setback requirement for water bodies, wetlands, or tributary streams if the expansion extends no further into the required setback area than does any portion of the existing nonconforming structure. Hence, a structure may be expanded laterally from any portion of the existing structure to fill in the space left by an L or U shaped structure. Similarly, there is no increase in nonconformity with the height requirement if the expansion increases the height of the structure no further than the highest point of the existing nonconforming structure.

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 individuals and which involves site improvements which may include, but not be limited to, gravel pads, parking areas, fire places, or tent platforms.

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

JUNK. Waste or discarded material which may be treated or prepared so as to be used again in another form.

JUNKYARD. An open area used for the storage, keeping, sorting, processing, bailing, abandonment, or sale of junk, or for the abandonment, dismantling or demolition of automobiles or other vehicles or their parts.

KENNEL, BREEDING. A kennel where dogs are bred. Breeding kennels with more than ten adult dogs (dogs more than six months old) shall meet the requirements for commercial kennels.

KENNEL, COMMERCIAL. A kennel where dogs and/or cats are boarded. Such kennels may include retail sales of pet products, grooming, training, and other related services.

KENNEL, NON-COMMERCIAL. A private kennel with up to ten adult dogs. Such a kennel does not meet any of the criteria of commercial kennels. ***NON-COMMERCIAL KENNELS*** with more than ten adult dogs shall meet the requirements for breeding kennels.

KIN. A group of persons of common ancestry.

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

LIVESTOCK FOR HOME USE. For purpose of this chapter, livestock shall include the following domestic animals: cattle, horses, fowl, rabbits and sheep; home use is noncommercial use. Home livestock does not include raising of pigs, fur farms, goat farms or commercial feed lots.

LIVING SPACE. The sum, in square feet, of floor areas of all roofed portions of a building, as measured from the interior faces of the exterior walls but excluding areas of basements, cellars, unfinished attics, attached garages, breezeways and unenclosed porches. With the respect to mobile homes, factory-built tip-outs and similar additions from the manufacturer which do not require a structural alteration of the mobile home, may be included in the calculation of the minimum living space.

LOADING SPACE. An off-street space on the same lot with a building or contiguous with a group of buildings for the temporary parking of a vehicle while loading or unloading merchandise or materials, and which abuts upon a public way.

LOCALLY ESTABLISHED DATUM. For purposes of this chapter, an elevation established for a specific site to which all other elevations at the site are referenced. This elevation is generally not referenced to the National Geodetic Vertical Datum (NGVD) or any other established datum and is used in areas where mean sea level data is too far from a specific site to be practically used.

LODGING HOUSE. A building in which the rooms are rented with or without meals to fifteen persons or less. A boarding house or rooming house or a furnished room shall be deemed a lodging house.

LOT. A parcel of land described on a deed, plat or other legal document.

LOT AREA - NON SHORELAND AREA. The total horizontal area within the lot lines.

LOT AREA - SHORELAND 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.

LOT, CORNER. A lot with at least two contiguous sides abutting upon a street.

LOT (GROUND), COVERAGE. The percentage of the lot covered by buildings and other impervious surfaces. Impervious surfaces are any materials that prevent absorption of stormwater into the ground, such as paving, patios, pools, and driveways.

LOT, INTERIOR. Any lot other than a corner lot.

LOT, THROUGH. Any interior lot having frontages on two more or less parallel streets, or between a street and a waterbody, or between two waterbodies, as distinguished from a corner lot. All sides of through lots adjacent to streets and waterbodies shall be considered frontage, and front yards shall be provided as required.

LOT, REAR. A parcel of land which has frontage on a private way, which frontage and private way are to be approved by the Code Enforcement Officer.

LOT LINE. A line of record bounding a lot that divides one lot from another or from a public or private street or any other public space.

LOT LINE, FRONT. On an interior lot, the line separating the lot from the street. On a corner lot or through lot, the line separating the lot from either street. On a back lot, the line parallel or nearly parallel to the street.

LOT LINE, REAR. The lot line opposite the front lot line. On a lot pointed at the rear, the rear lot line shall be an imaginary line between the side lot lines parallel to the front lot line, not less than ten feet long, lying farthest from the lot line. The rear lot line shall be opposite the front lot line of least dimension.

LOT LINE, SIDE. Any lot line other than the front lot line or the rear lot line.

LOT OF RECORD. A parcel of land, the dimensions of which are shown on a legal document or map on file with the Penobscot County Register of Deeds, or in common use by municipal and county officials.

LOWEST FLOOR. 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 §§ 154.125 through 154.140 and §§ 154.155 through 154.166 of this chapter.

LUMBER YARD. A place where lumber and other building construction materials are sold.

MANUFACTURED HOME PARK or SUBDIVISION. A parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.

MANUFACTURED HOUSING. Structures as defined in 30-A M.R.S.A. § 4358, which are transportable in one or more sections, which were constructed in a manufacturing facility after 6-15-1976.

MANUFACTURING, HEAVY. Heavy manufacturing shall include industrial uses in which manufacturing processes are conducted indoors or out of doors and in which external evidence of the manufacturing process is detectable out of doors. Heavy manufacturing, for the purposes of this chapter, includes but is not limited to: Wood fiber products manufacturing; chemical manufacturing; textile mills; steel fabrication; manufactured housing manufacturing; roof truss manufacturing; sawmills, turneries and fuel wood production; dairies; grain mills; seafood products production; and beverage manufacturing.

MANUFACTURING, LIGHT. Light manufacturing shall include industrial uses in which manufacturing processes are wholly contained within a building and which exhibit no external evidence of a manufacturing process such as but not limited to noise, odor, vibration, dust, smoke, cinders, or fumes.

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, boat 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.

MEAN SEA LEVEL. For purposes of the National Flood Insurance Program, the National Geodetic Vertical Datum (NGVD) of 1929, or other datum, to which base flood elevations shown on a community's Flood Insurance Rate map are referenced.

MINIMUM LOT WIDTH. The closest distance between the side lot lines of a lot.

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 12-month period which removes more than 1,000 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.

MINOR DEVELOPMENT. All development that is not new construction or a substantial improvement, such as repairs, maintenance, or renovations, whose value is less than 50% of the market value of the structure. It includes, but is not limited to, 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, towers, fencing, and pipelines.

MOBILE HOME PARK. A lot laid out to accommodate at least three mobile homes.

MOTEL. A building or group of attached or detached buildings containing sleeping rooms, all of which have separate entrances and parking spaces for each sleeping room, and which is intended to be used principally by automobile transients for compensation.

MULTI-FAMILY. A building containing three or more dwelling units- Each building shall contain a minimum of three dwelling units and a maximum of four dwelling units. Multi-family units are those units which are rented month by month or leased long term.

MULTI-FAMILY DEVELOPMENT. A subdivision which contains three or more dwelling units on land in common ownership, such as multi-family dwellings and apartment buildings. Multi-family developments shall only consist of units which are rented month by month or leased long term.

MULTI-UNIT RESIDENTIAL. A residential structure containing three or more residential dwelling units.

MUNICIPAL ENGINEER. Any registered professional engineer hired or retained by the municipality, either as staff or on a consulting basis.

MUNICIPAL USE or STRUCTURE. Any use of land or structure by the town or any municipal or quasi-municipal corporation of the town in the exercise of any of its governmental functions; and any use of land or structure by a person or agency having a contract with the town to provide services to the town for the public to serve or promote any aspect of the general welfare, to the extent the use is directly related to such contract or such services.

NEIGHBORHOOD GROCERY STORE. A store of less than 2,000 square feet of floor space intended to serve the convenience of a residential neighborhood with such items as, but not limited to, basic foods, newspapers, emergency home repair articles, and other household items. A neighborhood grocery store may include the sale of motor fuels.

NET RESIDENTIAL ACREAGE. The gross acreage available for residential development, excluding the area for streets or street access and the areas unsuitable for development.

NET RESIDENTIAL DENSITY. The number of dwelling units per net residential acre.

NEW CONSTRUCTION. Structures for which the "start of construction" commenced on or after the effective date of floodplain management regulations adopted by a community and includes any subsequent improvements to such structures.

NON-CONFORMING LOT. A single lot of record which, at the effective date of adoption or amendment of this chapter, 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 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 chapter or subsequent amendments took effect.

NON-CONFORMING USE. Use of buildings, structures, premises, land, or parts thereof, which is not permitted 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 chapter or subsequent amendments took effect.

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

OFF STREET PARKING SPACE. An area of not less than 200 square feet, no side of which shall be less than ten feet, exclusive of access of maneuvering area, to be used for temporary parking for one motor vehicle. A loading space shall not be considered an off-street parking space.

ONE HUNDRED-YEAR FLOOD. See *BASE FLOOD*.

OPEN SPACE. A parcel of land or an area of water, or a combination of land and water within any development which is designed and intended for the use and enjoyment of the residents of such development. Off-street parking space, side-walks, and streets shall not be considered *OPEN SPACE*.

OUTDOOR WOOD BOILER. An outdoor wood boiler is a heating appliance that burns firewood and is located outside of the building which it is heating as defined by the Maine Department of Environmental Regulations, Chapter 150.

OUTLET STREAM. Any perennial or intermittent stream, as shown on the most recent edition of a 7.5-minute series or, if not available, a 15-minute series topographic map produced by the United States Geological Survey, that flows from a freshwater wetland.

PASSENGER CAR EQUIVALENTS AT PEAK HOUR. The number of passenger cars, or in the case of nonpassenger vehicles, the number of passenger cars that would be displaced by nonpassenger vehicles, that pass through an intersection or on a roadway under prevailing roadway and traffic conditions at 100 that hour of the day during which the traffic volume generated by the development is higher than the volume during any other hour of the day. For the purpose of this chapter, one tractor-trailer combination is the equivalent of two passenger cars.

PERMITTED USES. A use of land or structure permitted in a particular district provided such use complies with the applicable provisions off this chapter.

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.

PERSONAL PROPERTY. Moveable property not affixed to the land. ***PERSONAL PROPERTY*** includes but is not limited to goods, wares, merchandise, motor vehicles, household items and furnishings, but excluding bulk storage of materials that are flammable or explosive or create hazardous conditions.

PIERS, DOCKS, WHARVES, BRIDGES AND OTHER STRUCTURES AND USES EXTENDING OVER OR BEYOND THE NORMAL HIGH-WATER LINE OR WITHIN A WETLAND.

(a) ***TEMPORARY.*** Structures which remain in or over the water for less than seven months in any period of 12 consecutive months.

(b) ***PERMANENT.*** Structures which remain in or over the water for seven months or more in any period of 12 consecutive months.

PLACE OF AMUSEMENT. Any location offering exotic dancing as defined by § 111.03 of this code, adopted 1-29-1996, as amended.

PLACE OF PUBLIC ASSEMBLY OR CULTURE. Use of building, structure or land which may or may not be conducted as a business, An area where large numbers of individuals collect to participate or to observe programs of participation, such as auditoriums, theaters, movie houses, banquet rooms, museums, and other similar uses.

PLACE OF PUBLIC ENTERTAINMENT. Use of building, structure or land which may or may not be conducted as a business, designed primarily for the entertainment and/or participation of the public, such as, but not limited to, race tracks, sporting events, show grounds, fairgrounds, drive-in movies, and recreational facilities such as golf and ski facilities, and other similar uses.

PLANNED UNIT DEVELOPMENT. A means of residential land development which sets aside traditional, present land use controls in favor of more administrative discretion in the Planning Board. It permits a mixture of land uses, residential, commercial, institutional and recreational; creativity in design including both the clustering and mixing of land use types; and finally provisions for open space. The tract of land is developed as a whole according to a plan agreed upon by the Planning Board and the developer.

PREMISES. One or more lots which are in the same ownership and are contiguous or separated only by a road or waterbody, including all buildings, structures and improvements.

PLANNING BOARD. The Planning Board of the town.

PRE-TREATED SEPTAGE. Raw septage which has been treated, before application with lime in a quantity sufficient to produce a pH of 12 after two hours of contact. Other methods of pre-treatment using *Processes to Significantly Reduce Pathogens* (PSRP) in accordance with the criteria of Title 40, Chapter 257, Appendix IIA of the Code of Federal Regulations may be allowed if the criteria of §§ 154.065 through 154.096 of this chapter is met.

PRINCIPAL STRUCTURE. The structure in which the primary use of the lot is conducted.

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

PROFESSIONAL ENGINEER. A professional engineer, registered in the State of Maine.

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

PUBLIC PARKS, PLAYGROUNDS. A tract of land, designated and used by the public for active and passive recreation including, but not limited to playgrounds, parks, monuments, green strips, open space, mini-parks, athletic fields, boat launching ramps, piers and docks, picnic grounds, swimming pools, and wildlife and nature preserves, along with any necessary accessory facilities, rest rooms, bath houses, and the maintenance of such land and facilities, but not including campgrounds and commercial recreation.

PUBLIC SERVICE. A public service corporation means an airline, railroad or vessel corporation operating in the State of Maine.

PUBLIC UTILITY. A gas utility, natural gas pipeline utility, electric utility, telephone utility, telegraph utility, water utility, sewer utility, cable television utility, radio paging service utility and radio common carrier utility as defined in 35-A M.R.S.A. § 102.

PUBLIC WATER SYSTEM. A water supply system that provides water to at least 15 service connections or services water to at least 25 individuals daily for at least 30 days a year.

RAILROADING. The establishment and operation of a rail system consisting of the roadbed, track, rolling stock, station and related assets and facilities.

RAISING OF LIVESTOCK FOR HOME USE. For purpose of this chapter, livestock shall include the following domestic animals: cattle, horses, fowl, rabbits and sheep; home use is non-commercial use.

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

- (a) Alluvial Cornish Charles.
- (b) Fryeburg Hadley Limerick.
- (c) Lovewel Medomak Ondawa.
- (d) Podunk Rumney Saco.
- (e) Suncook Sunday Winooski.

RECORDING PLAN. An original of the final plan, suitable for recording at the Registry of Deeds and which need show only information relevant to the transfer of an interest in the property, and which does not show other information presented on the plan such as sewer and water line locations and sizes, culverts, and building lines.

RECREATIONAL FACILITY. A place designed and equipped for conducting 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.

REDEMPTION CENTER. A stand-alone facility licensed by the Maine Department of Agriculture which collects beverage containers and refunds the statutory deposit pursuant to 32 M.R.S.A. § 1861.

REGULATORY FLOODWAY.

(a) 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 in

(b) Zone A riverine areas, the floodway is considered to be the channel of a river or other water course and the adjacent land areas to a distance of one-half the width of the floodplain, as measured from the normal high water mark to the upland limit of the floodplain.

REPLACEMENT SYSTEM. A system intended to replace:

- (a) An existing system which is either malfunctioning or being upgraded with no significant change of design flow or use of the structure; or
- (b) Any existing overboard wastewater discharge.

RESEARCH AND TESTING FACILITY OF A LABORATORY NATURE. An establishment or other facility for carrying on investigation in the natural, physical, or social sciences, which may include engineering and product development.

RESERVED AFFORDABLE HOUSING. Affordable housing which is restricted by means of deed covenants, financing restrictions, or other binding, long term methods to occupancy by households making 80% or less of the area median household income.

RESIDENCE-BASED SERVICE BUSINESS. A residential property involving the storage of vehicles and equipment on the premises with all business services rendered off the property.

RETAIL STORE. Commercial establishment through which is sold directly to consumers, goods in small quantities or broken lots, and not in bulk. The term shall not include casual sales, as defined.

RETAIL STORE, CLASS 1. A retail store having less than 2,000 square feet of floor

area. **RETAIL STORE, CLASS 2.** A retail store having 2,000 square feet or more of

floor area.

RIGHT OF WAY. The area or strip of land over which the public has a right of passage in the case of a public way or street, or over which a private individual has the right of passage in the case of a private way.

RIGHT OF WAYLINE. The line separating a lot from a right of way.

RIPRAP. Rocks, irregularly shaped, and at least six inches in diameter, used for erosion control and soil stabilization, typically used on ground slopes of two units horizontal to one 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 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.

RIVERINE. Relating to, formed by, or resembling a river (including tributaries), stream, brook, etc.

ROOF. The cover of any building, including the eaves and similar projections.

ROOF LINE. A horizontal line intersecting the highest point or points of a structure.

ROOMING, BOARDING HOUSE. Any residential structure where lodging and/or meals are provided for compensation for a period of at least one week, and where a family residing in the building acts as proprietor or owner. There shall be no provisions for cooking in any individual guest room.

SAWMILL. A mill or machine for sawing logs for commercial purposes.

SCREENING. A method of visually shielding or obscuring one abutting or nearby structure or use from another by fencing, walls, berms, or densely planted vegetation.

SEPTAGE STORAGE AND HANDLING FACILITY. Any land area, structure, location, equipment, or combination of them, used for the storage, treatment, or processing, of septage, other than land area used solely for general agriculture upon which agricultural land spreading of pre-treated septage is conducted and holding tanks regulated by the *Subsurface Wastewater Disposal Rules (10-144A CMA 241 7/80, as may be amended)*, Section 17.

SERVICE DROP. Any utility line extension which does not cross or run beneath any portion of a water body provided that:

(a) In the case of electric service:

1. 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
2. The total length of the extension is less than 1,000 feet.

(b) In the case of telephone service:

1. The extension, regardless of length, will be made by the installation of telephone wires to existing utility poles; or
2. The extension requiring the installation of new utility poles or placement underground is less than 1,000 feet in length.

SERVICE ESTABLISHMENT. A business where the principal use is providing personal services, including but not limited to barber shops, beauty salons, shoe repair shops, tailors, laundries.

SERVICE ESTABLISHMENT, CLASS 1. A service establishment having less than 2,000 square feet in floor area.

SERVICE ESTABLISHMENT, CLASS 2. A service establishment having 2,000 square feet or more in floor area.

SETBACK. The minimum horizontal distance from a lot line to the nearest part of a structure; except that the front setback shall be the minimum horizontal distance measured from the right of way line, where discernible, and where not discernible, from the center line of the travelled way (where such distance is specified in this chapter), to the nearest part of a structure. In shoreland areas, setback is measured from the nearest horizontal distance from the normal high-water line to the nearest part of a structure, road, parking space or other regulated object or area.

SHORE FRONTAGE. The length of a lot bordering on a water body measured in a straight line between the intersections of the lot lines with the shoreline at normal high-water elevation.

SHORELAND ZONE. The land area located within 250 feet, horizontal distance, of the normal high-water line of any great pond or river; within 250 feet of the upland edge of a freshwater wetland rated high to moderate value by the Maine Department of Fisheries and Wildlife (IFW), or within 75 feet of a fresh water wetland that has not been rated by IFW as having moderate to high value; or within 75 feet of the normal high-water line of a stream, including outlet streams from freshwater wetlands.

SIDEWALK. Any strip or section of concrete, stone or macadam, the prime purpose of which is a walkway.

SIGHT DISTANCE. The length of an unobstructed view from a particular access point to the farthest visible point of reference on a roadway. Sight distance is measured from the driver's seat of a vehicle standing on that portion of the exit with the front of the vehicle ten feet behind the curb line or edge of shoulder, with the height of eye 3 % feet, to the top of an object 4% feet above the pavement.

SIGN. A name, identification, description, display, or illustration directly or indirectly affixed to a structure, parcel, or lot and related to an object, product, place, activity, person, institute, organization or business conducted on the premises.

SIGNIFICANT RIVER SEGMENTS. See 38 M.R.S.A. § 437.

SITE PLAN. A plan, drawn to scale, showing uses and structures proposed for a parcel of land as required by the town ordinance. It includes lot lines, streets, building sites, reserved open spaces, buildings and major landscape features, both natural and man-made.

SITE PLAN REVIEW. The review of the site plan of any proposed project by the Planning Board or Code Enforcement Officer.

SKETCH PLAN. Conceptual maps, renderings, and supportive data describing the project proposed by the applicant for initial review prior to submitting an application for approval by the Board.

SMALL WIND ENERGY SYSTEM. A wind energy system conversion system consisting of a single wind turbine, single tower, and associated control or conversion electronics that generates power for an individual property for the purpose of producing on-site energy, and shall not exceed three and one-half Kw for residential and six Kw for small commercial.

SPECIAL FLOOD HAZARD AREA. See ***AREA OF SPECIAL FLOOD HAZARD.***

START OF CONSTRUCTION. 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, whether or not that alteration affects the external dimensions of the building.

STORAGE-SELF (COLD OR CLIMATE CONTROLLED) FACILITY. An enclosed structure subdivided into small units, designed primarily to be used for renting or leasing individual storage spaces only, usually under a written rental agreement in which the occupants themselves customarily store and remove their own personal property on a self serve basis (see definition ***PERSONAL PROPERTY.***)

STORY. A place in a building between the surface of any floor and the surface of the next floor above, or, if there is no floor above, then the space between such floor and the ceiling or roof above.

STREAM. A free-flowing body of water from the outlet of a great pond (or freshwater wetland), or the confluence of two 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 (this definition includes outlet streams, as defined),

STREET.

(a) Public and private ways such as alleys, avenues, highways, roads, and other rights-of-way, as well as areas on project plans designated as rights-of-way for vehicular access other than driveways.

(b) STREET CLASSIFICATION:

1. ARTERIAL STREET. A major thoroughfare which serves as a major traffic way for travel between and through the municipality. The following roadways shall be considered arterial streets:

- a. Interstate 95.
- b. US Route 2 (State Route 100).
- c. Union Street (State Route 222).
- d. Coldbrook Road

2. COLLECTOR STREET. A street with average daily traffic of 400 vehicles per day or greater, or streets which serve as feeders to arterial streets, and collectors of traffic from minor streets.

3. CUL-DE-SAC. A street with only one outlet and having the other end for reversal of traffic movement.

4. INDUSTRIAL or COMMERCIAL STREET. Streets servicing industrial or commercial uses.

5. MINOR RESIDENTIAL STREET. A street servicing only residential properties and which has an average daily traffic of less than 400 vehicles per day.

STRUCTURE. Anything built for the support, shelter or enclosure of persons, animals, goods or property of any kind, together with anything constructed or erected with a fixed location on or in the ground, exclusive of fences, signs, walls and the like. The term includes structures temporarily or permanently located, such as decks and satellite dishes. For floodplain management purposes, a fixed gas or liquid storage tank that is principally above ground is also a structure.

STRUCTURES NECESSARY FOR ESSENTIAL SERVICES. A structure not to exceed 200 square feet in gross floor area or 16 feet in height; operated by an essential service, including but not limited to pumping stations, pad mounted transformers, electronic switching equipment, and satellite dishes. Such utility structures are to be unoccupied except for required maintenance.

SUBDIVISION. The division of a tract or parcel of land into three or more lots within any five-year period, as defined in 30-A M.R.S.A. § 4401, subsection 4.

SUBSTANTIAL DAMAGE. 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% of the market value of the structure before the damage occurred.

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

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

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

SUBSTANTIAL START. Completion of 30% of a permitted structure or use measured as a percentage of estimated total cost.

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 M.R.S.A. § 414, any surface wastewater disposal system licensed under 38 M.R.S.A. § 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 M.R.S.A. Ch. 13, subchapter 1.

SUSTAINED SLOPE. A change in elevation where the referenced percent grade is substantially maintained or exceeded throughout the measured area.

SWIMMING POOL, PRIVATE. A structure that is maintained or used for recreational bathing, without charge, by the household and guests of an individual.

TEMPORARY STRUCTURE. Structure permitted to exist during the construction of a principal or accessory structure, but which shall not be a dwelling or a residential structure. The temporary structure shall be promptly removed upon completion of construction.

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

TRACT or PARCEL OF LAND. All contiguous land in the same ownership, provided that lands on the 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.

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

TRUCK TERMINAL. An area or building where trucks load and unload cargo and freight and where the cargo and freight may be broken down or aggregated into smaller or larger loads for transfer to other vehicles or modes of transportation. **TRUCK TERMINALS** may also include facilities for servicing trucks, and storage facilities, such as warehouses incidental to the principal use.

UPLAND EDGE. The boundary between upland and wetland.

USABLE OPEN SPACE. That portion of the common open space which due to its slope, drainage characteristics and soil conditions can be used for active recreation, horticulture or agriculture. In order to be considered usable open space, the land must not be poorly drained or very poorly drained, have ledge outcroppings, or areas with slopes exceeding 10%.

USE. The purpose for which land or structure is arranged, designed, intended or occupied.

UTILITY TRAILER. A vehicle without motive power, designed to be towed by a passenger automobile but not designed for human occupancy and which may include a utility trailer, boat trailer, horse trailer, or snowmobile trailer.

VARIANCE. A relaxation of the literal terms of this chapter where such relaxation is not contrary to the public interest and where a literal enforcement would otherwise result in unnecessary or undue hardship (as defined in this chapter). A variance is authorized only for height, area, and size of structures or size of yards and open spaces.

VEGETATION. All live trees, shrubs, ground cover, and other plants including without limitation, trees both over and under four inches in diameter, measured at four and one-half above ground level.

VETERINARY CLINIC. A place where animals or pets are given medical or surgical treatment and the boarding of animals is limited to short-term care incidental to treatment.

VIOLATION. The failure of a structure or development to comply with a community's floodplain management regulations.

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.

WAREHOUSING. A use engaged in storage, wholesale, and distribution of manufactured products, supplies, and equipment, but excluding bulk storage of materials that are flammable or explosive or create hazardous conditions.

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, whether under, through, or over the water course. 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.

WETLAND. See *FRESHWATER WETLAND*.

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

YARD. The area of land on a lot not occupied by the principal structure or building.

YARD, FRONT. The area of land between the front lot line or right of way line and the nearest part of the principal structure or building.
(Ord. passed 1-3-2013)

ADMINISTRATION AND ENFORCEMENT

§ 154.020 ADMINISTERING BODIES.

(A) *Code Enforcement Officer.* Unless otherwise provided in this chapter the Code Enforcement Officer (hereafter "CEO"), as duly appointed by the Town Manager and confirmed by the Town Council of the town, shall administer and enforce this chapter. No building permit or certificate of occupancy shall be issued by the CEO except in compliance with the provisions of this chapter. The CEO shall have the following duties, among others, in enforcing this chapter:

(1) *Records.* A permanent written record of applications submitted, permits issued and revoked appeals and variances granted, court actions, violations found, and fees collected shall be maintained. Such records shall include the name of the person who enjoys such use or variances, the date such use or variance commenced, a termination date, if any, and all restrictions or conditions imposed by the

Planning Board or Board of Appeals. A copy of such records shall be kept at the Town Office. For purposes of this duty, the Board of Appeals shall inform the CEO of actions taken by it. With regard to shoreland zoning, a summary of these records will be submitted to the Maine Department of Environmental Protection biennially.

(2) *Permits and referrals.* **The CEO shall** act upon building, construction and use applications, refer permits requiring site plan review to the Planning Board, review subdivision applications for completeness of submissions and refer such applications to the Planning Board, and refer requests for variances and administrative appeals to the Board of Appeals. Notwithstanding the above, at the CEO's discretion, any application may be forwarded directly to the Planning Board for a decision. Whenever such referral occurs, the term **CODE ENFORCEMENT OFFICER** may also refer to the Planning Board, as appropriate.

(3) *Inspections.* The CEO shall inspect property for compliance with the provisions of this chapter.

(4) *Information.* The CEO shall provide information regarding this chapter to property owners.

(5) *Violations.* The CEO shall investigate alleged violations of this chapter.

(6) *Court action.* Where authorized (§ 154.027(B)), the CEO shall initiate court action to prevent or halt violations of this chapter.

(7) *Enforcement, general.* The CEO shall take other actions required to adequately enforce this chapter.

(8) *Meetings.* The CEO shall regularly attend meetings of the Planning Board and meetings of the Board of Appeals as required.

(9) *Revocations.* The CEO shall revoke a permit after notice if it was issued in error or if it was based on erroneous information.

(B) *Planning Board.*

(1) *Site plan review.* The Town Planning Board shall be responsible for reviewing and acting upon applications for site plan review approval in accordance with the provisions of §§ 154.180 through 154.190 of this chapter. Following site plan review approval, the applicant shall return to the CEO for building and other permits. Notwithstanding the above, at the Planning Board's discretion, any application may be forwarded directly to the CEO for a decision. Whenever such delegation occurs, the term **PLANNING BOARD** may also refer to the Code Enforcement Officer, as appropriate.

(2) *Subdivisions.* The Planning Board shall also review subdivision applications in accordance with the provisions of §§ 154.205 through 154.214 of this chapter. Following subdivision approval, the applicant shall return to the CEO for any building or other permits.

(C) Board of Appeals. The Board of Appeals shall be responsible for deciding administrative and variance appeals in accordance with the requirements of §§ 154.275 through 154.285 of this chapter. Following the issuance of any decision favorable to the applicant, the applicant shall return to the CEO for building and other permits.

(Ord. passed 1-3-2013)

§ 154.021 CODE ENFORCEMENT OFFICER (CEO) PERMIT REQUIRED.

A permit from the CEO shall be required before beginning or undertaking any of the following activities:

(A) Building or construction. No building or structure shall be erected, constructed, added to, commenced or structurally altered until a building permit has been issued by the CEO. All applications for such permits shall be to the CEO and shall be accompanied by a plan, showing the shape and dimensions of the lot, the location, size and use of existing structures, and the location, size and use of proposed structures. An application shall be accompanied by a plumbing permit, where required, a building permit fee in accordance with the provisions of the building code of the town, and any other information as may be necessary to provide for the execution and enforcement of this chapter. The application shall be signed by the applicant.

(B) Moving or demolition. All buildings which are removed from or moved onto, or moved around within a lot, or demolished.

(C) Change of use. The change of any premises from one category of land use to any more restrictive land use.

(D) Activities listed in the schedule of land uses. Any activity listed in §§ 154.040 through 154.047 (establishment of districts) or § 154.046(E) (schedule of land uses) of this chapter as requiring a permit from the Code Enforcement Officer (CEO). No permit may be issued under this provision for an activity which is part of a site or project requiring site plan review approval until such approval has been granted by the Planning Board.

(E) Site plan review activities. Any activity approved by the Planning Board under the site plan review provisions of §§ 154.180 through 154.190 of this chapter.

(F) Shoreland zoning activities. Any activity listed in §§ 154.125 through 154.140 (shoreland zoning) or § 154.138 as requiring a permit from the CEO. See § 154.140(D) for additional provisions for administering permits in the Shoreland Zone. No permit may be issued under the provisions of § 154.140 for an activity requiring a Planning Board permit until approval for such permit has been granted by the Planning Board in accordance with the provisions of § 154.140.

(G) *Floodplain management activities.* Any activity listed in §§ 154.155 through 154.166 (floodplain management) and § 154.156 as requiring a permit from the CEO. Such permit shall be issued in accordance with the provisions of §§ 154.157, 154.158, and 154.159.
(Ord. passed 1-3-2013)

§ 154.022 PERMIT APPLICATION PROCEDURE.

(A) *Application.* All applications for a CEO permit shall be submitted in writing to the CEO on forms provided for the purpose. All applications shall be signed by the owner or owners of the property or other person(s) authorizing the work, certifying that the information in the application is complete and correct. If the person signing the application is not the owner or lessee of the property then that person shall submit a letter of authorization from the owner or lessee.

(B) *Submissions.* There shall be submitted with all applications two copies of a layout or plot plan drawn to scale showing:

- (1) The actual dimensions of the lot to be built upon;
- (2) The location and size of all buildings, structures, and other significant features currently existing on the lot, as well as all water bodies and wetlands within 250 feet of the property boundaries;
- (3) The exact size and location on the lot of the buildings and accessory buildings to be erected and such other information as may be necessary to determine and provide for the enforcement of this chapter;
- (4) The existing and intended use of each building or structure;
- (5) Where applicable, the location of soils test pits, subsurface sewage disposal systems, parking lots, driveways, signs, buffer strips, fences and private wells; and
- (6) Such other information as may be reasonably required by the Code Enforcement Officer (CEO) to provide for the administration and enforcement of this chapter.

(C) *Fee.* Applications for a permit shall be accompanied by a fee established by the Town Council.

(D) *Burden of proof* The applicant shall have the burden of proving that a proposed Land Use activity is in conformity with the provisions of this chapter.
(Ord. passed 1-3-2013)

§ 154.023 PROCESSING APPLICATION.

Within ten days of the date of receipt of a complete application for a permit, the CEO shall examine such application and physically examine the premises to determine whether or not the proposed building, structure or use would be in compliance with this chapter and the building code of the town.

(A) *Referrals.* All applications which would require action from the Board of Appeals or which would require approval by the Planning Board shall within such period of ten days be referred to the applicable Board for action. After approval, with or without conditions, by such Board, the CEO shall issue a building permit within five days after being notified of such approval, provided that such proposed building, structure or use otherwise complies with the building code of the town, and all other applicable laws.

(B) *Approvals or denials.* In all other cases, the CEO shall within such period of ten days approve or deny such application for a building or land use permit in accordance with whether or not such proposed building or structure complies with this chapter and the building code of the town.

(C) *Notification.* The CEO shall inform the applicant in writing of any action taken by him regarding the permit application. If such application is rejected by the CEO, such notice to the applicant shall contain a brief statement of the findings of the CEO and the reasons for his rejection. No permit shall be issued except to the owner of record or the owner's authorized agent.
(Ord. passed 1-3-2013)

§ 154.024 DURATION OF PERMIT.

All building permits are valid for a two-year period during which the authorized work is continuous. A permit under which no substantial work is commenced within six months after issuance, or under which authorized work is suspended or abandoned for a period of six consecutive months, shall expire, and the permit shall be forfeited.
(Ord. passed 1-3-2013)

§ 154.025 CERTIFICATE OF OCCUPANCY.

No building or structure hereafter constructed, reconstructed, erected, structurally altered, added to, or moved onto a lot, shall be used or occupied until a certificate of occupancy has been issued by the Code Enforcement Officer (CEO), certifying that the building or structure complies with this chapter and the building code of the town. Application for the certificate of occupancy shall be coincident with application for the building permit. Upon completion of the building or structure, the applicant shall notify the CEO who shall within ten days issue or deny a certificate of occupancy. If the certificate is denied, such denial shall be in writing and accompanied by a written statement of the reasons for the denial.
(Ord. passed 1-3-2013)

§ 154.026 APPLICANT RESPONSIBILITY.

(A) *Posting.* The applicant shall conspicuously post any permit issued, on the lot where the activity will occur, at a location clearly visible from the street.

(B) *Appeals.* Appeals from decisions of the CEO may be taken to the Board of Appeals in accordance with the provisions of §§ 154.275 through 154.285 of this chapter. (Ord. passed 1-3-2013)

§ 154.027 ENFORCEMENT.

(A) *Notice of violations.* It shall be the responsibility of the Code Enforcement Officer (CEO) to enforce all provisions of this chapter. If the CEO finds that any provision of this chapter is being violated, the CEO shall notify in writing the person responsible for such violation, indicating the nature of the violation and ordering the action necessary to correct it. The CEO may give a violator a specific period of time to correct such offense. The CEO shall immediately order discontinuance of illegal use of lands, buildings, or structures, removal of illegal buildings, structures, additions, or work in progress, or shall take any other action authorized by this chapter to insure compliance with or to prevent violation of its provisions.

(B) *Legal action.* The CEO, with the advice and consent of the Town Manager, is authorized to institute, or cause to be instituted by the Town Attorney, in the name of the town, any and all actions, legal or equitable, that may be appropriate or necessary for the enforcement of this chapter. This section shall not prevent any person entitled to equitable relief from enjoining any act contrary to the provisions of this chapter.

(C) *Administrative consent agreement.* Upon recommendation of the Town Attorney as to form and compliance with this chapter, certain violations of this chapter may be resolved by an administrative consent agreement executed by the violator and the Town Council. An administrative consent agreement shall require, unless the Town Council expressly finds that the violation was the direct result of erroneous advice or approval by town officials based on facts fully and accurately presented, that:

- (1) The violation will be corrected in all respects;
- (2) The violator admits to the violation; and
- (3) The violator pays an appropriate monetary penalty of not less than \$100 and the town's legal costs.

(D) *Installation of public utility service, Shoreland Zone and subdivisions.* No public utility, water district, sanitary district or any utility company of any kind may install services to any new structure located in the Shoreland Zone or in any subdivision unless written authorization attesting to the validity

and currency of all local permits required under this chapter or any previous ordinance, has been issued by the appropriate municipal officials, indicating that installation has been approved. (Ord. passed 1-3-2013)

ESTABLISHMENT OF DISTRICTS

§ 154.040 ESTABLISHMENT OF DISTRICTS.

(A) For the purpose of this chapter, the town is divided into seven districts to be designated as follows:

- (1) Agriculture/Forestry District (AF).
- (2) Residential A District (RA).
- (3) Residential B District (RB).
- (4) Residential C District (RC).
- (5) Village Commercial District (VC).
- (6) Commercial District (C).
- (7) Industrial District (I).

(B) For land uses in shoreland zones, see §§ 154.138 and 154.139.
(Ord. passed 1-3-2013)

§ 154.041 PURPOSE OF DISTRICTS.

(A) *Agriculture/Forestry District (AF)*. This district is established for areas currently farmed or managed for forest products. New dwellings are allowed, but the predominate character of these areas is rural.

(B) *Residential A District (RA)*. This district is established to protect the essential characteristics of a residential area of mostly single-family dwellings, or areas where such development is desired. Agricultural uses such as livestock shall not be allowed. It is the intent of this district to promote and encourage a suitable environment for family life, by preventing incompatible uses and structures.

(C) *Residential B District (RB)*. This district is established to encourage and protect medium density residential development with single, two and multiple-family dwellings, and certain other facilities residential in character or serving the neighborhood. Also, this district is intended to provide area for public and semi-public uses compatible with and necessary to residential development. At the same time, this district is intended to protect the rural use and character of land and agricultural uses. It is the intent of this district to harmonize agricultural and residential use.

(D) *Residential C District (RC)*. This district is established to encourage and protect medium density residential development with single, two and multi-family dwellings, mobile home parks and certain other facilities residential in character or serving the neighborhood.

(E) *Village Commercial District (VC)*. This district is established for new commercial development in the form of mercantile and service businesses which draw their markets locally rather than regionally. This district is intended for the conversion of many of the existing dwellings in the area into a mix of home/offices for professionals who need access to the motoring public (e.g. real estate, insurance, family practice physicians, psychologists, dentists, chiropractors, etc) and conversions into retail or service businesses (such as restaurants, beauty/barber shops, specialty stores, etc), with one or two shopping plaza projects. In order to continue the traditional village mix of uses, new residences shall be permitted in these areas.

(F) *Commercial District (C)*. This district is established to provide for general retail sales, services and business space within the town in locations capable of conveniently servicing the community and oriented primarily to automobile access.

(G) *Industrial District (I)*. This district is established to provide space for existing industries and their expansion and future industrial development for the purpose of manufacturing, processing, treatment, research, warehousing, storage and distribution where there is no danger of explosion or other hazard to health or safety. The intent of this district is to encourage non-polluting industrial development at a safe and reasonable density. This district is also established to accommodate certain commercial and industrial uses, which desire location in spacious, attractive surroundings. Development in this district includes light manufacturing, warehousing, distributing, or other treatment of goods and products, truck terminals and other similar uses, designed to ensure sufficient space for building, expansion, parking, loading facilities, and landscaping.
(Ord. passed 1-3-2013)

§ 154.042 LOCATION OF DISTRICTS.

For the purpose of this chapter, the boundaries of all districts in the town are hereby established as shown on the zoning map of the town, which map shall be referred to and designated as the "Zoning Map of the Town of Hermon", and which together with all notations, references, and other explanatory matters thereon, is hereby declared a part of this chapter.
(Ord. passed 1-3-2013)

§ 154.043 UNCERTAINTY OF BOUNDARY LOCATIONS.

Where due to the scale, lack of detail or illegibility of the zoning map of the town, there is any uncertainty, contradiction, or conflict as to the intended location of any district boundary line as shown thereon, the Code Enforcement Officer (CEO) shall make an interpretation of said map upon request of any person. Any party aggrieved by any such interpretation, may take an administrative appeal to the Board of Appeals, pursuant to §§ 154.275 through 154.285 of this chapter. The CEO and the Board of Appeals, in interpreting the zoning map or deciding such appeal, shall apply the following standards:

(A) District boundary lines are intended to follow lot lines, or be parallel or perpendicular thereto, or to follow along the center lines of streets, highways, roads, alleys, railroad lines, or water courses, unless such boundary lines are fixed by dimensions shown on the zoning map.

(B) Where district boundary lines are so indicated that they approximately follow lot lines, such lot lines shall be construed to be such boundary lines.

(C) Where a district boundary line divides a lot, the location of any such boundary line, unless indicated by dimensions shown on the zoning map, shall be determined by the use of the map scale shown thereon.

(D) Boundaries indicated as approximately following town limits shall be construed as following town limits.

(E) Boundaries indicated as following shorelines shall be construed as following such shorelines, and in the event of a natural change in the shoreline, shall be construed as moving with the actual shoreline.

(F) If, after the application of the foregoing standards, uncertainty still exists as to the exact location of a district boundary line, the boundary line shall be determined by the Board of Appeals after consideration of the history of the uses of the property, the history of zoning ordinances of the town, and all other relevant data.

(Ord. passed 1-3-2013)

§ 154.044 DIVIDED LOT.

Where a district boundary line divides a lot or parcel of land of the same ownership of record at the time such line is established by adoption or amendment of this chapter, the regulations applicable to the less restricted portion of the lot may be extended not more than 30 feet into the more restricted portion of the lot, provided the lot has frontage in the less restricted district. All land within the Shoreland Zoning District, however, shall comply with the provisions of the §§ 154.125 through 154.140,

shoreland zoning. For the purposes of this section, the districts are classified as follows: Agriculture/Forestry, Residential A, Residential B, Residential C, Village Commercial, Commercial, and Industrial.

(Ord. passed 1-3-2013)

§ 154.045 LOCATION OF DOCUMENTS.

This chapter, together with the official zoning map, shall be located in the town office and shall be the final authority as to the current zoning status of the land and water areas, buildings and other structures in the town.

(Ord. passed 1-3-2013)

§ 154.046 SCHEDULE OF USES.

(A) *Activity categories.* Land uses permitted in the town's zoning districts, in conformance with the performance standards contained in §§ 154.065 through 154.096 are shown in a matrix in division (E) below. The various land uses contained in the matrix are organized into the following activity classifications

- (1) Agriculture and other open space uses;
- (2) Residential;
- (3) Commercial;
- (4) Industrial;
- (5) Institutional; and
- (6) Miscellaneous.

(B) *Symbols used in schedule of uses.* The following symbols contained in the schedule of uses in division (E) below have the following meanings:

(1) *District symbols.*

- (a) AF Agriculture/Forestry;
- (b) RA - Residential A District;

- (c) RB - Residential B District;

(d) RC - Residential C District;

(e) C - Commercial District; (t)

VC - Village Commercial; and

(g) I - Industrial District.

(2) *Permit required symbols.*

(a) Y- Uses allowed without a permit;

(b) P - Uses requiring a building permit or other type of permit from the Code Enforcement Officer. All "class 1" uses require site plan review approval from the Code Enforcement Officer.

(c) S - Uses requiring *site* plan review approval from the Planning Board in accordance with the requirements of §§ 154.065 through 154.096, using the procedures found in §§ 154.180 through 154.190.

(d) N - Not permitted.

(C) *Uses substantially similar to permitted uses.*

(1) *Uses allowed without a permit.* Uses substantially similar to those allowed without a permit, but which are not listed in the schedule of land uses, may be permitted upon a ruling of the Code Enforcement Officer (CEO) that such use is substantially similar to such uses.

(2) *Uses requiring a permit from the CEO.* Uses substantially similar to those requiring the review and approval of the CEO under this chapter, but which are not listed in the schedule of land uses, may be permitted by the CEO.

(3) *Uses requiring site plan review approval.* Uses substantially similar to those requiring site plan review approval of the planning board under this chapter, but which are not listed in the schedule of land uses, may be permitted by the Planning Board.

(4) *Prohibited uses.* Uses substantially similar to a prohibited use in the schedule of land uses, as determined by the CEO, are prohibited.

(D) *Compliance with performance standards.* All uses which are permitted, including those that are allowed without a permit, must occur and be maintained in compliance with the applicable requirements of the performance standards listed in §§ 154.065 through 154.096.

(E) Schedule of land uses.

(1) Agriculture and other open space uses.

<i>Agriculture and other open spaces</i>	<i>AF</i>	<i>RA</i>	<i>RB</i>	<i>RC</i>	<i>C</i>	<i>VC</i>	<i>I</i>
Agricultural landspreading of pre-treated septage	S	N	N	N	N	N	N
Animal husbandry							
On parcel 2 acres or larger	Y	N	P	N	N	N	N
On parcel less than 2 acres	Y	N	S	N	N	N	N
Commercial feed lot	S	N	N	N	N	N	N
Equestrian activity - riding, training, showing, breeding	Y	N	S	N	N	N	N
Farm stand	Y	N	Y	N	N	N	N
Off site farm stand'	N	N	N	N	P'	F ^a	P'
Forestry	S	S	S	S	S	S	S
Fur farm	S	N	N	N	N	N	N
General agriculture	Y	N	P	N	N	N	N
Goat farm	S	N	N	N	N	N	N
Livestock for home use							
On parcel 5 acres or larger	Y	N	P	N	N	N	N
On parcel less than 5 acres	Y	N	S	N	N	N	N
Raising of pigs	S	N	N	N	N	N	N
Public parks, playgrounds	S	S	S	S	N	S	N
Recreation trails	Y	Y	Y	Y	Y	Y	Y
Accessory structure or use	F	P	P	P	P	P	P

Note to table of agricultural and other open space uses:

'Off-site farm stand - Applicants for an off-site farm stand shall provide to the CEO a signed lease agreement from the property owner(s). Off-site farm stands may be in operation only during the months of July, August, September, and October of each year and the stand shall be removed from site by November fifteenth of each year. Adequate off-street parking shall be provided. Signage shall be of the temporary sandwich type (A-frame) or located on the stand itself. Items sold from an off-site farm stand shall be limited to those relating to vegetables, fruit and flowers.

(2) Residential uses.

<i>Residential uses</i>	<i>AF</i>	<i>RA</i>	<i>RB</i>	<i>RC</i>	<i>C</i>	<i>VC</i>	<i>I</i>
Single-family dwelling	P	P	P ³	P	N	P	N
Elder living quarters (ELQ)	P	P	P	P	N	P	N
Mobile home for ELQ	S	N	S	S	N	N	N
Group home	N	N	S	P	N	N	N
Home occupation 1	P	P	P	P	P	P	P
Home occupation 2	S	N	S	N	P	S	P
Home occupation 3	S	N	S	N	P	S	P
Manufactured housing exclusive of mobile homes	P	P	P	P	N	P	N
Mobile homes	P	N	P	P	N	N	N
Mobile home park	N	N	N	S	N	N	N
Two-family dwelling	P ²	N	P ³	I's	N	P ⁴	N
Multiple-family	N	N	P ⁴	P ⁴	N	S ⁴	N
Non-commercial greenhouse	Y	Y	Y	Y	N	Y	N
Planned unit development'	S	S	S	S	N	S	N
Multi-family development'	N	N	S	S	N	S	N
Rooming, boarding house	N	N	P	P	N	N	N
Rear lot development, in accordance with §154.090	N	N	P	N	N	P	S
Accessory structure or use	P	P	P	P	N	P	N

Notes to table of residential uses:

² AF District - Minimum lot size for a two-family dwelling shall be one and one-half acres with one unit owner occupied.

³ RB District - Single and two-family dwellings

(a) Minimum lot size for a single-family dwelling shall be one acre.

(b) Minimum lot size for a two-family shall be one and one-half acres.

<i>Residential uses</i>	<u>IAF RA</u>	<u>RB I RC</u>	C	VC	I
<p>RB, RC and VC Districts - Multi-family dwellings shall meet the following requirements:</p> <p>(a) All acreage required must be classified as buildable. Easement areas, freshwater wetlands and other unusable areas shall not be classified as buildable for the purpose of determining minimum lot size.</p> <p>(b) Minimum lot size for a three-family dwelling shall be two acres.</p> <p>(c) Minimum lot size for a four-family dwelling shall be two and one-half acres.</p> <p>(d) RC District: The maximum residential density shall be six dwelling units per acre.</p> <p>(e) VC District: The two units per acre - maximum of eight units per lot.</p> <p>(f) RB District: Each multi-family dwelling shall be limited to no more than four units.</p> <p>(g) Minimum frontage for each multi-family dwelling shall be 200 feet.</p> <p>(h) Multi-family dwellings on rear lots as described in this subchapter shall have the lot sizes detailed above, with setbacks twice the minimum requirements of the zone.</p> <p>^s See §§ 154.065 through 154.096, § 154.086(C)(3)</p> <p>See §§ 154.065 through 154.096, § 154.087(B)(1)</p>					

(3) *Commercial uses.*

<i>Commercial Uses</i>	<i>AF</i>	<i>R,4</i>	<i>RB</i>	<i>RC</i>	<i>C</i>	<i>VC</i>	<i>I</i>
Auction barn	P	N	N	N	S	S	S
Automobile body shop	N	N	N	N	S ⁸	S ⁷	P
Automobile service station	N	N	N	N	P	S	P
Aviation field	S	N	N	N	N	N	S
Bakery	N	N	N	N	P	P	P
Barber shop, beauty shop	N	N	N	N	P	P	P
Bed and breakfast	P	N	P	N	N	P	N
Building supply/lumber yard	N	N	N	N	P	N	P
Business and professional office, Class 1 ⁷	N	N	N	N	P	P	P
Business and professional office, Class 2 ⁷	N	N	N	N	S	S	S
Business park	N	N	N	N	S	S	S
Campground	S	N	N	N	N	N	S
Commercial art studio	P	N	N	N	P	P	P
Commercial greenhouse	S	N	N	N	S	S	S
Commercial complex (shopping center)	N	N	N	N	S	S	N
Communication facility	S	N	N	N	S	N	N
Contract postal unit	N	N	N	N	P	P	P

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<i>Commercial Uses</i>	<i>AF</i>	<i>RA</i>	<i>RB</i>	<i>RC</i>	<i>C</i>	<i>VC</i>	<i>I</i>
Home day care	P	P	P	P	N	P	N
Adult day care	S	N	S	S	N	S	N
Child/adult day care center	N	N	N	N	S	S	S
Funeral borne	N	N	N	N	S	S	S
Golf, ski, other recreation facility	S	N	S	N	S	S	S
Gymnasium, fitness center	N	N	N	N	P	S	P
Hotel/motel/overnight cabin	N	N	N	N	P	N	P
Kennel, breeding'	S^o	N	S^o	N	S^o	S^o	S^o
Kennel, commecial ^o	S^m	N	N	N	S^o	Sⁱ	S^o
Kennel, non-commercial ^o	P^o	N	P^o	N	P^o	P^o	I^o
Laundromat/dry cleaner	N	N	N	N	P	P	P
Medical, dental clinic	N	N	N	N	P	P	P
Substance abuse clinic''	N	N	N	N	S''	S''	S''
Medical labs	N	N	N	N	S	S	S
Motor vehicle sales and rentals	N	N	N	N	P	S	P
Neighborhood grocery store	N	N	S	S	S	S	S
Newspaper/printing facility	N	N	N	N	P	N	P
Nursing home	N	N	S	N	S	S	N
Place of public amusement	N	N	N	N	N	N	N
Place of public assembly or culture	N	N	N	N	P	S	P
Place of public entertainment	N	N	N	N	P	N	P
Recreational vehicle sales and rental	N	N	N	N	P	S	P
Redemption center'	N	N	N	N	S'2	sI2	PI2
Restaurant	N	N	N	N	S	S	S
Retail store Class 1	N	N	N	N	P	P	P
Retail store Class 2	N	N	N	N	S	S	S
Service establishments Class 1'	N	N	N	N	P	P	P
Service establishments Class 2	N	N	N	N	S	S	S

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<i>Industrial Uses</i>	<i>AF</i>	<i>RA</i>	<i>RB</i>	<i>RC</i>	<i>C</i>	<i>VC</i>	<i>I</i>
Manufacturing, heavy	N	N	N	N	N	N	S
Manufacturing, light	N	N	N	N	S	N	S
Recycling facilities	N	N	N	N	N	N	S
Railroading	N	N	S	N	P	N	P
Research and testing facilities of a laboratory nature	N	N	N	N	N	N	P
Sawmill	S	N	N	N	N	N	S
Septage storage and/or handling	N	N	N	N	N	N	S
Storage of pulpwood or logs for shipping	Y	N	N	N	S	N	P
Storage, processing of agricultural products	S	N	N	N	N	N	S
Truck terminal	N	N	N	N	S	N	P
Warehousing	N	N	N	N	P	N	P
Wholesaling of goods and products	N	N	N	N	P	N	P
Rear lot development, in accordance with § 154.090	N	N	P	N	N	P	S ^B
Accessory structure or use	S	N	S	N	P	N	P
Notes to Table of Industrial Uses:							
¹⁵ Rear Lot Development in Industrial District: Only "Open Space Uses" are allowed as rear lot development in the Industrial District.							
¹⁶ Living quarters for security personnel, employed by a company located in the industrial park, limited to one dwelling unit. The living quarters may be located within the principal structure.							
¹⁴ Reserved.							
" Reserved,							

(5) Institutional uses.

<i>Institutional Uses</i>	<i>AF</i>	<i>RA</i>	<i>RB</i>	<i>RC</i>	<i>C</i>	<i>VC</i>	<i>I</i>
Cemetery	N	N	S	N	N	N	N
Church	N	N	S	P	N	S	N
Club	N	N	S	P	P	S	P
Community service organizations	N	N	S	N	S	S	S
Educational uses and structure	N	N	S	P	N	P	N
Governmental use	N	N	N	N	N	S	S

<i>Institutional Uses</i>	<i>AF</i>	<i>RA</i>	<i>RB</i>	<i>RC</i>	<i>C</i>	<i>VC</i>	<i>I</i>
Hospice	N	N	S	N	N	N	N
Hospital	N	N	S	N	N	N	N
Municipal uses and structures	N	N	S	P	S	P	S
USPS Post Office	N	N	S	N	S	S	S
Accessory structure or use	N	N	P		PPP		P

(6) *Miscellaneous uses.*

<i>Miscellaneous Uses</i>	<i>AF</i>	<i>RA</i>	<i>RB</i>	<i>RC</i>	<i>C</i>	<i>VC</i>	<i>I</i>
Earth filling'							
< 1,000 yards	Y	Y	Y	Y	Y	Y	Y
1,000 - 10,000	P	P	PP		PP		P
yards > 10,000	S	S	S	S	S	S	S
Earth excavation¹⁹							
< 1,000 yards	P	P	P		PPP		P
1,000 yards or more	S	S	S	S	S	S	S
Essential services	P	P		PPP		P	P
Essential services structures	S	S	S	S	S	S	P
Signs							
Outside of complexes and parks (see §§ 154.225 through 154.233, signs)	N	P	P	P	PIS	PIS	PIS
Commercial complex (shopping center) (see §§ 154.225 through 154.233, signs)	N	N	N	N	S	S	S
Business/commercial/industrial park (see §§ 154.225 through 154.233, signs)	N	N	N	N	S	S	S
Mobile home park (see §§ 154.065 through 154.096, performance standards)	N		NS		NN		N
Outdoor wood boilers (see §§ 154.065 through 154.096, performance standards)	P	N	P	N	N	N	S

	<i>A F</i>	<i>RA</i>	<i>RB</i>	<i>RC</i>	<i>VC</i>	<i>C</i>	<i>I</i>
Not to exceed	35 ft.	35 ft.	35 ft.	35 ft.	35 ft.	45 ft.	45 ft.

Notes to Schedule of Dimensional Requirements:

(A) Industrial District/ground coverage: 50% for building and structures: total not to exceed 80% for buildings plus parking and travel ways.

(B) Non-conforming lots in the RB District shall have a maximum lot coverage of 18,000 square feet.

The following minimum setbacks apply between uses in an Agriculture/Forestry District and any lot line in a Residential A District:

- (a) Equestrian activity, riding, training, showing: 100 feet to any enclosure used for shows.
- (b) Golf, ski, other recreation facility: 100 feet to any building or parking lot.
- (c) Home occupation 3: 100 feet to any portion of the property used for the home occupation.
- (d) Auction farm: 100 feet to any building or parking area.
- (e) Commercial greenhouse: 100 feet to any building or parking area.
- (f) Sawmill: 1,000 feet to the saw.
- (g) Campground: 25 feet to the campground boundary.

(Ord. passed 1-3-2013)

PERFORMANCE STANDARDS

§ 154.065 GENERAL APPLICABILITY.

All uses of land, buildings and structures, in the town shall comply with the following regulations, where applicable. Unless otherwise indicated, these regulations pertain to all districts except the Shoreland Zoning District. Uses of land, buildings and structures within the Shoreland Zoning District shall be governed by the provisions and regulations of §§ 154.125 through 154.140, shoreland zoning. (Ord. passed 1-3-2013)

§ 154.066 ACCESS TO PUBLIC WAYS.

(A) *Required access.* No building permit shall be issued for the construction of any building unless such building lot has the frontage required by this chapter and there is direct legal access to a public way. One of the following conditions must be met:

(1) *Public way.* A public way with a roadway owned and maintained by the town, or the state.

(2) *Exception for an approved subdivision street that has not been accepted as a public way.* One building permit may be issued for a lot with frontage on a subdivision street shown on a final subdivision plan which has been approved by the Planning Board as consistent with this chapter, but

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which has not been accepted as a public way by the Town Council. Under this circumstance, no additional building permits may be issued until the aforementioned subdivision street has been accepted as a public way by the Town Council.

(B) *Commercial and Industrial Districts.* The following criteria shall be followed for entrances and/or driveways to any use other than single- and two-family dwellings.

(1) *General design requirements.*

(a) All entrance and exit driveways shall be located and designed in profile and grading to afford safety to traffic providing for safe and convenient ingress and egress, to and from the site, and to minimize conflict with the flow of traffic.

(b) The dimensions of driveways shall be designed to adequately accommodate the volume and character of vehicles anticipated to be attracted daily.

(c) Provision shall be made for convenient and safe emergency vehicle access to all buildings and structures at all times.

(2) *Corner obstructions.* No fence, wall, sign, structure, or landscaping shall be placed within the area within 20 feet of an intersection of any two streets in such a manner to materially impede vision between a height of two and one-half and ten feet above street level.

(3) *Corner setback.* Where a site occupies a corner of two intersecting roads, no driveway entrance or exit shall be located within 50 feet of the point of tangency of the existing or proposed curb radius of that site. Access to the lot shall be provided across the frontage and to the street where there is less potential for traffic congestion and for hazards to traffic and pedestrians.

(4) *Sight distances.*

(a) Any exit driveway or driveway lane shall be so designed in profile and grading and so located as to provide the following minimum sight distance measured in each direction. The measurements shall be from the driver's seat of a vehicle standing on that portion of the exit driveway with the front of the vehicle a minimum of ten feet behind the curblines or edge of shoulder.

<i>Allowable Speed (Miles Per Hour)</i>	<i>Medium Volume Driveway (Feet)</i>	<i>High Volume Driveways (Feet)</i>
25	250	300
35	350	480
40	400	580
45	450	710

<i>Allowable Speed (Miles Per Hour)</i>	<i>Medium Volume Driveway (Feet)</i>	<i>High Volume Driveways (Feet)</i>
50	500	840
55	550	990

(b) Note:

1. *Medium volume driveways.* Driveways with a traffic volume of less than 1,500 vehicle trips per day or less than 150 vehicle trips per peak hour.

2. *High volume driveways.* Driveways with a traffic volume of 1,500 or more vehicle tips per day and more than 150 vehicle trips per peak hour.

(5) *Level of service.* The intersection of any access drive or proposed street shall function at a level of service of C as defined by the Institute of Traffic Engineers following development if the project will generate 400 or more vehicle trips per 24-hour period or at a level which shall allow safe access into and out of the project if less than 400 trips are generated. Projects generating 400 or more vehicle trips per 24-hour period shall provide two or more separate points of vehicular access into and out of the site.

(6) *Distance between driveways.* Where two or more driveways connect on a single site to any one road, a minimum clear distance of 100 feet measured along the right-of-way shall separate the closest edges of any two such driveways, unless the driveways are one way only, then the minimum clear distance shall be no less than 50 feet.

(7) *Angles.* Driveways used for two-way operation shall intersect the road at an angle of or as near to 90 degrees as site conditions will permit and in no case less than 60 degrees. Driveways used by vehicles in one direction of travel (right-turn only) shall not form an angle smaller than 45 degrees with the road, unless acceleration and deceleration lanes are provided.

(8) *Dimensions.* The dimensions of driveways shall be designed to adequately accommodate the volume and character of vehicles anticipated. The required maximum and minimum dimensions for driveways are indicated below. Driveways serving large volumes of daily traffic or traffic of over 15% truck traffic shall be required to utilize high to maximum dimensions.

	<i>One-Way Operation Driveways* Width (Feet)</i>	<i>Two-Way Operation Driveways* (Feet)</i>
Three to ten dwelling units	10 to 15	15 to 25
Ten dwelling units or ore	15 to 25	20 to 35

	<i>One-Way Operation Driveways*</i> Width (Feet)	<i>Two-Way Operation Driveways*</i> (Feet)
Commercial and industrial	15 to 30	25 to 35
*All driveways shall be five feet wider at the curblines and this additional width shall be maintained for a distance of 20 feet into the site.		

(9) *Grades.* Driveways shall not have a grade in excess of 10% over the entire length. For all driveways entering onto Route 2, the grade shall not be more than 3% for the first one 100 feet from the road.

(10) *Stacking or queuing standards for drive-through businesses.* Stacking or queuing spaces shall be located on-site and shall not be located within the required setbacks. Stacking or queuing spaces shall not interfere with the stall and aisle space requirements as described in the off-street parking and loading.

(a) *Banks or other commercial uses.* There shall be a minimum of eight spaces.

(b) *Drive-up restaurant.* There shall be 11 spaces for the drive-up window, with a minimum of five of these spaces for the ordering station.

(11) *Shared driveways.* Shared driveways shall be encouraged for adjacent sites with frontage on Route 2 in order to minimize the number of driveways along Route 2. The lot size and road frontage requirement may be reduced by a total of 10% when the developer agrees to provide a common driveway to the site.

(12) *Direct access prohibited.* Where a proposed development involves the division of a tract or parcel of land into three or more lots within any five-year period, whether accomplished by sale, lease, development, buildings or otherwise, as defined by the subdivision law, 30-A M.R.S.A. §§ 4401 through 4407, and where such project abuts Route 2, the following provisions shall apply:

(a) *Direct arterial access prohibited.* Direct access to any individual lot, or to a single place of business, shall be prohibited unless the Planning Board determines that physical conditions particular to the parcel justify the granting of a waiver from this requirement. A waiver shall be granted only if there will be no further subdivision of the parcel and one of the following conditions is met:

1. There is too little road frontage to reasonably allow creation of a new way.
2. The shape or physical condition of the parcel does not permit access to or creation of a street other than Route 2.
3. Common access will be utilized which will allow all proposed lots to be serviced by one new curb cut.

(b) *Permitted access.* Access to the development may include one of the following:

1. *Common frontage road.* A common frontage road running parallel to Route 2 provided that such frontage road shall be located at least 50 feet from the right-of-way of Route 2. As an alternative to constructing the service road, the town and the developer, acting through a formal agreement, may agree that small sites may be served by individual, temporary driveways until adjacent lots are developed, provided that a service road shall be constructed by a mutually agreed upon date, after which the temporary driveways shall be closed and consolidated into one or two access points.

2. *Common driveway.* A common driveway, which may intersect Route 2, and which serves the individual lots or businesses or a common parking lot adjacent to the individual lots or businesses.

3. *Minor road(s).* One or more minor roads, to be constructed by the developer according to the standards of this chapter, which shall serve the development. (Ord. passed 1-3-2013)

§ 154.067 AGRICULTURE, ANIMAL HUSBANDRY, LIVESTOCK, AND PETS.

(A) *Manure spreading.* All spreading and/or storage of manure shall be accomplished in conformance with the *Manure Utilization Guidelines* published by the Maine Department of Agriculture on 11-1-2001, and the Nutrient Management Law (7 M.R.S.A. §§ 4201 through 4209).

(B) *Farm buildings.* Farm buildings other than dwellings, shall not be constructed within 75 feet of a neighboring property line.

(C) *Feed lots.*

(1) Feed lots, fenced runs, and similar intensively used facilities, for raising and caring for animals, excluding pastures, shall not be located within 100 feet of a neighboring property line.

(2) Intensive use. *INTENSIVELY USED* shall be the keeping of animals on a plot of land which is used to hold more than the numbers of animals per acre given in this section.

Dairy cattle	1.2 animals/acre
Horses	2 animals/acre
Chickens	141.5 animals/acre
Beef cattle	1.4 animals/acre

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Sheep	9.1 animals/acre
Swine	3.7 animals/acre
Acreage shall be calculated based on the area utilized by the animals during the winter, except that no area shall be considered to be smaller than one acre	

(D) Farm stands. Farm stands for the sale of agricultural products shall conform to the following requirements:

- (1) Farm stands shall be constructed at least 40 feet back from the right of way line.
- (2) Farm stands shall be used exclusively for the sale of agricultural products.
- (3) Signs shall not exceed four square feet of surface area and shall otherwise comply with the provisions of §§ 154.225 through 154.233, signs.
- (4) Farm stands shall be operated on land owned or leased by the vendor.
- (5) Farm stands shall not exceed 200 square feet in size.
- (6) Farm stands shall provide off-street parking entirely on the same parcel as the stand is located or on adjacent parcel leased or owned by the owner/operator. In no instance should parking be separated from the stand by a public way.

(E) Household pets. Nothing in this section prohibits the keeping of household pets such as dogs and cats. The keeping of horses, ponies, and other large pets, requires conformance to this section.

(F) Livestock for home use. A minimum of two acres shall be provided for the first "head of livestock kept for home use" with an additional acre for each additional head. For purposes of this provision, a head of livestock shall be considered as one of the following: a dairy cow, a beef cow, two horses, 25 fowl, 25 rabbits, or seven sheep or goats. All spreading and/or storage of manure shall be accomplished in conformance with the *Manure Utilization Guidelines* published by the Maine Department of Agriculture on 11-1-2001, and the Nutrient Management Law (7 M.R.S.A. §§ 4201 through 4209).

(G) Right to farm. The following provisions shall apply to all land areas in the Agriculture/Forestry and Residential B Districts:

(1) Agricultural buffers. Wherever agricultural uses and new development unrelated to the agricultural operations abut, 100-foot wide buffers shall be provided to reduce the exposure of the abutting development to odors, noise, and other potential nuisances related to the agricultural operation. Provision of buffers shall be the responsibility of the proponent of the non-agricultural use. Such buffers may consist of vegetative screening, woodlands, vegetated berms, or natural topographic features.

(2) *Right to farm.* Pursuant to 17 M.R.S.A. § 2805, no method of operation used by a farm or farm operation located in the Agriculture/Forestry District or Residential B District may be considered a violation of this chapter, if the method of operation constitutes a best management practice as determined by the Maine Department of Agriculture.

(3) *Required disclosure.* In the case of any proposed residential development that abuts agricultural uses, the reviewing entity shall require the applicant to issue a disclosure to potential purchasers of lots or dwelling units as follows: "This property adjoins land used for agricultural purposes. Farmers have the right to apply approved chemical and organic fertilizers, pesticides, and herbicides, and to engage in farm practices which may generate dust, odor, smoke, noise, and vibration." This disclosure shall be required as a note on a subdivision plan or site plan, and may also be required to be made through other means reasonably calculated to inform a prospective purchaser, such as by posting, distribution of handbills, inclusion in an offering plan or real estate listing information sheet, or letter of notification. This section may also be applied to any commercial development at the discretion of the reviewing authority.

(Ord. passed 1-3-2013)

154.068 AIR POLLUTION, FIRE CONTROL, NOISE AND LIGHTING.

(A) *Atmospheric pollution.* It shall be unlawful for any person to discharge into the atmosphere soot, fly ash, dust, cinders, dirt, oxides, gases, vapors, odors, toxic or radioactive substances, waste, particulate, solid, liquid or gaseous matter or other materials, in such a manner as to constitute atmospheric pollution in excess of the performance standards as established by the Maine Department of Environmental Protection as may be amended from time to time.

(B) *Odor.*

(1) Any condition or operation which results in the creation of odors of such intensity and character as to be detrimental to the health and welfare of the public or which interferes unreasonably with the comfort of the public shall be removed, stopped or so modified as to remove the odor. Exception: § 154.067(G).

(2) Tanneries, stock yards, glue factories, oil refineries, soap factories, artificial gas manufacture and similar uses must present detailed plans for elimination of obnoxious odors to the reviewing authority before a building or land use permit is granted.

(C) *Noxious gases.* Detailed plans of any process likely to emit noxious gases must be presented to the reviewing authority providing for the control of such gases or fumes before a building or land use permit is granted.

(D) *Fire and safety hazards.* Only such structures which are constructed in conformity with the "Building Code of the Town of Hermon, Maine." are permitted.

(E) Noise and hours of operation.

(1) All noise shall be muffled so as not to be objectionable due to intermittence, beat frequency or shrillness.

(2) The permitting authority may require documentation of noise levels, if it determines that the proposed development might produce more than ambient levels of noise such that abutting and/or adjacent properties would be adversely affected. If the permitting authority determines there will be an adverse affect due to the intermittence, beat frequency or shrillness of noise associated with the proposed development, it may limit the development's hours of operation or deny the project. *AMBIENT* meaning the noise that is constantly and spontaneously occurring as "background noise".

(F) Lighting standards.

(1) *Purpose.* The purpose of these lighting standards is to ensure appropriate outdoor lighting by addressing the issues of safety, efficiency, the environment and aesthetics. AU development approval under this subchapter shall be provided with adequate outside lighting to ensure a safe environment. All lighting intended to illuminate any outdoor area, or the outside of any building, shall be directed into the property served by such lighting so that no undesirable illumination or glare will be produced on adjacent streets or lots occupied by residential, institutional or public uses.

(2) *Performance standards.* The following standards shall apply:

(a) *Regulations.* Unless determined to be a safety hazard or in violation of any state or federal law, all outdoor lighting shall comply with this section, except for the following: lighting installed and maintained for public safety by municipal, state or federal government; approved signs; external illumination of flags; approved lighting for athletic fields; temporary outdoor lighting; holiday lighting; luminaries with lamp or lamps rated at a total of 2,000 lumens or less.

(b) *Lumen.* For the purposes of this section, a lumen is a unit of lumens flux. One foot-candle is equal to one lumen per square foot. The lumen-output values shall be the initial lumen output ratings of a lamp.

1. No luminaries shall produce a stray, dazzling light or reflection onto neighboring residential properties, or onto any public road so as to impair the vision of any driver.

2. Luminaries shall be shielded or hooded so that the lighting elements are not exposed to normal view by motorists, pedestrians, or from adjacent buildings. No luminaries shall emit any direct light above its horizontal plane. The Planning Board may grant exceptions for lights that are aesthetically consistent with decorative streetlights and located on parcels adjacent to such streetlights.

3. No flood or spot luminaire of any lumen output rating shall be aimed, directed or focused toward any adjacent or nearby residential parcel.

4. Rather than leaving security lights on, the use of motion sensors is encouraged.

5. Direct or indirect illumination shall not exceed one-half foot-candle upon abutting residential properties.

6. Luminaire height, including the base, shall not exceed 25 feet. Exceptions may be granted only when it can be demonstrated that the intent of this section will still be substantially met.

(c) Existing nonconforming luminaires.

1. The continued use of nonconforming luminaires legally existing as of the effective date of this section shall be permitted unless determined to be a safety hazard.

2. Nonconforming luminaires replaced or moved after the effective date of this section shall comply with the provisions of this section.
(Ord. passed 1-3-2013)

§ 154.069 AIRPORT FLIGHT PATH.

Notwithstanding any other provisions of this section, no use may be made of land or water in such a manner as to create electrical interference with navigational signals or radio communication between Bangor International Airport and aircraft, make it difficult for pilots to distinguish between airport lights and other, result in glare in the eyes of pilots using the airport, impair visibility in the vicinity of the airport, create bird strike hazards, or otherwise in any way endanger or interfere with the landing, takeoff, or maneuvering of aircraft intending to use the airport.

(Ord. passed 1-3-2013)

§ 154.070 ARCHAEOLOGICAL AND HISTORIC SITES.

(A) 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 CEO or Planning Board, shall be submitted by the applicant to the Maine Historic Preservation Commission (MHPC) for review and comment, at least 20 days prior to action being taken by the CEO or Planning Board. The CEO or Planning Board shall consider comments received from the MHPC prior to rendering a decision on the application and shall require that archaeological sites and historic places be protected to the maximum extent possible in accordance with the MHPC's recommendations. As used in this section, the term *ELIGIBLE* shall mean an application having been filed with the relevant state or federal agency.

(B) *Subdivision and site plan review requirement.* For sites identified in the 2010 comprehensive plan as having a potential for historic and archaeological resources, subdivision and non-residential property developers must look for and identify any historic or archaeological resources, and take

appropriate measures to protect those resources, including but not limited to, modification of proposed site design, construction timing, and/or extent of excavation.

(Ord. passed 1-3-2013)

§ 154.071 CAMPGROUNDS.

Campgrounds shall be allowed in those districts specified by this chapter. Campgrounds shall conform to the minimum requirements imposed under State licensing procedures and to the following provisions. Campgrounds within the Shoreland Zoning Districts shall comply with §§ 154.125 through 154.140 below.

(A) *Definitions.*

(1) A *CAMPGROUND* shall mean land upon which one or more tents are erected or recreational vehicles are parked for temporary dwelling use on sites arranged specifically for that purpose, and for the use of which sites a fee is charged.

(2) A *RECREATIONAL VEHICLE* shall mean travel trailer, camping trailer, and motor home.

(3) A *RECREATIONAL VEHICLE SITE* shall mean a parcel of land for the placement of a single recreational vehicle.

(4) A *TENT SITE* shall mean a parcel of land for the placement of a single tent.

(B) *General.*

(1) Campgrounds shall provide water and sewer systems, sanitation stations, and convenience facilities in accordance with the regulations set for by the Maine Department of Human Services and the town.

(2) Campgrounds shall contain a minimum of two thousand square feet (not including roads and driveways) for each recreation vehicle site outside of the Shoreland Zoning Districts.

(3) Recreational vehicles, tent sites, utility buildings, and service buildings outside the shoreland districts shall be set back a minimum of 25 feet from any park boundary line abutting upon a public street or highway and at least a minimum of 25feet from any other park or area property lines lot lines.

(4) All campgrounds shall be completely screened from adjacent land and public roads by a vegetative buffer area of not less than 25 feet in width and not less than six feet in height, except that safe visual clearances shall be provided at each entrance to and exit from the campground.

- (5) All campgrounds shall be set back at least 1,000 feet from any Residential A District.
- (6) Vegetative buffer shall consist of conifers trees such as pine, spruce, and fir.
- (7) A minimum of 300 feet of off-street parking space shall be provided for each recreational site.
- (8) No less than 20 and no more than 450 campsites in any one campground.
- (9) No travel trailer, camper, self-contained vehicles, or similar vehicles shall be used as a permanent place or abode, dwelling or business for indefinite periods of time. Continuous occupancy extending beyond four months in any 12-month period shall be presumed to be permanent occupancy. Further, the duration of stay during October 1 to April 30 shall be limited to a total of 30 days for any individual or unit, and then only if the campground can furnish sewer and water on site during this period as required by the State of Maine Subsurface Wastewater Disposal Rules. (Ord. passed 1-3-2013)

§ 154.072 COMMUNICATIONS FACILITIES.

(A) New or expanded communications facilities shall be setback 105% of the structure's height from all property lines and setback 500 feet from any public road right of way. In the Industrial District, the setback will be reduced to 105 % of its height from all property lines. All setbacks shall be measured from the base of the communications tower associated with the facility to the property lines and road right of way lines. Exception: Guy anchors, guy wires, and structures other than towers and antennas associated with the facility must only meet the setbacks listed in § 154.047, schedule of dimensional requirements, above.

(B) Maximum height limits shall be as follows:

<i>Agriculture and Forestry District</i>	
Self-supporting and guyed towers =	199 feet

<i>Commercial and Industrial District</i>	
Self-supporting and guyed towers =	500 feet

(C) A new communications facility must provide evidence that the applicant has made diligent good faith efforts to negotiate co-location on an existing facility, building, or structure, and had been denied access.

(D) A new communications facility must be constructed with materials and colors that match or blend with the surrounding natural or built environment, to the maximum extent practicable. Unless otherwise required, muted colors, earth tones, and subdued hues shall be used.

(E) A new communications facility must be illuminated only as necessary to comply with FAA or other applicable state and federal requirements. However, security lighting may be used as long as it is shielded to be down directional to retain light within the boundaries of the site.

(F) A new communications facility must be fenced to discourage trespass on the facility and to discourage climbing on any structure by trespassers.

(G) A new communications facility must comply with the current Electronic Industries Association/Telecommunications Industries Association (EIA/TIA) 222 Revision Standard entitled *Structural Standards for Steel Antenna Towers and Antenna Supporting Structures*.

(H) The proposed communications facility will have no unreasonable adverse impact upon designated scenic resources within the town, as identified either in the municipally adopted comprehensive plan, or by a state or federal agency. In determining the potential unreasonable adverse impact of the proposed facility upon the designated scenic resources, the Planning Board shall consider the following factors:

(1) The extent to which the proposed communications facility is visible above tree line, from the viewpoint(s) of the impacted designated scenic resource;

(2) The type, number, height, and proximity of existing structures and features, and background features within the same line of sight as the proposed facility;

(3) The extent to which the proposed communications facility would be visible from the viewpoint(s);

(4) The amount of vegetative screening;

(5) The distance of the proposed facility from the viewpoint and the facility's location within the designated scenic resource; and

(6) The presence of reasonable alternatives that allow the facility to function consistently with its purpose.

(I) A communications facility that is not operated for a continuous period of 12 months shall be considered abandoned. The CEO shall notify the owner of an abandoned facility in writing and order the removal of the facility within 90 days of receipt of the written notice. The owner of the facility shall have 30 days from the receipt of the notice to demonstrate to the CEO that the facility has not been abandoned. If the owner fails to show that the facility is in active operation, the owner shall have 60 days to remove the facility. If the facility is not removed within this time period, the municipality may remove the facility at the owner's expense. The owner of the facility shall pay all site reclamation costs deemed necessary and reasonable to return the site to its pre-construction condition, including the removal of

roads, and reestablishment of vegetation. If a surety has been given to the municipality for removal of the facility, the owner of the facility may apply to the Planning Board for release of the surety when the facility and related equipment are removed to the satisfaction of the Planning Board.

(Ord. passed 1-3-2013)

§ 154.073 CORNER CLEARANCE; CORNER OBSTRUCTIONS.

No fence, wall, sign, structure, or landscaping shall be placed within the area within 20 feet of an intersection of any two public streets in such a manner to materially impede vision between a height of two and one-half feet and ten feet above street level.

(Ord. passed 1-3-2013)

§ 154.074 DAY CARE: HOME DAY CARE/ADULT DAY CARE/CHILD/ADULT DAY CARE CENTER.

(A) *Home day care.* (To be located in a residential dwelling or accessory structure): a permit to operate a home day care in the AF, RA, RB, VC, RC Districts shall be issued by the CEO, provided that:

(1) All required state licensing to operate an home day care facility is obtained or a letter from the Department of Human Services stating that no license or inspections are needed.

(2) Off-street parking space is provided for drop-off and picking up of clients. A designated parking space is provided for each employee. A residential driveway is acceptable for this purpose so long as it does not interfere with temporary parking for client drop-off or pick-up.

(3) Signage must conform to the zoning district.

(4) No structured area for active play shall be located in the front yard.

(5) Outside play/activity areas shall be fenced in with appropriate fence similar to chain link or picket, with a minimum height of four feet. Appropriate fencing shall be used where needed to shield neighboring property from sight and noise.

(6) A ratio of client to care provider(s) shall in no case exceed state registration or licensing provisions.

(7) All facilities shall be reviewed by an officer of the Town Fire Department.

(8) Fire egress/escape plans shall be posted in all interior spaces occupied by the facility.

(9) Proof of notifications to all abutting property owners of the plan by the applicant to operate a home day care facility.

(10) Hours of operations shall be limited to those hours between 6:00 a.m. and 8:00 p.m.

(B) *Adult day care.* (Located in a residential dwelling or accessory structure only): a permit to operate an adult day care facility shall be issued by the Town Planning Board provided that:

(1) All required state licensing to operate an adult day care facility is obtained or a letter from the Department of Human Services stating that no license or inspections are needed.

(2) Proof of notifications to all abutting property owners of the plan by the applicant to operate an adult day care facility.

(3) Hours of operations shall be limited to those hours between 6:00 a.m. and 8:00 p.m.

(4) All facilities shall be reviewed by an officer of the Town Fire Department.

(5) Fire egress/escape plans shall be posted in all interior spaces occupied by the facility and shall be reviewed on a monthly basis.

(6) Signage must conform to the zoning district.

(7) Off-street parking space is provided for drop-off and picking up of clients. A designated parking space is provided for each employee. A residential driveway is acceptable for this purpose so long as it does not interfere with temporary parking for client drop-off or pick-up.

(8) Outside play/activity areas shall be fenced in with appropriate fence, similar to chain link or picket, with a minimum height of four feet. Appropriate fencing shall be used where needed to shield neighboring property from sight and noise.

(C) *Child/adult day care center.* (Village Commercial, Commercial or Industrial areas only): a permit to operate a child day care center or adult day care center shall be issued by the Town Planning Board, provided that: (Note: child day care centers are encouraged in existing residences in the Industrial Districts.)

(1) Copy of the approved state licensing to operate a child/adult day care center is provided or a letter from the Department of Human Services stating that no license or inspections are needed.

(2) All applications for a child/adult day care center shall provide a *site* plan showing buildings and outside play areas.

(3) All existing or new structures housing a child or adult day care center shall meet building, sanitation, traffic safety and fire safety requirements

- (4) All facilities shall be reviewed by an officer of the Town Fire Department.
- (5) Fire egress/escape plans shall be posted in all interior spaces occupied by the facility and shall be reviewed on a monthly basis.
- (6) Hours of operations shall be limited to those hours between 6:00 a.m. and 8:00 p.m.
- (7) Signage must conform to the zoning district.
- (8) Off-street parking space is provided for drop-off and picking up of clients. A designated parking space is provided for each employee. A residential driveway is acceptable for this purpose so long as it does not interfere with temporary parking for client drop-off or pick-up.
- (9) Outside play/activity areas shall be fenced in with appropriate fence, similar to chain link or picket, with a minimum height of four feet. Appropriate fencing shall be used where needed to shield neighboring property from sight and noise.
- (10) Proof of notifications to all abutting property owners of the plan by the applicant to operate A child/adult day care center. (Ord. passed 1-3-2013)

§ 154.075 EARTH-MOVING ACTIVITY.

(A) *Permit required.* With the exception of the Shoreland Zone, in all districts, the removal in one year of topsoil, rock, minerals, sand, gravel, and similar earth materials, from or to a location, requires a permit as shown in § 154.046(E), schedule of land uses. However, such permit for earth-moving activity is not necessary if the removal of earth is incidental to construction, alteration, or repair of a building, or the removal, transfer or filling of earth material is incidental to construction, alteration, or repair of any public way, private way, or essential services. Examples of incidental activity include, but are not limited to, digging a foundation, grading for a driveway, and stockpiling of topsoil. See §§ 154.125 through 154.140 for earth-moving in the Shoreland Zone.

(B) *Standards.* Upon being shown plans for such activity, the Planning Board shall issue a permit, where required, provided that the proposed activity meets the following standards:

- (1) Specific plans are established to avoid hazards from excessive slopes or standing water. Where an embankment must be left upon completion of operations, it shall be at a slope not steeper than one unit vertical to two units horizontal.
- (2) Screening and other landscaping methods are used so as to protect surrounding property from dust, air pollutants, noise and other disturbances.

(3) No below-grade excavation except for drainage ways shall be allowed within 100 feet of any lot line or public way.

(4) A temporary ground cover (mulch) shall be used and a permanent ground cover (e.g. grass) shall be sowed as soon as practical.

(C) *Bond or other security.* The Planning Board shall request a bond or other security to insure that the property is left in a safe and environmentally sound condition and to insure compliance with any conditions imposed in issuing the permit. The Planning Board shall require a bond for earth moving activities in, on or over the town's sand and gravel aquifers, as identified in the town comprehensive plan, 2010, which lie along the Souadabscook Stream. In determining the amount of such bond or security, the Planning Board shall consider the amount necessary to rehabilitate the property upon breach of condition or other default by the operator of the earth-moving activity.

(D) *Permit expiration.* A permit shall be valid for a period of three years from the date of issuance. Such permit may be renewed for additional periods in the same manner.

(E) *Existing operations.* Any earth-moving activity in lawful operation at the time this chapter becomes effective, may operate for a period of three years from the effective date. Continuation of such existing operation for more than three years shall require a permit. Discontinuance of any existing operation for a period of more than one year shall require application for and issuance of a new permit. (Ord. passed 1-3-2013)

§ 154.076 ELDER LIVING QUARTERS (ELQ).

(A) *General.* Elder Living Quarters (ELQ) shall be established in conformance with the provisions of this chapter and the building code for the town, as amended.

(B) *Plan review required.* ELQ shall only be constructed/located with a plan review permit approved by the CEO, as follows:

(1) A plan review permit for an ELQ shall be issued in the name of the owner(s) of the property.

(2) A plan review permit for ELQ shall be valid for a period of one year.

(3) A plan review permit shall be automatically renewed for an additional one-year period upon presentation of an inspection report from the CEO documenting that the use continues to be in conformance with the terms, conditions and restrictions of the original plan approval.

(4) A plan review permit for ELQ shall automatically expire upon the death of the parent(s)/grandparent(s) or elderly kin or if they are not occupying the unit for 12 months.

(C) Plan review criteria. Any application for ELQ shall include a plan showing the following:

- (1) Lot boundaries and dimensions at scale;**
- (2) Zoning district;**
- (3) Date of plan;**
- (4) Property owner(s) with deed reference;**
- (5) Lot area;**
- (6) Location and setback of all buildings;**
- (7) Rights of way, public and private;**
- (8) All easements;**
- (9) Street names;**
- (10) Sewerage facilities (including design of existing subsurface wastewater disposal system, if applicable);**
- (11) Off-street parking spaces.**

(D) Building plan. Any application for ELQ shall include a building plan showing the following:

- (1) Separate floor layout of all finished levels;**
- (2) All plumbing facilities, kind and location;**
- (3) Use of all rooms;**
- (4) All entrances/exits;**
- (5) All partitions, temporary or permanent;**
- (6) Location and type of all appliances; and**
- (7) Parking area.**

(E) Sanitary provisions. Any request for ELQ shall conform to all provisions of the Maine State Plumbing Code, and no dwelling that is served by an on-site subsurface wastewater disposal system shall be modified to create ELQ until a site evaluation has been conducted by a licensed site evaluator which demonstrates that a new system can be installed to meet the disposal needs of both dwelling units.

(F) Floor area. There shall be no minimum gross floor area for ELQ contained in the main dwelling unit. The minimum size of an ELQ which is not a mobile home shall be 750 square feet, but shall not exceed 50 % of the floor area of the main dwelling unit. Floor area measurements shall not include an unfinished attic, basement or cellar spaces.

(G) Mobile homes. Placement of a Mobile Home for ELQ needs plan approval from Planning Board. ELQ which are mobile homes shall be removed from the lot upon expiration of plan approval.

(H) Rental prohibition. ELQ shall not be rented, leased or otherwise occupied by anyone other than the parent(s)/grandparent(s) or elderly kin of the owner(s). Exception: ELQ may be occupied by one adult, handicapped child of the owner(s) and one personal attendant of the handicapped individual.

(I) Space within dwelling. ELQ within the existing principal dwelling shall be converted to additional living space or to another use in accordance with the provisions of this chapter upon expiration of plan approval.

(3) Space within accessory building. ELQ within an accessory structure may be converted to another use in accordance with the provisions of this chapter and the building code. (Ord. passed 1-3-2013)

§ 154.077 EROSION AND SEDIMENTATION CONTROL.

All site alterations must harmonize with existing topography and conserve desirable natural surroundings to the fullest extent possible, such that filling, excavation and earth moving activity must be kept to a minimum. Natural vegetation must be preserved and protected wherever possible. Erosion of soil and sedimentation of watercourses and water bodies shall be minimized by employing the best management practices of the *Maine Erosion and Sediment Control Handbook for Construction: Best Management Practices* by the Cumberland County Soil and Water Conservation District, most recent edition.

(Ord. passed 1-3-2013)

§ 154.078 HAZARDOUS, SPECIAL, AND RADIOACTIVE MATERIALS.

The handling, storage, and use of all materials identified by the standards of a federal or state agency as hazardous, special or radioactive must be done in accordance with the standards of these agencies. No flammable or explosive liquids, solids or gases shall be stored in bulk above ground unless they are located at least 75 feet from any lot line, or 40 feet in the case of underground storage. All materials

must be stored in a manner and location which is in compliance with appropriate rules and regulations of the Maine Department of Public Safety and other appropriate federal, state, and local regulations. (Ord. passed 1-3-2013)

§ 154.079 HEIGHT REGULATIONS.

The following uses are exempt from height regulations, providing that the excess height will not present a hazard to air traffic or otherwise violate state or federal regulations of air space: farm buildings, outdoor movie screens, television or radio towers (except as provided in § 154.072), small wind energy systems, church spires, belfries, monuments, water and fire towers, stage towers and scenery lofts, cooling towers, ornamental towers and spires, chimneys, elevator bulkheads, smokestacks and flagpoles, structures necessary for essential services. If any of the listed structures is to be located on a roof at a height in excess of that permitted in the applicable district, it shall be authorized only if the structure is not more than 10% of the total roof area, and is set back from the nearest lot line or right of way line, at least one foot for each foot of excess height. (Ord. passed 1-3-2013)

§ 154.080 HOME OCCUPATIONS.

(A) *Accessory nature.* Home occupations shall be accessory and incidental to a dwelling and shall include, but are not limited to, art studios, beauty shops, dressmaking, teaching, or professional offices such as that of a physician, dentist, lawyer, engineer, architect, or accountant, or small home businesses, which may involve the sale, crafting, or other creation of goods or products on the premises, or home vocations which involve the application of a trade or skill, such as a mechanic. Home occupations which exceed the limitations of this section shall be considered retail or service businesses, and shall be subject to the permit requirements for those types of land uses.

(B) *Home occupation 1: within residence or accessory structure.*

(1) The home occupation shall be carried on wholly within the dwelling or garage.

(2) The home occupation shall be carried on only by a member or members of the family residing in the dwelling unit, provided that an office in the home may employ persons who are not members of the family residing in the dwelling, provided the maximum number of employees, including all family members employed in the business, does not exceed five.

(3) There shall be no exterior display, no exterior sign except as expressly permitted by district regulations of this chapter or as required by state law (such as a motor vehicle inspection sign), no exterior storage of materials and no other exterior indication of the home occupation or variation from the residential character of the principal building.

(4) Objectionable conditions such as noise, vibration, smoke, dust, electrical disturbance, odors, heat, light, or activity outside the hours of 7:00 a.m. through 9:00 p.m., shall not be permitted.

(5) In addition to the off-street parking required to meet the normal requirements of the dwelling, adequate off-street parking shall be provided for the vehicles of users which the home occupation may attract during peak operating hours, provided that such parking areas shall be located a minimum of 25 feet from the property lines.

(6) There shall be no trans-shipment of goods or products to or from the premises. Mail order businesses employing off-site drop shipment are permitted as home occupations within a residence.

(7) The home occupation shall not utilize more than 40% of the gross floor area of the dwelling unit itself. An unfinished basement floor area shall not be included in the calculation of the gross floor area.

(C) *Home occupation 2: outside residence (except for residence-based service business).* The provisions of this division shall apply to home occupations outside the residence other than residence-based service businesses and to home occupations within a residence that do not otherwise meet the provisions of divisions (B) or (E).

(1) The home occupation shall be carried on only by a member or members of the family residing in the dwelling unit and up to five employees who are not members of the family residing in the dwelling unit.

(2) There shall be no exterior display or sign except those expressly permitted by district regulations of this chapter or as required by state law.

(3) Exterior storage of materials shall occupy no larger than 10,000 square feet of land area and such land area shall be at least 100 feet from any residential dwelling unit other than that of the owner of the facility.

(4) Objectionable conditions such as noise, vibration, smoke, dust, electrical disturbance, odors, heat, lights, or activity outside the hours of 7:00 a.m. to 9:00 p.m., shall not be permitted. The operation or testing of machinery and engines in other than enclosed buildings, including but not limited to saws, splitters, snowmobiles, all-terrain vehicles and other motor vehicles, shall be at least 500 feet from any residential dwelling unit other than that of the owner of the facility, and shall take place between the hours of 7:00 a.m. and 9:00 p.m.

(5) In addition to the off-street parking required to meet the normal requirements of the dwelling, adequate off-street parking shall be provided for the vehicles of users which the home occupation may attract during peak operating hours, provided that such parking areas shall be located a minimum of 25 feet from the property lines.

(6) Home occupations outside the residence shall occur wholly within accessory structures located on the premises. Such accessory structure shall not exceed 100% of the gross floor area of the dwelling unit itself.

(D) *Waiver of employment limitation.* The Planning Board may waive the employment limitations contained in divisions (B) and (C) when it determines that a home occupation is temporary and seasonal in nature, based on the following standards and provisions:

(1) The proposed home occupation meets the provisions of this section exclusive of the employment limitation.

(2) The proposed home occupation is a seasonally-determined activity which is conducted no more than thirty consecutive calendar days in any one year. The seasons shall be commonly recognized periods based on natural or cultural recurrences.

(3) The proposed home occupation would not employ more than ten persons.

(4) The proposed home occupation does not entail over-the counter or customer pick-up sales conducted on the premises.

(E) *Home occupation 3: residence-based service business.*

(1) *Definitions.* **RESIDENCE-BASED SERVICE BUSINESSES** shall be certain limited business uses of residential premises which do not significantly detract from the residential character and tranquility of the surrounding area, provided they are regulated. This section addresses service businesses based at a residence, where the services are performed off the premises, and instances where the resident is employed by a service business and wishes to keep certain business vehicles or equipment at his personal residence for convenience. The business use is clearly secondary and incidental to the primarily residential use of the property.

(2) *Examples.* Examples of the types of service businesses covered by this section are as follows:

- (a) Excavation services;
- (b) Well drilling services;
- (c) Painting and other contractors;
- (d) Oil burner services;
- (e) Oil or propane delivery services;
- (f) Independent truckers;

- (g) Snowplowing services;
- (h) Boom truck and crane services;
- (i) Automotive towing/wrecker services;
- (j) Paving services; and
- (k) Service businesses similar in operation to those listed above.

(3) *Standards.* Such residence-based service businesses are subject to the following conditions and limitations:

(a) *Primary occupation.* The business serves as the primary occupation of the resident or a member of the resident's household.

(b) *Resident-based.* The business is owned and/or operated by a town resident out of the property on which he or she resides.

(c) *Inspection sticker.* All business vehicles must have a current inspection sticker and be registered, if required.

(d) *Allowable vehicles.* The number of business vehicles permitted on a lot shall be determined as follows:

Lot Size Maximum # of Vehicles

1 Acre or less - 2 vehicles

2 Acres - 6 vehicles

More than 2 Acres - 3 vehicles per acre

(e) *Off-street parking.* A provision for off-street parking must be made for personal vehicles of employees of the business which complies with this section.

(f) *Screening.* The parking areas for business vehicles must be screened from the view of all side and rear abutting properties, and must meet the setback otherwise required of structures. Screening shall consist of opaque vegetation (evergreens, shrubs, etc.) or fencing, to a height of at least eight feet, and must be on the property of the applicant.

(g) *Sale prohibitions.* The business activity may not include sale at wholesale or retail to customers on the premises, delivery on the premises to customers of items sold or leased, or drop-off or pick-up of any items or goods by customers at the premises.

(h) *Outside storage.* The outside storage of materials is not permitted where it would be visible to abutters' homes or traveled roads.

(i) *Allowable sign.* One business sign may be maintained on the premises, not larger than would be allowed otherwise in the zone.

(j) *Review authority oversight.* The reviewing authority shall determine whether a particular business use conforms to this section. It may impose in individual cases additional reasonable conditions, limitations, protective measures and prohibitions regarding hours of operation, screening, traffic, noise, smells, smoke, presence or use of hazardous, toxic, flammable or explosive substances, number or type of business vehicles, or other business activity, and other matters directly relating to the business use of the residential premises or its impact upon the surrounding area (which are impossible to predict, quantify and catalogue exhaustively in this chapter), as it may deem necessary to preserve the residential character of the immediate area and to avoid negative impact of, or risk from, the business operations upon neighboring properties and residents.

(4) *Non-conformance.* Any uses falling within division (E) which were in active existence on the effective date of this chapter shall be considered preexisting nonconforming uses, but only to the extent of the actual active pursuit of the use (in numbers of employees, vehicles, types of use, etc.). Any subsequent change or diminution of such use will result in the partial or total loss of such "grandfathered" status, and such use may not thereafter be revived without approval under this section. In addition, the provisions relating to nonconforming uses which are no less stringent than those set forth in this section shall apply to such uses.

(Ord. passed 1-3-2013)

§ 154.081 LANDSCAPING.

(A) *General landscaping.* Property zoned Commercial, Village Commercial, or industrial and all uses subject to site plan review shall provide for a variety and mixture of landscaping. Landscaping must be provided as part of site design. The landscape plan for the entire site must use landscape materials to integrate the various elements on site, preserve and enhance the particular identity of the site, and create a pleasing site character. The landscaping should define street edges, break up parking areas, soften the appearance of the development, and protect abutting properties. The variety shall be based on a consideration of susceptibility to disease, hardiness for specific site location, colors, seasons, textures, shapes, sizes, blossoms and foliage. Planted vegetation shall take the form of shade trees, deciduous shrubs, evergreen, ground cover, perennial and/or annual flower beds and well kept grassed areas and be approved by the Planning Board. The landscape plan must include a description of how the landscaping will be maintained and preserved in good condition.

(B) *Vegetation standards.* At least one shade tree at least five feet in height and at least one inch in diameter, shall be planted in each 1,000 square feet of required landscaped area; and at least one deciduous shrub or evergreen at least 18 inches above finished grade level, shall be planted for each 500 square feet of required landscaped area.

(1) A total of 25% of non-impervious surfaces must be landscaped with trees, shrubs, ground covers (including grasses) and/or flowers. All non-impervious surfaces must be covered with living plant material.

(2) Primarily wooded property shall be required to landscape 25% of any cleared non-impervious surfaces.

(3) Landscaping may be waived by the Planning Board for fire, security or safety reasons upon a showing by the applicant of the need for such waivers. (Ord. passed 1-3-2013)

§ 154.082 MANUFACTURED HOUSING/MOBILE HOMES ON INDIVIDUAL UNITS. (A)

Older mobile homes.

(1) *Nonconforming structures.* Older mobile homes, defined as mobile homes built prior to 6-15-1976, which were legally existing in the town as of 8-4-1988, shall be considered nonconforming structures and may continue and may be maintained, repaired, improved, and expanded. Legally nonconforming older mobile homes may also be relocated from one lot to another within a mobile home park, from one mobile home park in the town to another mobile home park in the town, from an individual lot in the town to a mobile home park.

(2) *Importation of older mobile homes.* Older mobile homes shall not be relocated into the town.

(3) *Permit required.* A building permit shall be obtained prior to moving an older mobile home from one individual lot to another individual lot or from a mobile home park to an individual lot.

(4) *Alteration of older mobile homes.* No person shall remove any structural component from under the older mobile home, such that it might weaken its structural integrity unless the older mobile home is to be set on a permanent foundation that shall adequately support the older mobile home in such a way as to maintain its structural integrity.

(B) *Manufactured housing/newer mobile homes; placement on individual lots.* A manufactured housing unit meeting the following standards may be placed on any residential lot in the AF, RA, RB and RC Districts

- (1) **Minimum horizontal dimension:** 14 feet (24 feet in RA zone);
- (2) **Living space:** at least 750 square feet;
- (3) **Roof:** a pitched, shingled roof as defined in 30-A M.R.S.A. § 4358.1.E;
- (4) **Construction:** meets standards of the U.S. Department of Housing and Urban Development;
- (5) **Siding:** residential in appearance;
- (6) **Foundation:** Any foundation system allowed by the state's *Manufactured Housing Installation Standards, 1991*, as amended, with properly attached and residential appearing skirting, or a full basement.

(C) *Construction sites.* The Code Enforcement Officer may issue a special permit for use of a mobile home for a temporary office for the length of the project period in districts where offices are permitted or on construction sites anywhere in the town.

(D) *Placement in a mobile home park.* The following types of manufactured housing may be placed in an approved mobile home park:

- (1) **Newer mobile homes;**
- (2) **Modular homes;**
- (3) **Older mobile homes which meet the safety standards as set forth in division (F) below and the following:**
 - (a) **Are at least 12 feet in width;**
 - (b) **Have a minimum of 720 square feet of living area;**
 - (c) **Have a roof which sheds snow (minimum pitch 4/12); and**
 - (d) **Have residential siding.**

(E) *Travel trailers.* A travel trailer shall in no case be used as a mobile home and any travel trailer in use as a temporary dwelling (i.e. not more than three months) shall have adequate health and sanitation facilities provided. A travel trailer while not in use may be stored on the premises of the owner.

(F) *Safety standards for older mobile homes.* A mobile home which was constructed prior to 6-15-1976, or which was not built in accordance with the National Manufactured Housing Construction and Safety Standards Act of 1974 shall not be relocated to a mobile home park or individual lot in the town unless the CEO certifies that the unit complies with safety standards contained in Rule 02-385, Department of Professional and Financial Regulation, Manufactured Housing Board. (Ord. passed 1-3-2013)

§ 154.083 MOBILE HOME PARKS.

The following provisions shall apply to all development proposals for new construction of mobile home parks and to any expansion of existing mobile home parks.

(A) *Site plan required.*

(1) An approved mobile home park plan shall be necessary under the site plan review provisions of this chapter, prior to the establishment or expansion of a mobile home park.

(2) An approved mobile home park plan shall not exempt an applicant from meeting other applicable local, state, or federal requirements.

(3) Mobile home park construction shall be completed within 48 months from the approval date of the plan. If construction is incomplete after 48 months and the mobile home park operator desires to continue construction, the applicant must re-submit a plan for Planning Board approval.

(B) *General.*

(1) A mobile home park shall consist of a single parcel of land.

(2) At least three mobile home lots shall be established and provided with utilities before mobile home park occupancy is allowed.

(C) *Access.* A mobile home park shall have safe and convenient vehicular access to and from public streets.

(D) Lot size.

(1) Notwithstanding other requirements of this chapter, lots shall meet the following requirements:

	<i>Minimum Lot Size (Sq. Ft.)</i>	<i>Minimum Frontage (Feet)</i>
Lots served by public sewer	6,500	50
Lots served by individual subsurface wastewater disposal systems	20,000	100
Lots served by one or more centralized subsurface waste disposal systems serving two or more dwelling units and approved by the Maine Department of Human Services	12,000	75

(2) *Shoreland area.* Mobile home park lots located within any designated shoreland area shall meet the lot area, lot width, and shore frontage requirements of the district in which it is located.

(E) *Overall density.* The overall density of any park served by any on-site wastewater disposal system shall not exceed one dwelling unit for each 20,000 square feet of total park area. The total area of a mobile home park shall not be less than the sum of the following:

- (1) The combined area of the mobile home park lots which shall each meet the minimum lot requirements;
- (2) The area required for road rights-of-way;
- (3) The area required for buffer strips;
- (4) For parks served by public sewer, a minimum of open space area equal to 10% of the combined area of the lots; and
- (5) The area within the shoreland setback.

(F) Setbacks.

(1) Minimum setback distances for structures shall be as follows:

<i>Location</i>	<i>Setback</i>
Street right-of-way	25 feet (7.62 meters)
Side lot line	10 feet (3.05 meters)
Rear lot line	10 feet (3.05 meters)

(2) Structures shall be setback a minimum of 40 feet (14.02 meters) from mobile home park boundary lines.

(G) Placement of units on lots.

(1) *Mobile home lots.* All mobile homes shall be placed upon mobile home park lots. The bounds of each lot shall be clearly marked with permanent corner pins for each lot, and the lot shall be well surfaced or seeded to provide adequate drainage beneath and adjacent to any manufactured housing units parked thereon.

(2) *Mobile home pad.* Each mobile home shall be set upon a mobile home pad consisting of at least a 12-inch (30.48 centimeters) thickness of gravel base material. Concrete or other durable pads approved by the Planning Board may be used. The width and length of the mobile home pad shall conform to those dimensions of the mobile home placed upon it.

(3) *Skirting.* The vertical space from the mobile home pad to the mobile home frame shall be enclosed with a durable material, installed in a neat workmanship like manner within 30 days after the mobile home is set in place. The material requires approval of the mobile home park operator and the Code Enforcement Officer of the town.

(4) *Utility building.* Each occupied home lot shall be provided with a utility building within 30 days after the mobile home is set in place. The minimum size of the utility building shall be eight feet (2.44 meters) square. The utility building shall be stable and attractive. This utility building requires the approval of the mobile home park operator and the Code Enforcement Officer of the town.

(5) *Refuse.* Each occupied mobile home lot shall have access to a water-tight, insect-proof and animal-proof enclosure for storage of refuse. Unless otherwise provided in division (G)(5)(a) below, this refuse storage enclosure shall be a separate structure from the utility building designed in division (N)(4) below. The responsibility of providing the refuse storage enclosure shall be that of the mobile home park operator prior to the installation of a mobile home.

(a) A single structure, if built by the operator of the mobile home park, shall satisfy the requirements of this section, provided it is of sufficient size and design to meet the purposes of those provisions.

(b) The refuse storage enclosure required herein, unless it is combined with the utility building as provided in division (N)(4) below, need not be on the same lot as the mobile home.

(6) *Grading and drainage.* Every lot used in a mobile home park shall be properly graded and drained for disposal of surface and storm water.

(H) Landscaping.

(1) Mobile home pads shall be oriented in regard to natural features where practical.

(2) Wooded areas and individual trees shall be preserved where practical.

(3) Vegetative cover such as grass shall be provided for land area not paved, graveled, or occupied by a structure.

(4) Other planting shall be established to create an attractive setting for mobile homes, promote privacy, minimize glare, and provide shade.

(I) Ground water.

(1) *Impact assessment.* All mobile home parks utilizing on-site waste water disposal systems shall provide an assessment of the impacts of the park's development on ground water quality. The assessment shall be prepared by a certified geologist or registered professional engineer skilled in ground water assessment and shall include the following:

(a) A map showing the basic soil types.

(b) The depth to the water table at representative points throughout the mobile home park.

(c) Current drainage patterns and conditions throughout the proposed mobile home park.

(d) Proposed drainage patterns and conditions throughout the mobile home park after development.

(e) Data on the existing ground water quality, either from test wells on-site or from existing wells on abutting properties. (The need for test wells on-site shall be determined by the Planning Board prior to acceptance of the preliminary plan.)

(f) An analysis and evaluation of the effect of the proposed mobile home park on available ground water resources. The evaluation shall, at a minimum, include a projection of post-development nitrate-nitrite-nitrogen concentrations at all wells within the mobile home park, at the mobile home park boundaries and at a distance of 1,000 feet from potential contamination sources. For mobile home parks within the watershed of a lake, projections of the development's impact on ground water phosphate concentrations shall also be provided.

(g) In addition, a map shall be provided showing the location of any subsurface waste water disposal systems and drinking water wells within the mobile home park and within 200 feet of the mobile home park boundaries.

(2) Standards.

(a) Projections of ground water quality shall be based on the assumption of drought conditions (assuming 60% of annual average precipitation).

(b) No mobile home park shall increase any contaminant concentration in the ground water to more than one half of the primary drinking water standards.

(c) No mobile home park may be approved for which the ground water assessment plan shows the potential for an increase of any contaminant concentration in the ground water to more than the secondary drinking water standards.

(d) All mobile home parks which utilize on-site ground water supplies for all or part of the domestic portable water supply shall be provided demonstrable evidence of satisfactory treatment of the ground water if:

1. The ground water contains contaminants in excess of the primary standards; or
2. The ground water contains contaminants in excess of the secondary standards, the mobile home park shall not cause the concentration of the parameters in question to exceed the ambient concentration.

(3) *Subsurface waste disposal and wells.* Subsurface waste water disposal systems and drinking wells shall be constructed as shown on the map submitted with the assessment. If construction standards for drinking water wells are recommended in the assessment, those standards shall be included as a condition of approval upon the final plan.

(J) *Street illumination.*

- (1) Streets shall be illuminated with a minimum illumination level of 0.1 foot candle per square foot.
- (2) Street intersections shall be illuminated.

(K) *Mobile home park roads.*

(1) *Roads for public acceptance.* Mobile home park roads which the developer intends to offer to the municipality for acceptance as town ways shall be constructed to the standard found in the subdivision ordinance using the specifications for "residential streets" excepting through streets which join public roads, which shall be constructed to "commercial/industrial street" specifications.

(2) *Private roads.* Mobile home park roads which the developer intends to retain in private ownership shall be designed in accordance with accepted engineering standards by a licensed professional engineer and stamped with a professional engineer's seal in accordance with the requirements of the Manufactured Housing Board, and shall be constructed to the standards in the following table.

<i>Mobile Home Park Private Road Standards</i>	
Minimum right-of-way width	2 3 f e e t
Minimum pavement width	20 feet
Minimum sidewalk width, if installed	5 f e e t
Minimum grade	0.5%
Maximum grade within 100 feet of the intersection of a public way measured from the center line of the public way	1.0%
Maximum grade	8.0%
Minimum center line radius	100 feet
Minimum tangent between curves of reverse radius	50 feet
Roadway crown, minimum	1/8 inch per foot
Roadway crown, maximum	1/2 inch per foot
Minimum angle of street intersections	75 degrees
Minimum curb radii at street intersections	20 feet
Minimum right-of-way radii at intersections	10 feet
Minimum width of shoulders w/out sidewalks (each side)	3 feet
Cul-de-sac and turn around radii	
a. Property line	65 feet
b. Outer edge of pavement	50 feet
c. Inner edge of pavement	30 feet
d. Other standard for culs-de-sac are found in the subdivision ordinance	

(3) *Off-street parking.* At least two off-street parking spaces shall be provided for each mobile home lot at a distance less than 100 feet (30.48 meters) from the mobile home it serves. Off-street parking spaces shall be constructed with a minimum thickness of six inches (15.24 centimeters) gravel base material. Such parking space shall have a minimum dimension of ten feet width by 20 feet length.

(4) *Street maintenance.* Streets within the mobile park not to be offered to the town for acceptance as town ways shall be constructed, maintained, and serviced by the mobile home park operator.

(L) *Continuous buffer strip.* A continuous landscaped buffer strip at least 25 feet wide shall be provided along any mobile home park boundary abutting a residential zone where the density in the mobile home park is at least two times greater than the allowable density allowed in the adjacent residential zone. This landscaped strip shall contain evergreen shrubs, trees, fences, walls, or any combination of the above which forms an effective, year-round visual barrier from abutting properties.

(M) *Conversion of park.* No lot in a mobile home park may be sold or otherwise conveyed without prior written approval of the Planning Board. Any such lot sold or conveyed shall meet the lot size requirements of the district in which it is located.

(N) *Utilities.*

(1) *Water supply.*

(a) Each mobile home shall be provided with an adequate, *safe*, potable water supply.

(b) The water supply shall provide a minimum of 150 gallons (568.1 liters) of water per day per mobile home.

(c) Water supply systems shall be installed and maintained in accordance with the State of Maine Plumbing Code, 10-144A C.M.R. 238 and all revisions thereof.

(2) *Sanitary sewage system.*

(a) Sanitary sewer systems shall comply with the State of Maine Plumbing Code, 10-144A C.M.R. 241 subsurface waste water disposal rules and all revisions thereof.

(b) Where public sewer is not available, a sanitary sewer system and treatment facility shall be designed and installed under supervision of an engineer registered in the State of Maine.

(c) A mobile home park located within 1,500 feet (457.2 meters) of a public sewer system shall provide an internal sewer system connected into the public system. The internal sewer system shall be designed and installed under the direction of an engineer registered in the State of Maine.

(d) Septic systems for individual lots are permitted. Privies shall not be permitted in a mobile home park.

(e) The sanitary sewer system within the mobile home park shall be constructed and maintained under the responsibility of the mobile home park management.

(f) A portion of a sanitary sewer system located outside a mobile home park and not maintained by a public utility shall require maintenance under the responsibility of the mobile home park management.

(3) *Electric supply.*

(a) A mobile home park shall contain an electrical system designed, installed, and maintained in accordance with the National Fire Protection Association's NFIPA-70-1990 National Electric Code and applicable State of Maine and local regulations.

(b) The electrical system shall be designed and installed under the supervision of an electrical engineer registered in the State of Maine.

(c) Electrical distribution lines within the mobile home park may be installed overhead or underground. All underground lines shall be protected by a rigid conduit or encased in concrete.

(4) *Refuse.*

(a) Storage of refuse shall be accomplished in such manner to minimize health hazards, rodent harborage, insect breeding areas, accidents, wild fire, obnoxious odors, or air pollution. Refuse shall be in such a manner that domestic or wild animals may not gain access to waste material.

(b) Collection of refuse shall be conducted at regular intervals and shall be performed in a neat workmanship manner. Collection and disposal of refuse shall be the responsibility of the mobile home park operator and shall be accomplished according to State of Maine and local regulations.

(0) *Fire protection.* A mobile home park located within 2,000 feet of an adequate public water supply system shall provide an internal fire protection water supply system connected to the public system. The internal fire protection water system shall be designed and installed under direction of an engineer registered in the State of Maine. Mobile home parks beyond 2,000 feet from a public water supply or fire pond shall install a fire pond which meets the requirements of the Town Fire Chief.

(P) *Exterior lighting.* Exterior lighting installed on a mobile home or mobile home lot shall be installed such that it is not directed toward surrounding property, street, or other mobile home lots.

(Q) *Signs.*

(1) A sign identifying a mobile home park shall not be flashing, revolving, or neon type.

(2) A sign used to identify a mobile home park shall have a surface area not in excess of 36 square feet.

(3) A sign relating the sale, rental, or lease of a mobile home park shall not exceed a surface area of eight square feet (0.74 square meters).

(4) A sign relating the sale, rental, or lease of a mobile home lot shall not exceed a surface area of three square feet (0.28 square meters).

(5) More than two signs upon each mobile home lot is prohibited. For clarification of these regulations, one sign is considered to be a message conveyed upon one surface.

(6) A name sign upon a mobile home or mobile home lot is permitted provided the sign surface area is not larger than two square feet (0.19 meters).

(R) Lot identification.

(1) Each mobile home lot shall have a number applied by the operator of the mobile home park, and the lots shall be numbered in an orderly consecutive fashion. Even numbers shall be on one side of a street and odd numbers shall be on the opposite side of a street.

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

(3) The mobile home lot number shall be prominently displayed upon the mobile home on a surface facing the street. Mobile home lot numbers shall be uniformly located on each mobile home if possible.

(S) Recreational areas. Not less than 10 % of the gross site area shall be devoted to recreational facilities, with no single recreation area being less than 10,000 square feet. Such areas shall be located in one or more convenient, central location(s) with easy and safe access for all park residents.

(T) Miscellaneous.

(1) General requirements.

(a) A mobile home park shall conform to these regulations and to the *State of Maine Rules and Regulations of the Professional and Financial Regulation, Manufactured Housing Board to Mobile Homes*.

(b) The mobile home park operator shall inform occupants of these regulations and indicate the responsibilities of the occupants under regulations.

(c) Mobile home park management shall maintain a register containing names and lot numbers of mobile home park occupants. The register shall be available for inspection by federal, state, and local authorities upon request during normal business hours.

(d) Mobile home park management shall be responsible for connection of utilities for set up of a mobile home.

(e) A permit is required prior to mobile home installation in a mobile home park.

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

(2) *General prohibitions.*

(a) Mobile home parks and emergency mobile home parks are not allowed within the Shoreland Zoning District; such parks are allowed only in those districts where specific provision is made for them in this chapter.

(b) Emergency mobile home parks shall not be converted into permanent mobile home parks unless provisions of these regulations are met.

(c) Mobile homes and accessory structures shall not be established upon a mobile home lot without a building permit as specified in the town building code.

(d) Ruins caused by fire or other causes are not allowed within a mobile home park. If ruins are created, such ruins shall be removed within 60 consecutive calendar days from the time of their creation.

(e) Fuel tanks and bottled gas shall not be placed such that they face a street or road.
(Ord. passed 1-3-2013)

§ 154.084 OFF-STREET PARKING AND LOADING REQUIREMENTS.

(A) *Required parking spaces.* No land use shall be commenced or enlarged, and no building or structure shall be constructed or enlarged, unless adequate off-street parking is provided within 300 feet of the principal building or structure, or use of the premises in accordance with the schedule for parking requirements in division (B) below. All parking areas shall have a minimum parking space size of nine feet by 18 feet and shall have a minimum of a 24-foot corridor width for access maneuvering. No off-street parking facility shall have more than two entrances and exits on the same street, and no entrance or exit shall exceed 30 feet in width. Parking areas with more than two parking spaces shall be so arranged that vehicles can maneuver within such areas and exit on to the street in a forward motion.

(B) Schedule of minimum off-street parking requirements.

<i>Use</i>	<i>Parking Space Required</i>
Church	One space for every three seats of assembly
Clubs	One space for every four members
Dwelling	Two spaces per dwelling unit
Hospital, nursing home or other institution devoted to board, care and treatment of people	One space per every three beds
House, overnight cabin	One space per each sleeping room
Manufacturing and other industrial uses laboratories, and administrative buildings	One space for each person employed at largest shift
Motel, hotel lodging	One space per each sleeping room
Restaurants, theaters and places of public patron use, amusement	One space for every three seats
Retail, wholesale, service establishments and/or professional offices, or buildings and community service organizations	One space for every 350 square feet of floor area
Off-street parking spaces shall be provided for all other uses, including but not limited to, automotive service stations, drive-in establishments, and open-air businesses, such that traffic congestion and hazards are avoided.	

(C) Non-residential loading and unloading facilities. In any district where permitted, commercial, agricultural, institutional, or industrial uses shall provide adequate off-street loading facilities located entirely on the same lot as the structure, building or use to be served so that trucks, trailers and containers shall not be located for loading, unloading, or storage upon any public way. (Ord. passed 1-3-2013)

§ 154.085 OUTDOOR WOOD BOILERS.

Installation and operation of all outdoor wood boilers with a rated thermal output of less than three MMBtu/hr, must conform to the provisions of Maine Department of Environmental Regulations, Chapter 150. Operation of such outdoor wood boilers is prohibited between May first and October fifteenth of each calendar year. Installation standards maybe found on the Department of Environmental Protection's web site or copies of the guidelines are available at the town office. (Ord. passed 1-3-2013)

§ 154.086 PLANNED UNIT DEVELOPMENT.

(A) *General.* Planned Unit Development (PUD) is a means of residential land development which sets aside traditional, present land use controls in favor of administrative discretion in the Planning Board. It permits a mixture of land uses, residential, commercial, institutional, and recreational. A PUD may include condominiums. The PUD allows for creativity in design including the clustering and mixing of the land use types; and finally, the provision for open space. The tract of land is developed according to a plan agreed upon by the developer and the Planning Board.

(B) *Purpose.* The purpose of a (PUD) shall be to encourage a development which will result in:

- (1) A broader choice in the type of environment and living units available to the public.
- (2) High quality in both nonresidential and residential land uses so that development will be a permanent and long-term asset to the town.
- (3) Provisions for open space and recreation areas.
- (4) More flexible land development which will respect and conserve natural resources such as streams, lakes, floodplains, groundwater, wooded areas, steeply sloped areas, and areas of unusual beauty or importance to the natural ecosystem.
- (5) An efficient use of land resulting in smaller networks of utilities and streets.
- (6) An environment in harmony with surrounding development.
- (7) Development that is generally consistent with the comprehensive plan for the town.

(C) *General requirements.*

- (1) The applicant shall either own or have an option on the property in question and shall provide documentation of such.
- (2) The Planned Unit Development shall meet all the requirements of a residential subdivision other than those changes listed within this subchapter.
- (3) The PUD shall be at least ten acres in size with at least 30% of the development in open space. Further, no more than 50% of the required 30% open space shall be wetlands. (See also §§ 154.205 through 154.214, § 154.210(Q).)
- (4) The proposed **PUD** shall be designed by a professional engineer or architect.

(5) The development shall comply with all State standards and requirements regarding water supply and sewerage disposal systems. Such systems may be an extension of an existing system owned and operated by the Town/City of Bangor or may be a separate and autonomous system built by the developer and servicing the development. All engineered sewerage systems must be designed by and bear the seal of a Maine registered professional engineer.

(6) The maximum allowed residential density shall be six units per buildable acre.

(7) If the proposed units within the PUD exceed the net residential density of the district a geologist assessment shall be prepared to verify that there is ample water to service the PUD.

(8) All open space common land, facilities and property shall be owned by:

(a) The owners of the lots or dwelling units by means of a lot owner's association; or

(b) An association which has as its principal purposes the conservation or preservation of land in essentially its natural condition.

(9) The frontage shall be that required in the applicable district for each ten-acre development. When the proposed area lies within a split district the required frontage shall be determined by the portion of the lot which has frontage on a town or state approved road.

(10) Streets within the development shall be built to the standards set forth in § 154.211(D) unless they are to remain as private ways. If streets are to remain as private ways they shall be built to the standards set forth in § 154.090 and shall be paved.

(11) Each dwelling unit shall provide at least a minimum of 1,000 square feet of living space, and shall be comprised of at least a kitchen area, living room, two bedrooms, and one and one-half baths.

(D) *Standards.* The Planned Unit Development shall comply with the following standards:

(1) *Land uses.* A PUD may include any use permitted in the district in which it is being built. In addition, the Planning Board may allow multifamily dwellings and, to the extent that they are designed and intended primarily to serve the residents of the PUD, recreational, commercial and institutional uses may also be allowed.

(2) *Site design requirements.*

(a) All buildings shall be designed with regards to the topography and natural features of the site.

(b) All housing shall be sited so as to enhance privacy and insure natural light for principal rooms.

(c) A buffer strip of vegetative plantings must be provided to the exterior side and rear lot lines of the proposed PUD. The landscaped strip shall contain evergreen shrubs, trees, fences, or any combination of the above which forms an effective, year-round visual barrier from the abutting properties and shall be shown on the plan.

(d) The development shall be designed and programmed so as to minimize earth moving activity, erosion, tree clearance, and destruction of natural amenities. Existing trees shall be preserved wherever possible.

(e) The primary power lines may be underground or overhead, the secondary power lines shall be underground.

(f) There shall be at least two and one-half parking spaces for each residential dwelling unit; all other uses shall comply § 154.084.

(g) A safe and efficient traffic circulation plan, including consideration for pedestrians and bicycles shall be provided.

(h) The PUD shall meet the requirements of the town fire protection ordinance as determined by the Town Fire Chief.

(i) See §§ 154.180 through 154.190, site plan review, and/or §§ 154.205 through 154.214, subdivisions, for other applicable requirements.

(E) Future residential development. After approval of a proposed PUD there shall be no further residential units allowed on the lot or lots containing the PUD.

(F) Termination. The PUD approval shall automatically expire two years from the date of the final approval if the applicant has not commenced substantial construction and is not proceeding to completion. Upon written request stating reasons therefore, the Planning Board may extend the approval for one more year.

(G) Performance guarantee.

(1) Performance guarantee. As a condition of final approval for a PUD, a performance guarantee shall be filed with the town by the applicant in accordance with the conditions of the final approval.

(2) Certified check or performance bond. Upon approval of the final PUD development plan the applicant shall deliver either a certified check payable to the town or a performance bond running to the town, in an amount and form acceptable to the Town Manager with the advice and consent of the Town Engineer and the legal counsel. The check or bond must equal at least the total cost of furnishing,

installing, connecting and completing all construction items as agreed upon by the Planning Board within two years of its date. The surety shall not expire without the written approval of the Town Manager. (Ord. passed 1-3-2013)

§ 154.087 MULTI-FAMILY DEVELOPMENTS.

(A) Definition. A **MULTI-FAMILY DEVELOPMENT** is a subdivision which contains three or more dwelling units on land in common ownership, such as multi-family dwellings and apartment buildings. **MULTI-FAMILY DEVELOPMENTS** shall only consist of units which are rented month by month or leased long term.

(B) Standards. Multi-family developments shall comply with the following standards:

(1) Multi-family developments shall be at least ten acres in size with at least 30% of the development in open space. Further, no more than 50% of the required 30% open space shall be wetlands. (See also, §§ 154.205 through 154.214, and § 154.210(Q).)

(2) The Planning Board may increase the exterior side and rear yard setbacks of the development if it determines that a larger setback is needed to buffer adjacent residential uses and/or adjacent RA or AF Districts.

(3) The following site designs shall govern:

(a) All buildings shall be designed with regards to the topography and natural features of the *site*.

(b) All housing shall be sited so as to enhance privacy and insure natural light for principal rooms.

(c) A buffer strip of vegetative plantings must be provided to the exterior side and rear lot lines of the proposed development. The landscaped strip shall contain evergreen shrubs, trees, fences, or any combination of the above which forms an effective, year-round visual barrier from the abutting properties and shall be shown on the plan.

(d) The development shall be designed and programmed so as to minimize earth moving activity, erosion, tree clearance, and destruction of natural amenities. Existing trees shall be preserved wherever possible.

(e) The primary power lines may be underground or overhead, the secondary power lines shall be underground.

(f) In a multi-family development two and one-half parking spaces shall be provided for each dwelling unit.

(g) The multi-family development shall meet the requirements of the town fire protection ordinance as determined by the Town Fire Chief.

(h) The development shall comply with the requirements in §§ 154.180 through 154.190, site plan, and §§ 154.205 through 154.214, subdivision of this chapter. (Ord. passed 1-3-2013)

§ 154.088 PROHIBITED USES.

Prohibited in all districts in the town are occupied utility trailers, billboards, uses and structures prohibited by federal, state or municipal law, and all uses or structures which unreasonably endanger health, welfare, safety or cause environmental deterioration such as deposit sites for nuclear waste materials or other dangerous sources of radioactivity. (Ord. passed 1-3-2013)

§ 154.089 PROPOSED STREETS.

After a line of a future street is placed on the official map of the town, buildings and structures shall be set back from such line as though it were a right of way line. (Ord. passed 1-3-2013)

§ 154.090 REAR LOT DEVELOPMENT. (AMENDED 1/23/03- EFFECTIVE DATE 2/23/03)

Rear lot development shall be subject to the following conditions:

(A) No rear lots or access strips to rear lots shall be allowed in subdivisions.

(B) No rear lot shall have, as its point of access, a "T" turnaround.

(C) Rear lots shall have, as a minimum lot area, twice the dimensional requirements of the zone in which it is located. Each rear lot shall have a continuous buildable area (non wetland or floodplain) equal to the minimum lot size for the zone in question; the principal structure must be located within that area.

(D) Rear lots shall be served by a 60-foot access strip (private way) with a minimum of a 20-foot traveled way with a minimum of 16 inches of gravel. The access strip (private way) may be either a permanent easement or may be owned fee simple. The area of the access strip (private way) shall not count towards the minimum required lot area.

(E) The minimum frontage required shall be shown parallel to the private way.

(F) The applicant must demonstrate the suitability of the proposed rear lot for on-site sewage disposal.

(G) No more than two rear lots shall share a single access way.

(H) No rear lot shall be allowed to the rear of another rear lot.

(I) Each rear lot shall have, as a buildable area, a rectangle with its minimum dimensions as follows: The minimum frontage allowed in the zone by twice the minimum frontage allowed in the zone. The principal structure shall be located within that area.

(J) Minimum setbacks allowed in the rear lot development are 40 feet from the line parallel to the private way, 80 feet from the abutter's rear lot line, 40 feet from the remaining lot lines.

(K) The maintenance of the access strip (private way) shall be the responsibility of the developer or owner and not the town. An agreement to that effect shall be stated in the deed recorded at the Penobscot County Registry of Deeds.

(L) All access strips (private way) leading to rear lots under the provisions of this chapter shall connect to public roads.

(M) The CEO shall approve all rear lots, using the above criteria.
(Ord. passed 1-3-2013)

§ 154.091 SEPTAGE STANDARDS.

(A) *Handling facilities.* All septage storage and handling facilities shall be designed and operated in conformance with the State of Maine Septage Management Rules; Department of Environmental Protection Regulations, Chapter 420 (06-096 C.M.R. 420).

(B) *Setbacks.* The following are minimum setback distances (buffer strips) governing the siting of septage storage facilities and septage handling facilities, as well as the agricultural landspreading of septage. Additional standards apply if the operation of a septage storage facility or a septage handling facility is accessory to a home occupation residence-based service business (see § 154.080(E).)

<i>Type of Feature</i>	<i>Minimum Setback Distance</i>	<i>See Note Below</i>
Bedrock outcrops	25 feet	
Dwellings or other occupied structures	300 feet	2
Perennial waterbodies and water courses	300 feet	

<i>Type of Feature</i>	<i>Minimum Setback Distance</i>	<i>See Note Below</i>
Primary and secondary roads	100 feet	1, 3
Private wells	300 feet	
Property line of adjacent land	100 feet	1, 3
Public wells	500 feet	3
Swales and man-made drainage ditches	25 feet	
Uninhabited and unoccupied buildings or	100 feet	3
Unimproved dirt and tote roads	25 feet	1
<p>Notes:</p> <ol style="list-style-type: none"> 1. 300-foot setback required for spray irrigation areas. 2. 1,000-foot setback required for storage lagoons and spray irrigation areas. 3. These setback distance do not apply to the landspreading of septage from an owner's dwelling system pursuant to 38 M.R.S.A. §§ 1303-C(40) and 1306(2); instead, landspreading of septage must occur 300 feet or more from the site features identified above. No landspreading by a commercial operator for the owner is allowed. 		

(C) Agricultural landspreading of septage. Agricultural landspreading of pre-treated septage may be allowed under site plan review procedures on any parcel or land on which general agriculture uses are authorized as either a permitted use or site plan review, provided the area proposed for spreading is setback in accordance with the distances specified in division (B) above.

(1) Required statement. The owner of the property shall furnish the Planning Board with an attested, sworn statement that no crops for direct human consumption will be harvested from the agricultural landspreading site(s) for a period of at least 18 months from the last date of application of pre-treated septage to the site.

(2) Septage rules. All agricultural landspreading of pretreated septage shall be in full conformance with the septage management rules cited above, as may be amended or superseded, except that full pre-treatment of septage shall occur before application, using lime in a quantity sufficient to produce a pH of 12 after two hours of contact. Such pre-treatment must occur within 24 hours prior to application of the septage to land. When, due to weather or ground or other conditions, the pre-treated septage cannot be applied within 24 hours, re-treatment with lime in a quantity sufficient to produce a pH of 12 after 30 minutes of contact shall be required. Pre-treatment is required regardless of the type of crop or intended consumer.

(D) Enforcement. The CEO shall be responsible for enforcing the terms and conditions of any permit issued by the Planning Board or Zoning Board of Appeals under this division and is expressly authorized pursuant to 30-A M.R.S.A. § 4452(6), to enforce the terms and conditions of a septage land disposal or storage site permit issued by the Department of Environmental Protection. The CEO shall

inspect every septage land disposal site and storage site at least every six months. A copy of any written report produced in conjunction with the inspection shall be provided to the permittee within 30 days of preparation of the inspection report.

(E) *Availability of records.* The permittee of a storage facility, handling facility or an agricultural landspreading site shall make available, upon written request from the CEO, copies of all soil test results, annual inspections and reports, water quality monitoring reports, annual septage volume reports and other submissions required by the septage management rules (and conditions of approval of facilities subject to the Maine site location of development law).

(Ord. passed 1-3-2013)

§ 154.092 SMALL WIND ENERGY SYSTEMS.

(A) *Purpose.* The requirements of this section are established for the purpose of allowing town residents and businesses to use small wind energy systems to harness wind energy for individual properties in order to reduce on-site energy consumption while protecting the public health, safety and general welfare of the town. The requirements of this section shall apply to small wind energy systems when they are allowed as a permitted use in a zoning district.

(B) *Authority.* The town has the authority to regulate and restrict the location and use of structures.

(C) *Definitions.* For the purpose of this section, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

BUILDING DENSITY. The number of buildings in a given area.

FAA. The Federal Aviation Administration of the United States Department of Transportation.

GUY CABLE. Any cable or wire that extends from a small wind energy system for the purpose of supporting the system structure.

SMALL WIND ENERGY SYSTEM. A wind energy system conversion system consisting of a single wind turbine, single tower, and associated control or conversion electronics that generates power for an individual property for the purpose of producing on-site energy, and shall not exceed 3.5Kw for residential and 6Kw for small commercial.

SYSTEM. A small wind energy system.

SYSTEM HEIGHT. The height above grade of the highest point of the arc of the blades.

TOWER. The upright portion of a small wind energy system to which the primary generator devices are attached.

(D) Conditions of permitting.

(1) The system height is no greater than 120 feet.

(2) The parcel on which the system is to be located shall be no smaller than one and one-half acres and shall contain an existing residence or business.

(3) The parcel on which the system is to be located is zoned for such use.

(E) Application for permit.

(1) *Purpose.* The only allowable purpose of a small wind energy system is to provide energy on-site.

(2) *Setbacks.* All parts of the structure of a small wind energy system, including the tower, base, footings and turbine but excluding the guy cables and their anchors, shall be set back a distance equal to 105 % of the system height from all adjacent property lines and a distance equal to 150% of the system height from any inhabited structure, road right-of-way, railroad right-of-way and right-of-way for overhead electrical transmission or distribution lines. Guy cables and their anchors shall meet the setback requirements of permitted structures in the district in which they are located.

(3) *Noise.* The small wind energy system shall not exceed a noise level of 60 decibels as measured at the closest property line. The noise level may be exceeded during short term events such as utility outages and/or severe wind storms.

(4) *Building Code compliance.* Site plan application for small wind energy systems shall be accompanied by a standard drawing of the system structure, including the tower, base, footing, and guy cables. An engineering analysis of the tower certified by a licensed professional engineer also shall be submitted. The analysis may be supplied by the manufacturer.

(5) *Electric Code compliance.* Site plan applications for a small wind energy system shall be accompanied by a line drawing of the electrical components of the system showing compliance with the National Electrical Code and certified by a professional engineer. This information may be supplied by the manufacturer.

(6) *Notification regarding aircraft.* Small wind energy systems shall comply with all applicable regulations of the FFA, including any necessary approvals for installations close to airports. The applicant has the responsibility of determining the applicable FAA regulations and securing the necessary approvals. Copy of approval must be included with the site plan application.

(7) *Minimum distances.* The distance between any protruding blades utilized on a small wind energy system and the ground shall be a minimum of 15 feet as measured at the lowest point of the arc of the blades.

(8) *Radio and television signals.* The small wind energy system shall not cause any radio, television, microwave, or navigation interference. If a signal disturbance problem is identified, the applicant shall correct the problem with 30 days of being notified of the problem.

(9) *Appearance.* The small wind energy system shall maintain a galvanized or neutral finish or be painted to conform the system color to the surrounding environment to minimize adverse visual effects. No small wind energy system shall have any signage, writing, pictures, or decorations placed on it at any time other than warning, equipment, and ownership information. No small wind energy system shall have flags, streamers, banners, and other decorative items that extend from any part of the system placed on it at any time.

(10) *Repair.* A small wind energy system that is not functional shall be repaired by the owner or removed. In the event that the Town becomes aware of any system that is not operated for continuous period of six months, the town shall notify the landowner by registered mail and provide 30 days for a written response. The written response shall include reasons for the operational difficulty, the corrective action to be preformed, and a reasonable timetable for completing the corrective action. If the town deems the corrective action and/or the timetable for completing corrective action as unfeasible and/or unreasonable, the town shall notify the landowner and such landowner shall remove the turbine within 120 days of receiving notice.

(11) *Removal upon end of useful life.* When a system reaches the end of its useful life and can no longer function, the owner of the system shall remove the system within 120 days of the day on which the system last functioned. The owner is solely responsible for removal of the system and costs, financially or otherwise.

(12) *Fencing.* The tower shall be enclosed with a fence of a least six feet in height or the base of the tower shall not be climbable for a distance of 12 feet measured from the ground.

(13) *Height.* The applicant shall provide evidence in the form of a sign off letter from the installer that the small wind energy system was installed per manufacturer's instruction.

(14) *Required safety features.* The small wind energy system shall have an automatic over speed control to render system inoperable when winds are blowing in excess of speeds for which the system is designed and a manually operable method to render the system inoperable in the event of a structural or mechanical failure of any part of the system.

(F) *Enforcement.* The erection or operation of any small wind energy system in violation of this section shall subject the owner and/or the operator of the system to civil penalty. The civil remedies available to the court shall include the removal of the system. If such removal is ordered all expenses shall be paid by the owner and/or operator of the system.

(Ord. passed 1-3-2013)

§ 154.093 STORM WATER CONTROL.

All new site alterations shall be designed to minimize storm water runoff from the site in excess of the natural pre-development conditions. Adequate provisions must be made for the collection and disposal of all storm water that runs off proposed driveways, parking areas, roofs, and other surfaces to prevent adverse impacts on abutting or downstream properties. Existing runoff control features, such as berms, swales, terraces and wooded areas shall be retained where they reduce runoff and encourage infiltration of storm water. Storm water runoff control systems shall be maintained to ensure proper functioning.

(Ord. passed 1-3-2013)

§ 154.094 STRUCTURES.*(A) Accessory structures.*

(1) A residential garage or other accessory structure or building shall be set back from the right of way line the same distance as required for principal structures in the applicable district.

(2) When the accessory structure or building is located to the side or rear of the principal structure, such accessory structure or building shall be at least 20 feet from the respective side or rear lot line.

(3) Accessory structures shall not be included in the calculation of ground coverage for a particular lot.

(4) No structure shall be considered an accessory structure unless it is on the same lot as the principal structure to which it is accessory.

(B) Mobile home. Mobile homes not in a mobile home park shall comply with all provisions of the chapter regulating dwellings, the regulations of the district in which it is located, all other applicable provisions of this chapter, and the mobile home regulations of the building code of the town.

(C) Private swimming pool. A private swimming pool shall be set back from the right of way line the same distance as required for the principal structure in the applicable district. Nor shall such swimming pool be located within 20 feet of any side or rear lot line. Any non-conforming private swimming pool at the time of adoption of this chapter shall comply with the fencing requirements of this division within 90 days of adoption.

(D) Temporary structures. Temporary structures used in conjunction with construction work shall be permitted during that period when construction is in progress. Such temporary structures shall be promptly removed upon completion of construction. Temporary structures to be used for residential or dwelling purposes are expressly prohibited.

(E) *Means of egress devices for handicap access.* Structural elements such as ramps, enclosures, balconies, devices and appliances such as wheelchair platform lifts and similar accommodations necessary for providing access to a means of egress to existing buildings for the handicapped are exempt from the setback requirements for structures provided the encroachment in the setback is the minimum necessary to meet the provisions for handicap access when required by state or federal law or regulation. (Ord. passed 1-3-2013)

§ 154.095 WASTE CONTROL.

All devices for the control of waste and sewerage shall comply with the State of Maine Subsurface Wastewater Disposal Rules and with the building code of the town. (Ord. passed 1-3-2013)

§ 154.096 WILDLIFE/NATURAL AREA PRESERVATION.

(A) *Mitigation.* Any project requiring site plan review (§§ 154.180 through 154.190) or subdivision review (§§ 154.205 through 154.214) involving significant wildlife or fisheries habitat, as identified in the 2010 comprehensive plan, shall include mitigation measures that minimize the adverse impacts of development on these resources, such as modification of the proposed site design, construction timing, and/or extent of excavation. Such mitigation shall include, at a minimum:

(1) The clustering of the project to protect to the greatest extent the wildlife habitat pursuant to the standards of the this chapter;

(2) Setting back of any construction at least 100 feet from the upland edge of any wetland area over 20,000 contiguous square feet;

(3) The setting back of any construction at least 100 feet from any stream or waterway;

(4) Efforts to preserve the existing vegetation in such a manner that the only vegetation cut or removed shall be necessary for the actual construction involved. Specific vegetation to be retained and to be removed shall be indicated on the development plan;

(5) Provisions to eliminate noise disturbance in the area. This shall include the construction of sound barrier fencing; the planting of additional vegetation such as trees, etc.

(B) *Development plan required.* All significant wildlife and/or fisheries habitat, and other significant natural areas identified in the 2010 comprehensive plan shall be displayed on the development plan. Mitigation measures shall be indicated clearly on the development plan prior to final approval.

(Ord. passed 1-3-2013)

*NON-CONFORMANCE***§ 154.110 GENERAL.**

(A) *Continuation.* The use of land, buildings or structures, lawful at the time of adoption or subsequent amendment of this chapter, may continue although such use does not conform to the provisions of this chapter.

(B) *Transfer of ownership.* Ownership of land and structures which remain lawful but become non-conforming by adoption or amendment of this chapter may be transferred and the new owner may continue the non-conforming use subject to the provisions of this chapter.

(C) *Repair and maintenance.* This chapter allows, without a permit, the normal upkeep and maintenance of non-conforming uses and structures including repairs or renovations which do not involve expansion of the non-conforming use or structure, and such other changes in a non-conforming use or structure as federal, state, or local building and safety codes may require. Nothing in this chapter shall prevent strengthening or restoring to a safe condition any part of any structure declared unsafe by the Code Enforcement Officer.

(D) *Permits issued prior to adoption.* Nothing in this chapter shall require a change in plans, construction, or use of structure, or part thereof for which a complete application for permit has been made or for which a permit has been issued prior to adoption or amendment of this chapter, provided construction is underway within 60 days after issuance of such permit.

(Ord. passed 1-3-2013)

§ 154.111 NON-CONFORMING STRUCTURES.

(A) *Expansions.* A non-conforming structure may be expanded after obtaining a permit from the Code Enforcement Officer if such addition or expansion does not increase the non-conformity of the structure.

(B) *Shoreland areas.* In shoreland areas, additions to structures other-wise requiring site plan approval, as set forth in §§ 154.040 through 154.047, shall first be submitted to the Planning Board for site plan approval. After 1-1-1989, if any portion of a structure is less than the required setback from the normal high-water line of a water-body or upland edge of a wetland, that portion of the structure shall not be expanded as measured in floor area or volume by 30% or more during the lifetime of the structure.

(C) Foundations. Construction or enlargement of a foundation in shoreland areas shall not be considered an expansion provided:

(1) The structure and new foundation are placed such that the setback requirement is met to the greatest practical extent as determined by the Planning Board or its designee, basing its decision on the criteria specified in division (E), relocation, below.

(2) (a) The completed foundation does not extend beyond the exterior dimensions of the structure; and

(b) The foundation does not cause the structure to be elevated by more than three additional feet.

(D) Foundations in non-shoreland areas. Construction or enlargement of a foundation in non-shoreland areas shall not be considered an expansion provided that the foundation does not infringe on any required setback any more, and in any location, than the existing structure. A structure may be raised up to three feet without violating this provision.

(E) Relocation in shoreland zones.

(1) A non-conforming structure may be relocated within the boundaries of the parcel provided that the site of relocation conforms to all setback or other dimensional requirements to the greatest practical extent as determined by the Planning Board.

(2) In determining "greatest practical extent," the Planning Board shall base its decision on the size of the lot, the slope of the land, the potential for soil erosion, 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.

(F) Reconstruction or replacement.

(1) Any non-conforming structure which is damaged or destroyed may be reconstructed or replaced provided that a permit is obtained from the Planning Board within one year of the date of said damage or destruction and provided that such reconstruction or replacement is in compliance with the dimensional requirements to the greatest practical extent as determined by the Planning Board.

(2) In determining "greatest practical extent," the Planning Board shall consider the criteria in division (E) above.

(3) The Planning Board may allow, by site plan review, the rebuilding of any non-conforming structure on the same footprint which it occupied prior to its removal provided that the structure was removed voluntarily and that the application is made within two years of its removal.

(G) *Change of use of a non-conforming structure.*

(1) 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 or wetland, or on the subject or adjacent properties and resources than the existing use.

(2) 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.

(H) *Mobile home.* A mobile home which is a non-conforming structure at the time of adoption or amendment of this chapter, may thereafter be replaced by a different mobile home only if the replacement mobile home conforms to the provisions of this chapter.
(Ord. passed 1-3-2013)

§ 154.112 NON-CONFORMING USES.

(A) *Expansion.* Expansion of a non-conforming use shall require a site plan review permit issued by the Planning Board. In addition to site plan review requirements, such expansion shall be subject to the discretionary conditions listed in § 154.007(D) above. Where § 154.007(D) reads "Town Council" substitute "Planning Board" for this section. In addition, expansions are subject to the following:

(1) An addition to a structure located within the required setback from the normal high water mark which contains a non-conforming use shall not be expanded.

(2) An addition to a structure located beyond the required setback from the normal high water mark which contains a non-conforming use shall not increase the area, or volume, or footprint of the primary non conforming structure existing on the date the use became non-conforming by more than 50%;

(3) An addition to a non-conforming use which is not within a structure shall not increase the original area of the non-conforming use existing on the *effective date* that the use became non-conforming by more than 50%.

(4) When reviewing a proposed expansion to a structure the Board shall consider the materials, colors, and fenestration of the addition. Materials, colors, and fenestration of the addition shall match that of the original structure as closely as possible.

(5) New structures housing non-conforming uses shall not be permitted.

(6) Exception: in the Shorland Zone, expansions of non-conforming uses are prohibited, except that legally non-conforming residential uses may, after obtaining a permit from the Planning Board, be expanded within existing residential structures or within such expansions of structures as permitted in § 154.111(A) above.

(B) *Discontinuance.* A non-conforming use which is discontinued for a continuous period of one year shall not be resumed. The uses of land, buildings or structures shall thereafter conform to the provisions of this chapter.

(C) *Presumption prohibited.* If a non-conforming use is superseded by a permitted use of land, structure, or structure and land in combination, such land, structure, or combination of land and structure shall thereafter conform to the provisions of this chapter and the non-conforming use may not be resumed.

(D) *Change of use.*

(1) Non-conforming use may be changed to another non-conforming use provided that the Planning Board finds, after receiving a written application, that the proposed use is equally or more appropriate to the district, and that it will have no greater adverse impact on adjacent properties than the former use.

(2) The determination of appropriateness shall be based on the probable impact on ground water resources, and the probable changes in traffic (volume and type), parking, noise, potential for litter, wastes or by-products, fumes, odors, or other nuisances likely to result from such change of use. The performance standards of this chapter shall apply to such requests to establish new non-conforming uses.

(3) In determining whether or not greater adverse impact will occur, the Planning Board shall require written documentation from the applicant, regarding the probable effects on ground water, 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.

(Ord. passed 1-3-2013)

§ 154.113 NON-CONFORMING LOTS.

(A) *Single lot of record.* Any use allowed in the applicable district may be constructed on a single lot of record at the date of adoption or amendment of this chapter even though such lot does not conform to the minimum standards for the area or width as established in this chapter, provided such lot is in the separate ownership and is not of continuous frontage with another lot in the same ownership. Variance

of yard and other requirements besides area and width, if applicable, must be obtained by appeal to the Board of Appeals. Nothing in this division shall relieve the owner or builder of the necessity of complying with Plumbing laws and other state laws.

(B) *Adjacent, developed lots.*

(1) If two or more adjacent lots are in the same ownership of record at the time of adoption or amendment of this chapter, and if a principal use or structure exists on each lot, the non-conforming lots may be conveyed separately or together, provided that lots of at least 20,000 square feet are created and that all such lots meet the requirements of the state subsurface wastewater disposal rules.

(2) If two or more principal uses or structures existed on a single lot of record on the effective date of this chapter each may be sold on a separate lot provided that the above referenced minimum 20,000 square feet per lot is complied with. In addition, when such lots are divided, each lot thus created must be as conforming as possible to the dimensional requirements of this chapter.

(C) *Adjacent lots - vacant or partially built.* If two or more adjacent lots are in the same ownership of record at the time of or since adoption or amendment of this chapter, if any of these lots do not individually meet the dimensional requirements of this chapter, 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. No division of the parcel shall be made which creates a dimension or area less than this chapter requires.

(D) *Non-conforming lots in approved subdivision.* The provisions of this section regarding the merging of non-conforming lots of continuous frontage which are in single ownership, into a single parcel or lot for the purpose of this chapter, shall not apply to any lot or parcel rendered non-conforming by the adoption of this chapter if such lot or parcel is in a subdivision which has been duly approved by the Planning Board prior to the adoption of this chapter, provided substantial construction in such subdivision has commenced within three years from the adoption of this chapter.

(Ord. passed 1-3-2013)

§ 154.114 PUBLIC HEARING REQUIRED.

Any action by the Planning Board or Zoning Board under this section shall require a public hearing. The public hearing shall be advertised in the Bangor Daily News at least seven days in advance of the hearing, and abutting property owners shall be notified.

(Ord. passed 1-3-2013)

SHORELAND ZONING**§ 154.125 PURPOSES.**

The purposes of this subchapter 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 wetlands; to control building sites, placement of structures and land uses; to conserve shore cover, and visual as well as actual points of access to inland waters; to conserve natural beauty and open space; and to anticipate and respond to the impacts of development in shoreland areas.

(Ord. passed 1-3-2013)

§ 154.126 AUTHORITY.

This subchapter has been prepared in accordance with the provisions of 38 M.R.S.A. §§ 435 through 449.

(Ord. passed 1-3-2013)

§ 154.127 APPLICABILITY.

This subchapter applies to all land areas within 250 feet, horizontal distance, of the normal high-water line of any great pond, or river; within 250 feet, horizontal distance, of the upland edge of a freshwater wetland rated moderate to high value by the Maine Department of Inland Fisheries and Wildlife (IFW), or within 75 feet of a freshwater wetland that has not been rated by IFW as having moderate to high value; and within 75 feet, horizontal distance, of the normal high-water line of a stream, including outlet streams from freshwater wetlands. This subchapter also applies to any structure built on, over or abutting a dock, wharf or pier, or other structure extending beyond the normal high-water line of a water body or within a wetland.

(Ord. passed 1-3-2013)

§ 154.128 EFFECTIVE DATE AND REPEAL OF FORMERLY ADOPTED ARTICLE.

(A) *Effective.* This chapter, which was adopted by the municipal legislative body on 11-12-2009, shall not be effective unless approved by the Commissioner of the Department of Environmental Protection. A certified copy of the article codified herein, or article amendment codified herein, attested and signed by the Municipal Clerk, shall be forwarded to the Commissioner for approval. If the Commissioner *fails to act* on the article codified herein or article amendment codified herein, within 45 days of his or her receipt of the article codified herein or article amendment codified herein, it shall be

automatically be approved. Any application for a permit submitted to the municipality within the 45-day period shall be governed by the terms of the article codified herein, or article amendment codified herein, if the article codified herein or article amendment codified herein, is approved by the Commissioner.

(B) *Repeal of the municipal timber harvesting regulation.* The municipal regulation of timber harvesting activities is repealed on the statutory date established under 38 M.R.S.A. § 438-A(5), at which time the State of Maine Department of Conservation's Bureau of Forestry shall administer timber harvesting standards in the Shoreland Zone. On the date established under 38 M.R.S.A. § 438-A(5), the following provisions of this chapter are repealed:

(1) Section 154.139 - Table of land use uses # 4 timber harvesting.

(2) Section 154.139, division (0) - land use standards - timber harvesting.

(3) Section 154.009, definitions, the definitions of *FOREST MANAGEMENT ACTIVITIES* and *RESIDUAL BASAL AREA*. (Ord. passed 1-3-2013)

§ 154.129 AVAILABILITY.

A certified copy of this subchapter 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 subchapter shall be posted. (Ord. passed 1-3-2013)

§ 154.130 SEVERABILITY.

Should any section or provision of this subchapter be declared by the courts to be invalid, such decision shall not invalidate any other section or provision of the subchapter. (Ord. passed 1-3-2013)

§ 154.131 CONFLICTS WITH OTHER SUBCHAPTERS.

Whenever a provision of this subchapter conflicts with or is inconsistent with another provision of this chapter or of any other ordinance, regulation or statute, the more restrictive provision shall control. (Ord. passed 1-3-2013)

§ 154.132 AMENDMENTS.

This subchapter may be amended by majority vote of the Town Council. Copies of amendments, attested and signed by the Town Clerk, shall be submitted to the Commissioner of the Department of Environmental Protection following adoption by the Town Council and shall not be effective unless approved by the Commissioner. If the Commissioner fails to act on any amendment within 45 days of his or her receipt of the amendment, the amendment is automatically approved. Any application for a permit submitted to the municipality within the 45-day period shall be governed by the terms of the amendment, if such amendment is approved by the Commissioner.

(Ord. passed 1-3-2013)

§ 154.133 DISTRICTS AND ZONING MAP.

(A) *Official shoreland zoning map.* The areas to which this subchapter is applicable are hereby divided into the following districts as shown on the official shoreland zoning base map and supplemental shoreland zone maps which are made a part of this subchapter:

- (1) Seventy-five-foot stream protection zone.
- (2) Resource protection zone.
- (3) Limited residential - shoreland.
- (4) High and moderate wetlands.
- (5) Non-forested wetlands.
- (6) Wetlands - other.

(B) *Scale of map.*

(1) The official shoreland zoning base map shall be drawn at a scale of not less than: one inch equals 2,000 feet. District boundaries shall be clearly delineated and a legend indicating the symbols for each district shall be placed on the map.

(2) Supplemental shoreland zoning maps shall be drawn at a scale of not less than one inch equals 500 feet to aid in determining the extent of each district and its relationship to parcels of property as currently delineated on the town tax maps.

(C) *Certification of official shoreland zoning base map.* The official shoreland zoning base map shall be certified by the attested signature of the Town Clerk and shall be located in the town office.

(D) Changes to the official shoreland zoning maps.

(1) If amendments, in accordance with § 154.132, are made in the district boundaries or other matters portrayed on the official shoreland zoning base map, such changes shall be made on the official shoreland zoning base map within 30 days after the amendment has been approved by the Commissioner of the Department of Environmental Protection. Supplemental shoreland zoning maps shall be amended within 30 days of receipt of updated tax maps for the year the amendments are effective.

(2) Change the area identified upland from Resource Protected Wetland #126 from all 250 feet being Resource Protection District to 150-foot Resource Protection District and 100-foot Limited Residential District, per the description below and the attached map amendment sheet.

"... Being a portion of the lot or parcel owned by Daniel T. Curran and "The Red Barn Entertainment, Inc. " described in deeds recorded in Volumes 4776 Page 9 and in Volume 5000, Page 270, said portion lying in the area identified as "Wetland 126" and beginning on the Easterly shore of Tracy Pond at the point identified as the Northeasterly corner of a parcel of land described in a deed from Jay Calkins, et. ux. to Jay Raymond Calkins, dated August 26, 1985 recorded in the Penobscot County Registry of Deeds in Volume 3708, Page 355, thence Northeasterly by and along the East shore 1000 feet to a point, thence 165 feet Easterly to a point thence Southeasterly 210" more or less, to a point, said point being the Northwesterly corner of a lot identified as Lot 9 in the subdivision plan recorded at the Penobscot County Registry of Deeds Map File D-296-89, thence by and along the Northerly line of said Lot 9 200 feet to a point in the Westerly sideline of Ridge Road, so-called, as depicted on the subdivision plan aforementioned, thence in a Southwesterly direction by and along the Westerly line of Ridge Road a distance of 1050 feet, more or less, to a point identified as the Southeast corner of Lot 6 in afore-mentioned subdivision plan, thence in a Westerly direction 334.43 feet to a point identified as the Southwest corner of Lot 6, thence in a North Northwesterly direction 410 feet to the point of beginning."

(Ord. passed 1-3-2013)

§ 154.134 INTERPRETATION OF DISTRICT BOUNDARIES.

The depiction of the shoreland zoning districts on the shoreland zoning map of the town are merely illustrative of their general location. The boundaries of these districts shall be determined by measurement of the distance indicated on the maps from the normal high-water mark of the body of water or the upland edge of wetland vegetation, regardless of the boundary shown on the map. Unless otherwise set forth on the official shoreland zoning base map, district boundary lines are property lines, the centerline of streets, roads and rights of way, and the boundaries of the shoreland area as defined herein. Where uncertainty exists as to the exact location of district boundary lines, the Town Zoning Board of Appeals shall be the final authority as to location.

(Ord. passed 1-3-2013)

§ 154.135 LAND USE REQUIREMENTS.

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

(Ord. passed 1-3-2013)

§ 154.136 NON-CONFORMANCE.

See §§ 154.110 through 154.114.

(Ord. passed 1-3-2013)

§ 154.137 ESTABLISHMENT OF DISTRICTS.

(A) *Resource Protection District.* The Resource Protection District includes areas in which development would adversely affect water quality, productive habitat, biological ecosystems, or scenic and natural values. This district shall include the following areas when they occur within the limits of the Shoreland Zone, exclusive of the Stream Protection District.

(1) (a) Areas within 250 feet, horizontal distance, of the upland edge of freshwater wetlands, and wetlands associated with great ponds and rivers, which are rated "moderate" or "high" value by the Maine Department of Inland Fisheries and Wildlife (MDIF&W) as of 1-1-1973.

(b) Exception is made in the case of Wetland Number 126, previously rated as moderate value by the Inland Fisheries and Wildlife and presently not rated ("indeterminate") by MDIFW which shall have a Resource Protection District for a distance of 250 feet, horizontal distance, from the upland edge of the wetland.

(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.

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

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

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

(B) *Limited residential district.* The Limited Residential District includes those areas suitable for residential and recreational development. It includes areas other than those in the Resource Protection District, or Stream Protection District, and areas which are used less intensively than those in the General Development District. This district shall also include the land area within 75 feet of a freshwater wetland that has not been rated by the Maine Department of Inland Fisheries and Wildlife as having "moderate" or "high" value.

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

(D) *Stream Protection District.* The Stream Protection District includes all land areas within 75 feet, horizontal distance, of the normal high-water line of a stream, including outlet streams from freshwater wetlands, exclusive of those areas within 250 feet, horizontal distance, of the normal high-water line of a great pond, river, or within 250 feet, horizontal distance, of the upland edge of a freshwater wetland which is rated "moderate" or "high" value by the Maine Department of Inland Fisheries and Wildlife. Where a stream and its associated shoreland area is located within 250 feet, or 75 feet, horizontal distance, of the above water bodies or wetlands, as applicable, that land area shall be regulated under the terms of the Shoreland District associated with that water body or wetland.
(Ord. passed 1-3-2013)

§ 154.138 TABLE OF LAND USES.

(A) 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 § 154.139. The district designation for a particular site shall be determined from the official shoreland zoning base map and its supplements.

(B) Key to Table 1:

- (1) Yes: Allowed (no permit required but the use must comply with all applicable land use standards).**
- (2) No: Prohibited.**
- (3) PB: Requires permit issued by the Town Planning Board.**
- (4) CEO: Requires permit issued by the Codes Enforcement Officer.**
- (5) LPI: Requires permit issued by the Local Plumbing Inspector.**

(6) Abbreviations:**(a) RP: Resource protection.****(b) LR: Limited residential.****(c) GD: General development.****(d) SP: Stream protection.**

<i>Table 1: Land Uses in the Shoreland Zone</i>				
<i>Land Uses</i>	<i>SP</i>	<i>RP</i>	<i>LR</i>	<i>GD</i>
1. Non-intensive recreational uses not requiring structures such as hunting, fishing and hiking	Yes	Yes	Yes	Yes
2. Motorized vehicular traffic on existing roads and trails	Yes	Yes	Yes	Yes
3. Forest management activities except for timber harvesting	Yes	Yes	Yes	Yes
4. Timber harvesting	Yes	Yes	Yes	Yes
5. Clearing of vegetation for approved construction and other allowed uses	CEO	CEO 1	Yes	Yes
6. Fire prevention activities	Yes	Yes	Yes	Yes
7. Wildlife management practices	Yes	Yes	Yes	Yes
8. Soil and water conservation practices	Yes	Yes	Yes	Yes
9. Mineral exploration	No	Yes 2	Yes 2	Yes 2
10. Mineral extraction including sand and gravel extraction	No	PB 3	PB	PB
11. Surveying and resource analysis	Yes	Yes	Yes	Yes
12. Emergency operations	Yes	Yes	Yes	Yes
13. Agriculture	Yes	PB	Yes	Yes
14. Aquaculture	PB	PB	PB	PB
15. Principle structures and uses				
a. One- and two-family residential	PB 4	N	CEO	CEO
b. Multi-unit residential	No	o	PB	PB
c. Commercial	No	N	No	PB
d. Industrial	No	o	No	No

<i>Table 1: Land Uses in the Shoreland Zone</i>				
<i>Land Uses</i>	<i>SP</i>	<i>RP</i>	<i>LR</i>	<i>GD</i>
e. Governmental and institutional	No	No	No	No
f. Small non-residential facilities for educational, scientific, or nature interpretation purposes	PB 4	PB	CEO	CEO
16. Structures accessory to allowed uses	PB 4	PB	CEO	CEO
17. 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	CEO	CEO	CEO
b. Permanent	PB	PB	PB	PB
18. Conversions of seasonal residences to year round residences	LPI	LPI	LPI	LPI
19. Home occupations	PB	No	PB	CEO
20. Private sewage disposal systems for allowed uses	LPI	No	LPI	LPI
21. Essential services	PB 6	PB 6	PB	PB
22. Service drops, as defined, to allow uses	Yes	Yes	Yes	Yes
23. Public and private recreational areas involving minimal structural development	PB	PB	PB	CEO
24. Individual, private campsites	CEO	CEO	CEO	CEO
25. Campgrounds	No	No 7	PB	PB
26. Road and driveway construction	PB	No 8	PB	PB
27. Parking facilities	No	No 7	PB	PB
28. Marinas	PB	No	PB	PB
29. Filling and earthmoving of <10 cubic yards	CEO	CEO	Yes	Yes
30. Filling and earthmoving of > 10 cubic yards	PB	PB	CEO	CEO
31. Signs	Yes	Yes	Yes	Yes
32. Uses similar to allowed uses	CEO	CEO	CEO	CEO
33. Uses similar to use requiring a CEO permit	CEO	CEO	CEO	CEO
34. Uses similar to requiring a PB permit	PB	PB	PB	PB
Notes:				
1. In RP not permitted within 75 feet of the normal high-water line of great ponds, except to remove safely.				
2. Requires permit from Code Enforcement Officer if more than 100 square feet of surface area, in total, is disturbed.				

<i>Table 1: Land Uses in the Shoreland Zone</i>			
<i>Land Uses</i>	<i>I S P I R P I</i>	<i>LR</i>	<i>GD</i>
3. In RP not permitted in areas so designed because of wildlife value.			
4. Provided that a variance from setback requirement is obtained from the Board of Appeals.			
5. (Reserved for future use.)			
6. See further restrictions in § 154.139			
7. Except when the area is zoned for resource protection due to flood plain criteria in which case a permit is required from the PB.			
8. Except to provide access to permitted uses within the district, or when no reasonable alternative route or location is available outside the RP area in which case a permit is required from the PB.			

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

(1) Dredging, bulldozing, removing or displacing soil, sand, vegetation or other material;

(2) Draining or otherwise dewatering;

(3) Filling, including adding sand or other material to a sand dune; or

(4) Any construction or alteration of any permanent structure. (Ord. passed 1-3-2013)

§ 154.139 LAND USE STANDARDS.

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

(A) *Minimum lot standards.*

(1) The following are minimum lot standards:

	<i>Minimum Lot Area (Sq. Ft.)</i>	<i>Minimum Shore Frontage (Ft.)</i>
Residential per dwelling unit within the Shoreland Zone	40,000	200

	<i>Minimum Lot Area (Sq. Ft.)</i>	<i>Minimum Shore Frontage (Ft.)</i>
Governmental, industrial commercial or industrial per principal structure in the Shoreland Zone	60,000	300
Public and private recreational facilities within the Shoreland Zone	40,000	200

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

(3) Lots located on opposite sides of a public or private road shall be considered each a separate tract or parcel of land unless such road was established by the owner of land on both sides thereof after 9-22-1971.

(4) The minimum width of any portion of any lot within 100 feet, horizontal distance, of the normal high-water line of a water body or upland edge of a wetland shall be equal to or greater than the shore frontage requirement for a lot with the proposed use.

(5) If more than one residential dwelling unit or more than one principal commercial structure is constructed on a single parcel, all dimensional requirements shall be met for each additional dwelling unit or principal structure.

(B) Principal and accessory structures.

(1) (a) All new principal and accessory structures shall be set back at least 100 feet from the normal high-water line of great ponds classified GPA and rivers that flow to great ponds classified GPA, and 75 feet from the normal high-water line of other water bodies, tributary streams, or the upland edge of a wet land.

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

(2) Principal or accessory structures and expansions of existing structures which are permitted in the Resource Protection, Limited Residential, General Development and Stream Protection Districts, shall not exceed 35 feet in height. This provision shall not apply to structures such as transmission towers, windmills, antennas, and similar structures having no floor area.

(3) The first floor elevation or openings of all buildings and structures, including basements, shall be elevated at least one foot above the elevation of the 100-year flood, the flood of record, or in the absence of these, the flood as defined by soil types identified as recent flood plain soils.

(4) The total area of all structures, parking lots and other non-vegetated surfaces, within the Shoreland Zone shall not exceed 20% of the lot or a portion thereof, located within the Shoreland Zone, including land area previously developed.

(5) Notwithstanding the requirements stated above, stairways or similar structures may be allowed with a permit from the Codes Enforcement Officer, to provide shoreline access in areas of steep slopes or unstable soils provided:

(a) The structure is limited to a maximum of four feet in width;

(b) The structure does not extend below or over the normal high-water line of a water body or upland edge of a wetland, (unless permitted by the Department of Environmental Protection pursuant to the Natural Resources Protection Act, 38 M.R.S.A § 480-C; and

(c) The applicant demonstrates that no reasonable access alternative exists on the property.

(C) *Piers, docks, wharves, bridges and other structures and uses extending over or beyond 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 existing conditions, use, and character of the area.

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

(6) 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.

(7) 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 20 feet in height above the pier, wharf, dock or other structure.

(8) Note: 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. § 480-C.

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

(1) Campgrounds shall contain a minimum of 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 100 feet from the normal high-water line of a great pond classified GPA or a river flowing to a great pond classified GPA, and 75 feet 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 permitted provided the following conditions are met:

(1) One campsite per lot existing on the effective date of this subchapter, or 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 100 feet from the normal high-water line of a great pond classified GPA or river flowing to a great pond classified GPA, and 75 feet from the normal high-water line of other water bodies, tributary streams, or the upland edge of a wetland.

(3) Recreational vehicles shall not be located on any type of permanent foundation except for a gravel pad, and no structure(s) except canopies 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 1,000 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 for the receiving facility or land owner is required.

(6) When a recreational vehicle, tent or similar shelter is placed on-site for more than 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, and 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 the same property as use occurs and except for storage and sales associated with marinas;
- (11) Photographic processing; and
- (12) Printing.

(G) *Parking areas.*

(1) Parking areas shall meet the shoreline setback requirements for structures for the district in which such areas are located. The setback requirement for parking areas serving public boat launching facilities may be reduced to no less than 50 feet from the normal high-water line or upland edge of a wetland if the Town Planning Board finds that no other reasonable alternative exists.

(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, 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 feet wide and 20 feet long, except that parking spaces for a vehicle and boat trailer shall be 40 feet long.

(b) Internal travel aisles: Approximately 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) (a) Roads and driveways shall be set back at least 100 feet from the normal high-water line of a great pond classified GPA or a river that flows to a great pond classified GPA, and 75 feet 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 Town Planning Board. If no other reasonable alternative exists, the Town Planning Board may reduce the road and/or driveway setback requirement to no less than 50 feet upon clear showing by the applicant that appropriate techniques will be used to prevent sedimentation of the water body. 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.

(b) On slopes of greater than 20% the road and/or driveway setback shall be increased by ten feet for each 5% increase in slope above 20%.

(c) Division (H)(1) shall neither apply to approaches to water crossings nor to roads or driveways that provide access to permitted structures, and facilities located nearer to the shoreline due to an operational necessity.

(2) Existing public roads may be expanded within the legal road right-of-way regardless of its setback from a water body.

(3) Reserved.

(4) New roads and driveways are prohibited in a Resource Protection District except to provide access to permitted uses within the district, or as approved by the Town Planning Board upon a finding that no reasonable alternative route or location is available outside the district, in which case the road and/or driveway shall be set back as far as practicable from the normal high-water line of a water body, tributary stream, or upland edge of a wetland.

(5) Road banks shall be no steeper than a slope of two horizontal to one vertical, and shall be graded and stabilized in accordance with the provisions for erosion and sedimentation control contained in division (Q) below.

(6) Road grades shall be no greater than 10% except for short segments of less than 200 feet.

(7) In order to prevent road surface drainage from directly entering water bodies, roads shall be designed, constructed, and maintained to empty onto an unscarified buffer strip as 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.

(8) Ditch relief (cross drainage) culverts, drainage dips and water turnouts shall be installed in a manner effective in directing drainage onto unscarified buffer strips before the flow in the road or ditches gains sufficient volume or head to erode the road 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 at intervals no greater than indicated in the following table:

<i>Road Grade (Percent)</i>	<i>Spacing (Feet)</i>
0- 2	250
3- 5	200- 135
6 - 1 0	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 road grade is 10% or less.

(c) On road sections having slopes greater than 10%, ditch relief culverts shall be placed across the road at approximately a 30-degree angle downslope from a line perpendicular to the centerline of the road.

(d) Ditch relief culverts shall be sufficiently sized and properly installed in order to allow for effective functioning, and their inlet and outlet ends shall be stabilized with appropriate materials.

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

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

(1) Signs and billboards relating to goods and services sold on the premises shall be permitted, provided that such signs shall not exceed 6 square feet in area and shall not exceed two signs per premises. Billboards and signs relating to goods or services not sold or rendered on the premises shall be prohibited.

(2) Name sign shall be permitted, provided such signs shall not exceed two (2) signs per premises.

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

(4) Signs relating to trespassing and hunting shall be permitted without restriction as to number, provided that no such sign shall exceed two square feet in area.

(5) Signs relating to public safety shall be permitted to be located without restriction.

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

(7) Signs may be illuminated only by shielded, non-flashing lights.

(J) Storm water runoff

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

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

(K) Septic waste disposal.

(1) All subsurface sewage disposal systems shall be installed in conformance with the State of Maine subsurface wastewater disposal rules (rules). Note: The rules, among other requirements, include:

(a) The minimum setback for new subsurface sewage disposal systems shall be no less than 100 horizontal feet from the normal high-water line of a perennial water body. The minimum setback distances from water bodies for new subsurface sewage disposal systems shall not be reduced by variance.

(b) Replacement systems shall meet the standards for replacement systems as contained in the rules.

(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 is not permitted 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 permitted, such structures and facilities shall be located so as to minimize any adverse impacts on surrounding uses and resources, including visual impacts.

(M) *Mineral exploration and extraction.*

(1) 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 100 square feet of ground surface. A permit from the Codes Enforcement Officer shall be required for mineral exploration which exceeds the above limitation. All excavations, including test pits and holes, shall be immediately capped, filled or secured by other equally effective measures, so as to restore disturbed areas and to protect the public health and safety.

(2) Mineral extraction may be permitted under the following conditions:

(a) A reclamation plan shall be filed with, and approved by, the Town Planning Board before a permit is granted. Such plan shall describe in detail the procedures to be undertaken to fulfill the requirements of division (M)(2)(c) below.

(b) Unless authorized pursuant to the Natural Resources Protection Act, 38 M.R.S.A. § 480-C, no part of any extraction operation, including drainage and runoff control features, shall be permitted within 100 feet of the normal high-water line of a great pond classified GPA or a river flowing to a great pond classified GPA, and within 75 feet of the high-water line of any other water body, tributary stream, or the upland edge of a wetland. Extraction operations shall not be permitted within 75 feet of any property line, without written permission of the owner of such adjacent property.

(c) Developers of new gravel pits along significant river segments shall demonstrate that no reasonable mining *site* outside the Shoreland Zone exists. When gravel pits must be located within the zone, they shall be set back as far as practicable from the normal high-water line and no less than 75 feet and screened from the river by existing vegetation.

(d) Within 12 months following the completion of extraction operations at any extraction site, which operations shall be deemed complete when less than 100 cubic yards of materials are removed in any consecutive 12-month period, ground levels and grades shall be established in accordance with the following:

I. 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.

2. **Note:** The State of Maine solid waste laws, 38 M.R.S.A. § 1310 and Ch. 404 of the Department of Environmental Protection's regulations may contain other applicable provisions regarding disposal of such materials.

3. The final graded slope shall be a two to one slope or flatter.

4. Top soil or loam shall be retained to cover all disturbed land areas, which shall be reseeded and stabilized with vegetation native to the area. Additional topsoil or loam shall be obtained from off-site sources if necessary to complete the stabilization project.

(e) In keeping with the purposes of this subchapter, the Town 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 or disposal of manure shall be accomplished in conformance with the *Maine Guidelines for Manure and Manure Sludge Disposal on Land* published by the University of Maine Soil and Water Conservation Commission in July, 1972.

(2) Manure shall not be stored or stockpiled within 100 feet, horizontal distance, of a great pond classified GPA or a river flowing to a great pond classified GPA; or within 75 feet, horizontal distance, of other water bodies, tributary streams, or wetlands. Within five years of the effective date of this subchapter 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) Agriculture activities involving tillage of soil greater than 40,000 square feet in surface area, or the spreading, disposal or storage of manure within the Shoreland Zone, shall require a soil and water conservation plan to be filed with the Town Planning Board. Non-conformance with the provisions of said plan shall be considered to be a violation of this subchapter. Note: Assistance in preparing a soil and water conservation plan may be available through the local Soil and Water Conservation District Office.

(4) There shall be no new tilling of soil within 100 feet, horizontal distance, of the normal high-water line of a great pond classified GPA; within 75 feet, horizontal distance, from other water bodies; nor within 25 feet, horizontal distance, of tributary streams and wetlands. Operations in existence on the effective date of this subchapter and not in conformance with this provision may be maintained.

(5) After the effective date of this subchapter, newly established livestock grazing areas shall not be permitted within 100 feet, horizontal distance, or the normal high-water line of a great pond classified GPA; within 75 feet, horizontal distance, of other water bodies, nor; within 25 feet, horizontal

distance of tributary streams and wetlands. Livestock grazing associated with ongoing farm activities, and which are not in conformance with the above setback provisions may continue, provided that such grazing is conducted in accordance with a soil and water conservation plan.

(0) *Timber harvesting.*

(1) Within the strip of land extending 75 feet inland from the normal high-water line in a Shoreland Area zoned for resource protection abutting a great pond there shall be no timber harvesting, except to remove safety hazards.

(2) Except in areas as described in division (0)(1) above, timber harvesting shall conform with the following provisions:

(a) Selective cutting of no more than 40% of the total volume of trees four inches or more in diameter measured at four and one-half feet above ground level or any lot in any ten-year period is permitted. In addition:

1. Within 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 75 feet, horizontal distance, of the normal high-water line of other water bodies, tributary streams, or the upland edge of a wetland, there shall be no clearcut openings and a well-distributed stand of trees and other vegetation, including existing ground cover, shall be maintained.

2. At distances greater than 100 feet, horizontal distance, of a great pond classified GPA or a river flowing to a great pond classified GPA; and greater than 75 feet, horizontal distance, of the normal high-water line of other water bodies, or the upland edge of a wetland, harvesting operations shall not create single clearcut openings greater than 10,000 square feet in the forest canopy. Where such openings exceed 5,000 square feet they shall be at least 100 feet apart. Such clearcut openings shall be included in the calculation of total volume removal. For the purposes of these standards, volume may be considered to be equivalent to basal area.

(b) Timber harvesting operations exceeding the 40% limitation in division (0)(2)(a)1. above, may be allowed by the Planning Board upon a clear showing, including a forest management plan signed by a Maine licensed professional forester, that such an exception is necessary for good forest management and will be carried out in accordance with the purposes of this subchapter. The Planning Board shall notify the Commissioner of the Department of Environmental Protection of each exception allowed, within 14 days of the Planning Board's decision.

(c) No accumulation of slash shall be left within 50 feet of the normal high-water line of a water body. In all other areas slash shall either be removed or disposed of in such a manner that it lies on the ground and no part thereof extends more than four feet above the ground. Any debris that falls below the normal high-water line of a water body shall be removed.

(d) Timber harvesting equipment shall not use stream channels as travel routes *except* when:

1. Surface waters are frozen; and
2. The activity will not result in any ground disturbance.

(e) All crossings of flowing water shall require a bridge or culvert, except in areas with low banks and channel beds which are composed of gravel, rock or similar hard surface which would not be eroded or otherwise damaged.

(t) Skid trail approaches to water crossings shall be located and designed so as to prevent water runoff from directly entering the water body or tributary stream. Upon completion of timber harvesting, temporary bridges and culverts shall be removed and areas of exposed soil shall be revegetated.

(g) Except for water crossings, skid trails and other sites where the operation of machinery used in timber harvesting results in the exposure of mineral soil shall be located such that an unscarified strip of vegetation of at least 75 feet in width for slopes up to 10% shall be retained between the exposed mineral soil and the normal high-water line of a water body or upland edge of a wetland. For each 10 % increase in slope, the unscarified strip shall be increased by 20 feet. The provisions of this division apply only to a face sloping toward the water body or wetland, provided, however, that no portion of such exposed mineral soil on a back face shall be closer than 25 feet from the normal high-water line of a water body or upland edge of a wetland.

(P) *Clearing of vegetation for development.*

(1) (a) Within a Shoreland Area zoned for resource protection 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.

(b) Elsewhere, in any Resource Protection District, the clearing of vegetation shall be limited to that which is necessary for uses expressly authorized in that district.

(2) Except in areas as described in division (P)(1) above, and except to allow for the development of permitted uses, within a strip of land extending 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 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 as measured from the outer limits of the tree crown. However, a footpath not to exceed ten feet in width as measured between tree trunks is permitted, provided that a cleared line of sight to the water through the buffer strip is not created. Adjacent to a great pond classified GPA, or stream or river flowing to a great pond classified GPA, the width of the foot path shall be limited to six feet.

(b) 1. Selective cutting of trees within the buffer strip is permitted provided that a well distributed stand of trees and other vegetation is maintained. For the purposes of this section, a *WELL-DISTRIBUTED STAND OF TREES AND OTHER VEGETATION* 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 12 or more in any 25-foot by 25-foot square (625 square feet) area as determined by the following rating system:

<i>Diameter of tree and four and one-half feet above ground level (inches)</i>	<i>Points</i>
2 - 4 inches	1
> 4 - 12 inches	2
> 12 inches	4

2. Adjacent to other water bodies, tributary streams, and wetlands, a *WELL-DISTRIBUTED STAND OF TREES AND OTHER VEGETATION* is defined as maintaining a minimum rating score of eight per 25-foot square area.

3. Note: As an example, adjacent to a great pond, if a 25-foot by 25-foot plot contains three trees between two and four inches in diameter, three trees between four and 12 inches in diameter, and three trees over 12 inches in diameter, the rating score is:

$(3 \times 1) + (3 \times 2) + (3 \times 4) = 21$ points, thus, the 25-foot by 25-foot plot contains trees worth 21 points. Trees totaling nine points ($21 - 12 = 9$) may be removed from the plot provided that no cleared openings are created.

4. Notwithstanding the above provisions, no more than 40% of the total volume of trees four inches or more in diameter, measured at four and one-half feet above ground level, may be removed in any ten-year period.

(c) In order to protect water quality and wildlife habitat adjacent to great ponds classified GPA, and streams and rivers which flow to great ponds classified GPA; existing vegetation under three feet in height and other ground cover shall not be removed, except to provide for a footpath or other permitted uses as described in divisions (P)(2) and (P)(2)(a) above.

(d) Pruning of tree branches on the bottom one-third of the tree is permitted.

(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.

(f) The provisions contained in division (P)(2) above shall not apply to those portions of public recreational facilities adjacent to public swimming areas. Cleared areas, however, shall be limited to the minimum area necessary.

(3) (a) At distances greater than 100 feet, horizontal distance, from a great pond classified GPA or a river flowing to a great pond classified GPA; and 75 feet, horizontal distance, from the normal high-water line of any other water body, tributary stream, or the upland edge of a wetland, except to allow the development of permitted uses, there shall be permitted on any lot, in any ten-year period, selective cutting of not more than 40% of the volume of trees four inches or more in diameter measured four and one-half feet above ground level. Tree removal in conjunction with the development of permitted uses shall be included in the 40% calculation.

(b) For the purposes of these standards, volume may be considered to be equivalent to basal area.

(c) In no event shall cleared openings for development, including but not limited to, principal and accessory structures, driveways and sewage disposal areas, exceed in the aggregate 25% of the lot area or 10,000 square feet, whichever is greater, including land previously developed. This provision shall not apply to the General Development District.

(4) Cleared openings legally in existence on the effective date of this subchapter may be maintained, but shall not be enlarged except as permitted by subchapter.

(5) Fields which have reverted to primarily shrubs, trees, or other woody vegetation, shall be regulated under the provisions of this section.

(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;
- and
- (c) Permanent stabilization structures such as retaining walls or rip-rap.

(2) In order to create the least potential for erosion, development shall be designed to fit with the topography and soils of the site. Areas of steep slopes where high cuts and fills may be required shall be avoided wherever possible, and natural contours shall be followed as closely as possible.

(3) Erosion and sedimentation control measures shall apply to all aspects of the proposed project involving land disturbance and shall be in operation during all stages of 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 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 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 bale per 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 methods, 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 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.

(T) Archaeological sites.

(1) 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 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.

(2) Note: The areas along Blackstream, Soudabscook Stream, Tracy Pond and Hermon Pond have been identified as archaeologically sensitive by the Maine Historic Preservation Commission on 4-30-1991. No other historic or archeological sites have been identified to date. (Ord. passed 1-3-2013)

§ 154.140 ADMINISTRATION.

(A) Administering bodies and agents.

(1) **Codes Enforcement Officer:** A Codes Enforcement Officer shall be appointed or reappointed annually by July first.

(2) **Town Zoning Board of Appeals:** A Town Zoning Board of Appeals shall be created in accordance with the provisions of 30-A M.R.S.A. § 2691.

(3) **Town Planning Board:** A Town Planning Board shall be created in accordance with the provisions of state law.

(B) Permits required.

(1) After the effective date of this suchapter 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 non-conforming use.

(2) A permit is not required for the replacement of an existing road culvert as long as the replacement culvert is:

(a) Not more than one standard culvert size wider in diameter than the culvert being replaced.

(b) Not more than 25% longer than the culvert being replaced; and

(c) Not longer than 75 feet.

(d) Provided that adequate erosion control measures are taken to prevent sedimentation of the water, and that the crossing does not block fish passage in the water course.

(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 § 154.138.

(2) All applications shall be signed by the owner or owners of the property or other person authorizing the work, certifying that the information in the application is complete and correct. If the person signing the application is not the owner or lessee of the property then that person shall submit a letter of authorization from the owner or lessee.

(3) All applications shall be dated, and the Codes Enforcement Officer or Town Planning Board, as appropriate, shall note upon each application the date and time of its receipt.

(4) If the property is not served by a public sewer, a valid plumbing permit or a completed application for a plumbing permit, including the site evaluation approved by the Plumbing Inspector, shall be submitted whenever the nature of the proposed structure would require the installation of a subsurface sewage disposal system.

(D) Procedure for administering permits.

(1) Within 35 days of the date of receiving a written application, the Town Planning Board or Codes Enforcement Officer, as indicated in § 154.138, 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.

(2) The Town Planning Board or the Codes Enforcement Officer, as appropriate, shall approve, approve with conditions, or deny all permit applications in writing within 35 days of receiving a completed application.

(3) However, if the Town 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 Town Planning Board's agenda following receipt of the completed application, or within 35 days of the public hearing, if one is held. Permits shall be approved if the proposed use or structure is found to be in conformance with the purpose and provisions of this subchapter. The applicant shall have the burden of proving that the proposed land use activity is in conformity with the purposes and provisions of this subchapter.

(4) After the submission of a complete application to the Town 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:

- (a) Will maintain safe and healthful conditions;**
- (b) Will not result in water pollution, erosion, or sedimentation to surface waters;**
- (c) Will adequately provide for the disposal of all wastewater;**
- (d) Will not have an adverse impact on spawning grounds, fish, aquatic life, bird or other wildlife habitat;**
- (e) Will conserve shore cover and visual, as well as actual, points of access to inland and coastal waters;**
- (f) Will protect archaeological and historic resources as designated in the comprehensive plan;**
- (g) Will avoid problems associated with flood plain development and use; and**
- (h) Is in conformance with the provisions of § 154.139, land use standards.**

(5) 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 subchapter or regulation or any state law which the municipality is responsible for enforcing.

(E) *Single-family dwelling - resource protection district.* In addition to the criteria in division (D) above, 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 the 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 Penobscot County Registry of Deeds before the adoption of the Resource Protection District.

(3) The proposed location of all 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, based on detailed flood insurance studies and as delineated on the Federal Emergency Management Agency's Flood Boundary and floodway maps and flood insurance rate maps; all buildings, including basements, are elevated at least one foot above the 100-year floodplain elevation; and the development is otherwise in compliance with §§ 154.155 through 154.166. If the floodway is not shown on the Federal Emergency Management Agency Maps, it is deemed to be one-half the width of the 100-year floodplain, with the center of the floodway centered on the center of the river or stream.

(4) The total ground-floor area of all principal and accessory structures is limited to a maximum of 1,500 square feet.

(5) All structures, except functionally water-dependent structures, are set back from the normal high water mark or upland edge of a wetland to the greatest practical extent, but not less than 75 feet. 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 or high-value wetlands.

(F) *Expiration of permit.* Following the issuance of a permit, if no substantial start is made in construction or in the use of the property within one year of the date of the permit, the permit shall lapse and become void.

(G) Installation of public utility service. No public utility, water district, sanitary district or any utility company of any kind, may install services to *any new* structure located in the Shoreland Zone unless written authorization attesting to the validity and currency of all local permits required under this or any previous subchapter, has been issued by the appropriate municipal officials, or other written arrangements have been made between the municipal officials and the utility.

(H) Appeals. See §§ 154.275 through 154.285.

(I) Enforcement. See §§ 154.020 through 154.027 and 154.999.
(Ord. passed 1-3-2013)

§ 154.141 DEFINITIONS.

See § 154.009.
(Ord. passed 1-3-2013)

FLOODPLAIN MANAGEMENT

§ 154.155 PURPOSE AND ESTABLISHMENT.

(A) Certain areas of the town 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.

(B) Therefore, the town 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 subchapter.

(C) It is the intent of the town 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.

(D) This body has the legal authority to adopt land use and control measures to reduce future flood losses pursuant to 30-A M.R.S.A. §§ 3001 through 3007, 4352 and 4401 through 4407 and 38 M.R.S.A. § 440.

(E) The town elects to comply with the requirements of the National Flood Insurance Act of 1968 (P.L. 90-488, as amended).

(F) The National Flood Insurance Program, established in the aforesaid Act, provides that areas of the town 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 subchapter establishes a flood hazard development permit system and review procedure for development activities in the designated flood hazard areas of the town.

(G) The areas of special flood hazard, identified by the Federal Emergency Management Agency in a map entitled "Flood Insurance Rate Map - Town of Hermon, Maine, Penobscot County," dated 9-27-1985 which is hereby adopted by reference and declared to be a part of this subchapter.

(Ord. passed 1-3-2013)

§ 154.156 PERMIT REQUIRED.

Before any construction or other development (as defined in the definition section of this subchapter), including the placement of manufactured homes, begins within any areas of special flood hazard established in § 154.155, a flood hazard development permit shall be obtained from the Code Enforcement Officer. This permit shall be in addition to any other permits which may be required pursuant to the codes and ordinances of the town.

(Ord. passed 1-3-2013)

§ 154.157 APPLICATION FOR PERMIT.

The application for a flood hazard development permit shall be submitted to the Code Enforcement Officer and shall include:

- (A) The name, address and phone number of the applicant, owner, and contractor;
- (B) An address and a map indicating the location of the construction site;
- (C) A site plan showing location of existing and/or proposed 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; (Divisions (H) through (K) apply only to new construction and substantial improvements.)

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

(1) From any base flood elevation data from federal, state, or other technical sources (such as FEMA's Quick-2 model, FEMA 265/July 1995), including information obtained pursuant to §§ 154.160(J) and § 154.162(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.

(I) A description of an elevation reference point established on the site of all new or substantially improved structures;

(J) A written certification by a professional land surveyor that the elevations shown on the application are accurate;

(K) Certification by a registered professional engineer or architect that floodproofing methods for any non-residential structures will meet the floodproofing criteria of division (H); § 154.160(G); and other applicable standards in § 154.160.

(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 on construction plans describing in detail how each applicable development standard in § 154.160 will be met.

(Ord. passed 1-3-2013)

§ 154.158 APPLICATION FEE AND EXPERT'S FEE.

(A) A non-refundable application fee \$50 shall be paid to the Town Clerk and a copy of a receipt for the same shall accompany the application.

(B) An additional fee may be charged if the Code Enforcement Officer and/or Board of Appeals need the assistance of a professional engineer or other expert. The expert's fee shall be paid in full by the applicant within ten days after the town submits a bill to the applicant. Failure to pay the bill shall

c) constitute a violation of this chapter 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 of the Code Enforcement Officer may appeal that decision to the Board of Appeals.

(Ord. passed 1-3-2013)

§ 154.159 REVIEW OF FLOOD HAZARD DEVELOPMENT PERMIT APPLICATIONS.

The Code Enforcement Officer shall:

(A) Review all applications for the flood hazard development permit to assure that proposed building sites are reasonably safe from flooding and to determine that all pertinent requirements of § 154.160 (development standards) have, or will be met;

(B) Utilize, in the review of all flood hazard development permit applications.

(1) The base flood data contained in the "Flood Insurance Rate Map - Town of Hermon, Maine," as described in § 154.155.

(2) In special flood hazard areas where base flood elevation data are not provided, the Code Enforcement Officer shall obtain, review and reasonably utilize any base flood elevation and floodway data from federal, state, or other sources, including information obtained pursuant to § 154.157(H)(1), § 154.160(I), and § 154.160 of this subchapter;

(C) Make interpretations of the location of boundaries of special flood hazard areas shown on the maps described in § 154.155 below;

(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 § 404 of the Federal Water Pollution Control Act Amendments of 1972, 33 U.S.C. § 1334;

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

(F) Issue one of the following flood hazard development permits based on the type of development:

(1) Issue 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 based on the Part I permit construction, as built,

for verifying compliance with the elevation requirements of § 154.160(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) Issue 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 § 154.160(G)(1) through (G)(3). The application for this permit shall include a floodproofing certificate signed by a registered professional engineer or architect; or

(3) Issue a flood hazard development permit for minor development for all development that is not new construction or a substantial improvement, such as repairs, maintenance, or renovations, 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 § 154.160(I), mining, dredging, filling, grading, paving, excavation, drilling operations, storage of equipment or materials, deposition or extraction of materials, public or private sewage disposal systems or water supply facilities that do not involve structures; and non-structural projects such as bridges, towers, fencing, and pipelines.

(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 § 154.163 below, and copies of elevation certificates, floodproofing certificates, certificates of compliance and certifications of design standards required under the provisions of §§ 154.157, 154.155 and 154.161.
(Ord. passed 1-3-2013)

§ 154.160 DEVELOPMENT STANDARDS.

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

New construction or substantial improvement of any structure and all other development shall:

(1.) Be designed or modified and adequately anchored to prevent flotation (excluding piers and docks), collapse or lateral movement of the structure 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) All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the systems.

(C) 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 shall be located and constructed to avoid impairment to them or contamination from them during floods.

(E) All development shall be constructed and maintained in such a manner that no reduction occurs in the flood carrying capacity of any watercourse.

(F) New construction or substantial improvement of any residential structure located within Zone A shall have the lowest floor (including basement) elevated to at least one foot above the base flood elevation utilizing information obtained pursuant to §§ 154.157(H)(1), 154.159(B) or 154.162.

(G) New construction or substantial improvement of any non-residential structure located within Zone A shall have the lowest floor (including basement) elevated to at least one foot above the base flood elevation utilizing information obtained pursuant to §§ 154.157(H)(1), 154.159(B) or 154.162, together with attendant utility and sanitary facilities shall:

(I) Be floodproofed to at least one foot above the base flood elevation utilizing information obtained pursuant to §§ 154.157(H)(1), 154.159(B) or 154.162, 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 § 154.157(K), and shall include a record of the elevation above mean sea level to which the structure is floodproofed.

(H) New or substantially improved manufactured homes located within Zone A shall:

(1) Be elevated on a permanent foundation such that the lowest floor (including basement) is at least one foot above the base flood elevation utilizing information obtained pursuant to §§ 154.157(H)(1), 154.159(B) or 154.162;

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

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

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

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

(c) All components of the anchoring system described in division (H)(3)(a) and (b), shall be capable of carrying a force of 4,800 pounds.

(I) Recreational vehicles in Zone A shall either:

(a) Be on a 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 division (H)(1).

(J) Accessory structures: Accessory structures, as defined in § 154.165, located within Zone A, shall be exempt from the elevation criteria required in divisions (F) and (G) above, if all other requirements of this section and all the following requirements are met. Accessory structures shall:

(1) Be 500 square feet or less and have a value less than \$3,000;

(2) Have unfinished interiors and not be used for human habitation;

(3) Have hydraulic openings, as specified in division (K)(2), in at least two different walls of the accessory structure;

(4) Be located outside the floodway;

(5) When possible be constructed and placed on the building site so as to offer the minimum resistance to the flow of floodwaters and be placed further from the source of flooding than is the primary structure; and

(6) Have only ground fault interrupt electrical outlets. The electric service disconnect shall be located above the base flood elevation and when possible outside the special flood hazard area.

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

(1) Will not increase the water surface elevation of the base flood more than one foot at any point within the community; and

(2) Is consistent with the technical criteria contained in Chapter 5 of the document entitled *Hydraulic Analyses, Flood Insurance Study - Guidelines and Specifications for Study Contractors*, (FEMA 37/January 1995, as amended).

(L) Enclosed areas below the lowest floor: New construction or substantial improvement of any structure in Zone A that meets the development standards of this section, including the elevation requirements of divisions (F), (G) and (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 § 154.165; (see **BASEMENT** definitions in this subchapter) and

(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 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; and

(3) The enclosed area shall not be used for human habitation; and

(4) The enclosed area may be used for building maintenance, access, parking vehicles, or storing of articles and equipment used for maintenance of the building.

(M) Bridges: New construction or substantial improvement of any bridge in Zone A shall *be* designed such that:

(1) When possible, the lowest horizontal member (excluding the pilings, or columns) is elevated to at least one foot above the base flood elevation utilizing information obtained pursuant to §§ 154.157(1M), 154.159(B), or 154.162(D); and

(2) A registered professional engineer shall certify that:

(a) The structural design and methods of construction shall meet the elevation requirements of this section and the floodway standards of division (J) above; and

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

(N) Containment walls: New construction or substantial improvement of any containment wall located within Zone A shall:

(1) Have the containment wall elevated to at least one foot above the base flood elevation utilizing information obtained pursuant to §§ 154.157(H)(1), § 154.159(B) or 154.162(D).

(2) Have structural components capable of resisting hydrostatic and hydrodynamic loads and the effects of buoyancy; and

(3) Be certified by a registered professional engineer or architect that the design and methods of construction are in accordance with accepted standards of practice for meeting the provisions of this section. Such certification shall be provided with the application for a flood hazard development permit, as required by § 154.157(K).

(0) Wharves, piers and docks: New construction or substantial improvement of wharves, piers, and docks are permitted in Zone A in and over water and seaward of the mean high tide if the following requirements are met:

(1) Wharves, piers, and docks shall comply with all applicable local, state, and federal regulations; and

(2) For commercial wharves, piers, and docks, a registered professional engineer shall develop or review the structural design, specifications, and plans for the construction. (Ord. passed 1-3-2013)

§ 154.161 CERTIFICATE OF COMPLIANCE.

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

(A) For new construction or substantial improvement of any structure the applicant shall submit to the Code Enforcement Officer, an elevation certificate completed by a professional land surveyor, registered professional engineer, or architect, for compliance with § 154.160(F) through (H).

(B) The applicant shall submit written certification to the Code Enforcement Officer that the development is complete and complies with the provisions of this subchapter.

(C) Within ten working days, the Code Enforcement Officer shall:

(1) Review the elevation certificate and the applicant's written notification; and

(2) Upon determination that the development conforms with the provisions of this subchapter, shall issue a certificate of compliance. (Ord. passed 1-3-2013)

§ 154.162 REVIEW OF SUBDIVISION AND DEVELOPMENT PROPOSALS.

The Planning Board shall, when reviewing subdivision and other proposed developments that require review under other federal law, state law or local ordinances or regulations and all projects on five 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 damage.

(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.

(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 § 154.160 above. Such requirements 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 conditions 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. (Ord. passed 1-3-2013)

§ 154.163 APPEALS AND VARIANCES.

The Board of Appeals of the town 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 administration or enforcement of the provisions of this subchapter.

(A) *Granting variances.* The Board of Appeals may grant a variance from the requirements of this subchapter consistent with state law and the following criteria:

(1) Variances shall not be granted within any designated regulatory floodway if any increase in flood levels during the base flood discharge would result.

(2) Variances shall be granted only upon:

(a) A showing of good and sufficient cause; and

(b) 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

(c) A showing that the issuance of the variance will not conflict with other state, federal or local laws or ordinances; and

(d) A determination that failure to grant the variance would result in *UNDUE HARDSHIP*, which in this division means:

- 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.**

(3) 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.

(4) 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 division (B) below and § 154.160(J) are met; and**
- 2. The structure or other development is protected by methods that minimize flood damages during the base flood and create no additional threats to public safety.**

(5) Variances may be issued for the repair, reconstruction, rehabilitation, or restoration of historic structures upon determination that:

- 1. The development meets the criteria of division (A)(1) through (5) 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.**

(6) Any applicant who meets the criteria of division (A)(1) through (5) shall be notified by the Board of Appeals in writing over the signature of the Chairperson of the Board of Appeals that:

(a) 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 insurance coverage;

(b) Such construction below the base flood level increases risks to life and property; and

(c) 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.

(B) 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 30 days after the 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 35 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 35 days after the close of the hearing, and shall issue a written decision on all appeals.

(6) The Board of Appeals shall submit to the Code Enforcement Officer a report of all variance actions, including justification for the granting of the variance and an authorization for the Code Enforcement Officer to issue a flood hazard development permit, which includes any conditions to be attached to said permit.

(7) Any aggrieved party who participated as a party during the proceedings before the Board of Appeals may take an appeal to Superior Court in accordance with *state* laws within 45 days from the date of any decision of the Board of Appeals.

(C) Enforcement and penalties.

(1) It shall be the duty of the Code Enforcement Officer to enforce the provisions of this subchapter pursuant to 30-A M.R.S.A. § 4452.

(2) The penalties contained in 30-A M.R.S.A. § 4452 shall apply to any violation of this subchapter.

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

(a) The name of the property owner and address or legal description of the property sufficient to confirm its identity or location;

(b) A clear and unequivocal declaration that the property is in violation of a cited state or local law, regulation, or ordinance;

(c) A clear statement that the public body making the declaration has authority to do so and a citation to that authority;

(d) Evidence that the property owner has been provided notice of the violation and the prospective denial of insurance; and

(e) A clear statement that eth declaration is being submitted pursuant to § 1316 of the National Flood Insurance Act of 1968, as amended. (Ord. passed 1-3-2013)

§ 154.164 CONFLICT WITH OTHER ORDINANCES.

This subchapter 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 suchapter imposes a greater restriction upon the use of land, buildings, or structures, the provisions of this subchapter shall control.

(Ord. passed 1-3-2013)

§ 154.165 DEFINITIONS.

(A) *Rules of interpretation.* 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.

(B) *Definitions.* For the purpose of this subchapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

100-YEAR FLOOD. See *BASE FLOOD*.

ACCESSORY STRUCTURE. A small detached structure that is incidental and subordinate to the principle structure.

ADJACENT GRADE. The natural elevation of the ground surface prior to construction next to the proposed walls of the structure.

AREA OF SPECIAL FLOOD HAZARD. The land in the floodplain having a 1 % or greater chance of flooding in any given year, as specifically identified in the flood insurance study cited in § 154.155.

BASE FLOOD. The flood having a 1% chance of being equaled or exceeded in any given year, commonly called the 100-year flood.

BASEMENT. 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 subchapter.

CODE ENFORCEMENT OFFICER. Any person or board responsible for performing the inspection, licensing, and enforcement duties required by a particular statute or ordinance.

DEVELOPMENT. Any changes caused by individuals or entities to improve or unimproved real estate, including but not limited to the construction of buildings or other structures; the construction of additions or substantial improvements to buildings or other structure; mining, dredging, filling, grading, paving, excavation, drilling operations or storage of equipment or materials; and the storage, deposition, or extraction of material, public or private sewage disposal systems or water supply facilities.

ELEVATED BUILDING. A non-basement building:

(a) Built, in the case of a building in Zone A to have the top of the elevated floor elevated above ground level by means of pilings, column, post, piers, or stilts; and

(b) Adequately anchored so as not to impair the structural integrity of the building during a flood of up to one foot above the magnitude of the base flood.

In the case of Zone A, **ELEVATED BUILDING** also includes a building elevated by means of fill or solid foundation perimeter walls with hydraulic openings sufficient to facilitate the unimpeded movement of flood waters, as required in § 154.160(K).

ELEVATION CERTIFICATE. An official form (FEMA Form 81-31, 02/06, as amended) that:

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

FLOOD or ***FLOODING.*** Means:

(a) A general and temporary condition of partial or complete inundation of normally dry land areas from:

1. The overflow of inland or tidal waters.
2. The unusual and rapid accumulation or runoff of surface waters from any source.

(b) The collapse or subsidence of land along the shore of a lake or other body of water as a result of erosion or undermining caused by waves or currents of water exceeding anticipated cyclical levels or suddenly caused by an unusually high water level in a natural body of water, accomplished 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 division (a)1. of this definition.

FLOOD ELEVATION STUDY. An examination, evaluation and determination of flood hazards and, if appropriate, corresponding water surface elevations.

FLOOD INSURANCE RATE MAP (FIRM). An official map of a community, on which the Federal Insurance Administrator has delineated both the special hazard areas and the risk premium zones applicable to the community.

FLOODPLAIN or ***FLOOD-PRONE AREA.*** Any land area susceptible to being inundated by water from any source (see ***FLOODING.***).

FLOODPLAIN MANAGEMENT. 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. A zoning ordinance, subdivision regulations, building codes, health regulations, special purpose ordinances (such as a floodplain ordinance/article, 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 prevent and reduction.

FLOODPROOFING. 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. The lines marking the limits of floodway on federal, state and local floodplain maps.

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

FUNCTIONALLY DEPENDENT USE. 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. 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. For purposes of this subchapter, an elevation established for a specific site to which all other elevations at the site are referenced. This elevation is generally not referenced to the National Geodetic Vertical Datum (NGVD) or any other established datum and is used in areas where Mean Sea Level data is too far from a specific site to be practically used.

LOWEST FLOOR. The lowest floor of the lowest enclosed area (including basement). An unfinished or food resistant enclosure, usable solely for parking of vehicles, building access or storage in an area other than a basement area is not considered a buildings' 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 § 154.160(K) above.

MANUFACTURED HOME. 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 facilities. 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. A parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.

MEAN SEA LEVEL. For purposes of the National Flood Insurance Program, the National Geodetic Vertical Datum (NGVD) of 1929, or other datum, to which base flood elevations shown on a community's Flood Insurance Rate Map are referenced.

MINOR DEVELOPMENT. 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 § 154.160(J) above, mining, dredging, filling, grading, paving, excavation of material, drilling operations, storage of equipment or materials, deposition or extraction of material, 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). 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. 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.

RECREATIONAL VEHICLE. A vehicle which is:

- (a) Built on a single chassis;

(b) Four hundred square feet or less when measured at the largest horizontal projection, not including slideouts;

(c) Designed to be self-propelled or permanently towable by a motor vehicle; and

(d) Designed primarily not for use as a permanent dwelling but as a temporary living quarters for recreational, camping, travel, or seasonal use.

REGULATORY FLOODWAY.

(a) The channel of a river or other water course and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one foot, and

(b) In Zone A riverine areas and when not designed on the community's Floodway Boundary 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. 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. The date the building permit was issued, provided that 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 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. 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 IMPROVEMENT. Any reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which equals or exceeds 50% of the market value of the structure to it before the start of construction of the improvement. This term includes structures which have incurred substantial damage, regardless of the actual repair work performed. The term does not, however, include either:

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

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

VARIANCE. A grant of relief by a community from the terms of a floodplain management regulation.

VIOLATION. The failure of a structure or development to comply with a community's floodplain management regulations.
(Ord. passed 1-3-2013)

§ 154.166 ABROGATION.

This subchapter repeals and replaces any municipal ordinance previously enacted to comply with the National Flood Insurance Act of 1968 (P.L. 90-488, as amended).
(Ord. passed 1-3-2013)

SITE PLAN

§ 154.180 ADMINISTRATION AND APPLICABILITY.

(A) The Town Planning Board, hereinafter called the Board, shall administer the provisions of this subchapter, unless the Planning Board delegates review authority to the CEO in accordance with § 154.020(B). Whenever such delegation occurs, the term ***PLANNING BOARD*** shall also refer to the Code Enforcement Officer.

(B) The TownCode Enforcement Officer (CEO) and the Town Manager shall assist the Board in administering these standards as specified herein.

(C) The provisions of this subchapter shall pertain to all land and buildings requiring site plan review within the boundaries of the town.

(D) Approval by the Planning Board in conformity with the criteria and standards of this section shall be required for all developments requiring site plan review as set forth in §§ 154.040 through 154.047 of this chapter (see § 154.046(R), schedule of uses, and § 154.047, dimensional requirements). (Ord. passed 1-3-2013)

§ 154.181 OPTIONAL PREAPPLICATION MEETING, SKETCH PLAN AND SITE INSPECTIONS.

(A) General. Applicants may schedule a meeting with the CEO or Planning Board, prior to submission of an application for review. The preapplication meeting allows the applicant to present general information regarding the proposal to the Board and gain an understanding of the review procedures, requirements and standards. The Planning Board may use the preapplication meeting to discuss, and if applicable, waive specific application submission requirements when an applicant can show that such requirements are not relevant to the proposed project.

(B) Plan information.

(1) Streets, and other development. The preapplication sketch plan should show, in simple sketch form, the proposed layout of streets, buildings, parking areas and other features in relation to existing conditions. The sketch plan, which is optional and may be a free-hand penciled sketch, should be supplemented with general information to describe or outline the existing conditions of the site and the proposed development. It is recommended that the sketch plan be superimposed on or accompanied by a copy of the assessor's map(s) on which the land is located. Developers choosing to utilize the pre-application process should submit eight sets of documents.

(2) Site conditions. The developer and the Board will find it most helpful for *site* conditions such as steep slopes, wet areas and vegetative cover to be identified in a general manner. The sketch plan may also show:

(a) The location of that portion which is to be developed in relation to the entire tract, and the distance to the nearest existing street intersection.

(b) Significant physical features (e.g. streams, woods, etc.) within the portion to be developed or within 200 feet thereof.

(c) Name of the owner and of all adjoining property owners.

(d) Utilities available, and all streets which are either proposed, mapped or built.

(e) All existing restrictions on the use of the land, including easements, covenants or zoning restrictions, to the best knowledge of the developer.

(f) If the development will be served by a new road, whether a private way or proposed public way, a suggested name for the new road shall be provided which conforms to the naming conventions of the addressing ordinance of the town.

(g) A copy of the county soil survey covering the parcel proposed for development showing the outline of the parcel or area to be developed, should be submitted with the sketch plan.

(h) A copy of the U.S.G.S. Quadrangle map (7.5-minute series) with an outline of the development drawn on would be a useful tool for discussing issues of slopes, drainage, wetlands, etc with the Board.

(i) Such other information which the developer feels would aid the Planning Board in determining the classification and aid this preliminary discussion.

(C) *Contour interval and on-site inspection.*

(1) Within 30 days of the preapplication meeting, if held, the Board may hold an on-site inspection of the property and inform the applicant in writing of the contour interval to be used on the Site Plan application. Unless otherwise specified by the Board, the contour interval shall be two feet. The Board may require up to a ten-foot contour level when it determines that a more detailed contour interval would serve no practical purpose, and may require one-foot contours where drainage patterns are not readily apparent.

(2) Prior to the on-site inspection, the applicant should place "flagging" to indicate the centerline of any proposed streets and at the intersections of the street centerlines, entrance centerlines and corners of the parcel proposed for development.

(3) The Board shall not conduct on-site inspections during inclement weather or when there is more than one foot of snow on the ground.

(D) *Rights not vested.* Neither the preapplication meeting, the submittal or review of the sketch plan, nor the on-site inspection shall be considered the initiation of the review process for the purposes of bringing the plan under the protection of 1 M.R.S.A. § 302.

(Ord. passed 1-3-2013)

§ 154.182 SITE PLANS.

(A) *General.* All applications for approval of a Site Plan shall be made in writing to the CEO on the forms provided for this purpose.

(B) *Procedure.*

(1) *Submission of application, timeframes.* The applicant for approval of a site plan shall submit an application for approval at least 14 days prior to a regularly scheduled meeting of the Board to the CEO. Applications shall be submitted by mail or delivered by hand to the CEO in the Town Municipal Building, and shall include payment for the application fees in order for the submission to be considered "complete". The site plan shall approximate the layout shown on the Sketch Plan (if prepared) incorporating any recommendations made by the Board at an on-site or pre-application meeting.

(2) *Application fee.* All applications for approval for a site plan shall be accompanied by a non-refundable application fee of \$200.

(3) *Consultants draw account.* In addition to the application fee, all applicants for approval of a site plan shall pay a fee of \$500, to be deposited into a special account designated for that site plan, to be used by the Planning Board for hiring independent consulting services to assist in the review of the application. The balance shall be maintained at \$500 during the review process. Any balance in the account remaining after a decision on the final plan application by the Board shall be returned to the applicant.

(C) *Attendance required.* The applicant, or a duly authorized representative, shall attend the meetings of the Board to present the Site Plan and respond to questions in public hearing.

(D) *Review process.* Upon receipt of an application for approval of a Site Plan, the CEO shall:

(1) Notify in writing all owners of abutting property that an application for a site plan has been submitted, specifying the location of the proposed development and including a general description of the project.

(2) Notify the Clerk and the review authority of the neighboring municipalities if any portion of the development includes or crosses the municipal boundary.

(3) Within seven days of the receipt of the application, the CEO shall determine whether the application is quantitatively complete. The CEO shall notify the applicant and the Planning Board of the determination in writing. If the application is not complete, the CEO shall notify the applicant of the specific additional information needed to complete the application.

(4) At the same time as a determination that a quantitatively complete application has been received, the CEO shall notify the applicant and all abutting property owners of the date, time and location of the public hearing on the application. The hearing shall be held within 30 days of the determination of application completeness, and a notice shall be published at least seven days prior to the hearing.

(5) Within 30 days from the public hearing or within another time limit as may be otherwise mutually agreed to by the Board and the applicant, the Board shall make written findings of fact and conclusions relative to the review criteria contained in this chapter, the performance and design standards of §§ 154.065 through 154.096 and §§ 154.205 through 154.214, and within this subchapter, as applicable. If the Board finds that all criteria of this chapter and other applicable standards have been met, they shall approve the site plan. If the Board finds that any criteria of this chapter or the standards of this subchapter have not been met, the Board shall either deny the application or approve the application with conditions to ensure that all of the criteria and standards will be met by the development. The Board may reconsider its decision at the next regularly scheduled meeting if it finds or is presented with new information which directly relates to compliance with one or more of the requirements of this subchapter.

(6) *Written order.* The Board may issue a written final order with the findings and conclusions for its decision. Any conditions which the Board found necessary to impose to assure the development will meet the criteria and standards shall be enumerated in the written order.

(7) *Reconsideration.* The Board may reconsider its action at the next regularly scheduled meeting if it becomes aware of new evidence which would affect its review under the review criteria of this chapter.

(E) *Submissions.*

(1) *Submission quantities.* The applicant shall provide eight sets of all plans and documents for review.

(2) *Written agency approvals required.* Prior to approval of the final plan application, the following approvals shall be obtained in writing, where applicable:

(a) Maine Department of Environmental Protection, under the Site Location of Development Act, Natural Resources Protection Act, stormwater permit, or if a waste water discharge license is needed.

(b) Maine Department of Human Services, if the applicant proposes to provide a public water system.

(c) Maine Department of Human Services, if an engineered subsurface waste water disposal system(s) is to be utilized.

(d) U.S. Army Corps of Engineers, if a permit under § 404 of the Clean Water Act is required.

(e) Any other required state or federal permit, as appropriate.

(3) As a guide, the following information may be submitted. The applicant is responsible for demonstrating that the site plan complies with the review criteria found in §§ 154.065 through 154.096 and §§ 154.205 through 154.214 of this chapter.

(a) *Application form.* (Mandatory.)

(b) *Location map.* Location map, drawn at a size adequate to show the relationship of the proposed development to the adjacent properties, and to allow the Board to locate the project site within the municipality, showing:

1. Existing development in the proximity of the proposed development.
2. Locations and names of existing and proposed streets.
3. Boundaries and designations of zoning districts.
4. An outline of the proposed project and any remaining portion of the owner's property if the plan submitted covers only a portion of the owner's entire contiguous holding.

(c) *Site plan format.* The plan shall be submitted on one reproducible, stable-based, archival quality transparency (so-called "Mylar"). If the applicant proposes to record the plan in the Penobscot County Registry of Deeds, or if the applicant wishes to retain a Mylar transparency, a second set of Mylars shall be submitted. The plan shall be reproducible transparencies, indelibly signed and embossed with the seal of the licensed design professional responsible for the plan's preparation. Plans for projects containing more than one hundred acres may be drawn on two sheets.

1. Plans shall be no larger than 24 by 36 inches in size (i.e. the maximum plan size which may be submitted is a "D" size sheet).

2. An approval block shall be provided for the use of the Planning Board. The block shall include five lines spaced for signing by Board members, a line to indicate the date of approval and the following statement shall appear above the signature lines:

"This is to certify that, after reviewing the development shown by this Plan and considering each of the criteria set forth in the "Land Use Ordinance of the Town of Hermon, Maine", the undersigned having made findings of fact establishing that the proposed development and amendments thereto, if any, meet all of the criteria set forth therein, this development is approved, subject to any conditions set by the Hermon Planning Board."

3. All plans shall include a block which provides space for the following information: the county, date, and time.

4. All plans shall include a title block which contains the following information: the plan name, the record owner's name and address, the location by street and town and date of the plan.

5. Plans shall be drawn at a scale no larger than 50 feet to the inch unless otherwise specified by the Planning Board. The Planning Board may allow a scale no larger than 100 feet to the inch where the site is not serviced by public water and sewer.

(d) Standard boundary survey. A standard boundary survey of the parcel being developed, giving complete descriptive data by bearings and distances, made and certified by a professional land surveyor. The corners of the parcel shall be located on the ground and marked by monuments. The plan shall indicate the type of monument found or to be set at each lot corner.

(e) Recently recorded deed. A copy of the most recently recorded deed for the parcel. A copy of all deed restrictions, easements, rights-of-way, or other encumbrances currently affecting the property shall be submitted if only referenced in the current deed.

(f) Type of sewage disposal system. An indication of the type of sewage disposal system proposed to serve the project.

1. When sewage disposal is to be accomplished by connection to the public sewer, an estimate of the proposed use of the public sewer, together with a written statement from the Town Manager stating that the proposed use can be accommodated within the town's allocated capacity in the Bangor Wastewater Treatment Plant.

2. When sewage disposal is to be accomplished by subsurface wastewater disposal systems, test pit analyses, prepared by a licensed site evaluator shall be provided. A map showing the location of all test pits dug on the site shall be submitted. Such analyses shall indicate all pits and subsurface excavations dug, even those which fail to meet the minimum qualifications for on-site wastewater.

(g) Type of water supply system. An indication of the type of water supply system(s) proposed to serve the project.

1. When water is to be supplied by public water supply, and an extension is required, a written statement from the Bangor Water District approving the design of the extension shall be submitted.

2. When water is to be supplied by private wells, written evidence of adequate ground water supply and quality shall be submitted from a well driller or hydrogeologist familiar with the immediate area of the project.

3. When public water is not available to serve the project for fire fighting purposes, a written statement from the Town Fire Chief, stating the surface water sources in the vicinity of the project are sufficient to provide for the foreseeable firefighting needs of the project, shall be submitted.

(h) *Date plan prepared, direction, declination and scale.* The date the plan was prepared, north point indicating true north, magnetic north and declination, and graphic map scale shall be shown on all maps and plans submitted.

(i) *Names and address.* The names and addresses of the record owner, applicant, the individual or company who prepared the plan, and the adjoining property owners.

(j) *Soil survey.* A high intensity soil survey by a certified soil scientist, unless a different intensity is specified by the Board. Wetland areas shall be identified on the soil survey, regardless of size.

(k) *Acres.* The total number of acres of the parcel, the number of acres within the proposed project, the number of acres devoted to development, roads, non-revegetated areas and structures. The location of property lines, existing buildings and structures, vegetative cover type, and other essential existing physical features shall be shown. The location of any trees larger than 24 inches in diameter at breast height (DBH) shall be shown on the plan. On heavily wooded sites, the plan shall indicate the area where clearing for landscaping, buildings, structures and other site additions is planned to occur. Exception: on heavily wooded sites having more than 12 stems per acre with 24-inch DBH, only depiction of all trees located in areas to be cleared which meet the minimum diameter shall be indicated.

(l) *Waterways adjacent to proposed development.* The location of all rivers, brooks and streams within or adjacent to the proposed development. If any portion of the project is located within the direct watershed of a great pond, the application shall indicate which great pond.

(m) *Contour lines.* Contour lines at an interval of two feet, unless a different interval is specified by the Board, showing elevations in relation to mean sea level. A permanent elevation reference point shall be established on the project site in an area where development activities will not result in disturbance. The location and elevation of the permanent elevation reference point, expressed in reference to NGVD '29, shall be indicated on the plan.

(n) *Zoning districts.* The zoning district(s) in which the proposed development is located and the location of any district boundaries affecting the project shall be indicated on the plan.

(o) *Location of sewers, drainage ways and the like.* The location and size of existing and proposed sanitary sewers, storm drains and drainage ways, water mains, culverts, and utilities on or adjacent to the property to be developed.

(p) *Streets, location and width.* The location, names, and present widths of existing streets and highways, and existing and proposed easements, building lines, parks and other open spaces on or adjacent to the development. The plan shall contain sufficient data to allow the location, bearing and length of every street line, lot line and boundary line to be readily determined and be reproduced upon the ground.

(q) *Public improvements, location and width.* The width and location of any streets, public improvements or open spaces shown upon the official map and the comprehensive plan, if any, within the development.

(r) *Open space, location.* The location of any open space to be preserved and a description of proposed improvements and its management.

(s) *Public use, parcels to be dedicated.* All parcels of land proposed to be dedicated to public use and the conditions of such dedication. Written offers to convey title to the municipality of all public open spaces shown on the plan, and copies of all agreements or other documents showing the manner in which open spaces to be retained by the applicant or lot owners shall be submitted. If open space or other land is to be offered to the municipality, written evidence that the municipal attorney and Town Council are satisfied with the legal sufficiency of the written offer to convey title shall be included.

(t) *Flood-prone areas, evaluation.* If any portion of the development is in a flood-prone area, the boundaries of any flood hazard areas and the 100-year flood elevation, as depicted on the municipality's flood insurance rate map, shall be delineated on the plan. The applicant shall *be* responsible for calculating the elevation of all "un-numbered A zones" located within the development.

(u) *Hydrogeologic assessment.* To achieve the purposes set forth in § 154.210((M)), a hydrogeologic assessment prepared by a certified geologist or registered professional engineer, experienced in hydrogeology, when the development is not served by public sewer, and any part of the development is located over the sand and gravel aquifer along the Souadabscook Stream, as shown on the most current maps by the Maine Geological Survey, as applicable.

(v) *Vehicular traffic, amount and type to be generated.* An estimate of the amount and type of vehicular traffic to be generated on a daily basis and at peak hours. Trip generation rates used shall be taken from the most recent edition of *Trip Generation Manual* published by the Institute of Transportation Engineers. Trip generation rates from other sources may be used if the applicant demonstrates that these sources better reflect local conditions.

(w) *Traffic impact analysis.* For projects which are projected to generate more than 400 vehicle trips per day, a traffic impact analysis, prepared by a registered professional engineer with experience in traffic engineering, shall be submitted. The analysis shall indicate the expected average daily vehicular trips, peak-hour volumes, access conditions at the site, distribution of traffic, types of vehicles expected, effect upon the level of service of the street giving access to the site and neighboring streets which may be affected, and recommended improvements to maintain the desired level of service on the affected streets.

(x) *Storm water management plan.* A storm water management plan, prepared by a registered professional engineer. The Board may not waive submission of the stormwater management plan unless the development is not in the watershed of a great pond.

(y) *Erosion and sedimentation control plan.* An erosion and sedimentation control plan prepared in accordance with the most current *Maine Erosion and Sedimentation Control Handbook for Construction: Best Management Practices*, published by the Cumberland County Soil and Water Conservation District and the Maine Department of Environmental Protection. The Board may not waive submissions of the erosion and sedimentation control plan unless the development is not within the watershed of a great pond.

(z) *High or moderate value wildlife habitat.*

1. Areas within or adjacent to the proposed development which have been identified as high or moderate value wildlife habitat by the Maine Department of Inland Fisheries and Wildlife or within the comprehensive plan. If any portion of the project is located within an area designated as a critical natural area by the comprehensive plan or the Maine Natural Areas Program; and

2. Applicant shall provide a wetland delineation map and report, both stamped by a Maine certified soil scientist, which describes the site, states the date(s) of the delineation field work, describes the methodology used to identify the wetlands and how their boundaries were located (*ie*; GPS, standard survey, etc.) and characterizes the wetland types found (*ie*; forested, scrub shrub, emergent marsh, etc.). Any wetlands of special significance or significant wildlife habitat, as defined by the current Maine Natural Resources Protection Act (NRPA), including "Significant Vernal Pools" (NRPA - Chapter 335) must also be clearly shown on the map.

(aa) *Phosphorous control plan.*

1. If the proposed development is in the direct watershed of a great pond, a phosphorous control plan is required.

2. For projects which qualify for the simplified review procedure as described in § 154.211(L), phosphorus export, the following shall be submitted.

a. A phosphorous impact analysis and control plan conducted using the procedures set forth in *Phosphorous Control in Lake Watersheds: A Technical Guide for Evaluating New Development*, published by the Maine Department of Environmental Protection, September, 1992 revision or most current publication.

b. A long-term maintenance plan for all phosphorous control measures.

c. The contour lines shown on the plan shall be at an interval of no less than the interval set by the Town Planning Board after the on-site visit.

d. Areas with sustained slopes greater than 25% covering more than one acre shall be delineated.

(bb) *Land clearing and construction, disposal.* The location and method of disposal for land clearing and construction debris.
(Ord. passed 1-3-2013)

§ 154.183 FINAL APPROVAL AND FILING.

(A) *Plan signing; disposition.* Upon findings of fact and determination that all standards in this chapter have been met, and upon voting to approve the development, the members of the Planning Board (Board) voting affirmatively shall sign the plan. The Board shall specify in writing its findings of facts and reasons for any conditions or denial. This specification may take the form of the minutes of the meeting.

(B) *Staged development.* At the time the Board grants final site plan approval, it may permit the plan to be divided into two or more sections subject to any conditions the Board deems necessary in order to ensure the orderly development of the plan.

(C) *Significant changes require approval.* No changes, erasures, modifications, or revisions shall be made in any site plan after approval has been given by the Board and endorsed in writing on the plan, unless the revised plan is first submitted and the Board approves any modifications, except in accordance with § 154.184. The Board shall make findings that the revised plan meets the criteria of this chapter.

(D) *Plan approval not street acceptance.* The approval by the Board of a site plan shall not be deemed to constitute or be evidence of any acceptance by the municipality of any street, easement, or other open space shown on such plan. When a park, playground, or other recreation area has been shown on the plan to be dedicated to the municipality, approval of the plan shall not constitute an acceptance by the municipality of such areas. The Board shall require the plan to contain appropriate notes to this effect. The Board may also require the filing of a written agreement between the applicant and the municipal officers covering future deed and title dedication, and provision for the cost of grading, development, equipment, and maintenance of any such dedicated area.

(E) *Project completion deadlines.* Except in the case of a phased development plan, failure to complete substantial construction of the development within three years of the date of approval and signing of the plan shall render the plan null and void. In the case of phased development, the Board shall establish an applicable completion date. Extensions may be obtained from the Planning Board. The request for an extension of the completion deadline must be made in writing to the CEO 60 days before the expiration. The Planning Board will respond within 30 days of the receipt of the extension request. (Ord. passed 1-3-2013)

154.184 REVISIONS TO APPROVED PLANS.*(A) Submissions.*

(1) The applicant shall submit a copy of the approved plan as well as a Mylar and eight paper copies of the proposed revisions (note: one Mylar shall be submitted if this is an amendment to a previously recorded plan).

(2) The application shall also include enough supporting information to allow the Board to make a determination that the proposed revisions meet the standards of this chapter.

(3) The revised plan shall indicate that it is the revision of a previously approved plan by including the name, year and town filing number of the prior plan.

(B) Scope of review. The Planning Board's scope of review shall be limited to those portions of the plan which are proposed to be changed.
(Ord. passed 1-3-2013)

§ 154.185 INSPECTIONS AND ENFORCEMENT.*(A) Inspection of required improvements.*

(1) At least five days prior to commencing construction of required improvements, the developer or builder shall:

(a) Notify the CEO in writing of the time when he or she proposes to commence construction of such improvements, so that the municipal officers can arrange for inspections to assure that all municipal specifications, requirements, and conditions of approval are met during the construction of required improvements, and to assure the satisfactory completion of improvements and utilities required by the Board.

(b) Deposit with the municipal officers a check for the amount of 2% of the estimated costs of the required improvements to pay for the costs of inspection. If upon satisfactory completion of construction and cleanup there are funds remaining, the surplus shall be refunded to the developer or builder as appropriate. If the inspection account shall be drawn down by 90%, the developer or builder shall deposit an additional 1% of the estimated costs of the required improvements. **IMPROVEMENTS** shall mean drainage improvements, erosion and sedimentation control, improvements proposed to be taken over by the town, and private roads serving residences.

(2) If the inspecting official finds upon inspection of the improvements that any of the required improvements have not been constructed in accordance with the plans and specifications filed by the developer, he shall so report in writing to the municipal officers, Board, and the developer and builder. The municipal officers shall take any steps necessary to assure compliance with the approved plans.

(3) If at any time it appears necessary or desirable to modify the required improvements before or during the construction of the required improvements, the inspecting official is authorized to approve minor modifications due to unforeseen circumstances such as encountering hidden outcrops of bedrock, natural springs, etc. The inspecting official shall issue any approval under this section in writing and shall transmit a copy of the approval to the Board. Revised plans shall be filed with the Board. For major modifications, such as relocation of rights-of-way, property boundaries, major changes of grade, etc., the developer shall obtain permission from the Board to modify the plans.

(4) At the close of each summer construction season the town shall, at the expense of the developer or builder, have the site inspected by a qualified individual. By October 15 of each year during which construction was done on the site, the inspector shall submit a report to the Board based on that inspection, addressing whether storm water and erosion control measures (both temporary and permanent) are in place, are properly installed, and appear adequate. The report shall also include a discussion and recommendations on any problems which were encountered.

(5) Upon completion of street construction and prior to a vote by the municipal officers to accept a proposed public way, a written certification signed by a professional engineer shall be submitted to the municipal officers at the expense of the applicant, certifying that the proposed public way meets or exceeds the design and construction requirements of § 154.211. If there are any underground utilities, the servicing utility shall certify in writing that they have been installed in a manner acceptable to the utility. "As built" plans shall be submitted to the municipal officers.

(6) The developer shall be required to maintain all improvements and provide for snow removal and/or sanding on streets and sidewalks until acceptance of the improvements by the municipality.

(B) Violations and enforcement.

(1) No site plan within the municipality shall be recorded in the Registry of Deeds until a plan has been approved by the Board in accordance with this subchapter.

(2) Development of a project without Board approval shall be a violation of law. Development includes grading or construction of roads, grading of land, or construction of buildings which require a plan approved as provided in this subchapter.

(3) Violations may be resolved through negotiation of the terms of a "consent order" signed by a judge of the Maine Superior Court. Such "consent orders" shall provide for penalties as specified above and shall provide for recovery of all costs of enforcement of this chapter, including reasonable attorney's fees, expert witness fees and costs.

(4) If prosecution of a violation in court becomes necessary, the Town may seek complete abatement of the violation, penalties in the maximum amount allowed by statute including loss of up to two times the economic benefit resulting from the violation, if any, and recovery of all costs incurred in bringing action to correct the violation.

(5) No unit in a multifamily dwelling or multifamily development shall be occupied before the street upon which the unit is accessed is completed in accordance with § 154.211.

(6) Penalties for violations shall be not less than \$100 nor more than \$2,500 for each violation, except as provided for in 30-A M.R.S.A. § 4452, subsection F. Penalties may be assessed on a per day basis commencing from the first day of violation and may continue until the violation is abated. (Ord. passed 1-3-2013)

§ 154.186 PERFORMANCE STANDARDS.

All site plans shall meet the performance standards contained in §§ 154.065 through 154.096 and § 154.210 of this chapter. References to subdivision projects contained in § 154.210 shall be deemed to apply to site plans.

(Ord. passed 1-3-2013)

§ 154.187 DESIGN GUIDELINES.

All site plans shall meet the design guidelines contained in §§ 154.205 through 154.214, subdivisions, § 154.211, design guidelines, of this chapter, as applicable. References to subdivision projects contained in § 154.211 shall be deemed to apply to site plans, as applicable. In addition, the following standards shall apply to site plans.

(A) *Parking lot requirements.*

(1) *Terraced.* Parking lots on sloped sites shall be terraced to avoid undue cuts and fills, and the need for retaining walls.

(2) *Vegetation preserved.* Natural vegetation will be preserved and protected wherever possible.

(3) *Landscaping.* The development plan shall provide for landscaping to define street edges, break up parking areas, soften the appearance of the proposed development and protect abutting properties from adverse impact of the development.

(4) *Ratio of trees to paved parking areas.* The minimum ratio of paved parking areas, including necessary access ways and travel aisles, to deciduous shade trees shall be one tree to 20 parking spaces.

(5) *Snow storage areas.* Parking lots shall be provided with snow storage area(s) adequate to accommodate the potential accumulation of a 25-year frequency snow storm, with an existing ground cover of 12 inches of snow already stored on-site. Snow storage area(s) shall be located and arranged so no reduction in visibility or sight distance results for traffic entering or leaving the site.

(6) *Design.* Parking lots for other than single and two-family dwellings shall be designed so that vehicles do not back out into a street.

(7) *Separated from front of buildings.* Parking areas shall be separated from the front of all buildings by a landscaped area at least five feet wide.

(8) *Wheel stops and curbs.* Wheel stops/curbs shall be placed where needed to prevent encroachment into walkways, landscaped areas, circulation aisles, streets and structures.

(9) *Drainage control.* All parking areas shall be designed to adequately control drainage. In furtherance of this standard, drainage calculations used shall reflect a paved condition and all parking areas shall be constructed with base material which can withstand normally expected vehicle loading and winter maintenance.

(10) *Handicapped spaces.* In lots with ten or more parking spaces, handicapped parking spaces shall be designed and installed in accordance with the requirements of the Americans with Disabilities Act and any state or federal guidelines issued pursuant to the Act. These spaces shall be located in close proximity to the entrances of the building.

(11) *Spaces to be clearly delineated.* Where possible, parking spaces and travel aisles shall be clearly delineated.

(B) Private roads.

(1) Where the development streets are to remain private roads, the following words shall appear on the plan and on any deeds conveying property therein:

"All roads in this development shall remain private roads to be maintained by the developer or the lot owners and shall not be considered for acceptance or maintained by the Town, until they meet the municipal street design and construction standards, and this provision shall be included on any deeds conveying property therein."

(2) All proposed private roads shall, as a minimum, meet the standards for minor roads as listed in Table 3 of § 154.211(D)(2)(e). (Ord. passed 1-3-2013)

154.188 PERFORMANCE GUARANTEES.

Applicants for a site plan shall provide a performance guarantee for an amount adequate to cover the total construction costs of all required improvements. *IMPROVEMENTS* shall mean drainage improvements, erosion and sedimentation control, improvements proposed to be taken over by the town, and private roads serving residences.
(Ord. passed 1-3-2013)

§ 154.189 WAIVERS AUTHORIZED.

Where the Board makes written findings of fact that there are special circumstances of a particular parcel proposed to be developed, it may waive portions of the procedural or submission requirements, unless otherwise indicated in this subchapter, provided the applicant has demonstrated that the performance standards and design guidelines of this chapter have been or will be met.
(Ord. passed 1-3-2013)

§ 154.190 APPEALS.

An aggrieved party may appeal any decision of the Board under this subchapter to the Town Board of Appeals in accordance with the provisions of §§ 154.275 through 154.285 of this chapter.
(Ord. passed 1-3-2013)

SUBDIVISION REVIEW**§ 154.205 ADMINISTRATION AND APPLICABILITY.**

(A) The Town Planning Board, hereinafter called the Board, shall serve as the "municipal reviewing authority" cited in 30-A M.R.S.A. §§ 4401 *et. seq.* The Town Code Enforcement Officer and the Town Manager shall assist the Board in administering these standards as specified herein.

(B) The provisions of this subchapter shall pertain to all land and buildings proposed for subdivision within the boundaries of the town.

(C) Approval by the Planning Board in conformity with the criteria and standards of this section shall be required for all subdivisions.

(D) A lot of 40 acres or more shall not be counted a lot, except when the lot or parcel from which it was divided is located entirely or partially within shoreland area as defined in 38 M.R.S.A. § 435, or as identified in the town's shoreland zoning regulations.

(Ord. passed 1-3-2013)

§ 154.206 OPTIONAL PREAPPLICATION MEETING, SKETCH PLAN AND SITE INSPECTION.

Applicants may schedule a meeting with the Planning Board, prior to submission of an application for review. The preapplication meeting allows the applicant to present general information regarding the proposal to the Board and gain an understanding of the review procedures, requirements and

standards. The Planning Board may use the preapplication meeting to discuss, and if applicable, waive specific application submission requirements when an applicant can show that such requirements are not relevant to the proposed project. Applicants must demonstrate standing to make the application.

(A) Plan information.

(1) (a) Lots, streets, and other development. The preapplication sketch plan should show the proposed layout of streets, lots, buildings, parking areas and other features in relation to existing conditions. The sketch plan, which does not have to be engineered and may be a free-hand penciled sketch, should be supplemented with general information to describe or outline the existing conditions of the site and the proposed subdivision. It is recommended that the sketch plan be superimposed on or accompanied by a copy of the assessor's map(s) on which the land is located. Developer's choosing to utilize the pre-application process should submit nine sets of documents.

(b) Map and lot numbering. See Assessor for map and lot numbering. Addressing Officer will do the street addressing.

(2) Site conditions. The developer and the Board will find it most helpful for site conditions such as steep slopes, wet areas and vegetative cover to be identified in a general manner. The sketch plan should also show:

(a) The location of that portion which is to be developed in relation to the entire tract, and the distance to the nearest existing street intersection.

(b) Significant physical features (e.g. streams, woods, etc.) within the portion to be developed or within 200 feet thereof.

(c) Name of the owner and of all adjoining property owners.

(d) Utilities available, and all streets which are either proposed, mapped or built.

(e) All existing restrictions on the use of the land, including easements, covenants or zoning restrictions, to the best knowledge of the developer.

(f) If two or more lots or commercial uses will be served by a new road, a suggested name for the new road shall be provided.

(g) A copy of the county soil survey covering the parcel proposed for subdivision showing the outline of the parcel or area to be developed.

(h) Such other information that the developer feels would aid this preliminary discussion.

(B) *Contour interval and on-site inspection.*

(1) Within 30 days of the preapplication meeting, the Board may hold an on-site inspection of the property (see division (B)(4) below for exception) and inform the applicant of the contour interval to be used on the plan. Unless otherwise specified by the board, the contour interval shall be two feet. The Board may allow up to a ten-foot contour level when it determines that a more detailed contour interval would serve no practical purpose, and may require a one-foot contour interval in flat areas if necessary to determine drainage patterns.

(2) Prior to the on-site inspection, subdivision applicants should place "flagging" to indicate the approximate location of each lot.

(3) Prior to the on-site inspection, the applicant should place "flagging" to indicate the centerline of any proposed streets and at the intersections of the street centerlines, entrance centerlines and corners of the parcel proposed for subdivision.

(4) The Board shall not conduct on-site inspections during inclement weather or when there is more than one foot of snow on the ground.

**(C) *Rights not vested.* Neither the pre-application meeting, the submittal or review of the sketch plan nor the on-site inspection shall be considered the initiation of the review process for the purposes of bringing the plan under the protection of 1 M.R.S.A. § 302.
(Ord. passed 1-3-2013)**

§ 154.207 FINAL SUBDIVISION PLANS.

All applications for approval of a subdivision shall be made in writing to the Code Enforcement Officer on the forms provided for this purpose.

(A) *Procedure.*

(1) *Timeframes for application.* The applicant for approval of a subdivision shall submit an application for approval of a final plan at least 14 days prior to a regularly scheduled meeting of the Board to the Code Enforcement Officer. Applications shall be submitted by mail or delivered by hand to the Code Enforcement Office in the Town Municipal Building, and shall include payment of the application fees in order for the submission to be considered "complete". The final plan shall approximate the layout shown on the sketch plan incorporating any recommendations made by the Board at an on-site or pre-application meeting, if applicable.

(2) *Application fee.* All applications for final plan approval for a subdivision shall be accompanied by a non-refundable application fee of \$250 plus \$100 per lot, dwelling unit, or commercial division unit.

(3) *Consultants draw account.* In addition to the application fee, all applicants for final plan approval of a subdivision may be required by the Board to establish a "consultants draw account" with the town. The Board shall only require such an account when it finds, in writing, that specific submission elements are necessary due to the unique nature of the area proposed for subdivision. If required, the applicant shall pay a fee of \$100 per lot to be deposited into a special account designated for that subdivision, to be used by the Planning Board for hiring independent consulting services to assist in the review of the application. The balance in the account shall be maintained at \$100 per lot throughout the review process. Any balance in the account remaining after a decision on the final plan application by the Board shall be returned to the applicant.

(B) *Attendance required.* The applicant, or a duly authorized representative, shall attend the meetings of the Board to present the final plan. Failure to attend a public hearing shall result in cancellation of the hearing. The applicant will be required to pay all costs associated with a cancelled hearing.

(C) *Review process.* Upon receipt of an application for final plan approval of a subdivision, the Code Enforcement Officer (CEO) shall:

(1) Issue a dated receipt to the applicant.

(2) Notify in writing all owners of abutting property that an application for subdivision approval has been submitted, specifying the location of the proposed subdivision and including a general description of the project. The notices shall be postmarked at least nine days prior to the public hearing.

(3) Notify the Clerk and the review authority of the neighboring municipalities if any portion of the subdivision includes or crosses the municipal boundary.

(4) Within seven days of the receipt of the final plan application, the Code Enforcement Officer shall determine whether the application is quantitatively complete. If the application is not complete, the Code Enforcement Officer shall notify the applicant of the specific additional information needed to complete the application.

(5) At the same time as a determination that a quantitatively complete application has been received, the Code Enforcement Officer shall notify the applicant and all abutting property owners of the date, time and location of the public hearing on the application. The hearing shall be held within 30 days of the determination of application completeness, and a notice shall be published in the Bangor Daily News at least seven days prior to the hearing.

(6) Within 30 days from the public hearing or within another time limit as may be otherwise mutually agreed to by the Board and the applicant, the Board shall make written findings of fact and conclusions relative to the review criteria contained in Title 30-A M.R.S.A., other subchapters contained in this chapter and within this subchapter, as applicable. If the Board finds that all criteria of the statute, this chapter and other applicable standards have been met, they shall approve the final plan. If the Board finds that any criteria of the statute, this chapter, or the standards of this subchapter have not been met,

the Board shall either deny the application or approve the application with conditions to ensure that all of the criteria and standards will be met by the subdivision. The Board may reconsider its decision for a period of 30 days from the date of the decision if it finds or is presented with new information which directly relates to compliance with one or more requirements of this subchapter.

(D) Submissions.

(1) Submission quantities. In addition to the final recording plan discussed below, the applicant shall provide three full sets of plans including storm water calculations and six summaries for review.

(2) Application. The application may consist of the following items:

(a) Application form. Mandatory

(b) Location map. Location map, showing existing subdivisions in the proximity of the proposed subdivision, locations and names of existing and proposed streets, boundaries and designations of zoning districts, and an outline of the proposed project and any remaining portion of the owner's property if the final plan submitted covers only a portion of the owner's entire contiguous holding.

(c) Final recording plan. The plan for a subdivision shall be submitted on two reproducible, stable-based, archival quality transparencies (so-called "Mylars"). Two sets of Mylars shall be submitted, one to be recorded at the Penobscot Registry of Deeds or returned to the applicant, and one to be filed at the Code Enforcement Office of the municipality. One reduced copy of the final plan as approved for recording purposes for the addressing officer. The recording plan shall be reproducible transparencies, indelibly signed and embossed with the seal of the licensed design professional responsible for the plan's preparation. Plans shall be drawn at a scale no larger than 50 feet to the inch unless otherwise specified by the Planning Board. The Planning Board may allow a scale no larger than 100 feet to the inch where the *site* is not serviced by public water and sewer.

1. Plans shall be no larger than 24 by 36 inches in size (i.e. the maximum plan size which may be submitted is a "D" size sheet).

2. An approval block shall be provided for the use of the Planning Board. The block shall include five lines spaced for signing by Board members, a line to indicate the date of approval and the following statement shall appear above the signature lines:

"This is to certify that, after reviewing the subdivision shown by this Plan and considering each of the criteria set forth in Title 30-A MRSA Section 4404 and in the "Land Use Ordinances of the Town of Hermon, Maine", the undersigned having made findings of fact establishing that the proposed subdivision and amendments thereto, if any, meet all of the criteria set forth therein, this subdivision is approved, subject to any conditions noted on the map."

3. All final plans to be recorded shall include a recording block which provides space for the following information: the county, date, time, plan book and page or map file number, with a signature line for the register's attest.

4. All final plans to be recorded shall include a title block which contains the following information: the plan name, the record owner's name and address, the location by street and town and date of the plan.

(3) *Application requirements.* The application for approval of a subdivision may include the following information. The Board may require additional information to be submitted, where it finds it necessary in order to determine whether the criteria of 30-A M.R.S.A. § 4404 and this subchapter are met. It is the responsibility of the applicant to provide sufficient information proving that the review criteria and standards of this chapter are met.

(a) *Proposed name.* Proposed name of the project or identifying title, and the name of the municipality in which it is located, the assessor's map and lot numbers, plus the docket or file number assigned to the application by the Planning Board.

(b) *Legal, title, ownership, etc.* Verification of legal right, title, or interest in the property of the applicant.

(c) *Boundary survey.* A standard boundary survey of the entire parcel, giving complete descriptive data by bearings and distances, made and certified by a professional land surveyor. The corners of the parcel shall be located on the ground and marked by monuments. The plan shall indicate the type of monument found or to be set at each lot corner.

(d) *Sewage system.* An indication of the type of sewage disposal system proposed to serve the project.

1. When sewage disposal is to be accomplished by connection to the public sewer, an estimate of the average daily volume of wastewater to be generated by the development shall be provided.

2. When sewage disposal is to be accomplished by subsurface wastewater disposal systems, test pit analyses, and a statement that all lots are suitable for on-site wastewater disposal, prepared by a licensed site evaluator shall be provided. A map showing the location of all test pits dug on the site shall be submitted. Such analyses shall indicate all pits and subsurface excavations dug, even those which fail to meet the minimum qualifications for onsite wastewater.

(e) Water supply system. An indication of the type of water supply system(s) proposed to serve the project. The projected average annual and average daily consumption shall be indicated. The projected peak daily consumption shall be indicated. Volume flows necessary to supply onsite fire suppression systems shall be shown.

1. When water is to be supplied by public water supply, and the district's supply line is to be extended, a written statement from the district approving the design of the extension shall be submitted.

2. When water is to be supplied by private wells, written evidence of adequate ground water supply and quality from a well driller or hydrogeologist familiar with the immediate area of the project may be required.

3. When public water is not available within 2,000 feet of the subdivision to serve the project for fire fighting purposes, a written statement from the Town Fire Chief, stating the surface water sources in the vicinity of the project are sufficient to provide for the foreseeable firefighting needs of the project, shall be submitted. Fire ponds or cisterns may be required if the distance to water for this purpose exceeds 2,000 feet.

(f) Date plan prepared, direction, declination. The date the plan was prepared, north point indicating true north, magnetic north and declination, and graphic map scale shall be shown on all maps and plans submitted.

(g) Names and addresses. The names and addresses of the record owner, applicant, the individual or company who prepared the plan, and the adjoining property owners.

(h) Soil survey. A high intensity soil survey by a certified soil scientist may be required. Wetland areas shall be identified on all subdivisions, regardless of size.

(i) Acres. The total number of acres of the parcel, the number of acres within the proposed project, the number of acres devoted to subdivision, roads, non-revegetated areas and structures. The location of property lines, existing buildings and structures, vegetative cover type, and other essential existing physical features shall be shown. The location of any trees larger than 24 inches in diameter at breast height (DBH) shall be shown on the plan. Planning Board may require road or lot realignment to protect all natural resources. On heavily wooded sites, the plan shall indicate the area where clearing for landscaping, buildings, structures and other site additions is planned to occur. Exception: On heavily wooded sites having more than 12 stems per acre with 24-inch DBH, only depiction of all trees located in areas to be cleared which meet the minimum diameter shall be indicated.

(j) Waterways adjacent to proposed development. The location of all rivers, brooks and streams within or adjacent to the proposed subdivision. If any portion of the project is located within the direct watershed of a great pond, the application shall indicate which great pond.

(k) *Contour lines.* Contour lines at an interval of two feet, unless a different interval is specified by the Board, showing elevations in relation to mean sea level. A permanent elevation reference point shall be established on the project site in an area where subdivision activities will not result in disturbance. The location and elevation of the permanent elevation reference point, expressed in reference to NAD-83, shall be indicated on the plan.

(l) *Zoning district.* The zoning district(s) in which the proposed subdivision is located and the location of any district boundaries affecting the project shall be indicated on the plan.

(m) *Location of sewers, drainage ways and the like* The location and size of existing and proposed sanitary sewers, storm drains and drainage ways, water mains, culverts, and utilities on or adjacent to the property to be developed.

(n) *Streets, location and width.* The location, names, and present widths of existing streets and highways, and existing and proposed easements, building lines, parks and other open spaces on or adjacent to the subdivision. The plan shall contain sufficient data to allow the location, bearing and length of every street line, lot line and boundary line to be readily determined and be reproduced upon the ground.

(o) *Public improvements, location and width.* The width and location of any streets, public improvements or open spaces shown upon the official map and the comprehensive plan, if any, within the subdivision.

(p) *Flood-prone area.* If any portion of the subdivision is in a flood-prone area, the boundaries of any flood hazard areas and the 100-year flood elevation, as depicted on the municipality's flood insurance rate map, shall be delineated on the plan. The applicant shall be responsible for calculating the elevation of all "un-numbered A zones" located within the subdivision.

(q) *Hydrogeologic assessment.* A hydrogeologic assessment prepared by a Certified Geologist or Registered Professional Engineer, experienced in hydrogeology, when the subdivision is not served by public sewer and: any part of the subdivision is located over a sand and gravel aquifer, along the Souadabscook, as shown on a map entitled "Hydrogeologic Data for Significant Sand and Gravel Aquifers," by the Maine Geological Survey, 1981, Maps No. 28 or 29, as applicable; and the subdivision has an average density of more than one dwelling unit or commercial unit per 100,000 square feet. A hydrogeologic assessment shall also be required in cases where a community septic system is used.

(r) *Vehicular traffic, amount and type to be generated* A traffic study shall be prepared when the ultimate development of the subdivision will result in 40 lots or more, or 400 vehicles per day or more.

(s) *Storm water management plan.* A storm water management plan prepared by a registered professional engineer. The Board may not waive submission of the stormwater management plan unless the subdivision project is not in the watershed of a great pond.

(t) *Erosion and sedimentation control plan.* An erosion and sedimentation control plan is required.

(u) *High or moderate value wildlife habitat.* Areas within or adjacent to the proposed subdivision which have been identified as high or moderate value wildlife habitat by the Maine Department of Inland Fisheries and Wildlife or within the comprehensive plan. If any portion of the project is located within an area designated as a critical natural area by the comprehensive plan or the Maine natural areas program the plan shall indicate appropriate measures for the preservation of the values which qualify the site for such designation. If any areas within the subdivision are found to have high or moderate wildlife habitat or critical natural areas a letter from the Maine Department of Inland Fisheries and Wildlife outlining their comments and concerns shall also accompany the plan.

(v) *Watershed, great pond or phosphorous control plan.*

1. If the proposed subdivision project is in the direct watershed of a great pond a phosphorous control plan.

2. For projects which qualify for the simplified review procedure the following shall be submitted.

a. A phosphorous impact analysis and control plan conducted using the procedures set forth in *Phosphorous Control in Lake Watersheds: A Technical Guide for Evaluating New Development*, published by the Maine Department of Environmental Protection, September, 1992 revision or most current regulations.

b. A long-term maintenance plan for all phosphorous control measures.

c. The contour lines shown on the plan shall be at an interval of no less than the interval set by the Town Planning Board after the on-site visit.

d. Areas with sustained slopes greater than 25 % covering more than one acre shall be delineated.

(w) *Disposal, land clearing and debris.* The location and method of disposal for land clearing and construction debris.

(x) *Proposed lot lines and lot areas.* Proposed lot lines and lot areas.

(y) *Proposed streets.* The plan and profile of proposed streets.

(z) *Wells.* Wells within 100 feet.

(aa) *Septic systems.* Septic systems within 100 feet.

(4) *Written agency approvals required.* Prior to the signing of the final plan the following approvals shall be obtained in writing, where applicable:

(a) Maine Department of Environmental Protection, under the Site Location of Development Act, Natural Resources Protection Act, or if a waste water discharge license is needed.

(b) Maine Department of Human Services, if the applicant proposes to provide a public water system.

(c) Maine Department of Human Services, if an engineered subsurface waste water disposal system(s) is to be utilized.

(d) U.S. Army Corps of Engineers, if a permit under § 404 of the Clean Water Act is required.

(e) Any other conditions required by the Planning Board at time of final review

(5) *Performance guarantee required.* Before the Board grants approval of the final plan, the applicant shall meet the performance guarantee requirements contained in § 154.212.

(6) *Board actions; time limit.* Within 30 days from the public hearing or within another time limit as may be otherwise mutually agreed to by the Board and the applicant, the Board shall make findings of fact, and conclusions relative to the criteria for approval contained in 30-A M.R.S.A. § 4404, this chapter and the standards of this subchapter. If the Board finds that all the criteria of the statute, this chapter and the standards of this subchapter have been met, they shall approve the final plan. If the Board finds that any of the criteria of the statute or the standards of this chapter have not been met, the Board shall either deny the application or approve the application with conditions to ensure all of the standards will be met by the subdivision.

(E) *Final approval and filing.*

(1) *Plan signing; disposition.* Upon findings of fact and determination that all standards in 30-A M.R.S.A. § 4404, other subchapters of this chapter and this subchapter have been met, and upon voting to approve the subdivision, the members of the Board voting affirmatively shall sign the final plan. The Board shall specify in writing its findings of facts and reasons for any conditions or denial. One copy of the signed plan shall be retained by the Board as part of its permanent records. One copy of the signed plan shall be forwarded to the tax assessor. One copy of the signed plan shall be forwarded to the Code Enforcement Officer. Any subdivision not recorded in the Registry of Deeds within ninety days of the date upon which the plan is approved and signed by the Board shall become null and void.

(2) *Staged development.* At the time the Board grants final approval, it may permit the plan to be divided into two or more sections subject to any conditions the Board deems necessary in order to ensure the orderly subdivision of the plan.

(3) Significant changes require approval; recording. No changes, erasures, modifications, or revisions shall be made in any final plan after approval has been given by the Board and endorsed in writing on the plan, unless the revised final plan is first submitted and the Board approves any modifications, except in accordance with § 154.214. The Board shall make findings that the revised plan meets the criteria of 30-A M.R.S. A. § 4404, other such chapters of this chapter and the standards of this subchapter. In the event that a plan is recorded without complying with this requirement, it shall be considered null and void, and the Board shall institute proceedings to have the plan stricken from the records of the Registry of Deeds.

(4) Plan approval not street acceptance. The approval by the Board of a subdivision plan shall not be deemed to constitute or be evidence of any acceptance by the municipality of any street, easement, or other open space shown on such plan, and

(5) Project completion deadlines. Except in the case of a phased subdivision plan, failure to complete substantial construction of the subdivision within three years of the date of approval and signing of the plan shall render the plan null and void. In the case of phased development the Board shall set a completion date. Upon determining that a subdivision's approval has expired under this paragraph, the Board shall have a notice placed in the Registry of Deeds to that effect.

(6) Digital copy. The developer shall provide the town with a digital copy of the final plan approved prior to the signed plan being released from the Code Enforcement Office. Note: the town would prefer DXF format but will accept Auto CAD or an equivalent.
(Ord. passed 1-3-2013)

§ 154.208 REVISIONS TO APPROVED PLANS.

Revisions to approved plans shall follow the same process and criteria as for new plans, with the scope of review confined to the portion of the subdivision being revised. The revised plan shall indicate that it is the revision of a previously approved and recorded plan and shall show the title of the subdivision and the book and page or cabinet and sheet on which the original plan is recorded at the Registry of Deeds.

(Ord. passed 1-3-2013)

154.209 INSPECTIONS AND ENFORCEMENT.

(A) *Inspection of required improvements.* At least five days prior to commencing construction of required improvements, the subdivider or builder shall:

(1) Notify the Town Engineer and Road Commissioner of the time when he or she proposes to commence construction of such improvements, so that the municipal officers can arrange for inspections to assure that all municipal specifications, requirements, and conditions of approval are met during the construction of required improvements, and to assure the satisfactory completion of improvements and utilities required by the Board.

(2) Deposit with the Town Manager a check for the amount of 3 % of the estimated costs of the required improvements to pay for the costs of inspection. If upon satisfactory completion of construction and cleanup there are funds remaining, the surplus shall be refunded to the subdivider or builder as appropriate. If the inspection account shall be drawn down by 90% , the subdivider or builder shall deposit an additional 1% of the estimated costs of the required improvements.

(B) *Inspecting official; minor modifications.* Before or during the construction of the required improvements, the inspecting official is authorized to approve minor modifications due to unforeseen circumstances such as encountering hidden outcrops of bedrock, natural springs, etc. The inspecting official shall issue any approval under this section in writing and shall transmit a copy of the approval to the Board. Revised plans shall be filed with the Board. For major modifications, such as relocation of rights-of-way, property boundaries, changes of grade by more than 1%, etc., the subdivider shall obtain permission from the Board to modify the plans.

(C) *Letter from professional land surveyor.* Prior to the sale of any lot, the subdivider shall provide the CEO with a letter from a professional land surveyor, stating that all monumentation shown on the plan has been installed.

(D) *Certification by professional engineer.* Upon completion of street construction and prior to a vote by the municipal officers to accept a proposed public way, a written certification signed by a professional engineer shall be submitted to the municipal officers, certifying that the proposed public way meets or exceeds the design and construction requirements of this subchapter. If there are any underground utilities, the servicing utility shall certify in writing that they have been installed in a manner acceptable to the utility. "As built" plans shall be submitted to the municipal officers.

(E) *Maintain all improvements, remove snow, etc.* The subdivider shall be required to maintain all improvements and provide for snow removal and/or sanding on streets and sidewalks until acceptance of the improvements by the municipality.

(F) *Violations and enforcement.*

(1) No plan of a division of land within the municipality which would constitute a subdivision shall be recorded in the Registry of Deeds until a final plan has been approved by the Board in accordance with this subchapter.

(2) A person shall not convey, offer or agree to convey any land in a subdivision which has not been approved by the Board and recorded in the Registry of Deeds.

(3) A person shall not sell, lease or otherwise convey any land in an approved subdivision which is not shown on the plan as a separate lot.

(4) No public utility, water district, sanitary district or any utility company of any kind shall serve any lot in a subdivision for which a final plan has not been approved by the Board.

(5) Development of a project without Board approval shall be a violation of law. Subdivision includes grading or construction of roads, grading of land or lots, or construction of buildings which require a plan approved as provided in this subchapter and recorded in the Registry of Deeds.

(6) No lot in a subdivision may be sold, leased, or otherwise conveyed before the street upon which the lot fronts is completed in accordance with this subchapter up to and including the entire frontage of the lot. No unit in a multi-family or multi-unit commercial subdivision shall be occupied before the street upon which the unit is accessed is completed in accordance with this subchapter and is accepted by the Town Council as a town way. The developer shall provide the town with a prepared description and deed at time of acceptance.

(7) Violations of the above provisions of this section are a nuisance and shall be punished in accordance with the provisions of 30-A M.R.S.A. § 4452.

(8) Penalties for violations shall be not less than \$100 nor more than \$2,500 for each violation, except as provided for in Title 30-A M.R.S.A. § 4452, subsection F. Penalties may be assessed on a per day basis commencing from the first day of violation and may continue until the violation is abated.

(9) Violations may be resolved through negotiation of the terms of a "consent order" signed by a judge of the Maine Superior Court.

(10) If prosecution of a violation in court becomes necessary, the town may seek complete abatement of the violation, penalties in the maximum amount allowed by statute and recovery of all costs incurred in bringing action to correct the violation.

(Ord. passed 1-3-2013)

§ 154.210 PERFORMANCE STANDARDS.

(A) *General.* The performance standards in this subchapter are intended to clarify and expand upon the criteria for approval found within the subdivision statute (30-A M.R.S.A • § 4404), §§ 154.040 to 154.047 and §§ 154.065 through 154.096 of above, and related ordinances and subchapter as they may apply to subdivision projects. In reviewing a proposed subdivision, the Board shall review the application for conformance with the following performance standards and make findings that each has been met prior to the approval of a final plan. Compliance with the design guidelines of §§ 154.205 through 154.214 shall be considered to be evidence of meeting the appropriate performance standards. Proposed subdivisions not in compliance with the design guidelines of §§ 154.205 through 154.214 may be considered, but the applicant shall provide clear and convincing evidence that the proposed design will meet the performance standard(s) and the statutory criteria. In all instances the burden of proof shall be upon the applicant to present adequate information to indicate all performance standards and statutory criteria for approval have been or will be met. Full compliance with development and performance standards of this chapter and other town ordinances will result in subdivision approval.

(B) *Pollution.* The proposed subdivision shall not discharge waste water to a water body without a license from the Maine Department of Environmental Protection, if applicable.

(C) *Sufficient water.*

(1) *Water supply.*

(a) Any subdivision within the area served by public water supply shall make provisions for connection to the public water system.

(b) When a subdivision is to be served by a public water system, the complete supply system within the subdivision including fire hydrants, shall be installed at the expense of the applicant. The size and location of mains, gate valves, hydrants, and service connections shall be reviewed and approved in writing by the Bangor Water District.

(c) When a proposed subdivision is not within the area designated for public water supply service in the comprehensive plan, water supply shall be from individual wells or a private community water system.

1. Individual wells shall be sited and constructed to prevent infiltration of surface water, and contamination from subsurface waste water disposal systems and other sources of potential contamination.

2. Lot design shall permit placement of wells, subsurface waste water disposal areas, and reserve sites for subsurface waste water disposal areas in compliance with the maine subsurface wastewater disposal rules and the well drillers and pump installers rules.

3. If a central water supply system is provided by the applicant, the location and protection of the source, the design, construction and operation of the system shall conform to the standards of the Maine rules relating to drinking water (10-144A C.M.R. 231).

4. In areas not served by a public water supply system, the applicant shall demonstrate the existence of adequate water storage facilities for fire fighting purposes. In areas which do not have existing water storage facilities within 2,000 feet, the applicant will make adequate provisions, as determined by the Planning Board upon consultation with the Fire Chief.

(2) *Water quality.* Water supplies shall meet the primary drinking water standards contained in the Maine rules relating to drinking water. If existing water quality contains contaminants in excess of the secondary drinking water standards in the Maine rules relating to drinking water, that fact shall be disclosed in a note on the plan to be recorded in the Registry of Deeds.

(D) Impact on existing water supplies.

(1) In meeting the standards of § 154.210(C)(1), a proposed subdivision shall not generate a demand on the source, treatment facilities or distribution system of the servicing water company or district beyond the capacity of those system components, considering improvements that are planned to be in place prior to occupancy of the subdivision.

(2) The applicant shall be responsible for paying the costs of system improvements to the district's or company's system as necessary to alleviate existing deficiencies.

(E) Soil erosion.

(1) The proposed subdivision shall prevent soil erosion from entering waterbodies, wetlands, and adjacent properties.

(2) The procedures outlined in the erosion and sedimentation control plan shall be implemented during the site preparation, construction, and clean-up stages.

(3) Topsoil shall be considered part of the subdivision and shall not be removed from the site except for surplus topsoil from roads, parking areas, and building excavations.

(4) The proposed subdivision meets the standards for storm water management in 38 M.R.S.A. § 420-D and the standards for erosion and sedimentation control in 38 M.R.S.A. § 480-C, if applicable.

(F) Traffic conditions.

(1) General standards. The proposed subdivision shall meet the following general transportation performance standards:

(a) The subdivision transportation system shall provide safeguards against hazards to vehicles, bicyclists and pedestrians in interior subdivision streets and access connections to external streets;

(b) The subdivision transportation system shall have design standards that avoid traffic congestion on any street;

(c) The subdivision transportation system shall provide safe and convenient circulation for vehicles, bicyclists and pedestrians on interior subdivision streets and access connections to external streets;

(d) The subdivision transportation system shall have design standards that are compatible with the estimated average annual daily traffic of the street, the land uses accommodated by the street, and the lot density of the street; and

(e) The subdivision transportation system shall have a positive relationship to the natural setting of the proposed subdivision site.

(2) General access standards. All subdivision accesses connecting with external streets shall meet the following standards:

(a) Accesses connecting to any state or state-aid highway shall meet the minimum access permitting requirements of the Maine Department of Transportation *Highway Driveway and Entrance Rules*.

(b) Accesses that are expected to carry more than 100-passenger vehicle equivalent trips in the peak hour shall meet the minimum access permitting requirements of the Maine Department of Transportation *Rules and Regulations Pertaining to Traffic Movement Permits*.

(c) The street giving access to the subdivision and neighboring streets and intersections which can be expected to carry traffic generated by the subdivision shall have the capacity or be suitably improved to accommodate that traffic and avoid unreasonable congestion. No subdivision shall reduce the level of service (LOS) of the street giving access to the subdivision and neighboring streets and intersections to "E" or below, unless the comprehensive plan has indicated that levels of service "E" or "F" are acceptable for that street or intersection.

(d) Where necessary to safeguard against hazards to traffic and pedestrians and/or to avoid traffic congestion, provision shall be made for turning lanes, traffic directional islands, frontage roads, sidewalks, bicycle ways and traffic controls within existing public streets.

(e) Accesses to non-residential subdivisions or to multifamily subdivisions shall be designed to avoid queuing of entering vehicles on any street. Left lane storage capacity shall be provided to meet anticipated demand. A study or analysis to determine the need for a left-turn storage lane shall be done, when peak hour traffic is forecast to be 40 or more vehicles.

(1) Where topographic and other site conditions allow, provision shall be made for street connections to adjoining lots of similar existing or potential use within areas of the municipality designated as growth areas in the comprehensive plan; or in non-residential subdivisions when such access shall be provided if it will:

1. Facilitate fire protection services as approved by the fire chief; or
2. Enable the public to travel between two existing or potential uses, generally open to the public, without need to travel upon a public street.

(g) The subdividing of the land shall be such as to provide that all lots shall have the minimum frontage required upon a public street.

(h) Streets which join and are in alignment with streets of abutting or neighboring properties shall bear the same name. Names of new streets shall not duplicate, nor bear phonetic resemblance to the names of existing streets within the municipality, and shall be subject to the approval of the Addressing Officer. The developer shall either install street name, traffic safety and control signs meeting municipal specifications or reimburse the municipality for the costs of their installation.

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

(G) *Sewage disposal.*

(1) *Public system.*

(a) When a subdivision is proposed to be served by the public sewage system, the complete collection system within the subdivision, including manholes and pump stations, shall be installed at the expense of the applicant.

(b) The Town Manager shall certify that providing service to the proposed subdivision is within the capacity of the system's existing collection and treatment system or improvements planned to be complete prior to the construction of the subdivision.

(c) The Town Engineer shall review and approve the construction drawings for the sewerage system.

(2) *Private systems.* The applicant shall submit evidence of site suitability for subsurface sewage disposal prepared by a Maine licensed site evaluator in full compliance with the requirements of the state of Maine subsurface wastewater disposal rules.

(a) The site evaluator shall certify in writing that all test pits which meet the requirements for a new system represent an area large enough to install a disposal area on soils which meet the disposal rules.

(b) On lots in which the limiting factor has been identified as being within 24 inches of the surface, a second site with suitable soils shall be shown as a reserve area for future replacement of the disposal area. The reserve area shall be shown on the plan and restricted so as not to be built upon.

(c) In no instance shall a disposal area be on a site which requires a new system variance from the subsurface wastewater disposal rules.

(H) *Impact on the municipality's ability to dispose of solid waste.* If the additional solid waste from the proposed subdivision exceeds the capacity of the municipal solid waste facility, causes the municipal facility to no longer be in compliance with its license from the Department of Environmental Protection, or causes the municipality to exceed its contact with a non-municipal facility, the applicant shall make alternate arrangements for the disposal of solid waste. The alternate arrangements shall be at a disposal facility which is in compliance with its license. The Board may not require the alternate arrangement to exceed a period of five years.

(I) *Impact on natural beauty, aesthetics, historic sites, wildlife habitat, rare natural areas or public access to the shoreline.*

(1) *Preservation of natural beauty and aesthetics.* The Board may require the application to include a landscape plan that will show the preservation of any existing trees larger than 24 inches diameter breast height, the replacement of trees and vegetation, and graded contours.

(2) *Protection of significant wildlife habitat.*

(a) If any portion of a proposed subdivision lies within 250 feet of the following areas identified and mapped by the Department of Inland Fisheries and Wildlife or the comprehensive plan as:

1. Habitat for species appearing on the official state or federal lists of endangered or threatened species;
2. High and moderate value waterfowl and wading bird habitats, including nesting and feeding areas;
3. Shorebird nesting, feeding and staging areas and seabird nesting islands;

4. Critical spawning and nursery areas for Atlantic sea run salmon as defined by the Atlantic Sea Run Salmon Commission; or

5. One thousand, three hundred and twenty feet of an area identified and mapped by the Department of Inland Fisheries and Wildlife as a high or moderate value deer wintering area or travel corridor;

6. Or other important habitat areas identified in the comprehensive plan including coastal wildlife concentration areas, the applicant shall demonstrate how adverse impacts can be mitigated. A report prepared by a wildlife biologist with demonstrated experience with the wildlife resource being impacted shall be submitted. This report shall assess the potential impact of the subdivision on the significant habitat and adjacent areas that are important to the maintenance of the affected species and shall describe appropriate mitigation measures to ensure that the subdivision will have no adverse impacts on the habitat and the species it supports.

(b) Any existing public rights of access to the shoreline of a water body shall be maintained by means of easements or rights-of-way, or should be included in the open space with provisions made for continued public access.

(J) *Conformance with requirements of §§ 154.040 through 154.047, 154.065 through 154.096, §§ 154.250 through 154.262, and other land use ordinances.* All lots shall meet or exceed the minimum dimensional requirements set forth in §§ 154.040 through 154.047 above for the zoning district in which they are located. The proposed subdivision shall meet all applicable performance standards or design criteria set forth in §§ 154.065 through 154.096 and §§ 154.250 through 154.262, and other provisions of this chapter and other town land use ordinances, as applicable.

(K) *Financial and technical capacity.*

(1) *Financial capacity.* The applicant shall have adequate financial resources to construct the proposed improvements and meet the criteria of the statute and the standards of this subchapter.

(2) *Technical ability.*

(a) The applicant shall retain qualified contractors and consultants to supervise, construct and inspect the required improvements in the proposed subdivision.

(b) In determining the applicant's technical ability the Board shall consider the applicant's previous experience, the experience and training of the applicant's consultants and contractors, and the existence of violations of previous approvals granted to the applicant.

(L) *Impact on water quality or shoreline.* Cutting or removal of vegetation along waterbodies shall not increase water temperature, or result in shoreline erosion or sedimentation of waterbodies.

(M) *Impact on ground water quality or quantity.*

(1) *Ground water quality.*

(a) When a hydrogeologic assessment is submitted, the assessment shall contain at least the following information:

1. A map showing the basic soils types.
2. The depth to the water table at representative points throughout the subdivision.
3. Drainage conditions throughout the subdivision.
4. Data on the existing ground water quality, either from test wells in the subdivision or from existing wells on neighboring properties.
5. An analysis and evaluation of the effect of the subdivision on ground water resources. In the case of residential subdivisions, the evaluation shall, at a minimum, include a projection of post development nitrate-nitrogen concentrations at any wells within the subdivision, or at the subdivision boundaries; or at a distance of 1,000 feet from potential contamination sources, whichever is a shortest distance.
6. A map showing the location of any subsurface waste water disposal systems and drinking water wells within the subdivision and within 200 feet of the subdivision boundaries.

(b) Projections of ground water quality shall be based on the assumption of drought conditions (assuming 60% of annual average precipitation).

(c) No subdivision shall increase any contaminant concentration in the ground water to more than one half of the primary drinking water standards. No subdivision shall increase any contaminant concentration in the ground water to more than the secondary drinking water standards.

(d) If ground water contains contaminants in excess of the primary standards, and the subdivision is to be served by on-site ground water supplies, the applicant shall demonstrate how water quality will be improved or treated.

(e) If ground water contains contaminants in excess of the secondary standards, the subdivision shall not cause the concentration of the parameters in question to exceed 150% of the ambient concentration.

(f) Subsurface waste water disposal systems and drinking water wells shall be constructed as shown on the map submitted with the assessment. If construction standards for drinking water wells or other measures to reduce ground water contamination and protect drinking water supplies are recommended in the assessment, those standards shall be included as a note on the final plan, and as restrictions in the deeds to the affected lots.

(2) *Ground water quantity.* Ground water withdrawals by a proposed subdivision served by a community water system shall not lower the water table beyond the boundaries of the subdivision.

(N) *Floodplain management.* When any part of a subdivision is located in a special flood hazard area as identified by the Federal Emergency Management Agency:

(1) All public utilities and facilities, such as sewer, gas, electrical and water systems shall be located and constructed to minimize or eliminate flood damages.

(2) Adequate drainage shall be provided so as to reduce exposure to flood hazards.

(3) The plan shall include a statement that structures in the subdivision shall be constructed with their lowest floor, including the basement, at least one foot above the 100-year flood elevation. Such a restriction shall be included in 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 statement 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 the plan.

(O) *Identification of freshwater wetlands.* All freshwater wetlands shall be identified in accordance with the *1987 Corps of Engineers Wetland Delineation Manual* or most current publication, published by the United States Army Corps of Engineers. The Applicant shall provide a wetland delineation map and report, both stamped by a Maine certified soil scientist, which describes the site, states the date(s) of the delineation field work, describe the methodology used to identify the wetlands and how their boundaries were located (ie; GPS, standard survey, etc.) and characterizes the wetland types found (ie; forested, scrub shrub, emergent marsh, etc.) Any wetlands of special significance or significant wildlife habitat, as defined by the current Maine Natural Resources Protection Act (NRPA), including "Significant Vernal Pools" (NRPA- Chapter 335) must also be clearly shown on the map.

(P) *Storm water management.*

(1) Adequate provision shall be made for the management of the quantity and quality of all storm water generated within the subdivision, and any drained ground water through a management system of swales, culverts, underdrains, storm drains and best management practices equivalent to those described in the *Stormwater Management for Maine: Best Management Practices*, published by the

Maine Department of Environmental Protection, 1995 or most current regulations, in conformance with the policies of the comprehensive plan. The storm water management system shall be designed to meet the following standards, for subdivisions which involve road construction:

(a) *Quantity.* Peak discharge rates shall be limited to the pre-development levels for the two-year, ten-year, and 25-year frequency, 24-hour duration storm unless storm water from the subdivision will drain directly into a major water body.

(b) *Quality.*

1. Storm water run-off in subdivisions which involve road construction must be treated by the use of best management practices equivalent to those described in the *Stormwater Management for Maine: Best Management Practices*, published by the Maine Department of Environmental Protection, 1995 or most current regulations.

2. Storm water run-off in other subdivisions must be treated by the use of best management practices equivalent to those described in the *Stormwater Management for Maine: Best Management Practices*, published by the Maine.

3. Department of Environmental Protection 1995 or most current regulations, to achieve, by design, 15% reduction in total suspended solids.

(2) Where necessary to achieve the above standards, there shall be provided easements or drainage rights-of-way with swales, culverts, catch basins or other means of channeling surface water within the subdivision and over other properties. Wherever the storm drainage system is not within the right-of-way of a public street, perpetual easements shall be provided to the municipality allowing maintenance and improvement of the system.

(3) In subdivisions where no new roads will be added or road frontage for the proposed lots are on an existing town-maintained road, the developer must obtain a letter from the road commissioner stating that the proposed subdivision will not alter or change the effectiveness or efficiency of the present storm water drainage system. If it is determined that the subdivision will alter or affect the efficiency of the present storm water drainage system, the developer will be required to comply with this subchapter.

(Q) *Reservation or dedication and maintenance of open space and common land, facilities and services.*

(1) All open space common land, facilities and property shall be owned by:

(a) The owners of the lots or dwelling units by means of a lot owners' association;

(b) An association which has as its principal purpose the conservation or preservation of land in essentially its natural condition; or

(c) The municipality.

(2) Further subdivision of the common land or open space and its use for other than noncommercial recreation, agriculture, or conservation purposes, except for easements for underground utilities, shall be prohibited. Structures and buildings accessory to noncommercial recreational or conservation uses may be erected on the common land. When open space is to be owned by an entity other than the municipality, there shall be a conservation easement deeded to the municipality prohibiting future subdivision.

(3) The common land or open space shall be shown on the final plan with appropriate notations on the plan to indicate:

(a) It shall not be used for future building lots; and

(b) Which portions of the open space, if any, may be dedicated for acceptance by the municipality.

(4) The final plan application shall include the following:

(a) Covenants for mandatory membership in the lot owners' association setting forth the owners' rights, interests, and privileges in the association and the common property and facilities, to be included in the deed for each lot or dwelling.

(b) Draft articles of incorporation of the proposed lot owners' association as a not-for-profit corporation; and

(c) Draft by-laws of the proposed lot owners' association specifying the responsibilities and authority of the association, the operating procedures of the association and providing for proper capitalization of the association to cover the costs of major repairs, maintenance and replacement of common facilities.

(5) In combination, the documents referenced above shall provide for the following:

(a) The homeowners' association shall have the responsibility of maintaining the common property or facilities.

(b) The association shall levy annual charges against all owners of lots or dwelling units to defray the expenses connected with the maintenance, repair and replacement of common property and facilities and tax assessments.

(c) The association shall have the power to place a lien on the property of members who fail to pay dues or assessments.

(d) The developer or subdivider shall maintain control of the common property, and be responsible for its maintenance until development sufficient to support the association has taken place. Such determination shall be made by the Board upon request of the lot owners' association or the developer.

(R) *Phosphorus impacts on great ponds.*

(1) *Phosphorus export.*

(a) Any subdivision within the watershed of a great pond shall limit its post development phosphorus export to the standards contained in Table 9 of § 154.211(L)(2), dependent on the great pond in whose watershed the subdivision is located.

(b) The Board shall keep an accurate record of permits issued by watershed and shall notify the comprehensive planning committee of the actual development rates at five-year intervals, as the comprehensive plan is revised. The above table shall be amended as required by amendments to the comprehensive plan, reflecting changes in expected development rates.

(2) *Simplified phosphorus review.* The simplified review may be used for any:

(a) Proposed subdivision of three or four lots with less than 200 feet of new or upgraded street with a cumulative driveway length not to exceed 450 feet for a three lot subdivision or 600 feet for a four-lot subdivision;

(b) Proposed subdivision of three or four lots with no new or upgraded street with a cumulative driveway length not to exceed 950 feet for three lot subdivisions or 1,100 feet for four lot subdivisions; or

(c) Proposed subdivision consisting of multi-family dwellings that have less than 20,000 square feet of disturbed area including building parking, driveway, lawn, subsurface waste water disposal systems, and infiltration areas, and new or upgraded streets not exceeding 200 linear feet.

(d) A proposed subdivision which creates lots which could be further divided such that five or more lots may result shall be subject to the standard review procedures unless there are deed restrictions prohibiting future divisions of the lots.

(3) *Standard review.* This section shall apply to proposed subdivisions which do not qualify for the simplified review. Phosphorus export from a proposed subdivision shall be calculated according to the procedures in *Phosphorus Control in Lake Watersheds: A Technical Guide for Evaluating New Development*, published by the Maine Department of Environmental Protection, revised September, 1992 or most current regulations. When a proposed subdivision creates lots which are more than twice the required minimum lot size and there are no deed restrictions proposed to prohibit future divisions,

the applicant shall either calculate phosphorus loading based on the maximum feasible number of lots, and shall design controls adequate to limit the resulting phosphorus loading, or shall reserve a portion of the permitted phosphorus export for future divisions.

(4) *Maintenance and use restrictions for phosphorus control measures.*

(a) *Monitoring.* Provisions for monitoring, inspections, and maintenance of phosphorus control measures shall be included in the application.

(b) *Vegetative buffer strips.* Individual lot owners shall be required to maintain buffer areas on their individual lots in accordance with the following standards, to be specified in recorded deed restrictions and as notes on the plan. Where a vegetative buffer strip is to be owned in common by property owners in the subdivision, documentation establishing the lot owners' association shall include the following standards.

1. *Wooded buffers.* Maintenance provisions for wooded buffers shall provide for the following: **No Disturbance.** Maintenance and use provisions for wooded buffer strips which are located on hydrologic soil group D soils and within 250 feet of the great pond or a tributary, or which are located on slopes over 20% shall include the following.

a. Buffers shall be inspected annually for evidence of erosion or concentrated flows through or around the buffer. All eroded areas must be seeded and mulched. A shallow stone trench must be installed as a level spreader to distribute flows evenly in any area showing concentrated flows.

b. All existing undergrowth (vegetation less than four feet high), forest floor duff layer, and leaf litter must remain undisturbed and intact, except that one winding walking path, no wider than six feet, is allowed through the buffer. This path shall not be a straight line to the great pond or tributary and shall remain stabilized.

c. Pruning of live tree branches that do not exceed 12 feet above the ground level is permitted provided that at least the top two-thirds of the tree canopy is maintained.

d. No cutting is allowed of trees except for normal maintenance of dead, wind blown or damaged trees.

e. Buffers shall not be used for all-terrain vehicle or vehicular traffic.

2. *Limited disturbance.* Maintenance and use provisions for other buffer strips may include the following:

a. There shall be no cleared openings. An evenly distributed stand of trees and other vegetation shall be maintained.

- b. Activity within the buffer shall be conducted to minimize disturbance of existing forest floor, leaf litter and vegetation less than four feet in height. Where the existing ground cover is disturbed and results in exposed mineral soil, that area shall be immediately stabilized to avoid soil erosion.
- c. Removal of vegetation less than four feet in height is limited to that necessary to create a winding foot path no wider than six feet. This path shall not be a straight line to the great pond or a tributary. The path must remain stabilized.
- d. Pruning of live tree branches that do not exceed 12 feet in height above the ground level is permitted provided that at least the top two-thirds of the tree canopy is maintained.
- e. Where the removal of storm-damaged, diseased, unsafe, or dead trees results in a cleared opening, those openings shall be replanted with native trees at least three feet in height unless existing new tree growth is present.
- f. Buffers shall not be used for all terrain vehicle or vehicular traffic.

3. Non-wooded buffers.

- a. Non-wooded buffers may be allowed to revert or to be planted to forest, in which case the standards above shall apply.
- b. A buffer must maintain a dense, complete and vigorous cover of "non-lawn" vegetation which shall be mowed no more than once a year. Vegetation may include grass, other herbaceous species, shrubs and trees.
- c. Activity within the buffer shall be conducted so as to prevent damage to vegetation and exposure of mineral soil. Burning of vegetation shall be prohibited.

4. Buffers shall not be used for all-terrain vehicles or other vehicular traffic.

4. *Infiltration systems.* Individual lot owners shall be responsible for maintenance of individual infiltration systems according to the standards specified in *Phosphorus Control in Lake Watersheds: A Technical Guide for Evaluating New Development*, published by the Maine Department of Environmental Protection, revised September, 1992 or most current regulations. Requirements for maintenance shall be included in deed restrictions and as notes upon the plan. As an alternative to maintenance by individual lot owners, the applicant may designate some other entity to be contracted to take the responsibility, and shall include the above referenced maintenance provisions in any contractual agreement. Where infiltration systems serve more than one lot, a lot owners' association shall be established and the above referenced maintenance provisions shall be referenced in the documentation establishing the association.

5. *Wet ponds.* A lot owners' association shall be established to maintain wet ponds, unless the municipality or some other public entity agrees to assume inspection and maintenance duties. Documentation establishing the association or establishing an agreement with a public entity shall include the maintenance standards specified in the manual *Phosphorus Control in Lake Watersheds: A Technical Guide for Evaluating New Development, published by the Maine Department of Environmental Protection*, revised September, 1992 or most current regulations. (Ord. passed 1-3-2013)

§ 154.211 DESIGN GUIDELINES.

(A) *General.*

(1) This section is intended to provide an example of design guidelines, which if followed will result in meeting the appropriate performance standards of § 154.210.

(2) Compliance with these guidelines shall be considered evidence of meeting those standards.

(3) Proposed subdivisions not in compliance with the design guidelines of this subchapter may be considered, but the applicant shall provide clear and convincing evidence that the proposed design will meet the performance standard(s), the standards of §§ 154.040 through 154.047 above, Maine and the statutory criteria applicable to subdivisions, as applicable.

(4) In all instances, the burden of proof shall be upon the applicant to present adequate information to indicate all ordinance requirements, performance standards and statutory criteria for approval have been or will be met.

(B) *Sufficient water.*

(1) *Well construction.*

(a) Due to the increased chance of contamination from surface water, dug wells shall be prohibited on lots smaller than one acre. On lots of one acre or smaller, the applicant shall prohibit dug wells by deed restrictions and a note on the plan.

(b) Dug wells shall not be constructed within 100 feet of the traveled way of any street if located downhill from the street, or within 50 feet of the traveled way of any street if located uphill of the street.

(c) This restriction shall be included as a note on the plan and deed restriction to the effected lots.

(2) *Fire protection.* Fire protection facilities and systems shall comply with the town fire protection ordinance.

(C) *Traffic conditions, access control.*

(1) *Lot access.* Where a lot has frontage on two or more streets, the access to the lot shall be provided to the lot across the frontage and to the street where there is lesser potential for traffic congestion and for hazards to traffic and pedestrians. This restriction shall appear as a note on the plan and as a deed restriction to the affected parcel(s).

(2) *Minimum required frontage.* The subdividing of the land shall be such as to provide that all lots shall have the minimum frontage required upon a public street.

(3) *Access design for subdivisions entering onto streets.* When the access to a subdivision is a street, the street design and construction standards of division (D)(2), below shall be met. Where there is a conflict between the standards in this section and the standards of division (D)(2), the stricter or more stringent shall apply.

(a) *General.*

1. Access design shall be based on the estimated volume using the access classification defined below. Traffic volume estimates shall be as defined in the *Trip Generation Manual*, using the most current publication, published by the Institute of Transportation Engineers. The intersection of any access drive or proposed street with an arterial road shall function at a "level of service" of "C" following development if the project will generate 1,000 or more vehicle trips per 24-hour period, or at a level which will allow safe access if less than 1,000.

2. Accesses classifications are defined as follows:

- a. Low volume access: An access with 50 vehicle trips per day or less.
- b. Medium volume access: Any access with more than 50 vehicle trips per day but less than 400 peak hour vehicle trips per day.
- c. High volume access: Peak hour volume of 400 vehicle trips or greater.

(b) *Sight distances.* Accesses shall be located and designed in profile and grading to provide the required sight distance measured in each direction. Sight distances shall be measured from the driver's seat of a vehicle standing on that portion of the exit with the front of the vehicle a minimum of ten feet behind the curblineline or edge of shoulder, with the height of the eye three and one-half feet, to the top of an object four and one-quarter feet above the pavement. The required sight distances are listed by road width and for various posted speed limits.

1. *Two-lane roads.* A minimum sight distance of ten feet for each mile per hour of posted speed limit shall be maintained or provided.

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

a. Upon turning left or right to accelerate to the operating speed of the street without causing approaching vehicles to reduce speed by more than ten miles per hour; and

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

<i>Operating Speed (mph)</i>	<i>Safe Sight Distance - Left (feet)</i>	<i>Safe Sight Distance - Right (feet)</i>
20	130	130
30	220	260
40	380	440
0	620	700

(c) *Vertical alignment.* Accesses shall be flat enough to prevent the dragging of any vehicle undercarriage. Accesses shall slope upward or downward from the gutter line on a straight slope of 3 % or less for at least 75 feet. The maximum grade over the entire length shall not exceed 10 %.

(d) *Low volume access.*

1. *Skew angle.* Low volume accesses shall be two-way operation and shall intersect the road at an angle as nearly 90 degrees as site conditions permit, but in no case less than 60 degrees.

2. *Curb radius.* The curb radius shall be 15 feet.

3. *Access width.* The width of the access shall be between 20 feet and 24 feet.

(e) *Medium volume accesses.*

1. *Skew angle.* Medium volume accesses shall be either one-way or two-way operation and shall intersect the road at an angle as nearly 90 as site conditions permit, but in no case less than 60.

2. *Curb radius.* Curb radii will vary depending if the access has one-way or two-way operation. On a two-way access the curb radii shall be between 25 feet and 40 feet. On one way accesses, the curb radii shall be 30 feet for right turns into and out of the site, with a five-foot radius on the opposite curb.

3. *Width.* On a two-way access the width shall be between 24 and 26 feet, however where truck traffic is anticipated, the width may be no more than 30 feet. On a one-way access the width shall be between 16 feet and 20, with a preferred width of 16 feet.

4. *Curb-cut width.* On a two-way access the curb-cut width shall be between 74 feet and 110 feet. On a one-way access the curb-cut width shall be between 46 feet and 70.

(f) *High volume accesses.*

1. *Skew angle.* High volume accesses shall intersect the road at an angle as nearly to 90 as site conditions permit, but in no case less than 60.

2. *Curb radius.* Without channelization islands for right-turn movements into and out of the site, the curb radii shall be between 30 feet and 50 feet. With channelization islands, the curb radii shall be between 75 feet and 100 feet.

3. *Curb cut width.* Without channelization, curb-cut width shall be between 106 feet and 162 feet. With channelization, the curb-cut width shall be between 196 feet and 262 feet.

4. *Access entrance and exit.* Entering and exiting accesses shall be separated by a raised median which shall be between six feet and ten feet in width. Medians separating traffic flows shall be no less than 25 feet in length.

5. *Width.* Access widths shall be between 20 feet and 26 feet on each side of the median, with a preferred width of 24 feet. Right turn only lanes established by a channelization island shall be between 16 feet and 20 feet.

6. Appropriate traffic control signage shall be erected at the intersection of the access and the street and on medians and channelization islands.

(g) *Special case accesses.* Special case accesses are one-way or two-way drives serving medium or high volume uses with partial access (right turn only) permitted. These accesses are appropriate on roadway segments where there is a raised median and no median breaks are provided opposite the proposed access. These accesses are usually located along the approaches to major signalized intersections where a raised median may be provided to protect left-turning vehicles and separate opposing traffic flows.

1. *Perpendicular driveways.*

a. *Curb radii.* Curb radii shall be between 30 feet and 50 feet.

b. Access width. Access width shall be between 26 feet and 30 feet. On two-way accesses, a triangular channelization island shall be provided at the intersection with the street. On each side of the island the one-way drive shall be between 15 feet and 24 feet with a preferred width of 20 feet.

c. Curb-cut width. The total curb-cut width shall be between 86 feet and 130 feet.

d. Channelization island. The channelization island on two-way accesses shall be raised and curbed. Corner radii shall be two feet.

2. Skewed accesses.

a. Skew angle. The skew angle shall be between 45 degrees and 60 degrees.

b. Curb radii. Curb radii shall be between 30 feet and 50 feet on the obtuse side of the intersection. Curb radii shall be between five feet and ten feet on the acute side of the intersection.

c. Access width. Access width shall be between 15 feet and 24 feet. Where entering and exiting access meet, the width shall be between 24 and 30 feet.

d. Curb-cut width. The curb-cut width for each access shall be between 35 feet and 75 feet.

(h) Access location and spacing.

1. Minimum corner clearance. Corner clearance shall be measured from the point of tangency for the corner to the point of tangency for the access. In general the maximum corner clearance should be provided as practical based on site constraints. Minimum corner clearances are listed in Table 1, based upon access volume and intersection type. Where the minimum standard for a full access drive cannot be met, only a special case access shall be permitted. If based on the above criteria, full access to the site cannot be provided on either the major or minor streets, the site shall be restricted to partial access. Alternately, construction of a shared access drive with an adjacent parcel is recommended.

<i>Table 1: Minimum Standards for Corner Clearance</i>		
<i>Access Type</i>	<i>Minimum Corner Clearance (feet)</i>	
	<i>Intersection Signalized</i>	<i>Intersection Unsignalized</i>
Low volume	150	50
Medium volume	150	50

<i>Table I: Minimum Standards for Corner Clearance</i>		
<i>Access Type</i>	<i>Minimum Corner Clearance (feet)</i>	
	<i>Intersection Signalized</i>	<i>Intersection Unsignalized</i>
High volume	500	250
Special case:		
Right turn in only	50	50
Right turn out only	100	50
Right turn in or out only	100	50

2. Access spacing. Accesses and street intersections shall be separated from adjacent accesses, streets and property lines as indicated in Table 2, in order to allow major through routes to effectively serve their primary function of conducting through traffic. This distance shall be measured from the access point of tangency to the access point of tangency for spacing between accesses and from the access point of tangency to a projection of the property line at the edge of the roadway for access spacing to the property line.

3. Number of accesses. The maximum number of accesses on to a single street is controlled by the available site frontage and the table above. In addition, the following criteria shall limit the number of accesses independent of frontage length.

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

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

4. Construction materials/paving.

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

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

<i>Table 2: Minimum Access Spacing</i>					
<i>Access type (feet)</i>	<i>Minimum Spacing Line (feet)</i>	<i>Minimum Spacing to Adjacent Access by Access Type (Dsp)'</i>			
		<i>Medium</i>	<i>High w/o RT*</i>	<i>High w/RT**</i>	<i>Special Case</i>
Low volume	5				
Medium volume	10	75			
High volume (w/o	75	75	150		
High volume (w/RT)**	75	75	250	500	
Special case	10	75	75	75	40***

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

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

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

* High volume access without right turn channelization.

** High volume access with right turn channelization.

*** Right turn in only upstream of right turn out only.

Right turn out followed by right turn in not allowed.

(D) Street design and construction standards.

(1) General requirements.

(a) The Board shall not approve any subdivision plan unless proposed streets are designed in accordance with any local ordinance or the specifications contained in this chapter. Approval of the final plan by the Board shall not be deemed to constitute or be evidence of acceptance by the municipality of any street or easement.

(b) 1. Applicants shall submit to the Board, as part of the final plan, detailed construction drawings showing a plan view, profile, and typical cross-section of the proposed streets and existing streets within 300 feet of any proposed intersections. The plan view shall be at a scale of one inch equals no more than fifty feet. The vertical scale of the profile shall be one inch equals no more than five feet.

2. The plans shall include the following information:

- a. Date, scale, and north point, indicating magnetic or true.
- b. Intersections of the proposed street with existing streets.
- c. Roadway and right-of-way limits including edge of pavement or aggregate base, edge of shoulder, sidewalks, and curbs.
- d. Kind, size, location, material, profile and cross-section of all existing and proposed drainage structures and their location with respect to the existing natural waterways and proposed drainage ways.
- e. Complete curve data shall be indicated for all horizontal and vertical curves.
- f. Turning radii at all intersections.
- g. Centerline gradients.
- h. Size, type, vertical clearance and locations of all existing and proposed overhead and underground utilities, to include but not be limited to water, sewer, electricity, telephone, lighting, and cable television.

3. Where the applicant proposes improvements within existing public streets, the proposed design and construction details shall be approved in writing by the road commissioner or the Maine Department of Transportation, as appropriate.

(2) *Street design standards.*

(a) *Guidelines to control roadway, etc.* These design guidelines shall control the roadway, shoulders, clear zones, curbs, sidewalks, drainage systems, culverts, and other appurtenances associated with the street, and shall be met by all streets within a subdivision, unless the applicant can provide clear and convincing evidence that an alternate design will meet good engineering practice and will meet the performance standards of § 154.210.

(b) *Reserve strips prohibited, exception.* Reserve strips controlling access to streets shall be prohibited except where their control is definitely placed with the municipality.

(c) *Mark for road realignment.* Where a subdivision borders an existing narrow street (not meeting the width requirements of the standards for streets in this subchapter), or when the comprehensive plan indicates plans for realignment or widening of a road that would require use of some of the land in the subdivision, the plan shall indicate reserved areas for widening or realigning the road marked "Reserved for Road Realignment (Widening) Purposes." Land reserved for such purposes may not be included in computing lot area or setback requirements of the zoning ordinance. The reserve area shall not be included in any lot, but shall be reserved to be deeded to the municipality or state.

(d) *Two street connections.* Any subdivision expected to generate average daily traffic of 400 trips per day or more shall have at least two street connections with existing public streets, streets shown on an official map, or streets on an approved subdivision plan for which performance guarantees have been filed and accepted. Any street with an average daily traffic of 400 trips per day or more shall have at least two street connections leading to existing public streets, streets shown on an official map, or streets on an approved subdivision plan for which performance guarantees have been filed and accepted.

(e) *Table 3 to apply.* The design standards of Table 3 shall apply according to street classification.

<i>Table 3: Street Design Guidelines</i>				
<i>Description</i>	<i>Type of Street</i>			
	<i>Arterial</i>	<i>Collector</i>	<i>Minor</i>	<i>Industrial/ Commercial</i>
Minimum right-of-way width ⁶	90 feet	60 feet	60 feet	70 feet
Minimum traveled way width	24 feet	24 feet	20 feet	24 feet
Minimum width of shoulders (each side)'	6 feet	4 feet	4 feet	4 feet
Maximum width of shoulder'	8 feet	5 feet	5 feet	8 feet
Minimum grade	0.5%	0.5%	0.5%	0.5%
Maximum grade'	5.0%	6.0%	8.0%	5.0%
Minimum centerline radius without superelevation	500 feet	280 feet	280 feet	400 feet
with superelevation	350 feet	175 feet	175 feet	300 feet
Roadway crown ²	1/4 inch/foot	1/4 inch/foot	1/4 inch/foot	I 1/4 inch/foot
Minimum angle of street intersections ⁴	90 degrees	90 degrees	75 degrees	90 degrees
Maximum grade within 75 ft. of intersection	3%	3%	3%	3%
Minimum curb radii at intersection	30 feet	25 feet	25 feet	30 feet'
Minimum r/o/w radii at intersections	20 feet	10 feet	10 feet	20 feet
<p>Maximum grade may be exceed for a length of 100 feet or less.</p> <p>Roadway crown is per foot of land width.</p> <p>Street intersection angles shall be as close to 90 degrees as feasible but no less than the listed angle.</p> <p>Should be based on turning radii of expected commercial vehicles, but no less than 30 feet.</p>				

(f) *On street parking.* The Board shall have authority to require a paved cross section of 26 feet for residential subdivisions with average lot widths between 100 feet and 40 feet wide for on-street spillover parking.

(g) *Centerline of right-of-way.* The centerline of the roadway shall be the centerline of the right-of-way.

(h) *Dead end streets.* In addition to the design standards in Table 3 above, dead-end streets shall be constructed to provide a cul-de-sac turn-around with the following requirements for radii:

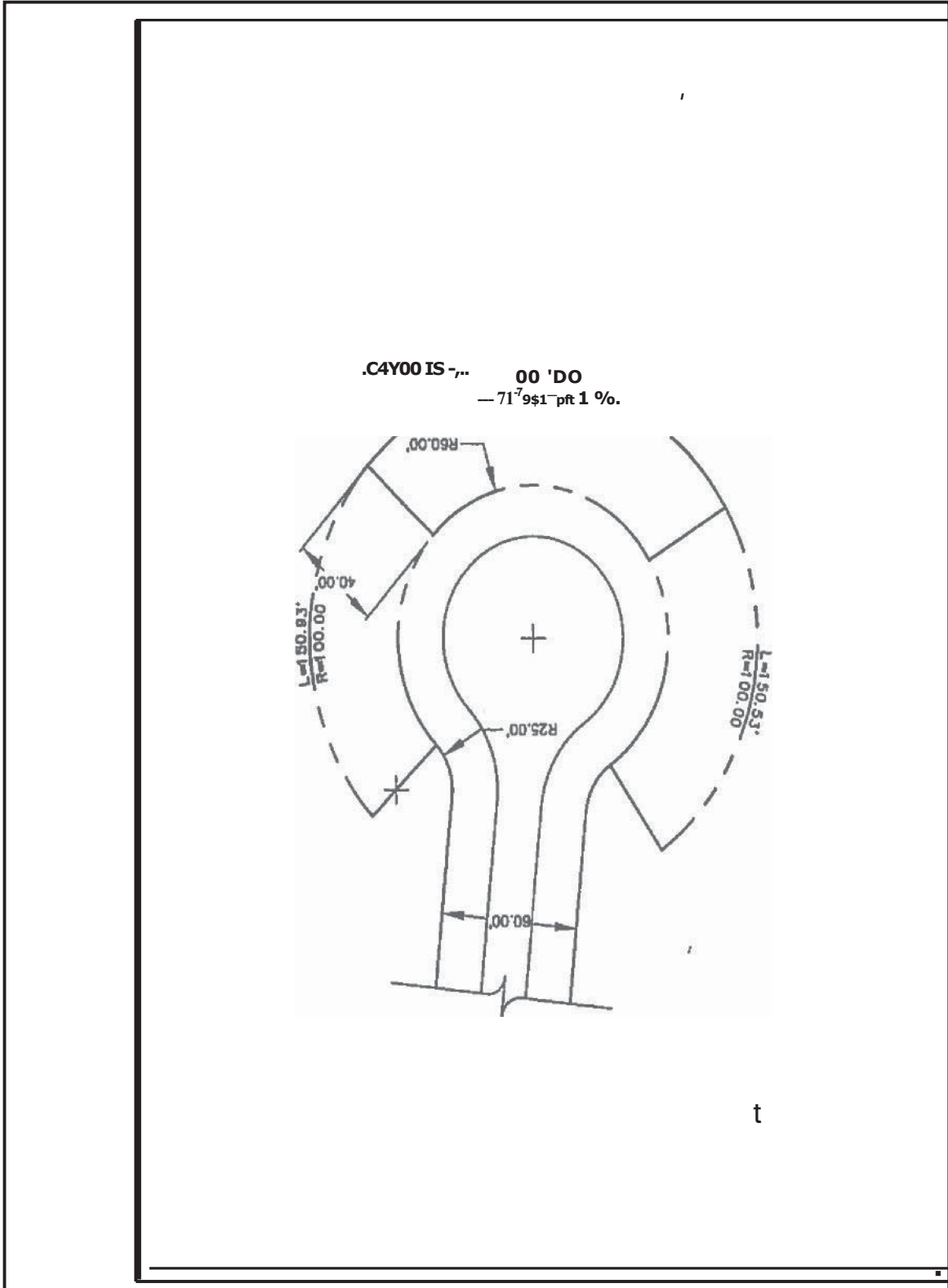
1. Property line: 60 feet.
2. Outer edge of pavement: 50 feet.
3. Inner edge of pavement: 30 feet.

(i) *Note 1.* The required lot frontage off a cul-de-sac shall meet the required frontage within the district the lot is situated in and will be measured along the building setback line following the radius of the ROW. Side lot lines shall extend a minimum of 100 feet perpendicular from the ROW prior to changing direction. This clause shall apply to only lots contained completely within the radius of the cul-de-sac all other variations shall meet normal frontage requirements. See example on the next page.

(j) *Note 2.* If the plan calls for the construction of a cul-de-sac the area shall be cleared of trees and brush and designed so that the center of the cul-de-sac is to be graded and paved to allow for appropriate drainage, unless a waiver is granted by the Planning Board for an alternate plan. The Board shall require the reservation of a 20-foot easement in line with the street to provide continuation of pedestrian traffic or utilities to the next street. The Board may also require the reservation of a 60-foot easement in line with the street to provide continuation of the road where future subdivision is possible.

(k) *Exception.* Where an approved plan contains provisions for phased development, the dead end street may terminate in a T-style turnaround at least 60 feet wide in all parts, the dead end extensions being at least 100 feet in length. Provision shall be made for the reservation of an easement in line with the street to provide continuation of the road. The direction of the T shall be to the right. If phased development has not occurred within three years the T-style turnaround shall be constructed in accordance to plan recorded.

(I) *Note 3.* Any T-style turnaround in existence prior to 11-1-2003 shall be allowed one driveway off from it and the location of such driveway shall be at the discretion of the Road Commissioner.



EXAMPLE

Hermon - Land Usage

(m) Grades, intersections, and sight distances.

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

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

<i>Required Reaction Distance at Specific Posted Speed Limits</i>				
Design speed (mph)	20	25	30	35
Stopping distance (feet)	125	150	200	250
Stopping distance shall be calculated with a height of eye at 3-1/2 feet and the height of object at 4-1/2 feet.				

3. Where new street intersections or driveway curb-cuts are proposed, sight distances, as measured along the road onto which traffic will be turning, shall be based upon the **posted** speed limit and conform to the table below.

4. Sight distances shall be measured from the driver's seat of a vehicle standing on that portion of the exit with the front of the vehicle a minimum of ten feet behind the curblineline or edge of shoulder, with the height of the eye three and one-half feet, to the top of an object four and one-half feet above the pavement.

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

Speed limit (mph)	25	30	35	40	45	50	55
Sight distance (feet)							
Passenger vehicle	250	300	250	400	450	500	550
Single unit truck		390			585	650	
Multi unit truck		510			765	850	

6. Cross (four-cornered) street intersections shall be avoided insofar as possible, except as shown on the comprehensive plan or at other important traffic intersections. A minimum distance of 125 feet shall be maintained between centerlines of minor streets and 200 feet between collectors or a collector and minor street.

(n) *Sidewalks.* Where installed, sidewalks shall meet these minimum requirements.

1. *Location.* Sidewalks may be located adjacent to the curb or shoulder but it is recommended to locate sidewalks a minimum of two and one-half feet from the curb facing or edge of shoulder if the street is not curbed.

2. *Bituminous sidewalks.*

a. The "sub-base" aggregate course shall be no less than 12 inches thick after compaction.

b. The hot bituminous pavement surface course shall be MDOT plant mix grade D constructed in two lifts, each no less than one inch after compaction.

3. *Portland cement concrete sidewalks.*

a. The "sub-base" aggregate shall be no less than 12 inches thick after compaction.

b. The Portland cement concrete shall be reinforced with six inch square, number tern wire mesh and shall be no less than four inches thick, with a broom finish and a two-inch smooth finish edge.

(o) *Concrete curbing.* When utilized, concrete curbing shall be installed on a thoroughly compacted gravel base of six inches minimum thickness. When utilized, bituminous curbing shall be installed on the base course of the pavement. The specified traveled way width above shall be measured between the curbs.

(3) *Street construction standards.*

(a) *Table 4.* The minimum thickness of material after compaction shall meet the specifications in Table 4.

<i>Table 4: Minimum Pavement Widths</i>				
<i>Street Materials</i>	<i>Arterial</i>	<i>Collector</i>	<i>Minor</i>	<i>Industrial/ Commercial</i>
Aggregate sub-base course (max. sized stone 6 inch)	18"	18"	12"	18"
Sub-base shall be placed in				
A maximum 8-inch lift				
Crushed aggregate base	6"	6"	6"	6"

<i>Street Materials</i>	<i>Arterial</i>	<i>Collector</i>	<i>Minor</i>	<i>Industrial/ Commercial</i>
Hot bituminous pavement				
Total thickness	4"	4"	3"	4"
Safe course see note 1	1"	1"	1"	1"
Binder course	3"	3"	2"	3"

1. Before any clearing has started on the right-of-way, the center line and side lines of the new road shall be staked or flagged at 50-foot intervals.

2. Before grading is started, the entire area within the right-of-way necessary for traveled way, shoulders, sidewalks, drainage-ways, and utilities shall be cleared of all stumps, roots, brush, and other objectionable material. All shallow ledge, large boulders and tree stumps shall be removed from the cleared area.

3. All organic materials or other deleterious material shall *be* removed to a depth of two feet below the sub-grade of the roadway. Rocks and boulders shall also be removed to a depth of two feet below the sub-grade of the roadway. On soils which have been identified by the municipal engineer as not suitable for roadways, either the subsoil shall be removed from the street site to a depth of two feet below the sub-grade and replaced with material meeting the specifications for gravel aggregate sub-base below, or a Maine Department of Transportation approved stabilization geotextile may be used.

4. Except in a ledge cut, side slopes shall be no steeper than a slope of three-feet horizontal to one-foot vertical, and shall be graded, loamed, limed, fertilized, and seeded according to the specifications of the erosion and sedimentation control plan. Where a cut results in exposed ledge a side slope no steeper than one-foot horizontal to four-feet vertical is permitted.

5. All underground utilities shall be installed prior to paving to avoid cuts in the pavement. Building sewers and water service connections shall be installed to the edge of the right-of-way prior to paving.

(b) Bases and pavement.

1. Bases/sub-base.

a. The aggregate sub-base course shall be sand or gravel of hard durable particles free from vegetative matter, lumps or balls of clay and other deleterious substances. The gradation of the part that passes a three-inch square mesh sieve shall meet the grading requirements of Table 5.

<i>Table 5: Aggregate Sub-base Grading Requirements</i>	
<i>Percentage by Weight Passing Sieve Designation</i>	<i>Square Mesh Sieves</i>
1/4 inch	25% - 70%
No. 40	0 - 30%
No. 200	0 - 7%

Aggregate for the sub-base shall contain no particles of rock exceeding six inches in any dimension.

b. If the aggregate sub-base course is found to be not fine-gradable because of larger stones, then a minimum of three inches of aggregate base course shall be placed on top of the sub-base course. The aggregate base course shall be screened or crushed gravel of hard durable particles free from vegetative matter, lumps or balls of clay and other deleterious substances. The gradation of the part that passes a three-inch square mesh sieve shall meet the grading requirements of Table 6.

<i>Table 6: Base Course Grading Requirements Percentage by Weight Passing</i>	
<i>Sieve Designation</i>	<i>Square Mesh Sieves</i>
1 1/2 inch	45% - 70%
1/4 inch	30% - 55%
No. 40	0 - 20%
No. 200	0 - 5%

Aggregate for the base shall contain no particles of rock exceeding two inches in any dimension.

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

3. *Pavements.* The subdivider shall provide both the base layer and the surface layer of pavement.

a. Minimum standards for the base layer of pavement shall be the Maine Department of Transportation specifications for plant mix grade B with an aggregate size no more than one inch maximum and a liquid asphalt content between 4.8 % and 6 % by weight depending on aggregate characteristics. The pavement may be placed between April 15 and November 15, provided the air temperature in the shade at the paving location is 35 degrees F or higher and the surface to be paved is not frozen or unreasonably wet.

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b. Minimum standards for the surface layer of pavement shall be the Maine Department of Transportation specifications for plant mix grade C or D with an aggregate size no more than three-quarter-inch maximum and a liquid asphalt content between 5.8% and 7% by weight depending on aggregate characteristics. The pavement may be placed between April 15 and October 15, provided the air temperature in the shade at the paving location is 50 degrees F or higher.

4. *Surface and shoulder gravel.* Surface gravel may be used on shoulders and temporary turnarounds. It shall be placed on top of the aggregate sub-base, shall have no stones larger than two inches in size and meet the grading requirements of Table 7.

<i>Table 7: Surface Gravel Grading Requirements</i>	
<i>Sieve Designation</i>	<i>Percentage by Weight Passing Square Mesh Sieves</i>
2 inch	95% - 100%
1/2 inch	30 - 65%
No. 200	7 - 12%

(E) *Impact on natural beauty, aesthetics, historic sites, wildlife habitat, rare natural areas or public access to the shoreline.*

(1) *Preservation of natural beauty and aesthetics.*

(a) Unless located in areas designated as a growth area in the comprehensive plan, a subdivision in which the land cover type at the time of application is forested shall maintain a wooded buffer strip no less than 50 feet in width along all existing public roads. The buffer may be broken only for driveways and streets.

(b) Unless located in areas designated as a growth area in the comprehensive plan, building location shall be restricted from open fields, and shall be located within forested portions of the subdivision. When the subdivision contains no forest or insufficient forested portions to include all buildings, the subdivision shall be designed to minimize the appearance of building when viewed from existing public streets.

(c) When a proposed subdivision contains a ridge line identified in the comprehensive plan as a visual resource to be protected, the plan shall restrict tree removal and prohibit building placement within 50 feet vertical distance of the ridge top. These restrictions shall appear as notes on the plan and as covenants in the deed.

(d) When a proposed subdivision street traverses open fields, the plan shall include the planting of street trees. Street trees shall include a mix of tall shade trees and medium height flowering species. Trees shall be planted no more than 50 feet apart.

(2) *Protection of significant wildlife habitat and important habitat areas.* The following guidelines are designed to protect the significant wildlife resources identified in the municipality. The Board recognizes that wildlife management must take into account many site specific variables. Applicants proposing to subdivide land within identified wildlife resources must consult with the Maine Department of Inland Fisheries and Wildlife or a qualified wildlife biologist and provide their written comments to the Board. The guidelines of this section shall apply to only those subdivisions which include significant wildlife habitat or resources identified in this division (E).

(a) *Protection of habitat of endangered or threatened species.*

1. Habitat or species appearing on the official state or federal lists of endangered or threatened species shall be placed in open space.

2. Deed restrictions and notes on the plan shall reflect standards from the Department of Inland Fisheries and Wildlife for removal of vegetation within 250 feet of the habitat for species appearing on the list of endangered or threatened species unless the Department of Inland Fisheries and Wildlife has approved cutting of vegetation in writing.

(b) *Protection of waterfowl, shorebird, and wading bird habitat, Atlantic Salmon spawning and nursery areas.*

1. There shall be no cutting of vegetation within the strip of land extending 75 feet inland from the normal high-water mark of the following habitat areas:

- a. Shorebird nesting, feeding and staging areas and seabird nesting islands;
- b. High and moderate value waterfowl and wading bird habitats, including nesting and feeding areas;
- c. Critical spawning and nursery areas for Atlantic sea run salmon as defined by the Atlantic Sea Run Salmon Commission, or
- d. Other important habitat areas identified in the comprehensive plan.

2. This restriction shall appear as a note on the plan and as a deed restriction to the affected lots.

(c) *Protection of deer wintering areas.* The report prepared by a wildlife biologist, selected or approved by the Board, shall include a management plan for deer wintering areas.

(d) *Protection of important shoreland areas.*

1. Except as in areas described in §§ 154.205 through 154.214 within all areas subject to the 250-foot Shoreland Zone:

a. Tree removal shall be limited to no more than 40 % of the volume of trees four inches or more in diameter measured at four and one-half feet above the ground level on any lot in any ten-year period.

b. Harvesting operations shall not create single clear-cut openings greater than 10,000 square feet in the forest canopy. Where such openings exceed 5,000 square feet they shall be at least 100 feet apart. Such clear-cut openings shall be included in the calculation of total volume removal. For the purposes of the guidelines volume may be considered to be equivalent to basal area.

c. Cleared openings for subdivision, including but not limited to, principal and accessory structures, driveways and sewage disposal areas, shall not exceed in the aggregate, 25 % of the lot area or 0,000 square feet, whichever is greater, including land previously developed.

2. These restrictions shall appear as notes on the plan and as deed restrictions to the affected lots.

(e) *Other important wildlife habitat.* If the proposed subdivision includes other important wildlife habitat as identified by the Department of Inland Fisheries and Wildlife or the comprehensive plan, the restrictions on activities in and around these areas shall be reviewed by the Department or a qualified wildlife biologist and their comments presented in writing to the Board.

(F) *Storm water management design guidelines.*

(1) Design of best management practices shall be substantially equivalent to those described in the *Storm Water Management for Maine: Best Management Practices*, published by the Maine Department of Environmental Protection or most current regulations, 1995.

(2) Drainage easements for existing water courses or proposed drainage ways shall be provided at least 30 feet wide, conforming substantially with the lines of existing natural drainage.

(3) The minimum pipe size for any storm drainage pipe shall be 15 inches for driveway entrances and 18 inches for cross culverts. Maximum trench width at the pipe crown shall be the outside diameter of the pipe plus two feet. Pipe shall be bedded in a fine granular material, containing no stones larger than three inches, lumps of clay, or organic matter, reaching a minimum of six inches below the bottom of the pipe extending to a minimum of six inches above the top of the pipe.

(4) Catch basins shall be installed where necessary and when located within a street shall be located at the curb line.

(5) The following are storm drainage construction standards.

(a) *Materials.*

1. Storm drainage pipes shall conform to the requirements of Maine Department of Transportation materials specifications § 706 for non-metallic pipe and § 707 for metallic pipe. All materials shall be approved by the Road Commissioner.

2. Where the storm drainage pipe is to be covered by ten feet or more of fill material, pipe material with a 50-year life shall be used. These materials include concrete pipe, polymer coated galvanized corrugated steel pipe, polyvinyl-chloride (PVC) pipe, and corrugated aluminum alloy pipe.

(b) *Pipe gauges.* Pipe gauges shall be approved by the road commissioner.

(c) *Drain inlet alignment.* Drain inlet alignment shall be straight in both horizontal and vertical alignment unless specific approval of a curvilinear drain is obtained in writing from the Board, after consultation with the municipal engineer.

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

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

(G) *Impact on water quality or shoreline, buffer strip required.* Within a strip of land extending 100 feet inland from the normal high-water line of a great pond or any tributary to a great pond, and 75 feet from any other water body or the upland edge of a wetland, a buffer strip of vegetation shall be preserved. The deeds to any lots which include any such land shall contain the following restrictions:

(1) There shall be no cleared opening greater than 250 square feet in the forest canopy as measured from the outer limits of the tree crown. However, a footpath not to exceed ten feet in width as measured between tree trunks is permitted provided that a cleared line of sight to the water through the buffer strip is not created. Adjacent to a great pond, or a tributary to a great pond, the width of the foot path shall be limited to six feet.

(2) Selective cutting of trees within the buffer strip is permitted provided that a well distributed stand of trees and other vegetation is maintained. No more than 40 % of the total volume of trees four inches or more in diameter, measured at four and one-half feet above ground level may be removed in any ten-year period.

(3) In order to protect water quality and wildlife habitat adjacent to great ponds, and tributaries to great ponds, existing vegetation under three feet in height and other ground cover shall not be removed, except to provide for a footpath or other permitted uses as described above.

(4) Pruning of tree branches, on the bottom third of the tree is permitted.

(H) *Blocks.*

(1) Where street lengths exceed 1,000 feet between intersections with other streets, the Board may require a utility/pedestrian easement, at least 20 feet in width, to provide for underground utility crossings and/or a pedestrian pathway of at least five feet in width constructed in accordance with design standards *in* division (D)(2)(n), sidewalks.

(2) Maintenance obligations of the easement shall be included in the written description of the easement.

(I) *Lots.*

(1) Wherever possible, side lot lines shall be perpendicular to the street.

(2) The subdivision of tracts into parcels with more than twice the required minimum lot size shall be laid out in such a manner as either to provide for or preclude future division. Deed restrictions and notes on the plan shall either prohibit future divisions of the lots or specify that any future division shall constitute a revision to the plan and shall require approval from the Board, subject to the criteria of the subdivision statute, the standards of §§ 154.040 through 154.047 and §§ 154.065 through 154.096 of this chapter and this subchapter and conditions placed on the original approval.

(3) If a lot on one side of a stream, road or other similar barrier fails to meet the minimum requirements for lot size it may not be combined with a lot on the other side of the stream, or road to meet the minimum lot size.

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

(5) Lot numbering shall conform to the standards of the addressing ordinance of the town, article VII. Where the proposed subdivision contains the extension of an existing street or street approved by the Board, but not yet constructed, the lot numbers shall correspond with the existing lot numbers. Contact the town office for a copy of the street addressing ordinance.

(6) The lot numbering shall be reviewed by the Town Clerk and the Clerk's comments considered by the Board.

(7) No lot shall be created having a net *area* less than the minimum required for the zoning district it is situated in, after deducting easement areas, freshwater wetlands and other unusable areas.

(J) Utilities.

- (1) Utility poles and 37 KV lines shall be installed to a lot in a subdivision prior to its sale.
- (2) Water and sewer shall be installed if applicable.

(K) Monuments.

- (1) Monuments shall be set at all street intersections and points of curvature, but no further than 750 feet apart along street lines without curves or intersections.
- (2) Monuments shall be set at all corners and angle points of the subdivision boundaries where the interior angle of the subdivision boundaries is 135 degrees or less.
- (3) All other subdivision boundary corners and angle points, as well as all lot boundary corners and angle points shall be marked by suitable monumentation, as required by the Maine Board of Registration of Land Surveyors.

(L) Phosphorus export.

(1) When a proposed subdivision is within the direct watershed of a great pond and qualifies for the simplified review procedure, buffer strips shall be provided in accordance with the following table.

(a) Buffer strips shall be provided on the downhill side of all lots along all tributaries to great ponds and along the great pond.

(b) The minimum required width of buffer strips are designated in Table 9 and depend on the watershed in which the proposed subdivision is located, the size of the lot, the hydrologic soil group, and whether deed restrictions are proposed to limit the area which may be cleared on each lot.

(2) When the proposed subdivision is within the direct watershed of a great pond and does not qualify for simplified reviewed, the phosphorus control measures shall meet the design criteria in *Phosphorus Control in Lake Watersheds: A Technical Guide for Evaluating New Development*, published by the Maine Department of Environmental Protection, revised September, 1992 or most current regulations.

<i>Table 9: Buffer Strip Widths in Watershed of Hypothetical Pond</i>			
<i>Phosphorus Standard: 0.07 - 0.08 lbs/acre</i>		<i>(Buffer Width in Feet Per Lot)</i>	
<i>Lot</i>	<i>Hydrologic Soil Group</i>	<i>Clearing Restricted to 12,500 sq. ft.</i>	<i>No Clearing Restrictions</i>
<i>< 1 acre</i>	<i>A</i>	<i>75</i>	<i>85</i>
	<i>B</i>	<i>130</i>	<i>150</i>

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<i>Table 9: Buffer Strip Widths in Watershed of Hypothetical Pond</i>			
<i>Phosphorus Standard: 0.07 - 0.08 lbs/acre</i>		<i>(Buffer Width in Feet Per Lot)</i>	
<i>Lot</i>	<i>Hydrologic Soil Group</i>	<i>Clearing Restricted to 12,500 sq. ft.</i>	<i>No Clearing Restrictions</i>
	C	N/A	N/A
	D	N/A	N/A
1 - 1.99 acre	A	25	25
	B	25	55
	C	55	190
	D	200	N/A
2 - 2.99 acres	A	25	25
	B	25	25
	C	25	50
	D	25	200
All lots 3 acres and larger shall provide a minimum 25-foot buffer.			

(Ord. passed 1-3-2013)

§ 154.212 PERFORMANCE GUARANTEES.

(A) *Types of guarantees.* Prior to the applicant being provided with a copy of the approved plan for recording, the applicant shall provide a performance guarantees for an amount adequate to cover the total construction costs of all required improvements, taking into account the time-span of the construction schedule and the inflation rate for construction costs, in accordance with the provisions of §§ 154.180 through 154.190 above, when required by the Board.

(B) *Phasing of development.* The Board may approve plans to develop a subdivision in separate and distinct phases. This may be accomplished by limiting final approval to those commercial subdivision units or lots abutting that section of the proposed subdivision street or public parking lot which is covered by a performance guarantee. When subdivision is phased, road construction shall commence from an existing public way; parking lot construction shall commence from the principal entrance to the parcel. Final approval of lots in subsequent phases shall be given only upon satisfactory completion of all requirements pertaining to previous phases.

(C) *Release of guarantee.* Prior to the release of any part of the performance guarantee, the Town Manager shall determine to its satisfaction, in part upon the report of the municipal engineer or other qualified individual retained by the municipality and any other agencies and departments who may be

involved, that the proposed improvements meet or exceed the design and construction requirements for that portion or phase of the subdivision for which the release is requested. In case of disagreement, the Board shall arbitrate.

(D) Default. If upon inspection, the municipal engineer or other qualified individual retained by the municipality finds that any of the required improvements have not been constructed in accordance with the plans and specifications filed as part of the application, he or she shall so report in writing to the Code Enforcement Officer, the municipal officers, the Board, and the applicant or builder. The municipal officers shall take any steps necessary to preserve the municipality's rights.

(E) Improvements guaranteed. Performance guarantees shall be tendered for all improvements required to meet the standards of this subchapter and for the construction of the streets, storm water management facilities, public sewage collection or disposal facilities, public water systems, and erosion and sedimentation control measures, unless a majority of the Board votes to waive performance guarantees for any or all of the required improvements.

(Ord. passed 1-3-2013)

§ 154.213 WAIVERS.

(A) Waivers authorized. Where the Board makes written findings of fact that there are special circumstances of a particular parcel proposed to be developed, it may waive portions of the procedural or submission requirements, unless otherwise indicated in this subchapter, provided the applicant has demonstrated that the performance standards of this subchapter and the criteria of the state statutes have been or will be met, the public health, safety, and welfare are protected, and provided the waivers do not have the effect of nullifying the intent and purpose of the comprehensive plan, the zoning ordinance, or this subchapter.

(B) Findings of fact required. Where the Board makes written findings of fact that due to special circumstances of a particular lot proposed to be developed, the provision of certain required improvements is not requisite to provide for the public health, safety or welfare, or are inappropriate because of inadequate or lacking connecting facilities adjacent to or in proximity of the proposed subdivision, it may waive the procedural or submission requirement for such improvements, subject to appropriate conditions, provided the waivers do not have the effect of nullifying the intent and purpose of the comprehensive plan, the zoning ordinance, or this subchapter, and further provided the performance standards of this subchapter and the criteria of the state statutes have been or will be met by the proposed subdivision.

(C) Conditions. Waivers may only be granted in accordance with this section and division
(A) When granting waivers, the Board shall set conditions so that the purposes of this chapter re

met.

(D) *Waivers to be shown on final plan.* When the Board grants a waiver to any of the improvements required by this subchapter, the final plan (Mylar), to be recorded at the Registry of Deeds, shall indicate the waivers granted and the date on which they were granted. (Ord. passed 1-3-2013)

§ 154.214 APPEALS TO SUPERIOR COURT.

An aggrieved party may appeal any decision of the Board under this subchapter only to Penobscot County Superior Court, within 30 days of the date the Board issues a written order of its decision. (Ord. passed 1-3-2013)

SIGNS

§ 154.225 GENERAL.

(A) *Permit required.* No person shall erect any sign, as herein defined, without first obtaining a permit therefore from the Code Enforcement Office, except those signs exempt from the requirements of this subchapter.

(B) *Filing of permit.* All applications for permits as specified above, shall be filed with the Code Enforcement Officer, upon forms furnished, and shall be accompanied by plans, showing the size of the sign, the position of the sign(s) in relation to the lot lines and streets, the position of the sign in relation to adjoining buildings or structures.

(C) *Fees schedule.* The permit fee for erecting, altering, or replacing signs shall be \$20 per sign, except that if a non-conforming sign of record is being altered or replaced so as to bring it in to conformity with this chapter no fee shall be charged.

(D) *Limitation.* Should the work authorized by a permit granted under this chapter not have commenced within six months, or if the authorized work is suspended or abandoned for a period of six months after the time of commencing, then and in that event, the permit shall become null and void and a new permit shall be required before any work may continue.

(E) *Non-conforming signs.* Signs existing on the date of the adoption of this subchapter on 1-1-2007 shall be allowed to remain without alteration for an indefinite period of time. (Ord. passed 1-3-2013)

§ 154.226 RESTRICTIONS.

(A) *Flashing and/or revolving signs.* All flashing and/or revolving signs are prohibited in the town.

(B) *Illuminated signs.* All illuminated signs erected or maintained shall be illuminated by non-flashing and non-intermittent light or lights. No illuminated signs shall be of the intensity or brilliance to cause glare or impair the vision of the operator of any motor vehicle or to otherwise interfere with such operator.

(C) *Off-premise signs prohibited.* All off premise signs are prohibited. This provision shall not apply to official business directional signs.

(D) *Attached signs.* No attached sign shall obstruct any window, door, stairway or other opening intended for ingress or for needed ventilation or light. Further, no sign shall be attached to any tree or public utility pole.

(E) *Projecting signs.* No signs shall project over any lot line, public sidewalk, street or right-of-way line. No projecting sign shall be less than eight feet above grade level. (Ord. passed 1-3-2013)

§ 154.227 SETBACKS.

(A) *Setback from right-of-way.* No signs except official business directional signs, shall be erected inside of the public right-of-way. In addition, if the paved surface of the road extends to the edge of the right-of-way, signs must be located at least seven feet from such paved surface.

(B) *Setback from side lot lines.* All signs shall be set back a minimum of the required building setback within the district the building is located. The setback shall be determined from street or lot line to that part of the sign that extends nearest to said line finished grade level.

(C) *Not to interfere with vision of operator of motor vehicle.* Regardless of these setback provisions, no sign shall be located such that it interferes with or impairs the vision of the operator of any motor vehicle. (Ord. passed 1-3-2013)

§ 154.228 TEMPORARY SIGNS.

Temporary signs, as defined in this chapter shall be classified in one of the three categories below, and subject to the regulations that pertain there to:

(A) Real estate sale, rental, or lease. Temporary signs which pertain to use, sale, or lease of real estate shall be permitted, but must not exceed 32 square feet in area in the Commercial, Village Commercial, and Industrial District. Sixteen square feet in the residential areas. All temporary signs shall conform to § 154.226, restrictions.

(B) Special event and/or announcement signs. Signs shall be prohibited, except temporary signs totaling not more than ten square feet in area on a single lot, pertaining to campaigns, drives, or events of political, civic, philanthropic, educational, or religious organizations. Such signs must be removed no later than 30 days after they are erected. A permit shall not be required for said signs. All other regulations contained in this chapter shall apply to said signs.

(C) Political signs. Signs bearing a political message relating to an election, primary or referendum shall be permitted without necessity of a permit and may be placed in the right-of-way provided they are removed by the candidate or political committee no later than one week after the election, primary, or referendum to which they relate. Any signs not removed within this time period shall be removed by the Code Enforcement Officer of the town, or his or her agent. The cost of removal of such signs shall be determined by the Town Manager and a bill for such costs shall be sent to the candidate or committee responsible for the placement of such signs. Any such sign placed on private property shall also be removed within one week after the election, primary, or referendum to which they relate. The Code Enforcement Officer shall notify any property owner on whose property such signs have been placed if the signs are not removed within the time period set forth above.

(Ord. passed 1-3-2013)

§ 154.229 SIGNS FOR ALL HOME OCCUPATIONS.

Signs for home occupations shall be limited to one nameplate, which may display the name of the occupation and/or the name of the home occupation(s). Such sign shall not exceed four square feet in area and shall be non-illuminated.

(Ord. passed 1-3-2013)

§ 154.230 HEIGHT OF SIGNS.

No sign, either attached, detached or affixed sign shall extend to a height greater than 25 feet above the level of the finished grade or otherwise noted in the subchapter.

(Ord. passed 1-3-2013)

§ 154.231 FREE-STANDING OR DETACHED SIGNS.

The following standards are for single, stand-alone commercial or industrial uses not located in an industrial park, business park, or a commercial complex (shopping center).

(A) *Village Commercial District*. One sign not exceeding 35 square feet in total surface area.

(B) *Residential B and C Districts*. Commercial uses allowed in RB and RC Districts may have one sign not exceeding 35 square feet each in surface area. Nonconforming commercial uses in existence as of the date of this amendment may have one sign not exceeding 12 square feet in surface area. (See § 154.009 for definition of non-conforming uses.)

(C) *Commercial District*. One sign not exceeding 75 square feet each in surface area.

(D) *Industrial District*.

(1) One sign each not exceeding 128 square feet in surface area.

(2) Exception for Industrial areas abutting I-95 or I-95 Interchanges: two separate signs each not exceeding 150 square feet in surface area or four signs totaling 350 square feet. These signs may not

exceed 28 feet in height.

(E) *Residential A District*. No signs allowed except for those permitted through a home occupation.

(F) *Agricultural Forestry District*. Single sign not exceeding 12 square feet in surface area shall be permitted through the Code Enforcement Officer.

(G) *Contract Zone*. The site plan application for a Contract Zone request shall show location and size of all proposed signage.

(Ord. passed 1-3-2013)

§ 154.232 COMMERCIAL COMPLEXES (SHOPPING CENTERS).

(A) *Definition*. **COMMERCIAL COMPLEX (SHOPPING CENTER)** is defined as a grouping of two or more commercial units built primarily for retailing purposes on common property planned, developed, owned or managed as a unit with common off street parking provided for the same site.

(B) Shopping center entrance sign. Shopping center entrance signage shall be part of the site plan approval by the Town Planning Board.

(1) Village Commercial District. Each shopping center's main entrance may have one detached sign directing the public to the shopping center and shall not to exceed 100 square feet and additional signage identifying use of services rendered on the premises in combination shall not exceed not 100 square feet Detached signs shall not extend to a height greater than 25 feet above the finished grade.

(2) Industrial and Commercial Districts. Each shopping center's main entrance may have one detached sign directing the public to the shopping center and shall not to exceed 175 square feet and additional signage identifying use of services rendered on the premises in combination shall not exceed 175 square feet. Detached signs shall not extend to a height greater than 25 feet above the finished grade.

(3) Individual space signage. Each store or shop front may have one attached sign no larger than one square foot of area for every running foot of its frontage. No attached sign or supporting structure shall extend more than four feet above the level of a flat roof or the level of the eaves on the other types of pitched roofs.

(4) Traffic signage. Traffic movement signs, measuring not more than four square feet to direct and facilitate the flow of vehicular traffic into and out of a commercial establishment shall be shown on the project site plan.

(Ord. passed 1-3-2013)

§ 154.233 INDUSTRIAL PARK, OR BUSINESS PARK.

(A) Directory; conditions. A sign or the name of an industrial or business park and a directory of businesses and industries within the same shall be permitted. Each sign authorized under this subchapter shall be subject to the following conditions.

(B) Town ownership. Each sign shall be owned by the town with the costs of construction and installation determined by the Economic Development Director and the Town Council.

(1) Entrance sign. No more than one sign shall be located at or near the entrance to any industrial park or business park, except in those cases where a directory of park occupants is to be a separate sign in addition to the park entrance sign. Such directory sign shall be permitted provided it is located in the park no less than 150 feet from the entrance sign and shall be setback a minimum of 25 feet from the edge of the pavement.

(2) Size. The park entrance sign shall be no larger than 175 square feet The bottom of the sign face must stand at least six feet from the finished grade elevation. The sign shall carry no flashing illumination or moving parts. Location of the park entrance sign shall be approved by the Road Commissioner.

(3) *Directory sign.* A sign carrying a directory of park occupants must be designed to provide a name space which is no larger than six square feet in size and which carries no advertising other than business logos and must be equal in size and shape for each of the proposed lots in the park. Individual directory signs must be removed within 30 days of the date that the business which they advertise moves or closes.

(4) *Attached signage.* Each store or shop front may have one attached sign no larger than one square foot of area for every running foot of its frontage.
(Ord. passed 1-3-2013)

VILLAGE COMMERCIAL DISTRICT

§ 154.250 PURPOSE AND SCOPE.

(A) The purpose of this subchapter is to encourage and support the ongoing development of an attractive, traditional, rural New England village consisting of compatible mixed uses that is vibrant, pedestrian friendly and well-designed.

(B) These standards are applicable to new construction, enlargements, and/or change of use. (Ord. passed 1-3-2013)

§ 154.251 REQUIRED SUBMISSIONS.

(A) *Purpose.* The required submittal helps the Code Enforcement Officer (CEO) and Planning Board determine whether the following standards will be met. The CEO and Planning Board should review each submittal and be confident that the information provided adequately addresses the review standard, prior to approving the application.

(B) *Application.* The application shall be in writing on a form available from the town office and shall contain a description of the proposed structure(s) prior to their construction, enlargement or change of use. Submittals shall include:

(1) A plan of the site to scale showing lot dimensions, abutters, building envelope and proposed landscaping;

(2) A scale drawing of the structure(s) with notations showing:

(a) Building height;

- (b) Roof type and pitch;
- (c) Dimensions of building and its orientation;
- (d) Exterior finish including colors;
- (e) Building size;
- (f) Architectural details;
- (g) Location of building(s) on the site;
- (h) Street level photograph(s) of adjacent buildings; and
- (i) Construction materials and textures.

(3) Specific plans for landscaping, buffers, exterior lighting, hours of operation, noise control, and outside storage of materials;

- (4) A scale drawing, location and description of proposed signs;
- (5) A scale drawing showing sidewalks and sidewalk treatments (if applicable);
- (6) A scale drawing of off-street parking and loading facilities;
- (7) A scale drawing of entrance and exit access roads; and

(8) Any other information necessary to show that these standards and any other applicable standards of this chapter have been met.

§ 154.252 ACCESS AND TRAFFIC MANAGEMENT.

(A) *Applicability.* These standards apply to all accesses (driveways/entrances), other than driveways to single family and two-family dwellings. Further, these standards apply:

- (1) To all public or private driveways/entrances onto state highways, state-aid highways and town public ways; and
- (2) The alteration of existing driveways/entrances onto said highways and public ways; and
- (3) To changes in use on the property serviced by such driveways/entrances.

(B) Access to public ways.

(1) General design requirements.

(a) All entrance and exit driveways shall be located and designed in profile and grading to afford safety to traffic providing for safe and convenient ingress and egress, to and from the site, and to minimize conflict with the flow of traffic.

(b) The dimensions of driveways shall be designed to adequately accommodate the volume and character of vehicles anticipated to be attracted daily.

(c) Provision shall be made for convenient and safe emergency vehicle access to all buildings and structures at all times.

(2) *Corner obstructions.* No fence, wall, sign, structure, or landscaping shall be placed within the area within 20 feet of an intersection of any two streets in such a manner to materially impede vision between a height of two and one-half and ten feet above street level.

(3) *Corner setback.* Where a site occupies a corner of two intersecting roads, no driveway entrance or exit shall be located within 50 feet of the point of tangency of the existing or proposed curb radius of that site. Access to the lot shall be provided across the frontage and to the street where there is less potential for traffic congestion and for hazards to traffic and pedestrians.

(4) Sight distances.

(a) *Measurements.* Any exit driveway or driveway lane shall be so designed in profile and grading and so located as to provide the following minimum sight distance measured in each direction. The measurements shall be from the driver's seat of a vehicle standing on that portion of the exit driveway with the front of the vehicle a minimum of ten feet behind the curbline or edge of shoulder.

<i>Allowable Speed (Miles per Hour)</i>	<i>Medium Volume Driveways (Feet)</i>	<i>High Volume Driveways (Feet)</i>
25	250	300
35	350	480
40	400	580
45	450	710
50	500	840
55	550	990

(b) Notes.

1. *Medium volume driveways.* Driveways with a traffic volume of less than 1,500 vehicle trips per day or less than 150 vehicle trips per peak hour.

2. *High volume driveways.* Driveways with a traffic volume of 1,500 or more vehicle tips per day and more than 150 vehicle trips per peak hour.

(5) *Level of service.* The intersection of any access drive or proposed street shall function at a level of service of C as defined by the Institute of Traffic Engineers following development if the project will generate 400 or more vehicle trips per 24-hour period or at a level which shall allow safe access into and out of the project if less than 400 trips are generated. Projects generating 400 or more vehicle trips per 24-hour period shall provide two or more separate points of vehicular access into and out of the site.

(6) *Distance between driveways.* Where two or more driveways connect on a single site to any one road, a minimum clear distance of 100 feet measured along the right-of-way shall separate the closest edges of any two such driveways, unless the driveways are one-way only, then the minimum clear distance shall be no less than 50 feet.

(7) *Angles.* Driveways used for two-way operation shall intersect the road at an angle of or as near to 90 degrees as site conditions will permit and in no case less than 60 degrees. Driveways used by vehicles in one direction of travel (right-turn only) shall not form an angle smaller than 45 degrees with the road, unless acceleration and deceleration lanes are provided.

(8) *Dimensions.* The dimensions of driveways shall be designed to adequately accommodate the volume and character of vehicles anticipated. The required maximum and minimum dimensions for driveways are indicated below. Driveways serving large volumes of daily traffic or traffic of over 15 % truck traffic shall be required to utilize high to maximum dimensions.

	<i>One-Way Operation Driveways*</i> <i>Width (Feet)</i>	<i>Two-Way Operation Driveways*</i> <i>Width (Feet)</i>
3 to 10 dwelling units	10 to 15	15 to 25
10 dwelling units or more	15 to 25	20 to 35
Commercial and industrial	15 to 30	25 to 35
*All driveways shall be 5 feet wider at the curbline and this additional width shall be maintained for a distance of 20 feet into the site.		

(9) *Grades.* Driveways shall not have a grade in excess of 10% over the entire length. For all driveways entering onto Route 2, the grade shall not be more than 3 % for the first 100 feet from the road.

(10) *Stacking or queuing standards for drive-through businesses.* Stacking or queuing spaces shall be located on-site and shall not be located within the required setbacks. Stacking or queuing spaces shall not interfere with the stall and aisle space requirements as described in the off-street parking and loading.

(a) *Banks or other commercial uses.* There shall be a minimum of eight spaces.

(b) *Drive-up restaurant.* There shall be 11 spaces for the drive-up window, with a minimum of five of these spaces for the ordering station.

(11) *Shared driveways.* Shared driveways shall be encouraged for adjacent sites with frontage on Route 2 in order to minimize the number of driveways along Route 2. The lot size and road frontage requirement may be reduced by a total of 10% when the developer agrees to provide a common driveway to the site.

(12) *Direct access prohibited.* Where a proposed development involves the division of a tract or parcel of land into three or more lots within any five-year period, whether accomplished by sale, lease, development, buildings or otherwise, as defined by the Subdivision Law, 30-A M.R.S. A . §§ 4401 through 4407, and where such project abuts Route 2, the following provisions shall apply:

(a) *Direct arterial access prohibited.* Direct access to any individual lot, or to a single place of business, shall be prohibited unless the Planning Board determines that physical conditions particular to the parcel justify the granting of a waiver from this requirement. A waiver shall *be* granted only if there will be no further subdivision of the parcel and one of the following conditions is met:

1. There is too little road frontage to reasonably allow creation of a new way;
2. The shape or physical condition of the parcel does not permit access to or creation of a street other than Route 2.
3. Common access will be utilized which will allow all proposed lots to be serviced by one new curb cut.

(b) *Permitted access.* Access to the development may include one of the following:

1. *Common frontage road.* A common frontage road running parallel to Route 2 provided that such frontage road shall be located at least 50 feet from the right-of-way of Route 2. As an alternative to constructing the service road, the town and the developer, acting through a formal agreement, may agree that small sites may be served by individual, temporary driveways until adjacent lots are developed, provided that a service road shall be constructed by a mutually agreed upon date, after which the temporary driveways shall be closed and consolidated into one or two access points.

2. *Common driveway.* A common driveway, which may intersect Route 2, and which serves the individual lots or businesses or a common parking lot adjacent to the individual lots or businesses.

3. *Minor Road(s).* One or more minor roads, to be constructed by the developer according to the standards of this chapter, which shall serve the development. (Ord. passed 1-3-2013)

§ 154.253 BUFFERING OF ADJACENT USES.

(A) The development shall provide for the buffering of adjacent uses, where there is a transition from one type of use to another, and for screening of mechanical equipment, loading and service areas, and storage facilities.

(B) Buffering shall be designed and maintained to provide a year-round visual screen in order to minimize adverse impacts. It may consist of fencing, evergreens, berms, rocks, boulders, mounds, or a combination thereof. The use of native plant species is encouraged.

(C) A development shall provide sufficient buffering when topographic or other barriers do not provide reasonable screening and where there is a need to:

- (1) Shield neighboring properties from any adverse external effects of the development; or
- (2) Shield the development from the negative impacts of adjacent uses.

(D) The depth of the buffer may vary depending on the treatment of the area.

(1) A buffer with dense planting, fencing or changes in grade may be as little as five feet in width. A buffer with moderate levels of planting should be ten feet to 15 feet in depth.

(2) Areas adjacent to mechanical service, parking, loading or storage areas and facilities should be screened by dense plantings, berms, fencing, or a combination thereof with a minimum depth of five feet.

(Ord. passed 1-3-2013)

§ 154.254 BUILDINGS.

(A) *Building placement and setback.*

(1) *Relationship to parking lot.* The site design should avoid creating a building surrounded by a parking lot. Parking should be to the side or preferably in the back. (See § 154.260, off-street parking.)

(2) *Setbacks in built-up areas.* In more built-up areas, new buildings should be setback to provide a reasonably uniform relationship with existing and adjacent buildings, while meeting the minimum front yard building setbacks in §§ 154.040 through 154.047. Buildings that create a terrace, court or plaza or similar outdoor spaces shall be permitted.

(3) *Setbacks in less built-up areas.* In less built-up areas, front yard building setbacks should establish a pattern characteristic of a small, traditional village, with setbacks between 23 feet and 30 feet.

(4) *Corner lots.* For corner lots, the existing setback relationship of both streets should be maintained to the extent practicable and consistent with §§ 154.040 through 154.047, setbacks.

(5) *Side yard setbacks.* Side yard setbacks should appear similar to others in the area, as seen from the street, so as to maintain the uniform spacing of side yards.

(6) *Multiple buildings.* Where two or more buildings are proposed, the buildings shall be grouped and linked with sidewalks. Tree plantings shall be used to provide shade and break up the scale of the site. Parking areas shall be separated from the building by a minimum of five to ten feet. Plantings shall be provided along the building edge.

(B) *Building orientation and scale.*

(1) *Rectangular buildings preferred.* Buildings shall have a basic form that is similar to those seen traditionally. Simple, rectangular buildings are preferred. Box-style buildings are discouraged.

(2) *Visual continuity.* Building forms that disrupt the sense of visual continuity are discouraged.

(3) *Large buildings.* When new large buildings or structures are proposed in built-up areas where their scale (size) and other features may be significantly different from that which already exists in the immediate neighborhood, the new building shall be designed to be compatible with its neighbors. This may include making the building appear small, using traditional materials, styles and/or proportions or dividing the building facade into smaller sections.

(a) *Design.* Buildings with multiple storefronts shall be visually unified through the use of complementary architectural forms, similar materials and colors, consistent details, and a uniform sign and mounting system.

(b) *Entrances.* Pedestrian entrances to each business should be clearly defined and easily accessed.

(c) *Setbacks.* Variations in front setbacks should be considered to add visual interest and create space for common entries, outdoor eating/social places, gardens, and similar landscaped

(d) *Focal points.* Linear commercial buildings should include a focal point, such as a raised entryway, clock tower, or other architectural elements, to add visual interest and help reduce the scale of the building.

(C) *Building materials.*

(1) New building materials shall be compatible in quality, color, texture, finish and dimension to those traditionally found on buildings in New England villages.

(2) Common preferred materials are brick, stone and wood. More modern materials, such as vinyl clapboard siding is also appropriate. Materials not typical such as concrete (cinder block), stucco and metal are discouraged, and shall not be permitted on any portion of the structure visible from the road.

(D) *Building roofs.* Where there is an existing pattern of roofs, new roofs should appear similar to those seen elsewhere in the neighborhood.

(1) Sloping roofs such as gable and hipped, are appropriate for primary roof forms.

(2) Sloping roofs typical of other buildings are encouraged.

(3) Dormers are encouraged because they break up the perceived scale of a roof.

(4) Fake mansard roofs are not permitted.

(5) Flat roofs are discouraged; however if used they shall be hidden from *view* from the street; decoration of the roofline and/or front facade is encouraged to hide flat roofs.

(6) Parapets, projecting cornices, and decorative roof details are encouraged.

(7) Roof materials shall convey a scale and texture similar to those traditionally used.

(8) The most appropriate roof colors include neutral shades such as earth tones, grays and black. Very bright primary colors are discouraged.

(E) *Building entrances.*

(1) *Street orientation.* The main entrance to a building should face the street unless the parking lot layout or the grouping of the buildings justifies another approach.

(2) *Prominent entry.* A prominent entry, clearly identified as such through building and site design, landscaping and/or signage, should be provided.

(3) *Similarity to others.* The entry should appear similar in scale, location and prominence to those seen in the neighborhood.

(4) *Site furnishings.* At building entrance areas and drop-off areas, site furnishings such as benches and sitting walls and, if appropriate, bicycle racks are encouraged. Additional plantings may be desirable at these points to identify the building entrance and to enhance the pedestrian environment.

(F) *Windows and doors.*

(1) New construction should maintain the proportions and spacing of openings of traditional New England neighborhood buildings.

(2) Owners are encouraged to maintain a greater transparent or glazed open area at the storefront level for pedestrian and commercial activity.

(3) Upper story openings and windows should have a vertical orientation, stacked above each other. (Ord. passed 1-3-2013)

§ 154.255 BUSINESS SIGNS.

See §§ 154.225 through 154.233, signs.
(Ord. passed 1-3-2013)

§ 154.256 LIGHTING.

(A) *Statement of purpose.* To ensure appropriate outdoor lighting consistent with the traditional New England village character by addressing the issues of safety, efficiency, the environment, and aesthetics, and by addressing the need to protect residential uses from excessive lighting.

(B) *All developments to have adequate outside lighting.* All development shall be provided with adequate outside lighting to ensure a safe environment. All lighting intended to illuminate any outdoor area, or the outside of any building, shall be directed into the property served by such lighting so that no undesirable illumination or glare will be produced on adjacent streets or lots occupied by residential, institutional or public uses.

(C) Performance standards. The following standards shall apply:

(1) Unless determined to be a safety hazard or in violation of any state or federal law, all outdoor lighting shall comply with this section, except for the following: lighting installed and maintained for public safety by municipal, state or federal government; approved signs; external illumination of flags; approved lighting for athletic fields; temporary outdoor lighting; holiday lighting; luminaries with lamp or lamps rated at a total of 2,000 lumens or less.

(2) *Unobtrusive lighting; ambiance.* Lighting shall not be obtrusive, and fixtures shall be consistent with the small village ambiance.

(3) *Hours of operation.* The permitting authority may require that all exterior lighting, except where security lighting is necessary, must be turned off between the hours of 11:00 p.m. and 5:00 a.m., if it determines that excessive lighting will negatively impact adjacent uses.

(4) *Definitions.* For the purposes of this section, a *LUMEN* is a unit of lumens flux. One *FOOT-CANDLE* is equal to one lumen per square foot. The *LUMEN-OUTPUT VALUES* shall be the initial lumen output ratings of a lamp.

(a) No luminaries shall produce a stray, dazzling light or reflection onto neighboring residential properties, or onto any public road so as to impair the vision of any driver.

(b) Luminaries shall be shielded or hooded so that the lighting elements are not exposed to normal view by motorists, pedestrians, or from adjacent buildings. No luminaries shall emit any direct light above its horizontal plane. The permitting authority may grant exceptions for lights that are aesthetically consistent with decorative streetlights and located on parcels adjacent to such streetlights.

(c) No flood or spot luminaire of any lumen output rating shall be aimed, directed or focused toward any adjacent or nearby residential parcel.

(d) Rather than leaving security lights on, the use of motion sensors is encouraged.

(e) Direct or indirect illumination shall not exceed on-half foot-candle upon abutting residential properties.

(f) Luminaire height, including the base, shall not exceed 25 feet. Exceptions may be granted only when it can be demonstrated that the intent of this section will still be substantially met.

(5) Existing nonconforming luminaires.

(a) The continued use of nonconforming luminaires legally existing as of the effective date of this section shall be permitted unless determined to be a safety hazard.

(b) Nonconforming luminaires replaced or moved after the effective date of this section shall comply with the provisions of this section.
(Ord. passed 1-3-2013)

§ 154.257 NOISE.

(A) *Generally.* The proposed development shall not increase noise to the extent that abutting or nearby properties, or the traditional village character are adversely affected. All noise shall be muffled so as not to be objectionable due to intermittence, beat frequency or shrillness.

(B) *Noise levels and hours of operation.* The permitting authority may require documentation of noise levels, if it determines that the proposed development might produce more than ambient levels of noise such that abutting and/or adjacent properties would be adversely affected. If the permitting authority determines there will be an adverse affect due to the intermittence, beat frequency or shrillness of noise associated with the proposed development, it may limit the development's hours of operation or deny the project. (*AMBIENT.* Meaning the noise is constantly and spontaneously occurring as "background noise".)
(Ord. passed 1-3-2013)

§ 154.258 EXTERIOR STORAGE OF MATERIALS.

(A) Exposed nonresidential storage areas, exposed machinery, and areas used for the storage or collection of discarded automobiles, auto parts, metals or other articles of salvage or refuse must have sufficient setbacks and screening (such as a stockade fence or dense evergreen hedge) to provide a visual buffer sufficient to minimize their impact on abutting residential uses and users of public streets.

(B) All dumpsters or similar large collection receptacles for trash or other materials must be located on level surfaces which are paved or graveled. Where the dumpster or receptacle is located in a yard which abuts a residential or institutional use or a public street, it must be screened by fencing or landscaping.

(C) Where a potential safety hazard to children is likely to arise, physical screening sufficient to deter small children from entering the premises must be provided and maintained in good condition
(Ord. passed 1-3-2013)

§ 154.259 LANDSCAPING.

(A) *Landscape plan required.* A landscaping plan shall be provided as part of the site design.

(B) *Landscaping: general standards.*

(1) The landscape plan for the entire site must use landscape materials to integrate the various elements on site, preserve and enhance the particular identity of the site, and create a pleasing site character. The landscaping should define street edges, break up parking areas, soften the appearance of the development, and protect abutting properties.

(2) The variety of vegetation shall be based on a consideration of susceptibility to disease, hardiness for specific site location, colors, seasons, textures, shapes, sizes, blossoms and foliage. Planted vegetation shall take the form of shade trees, deciduous shrubs, evergreen, ground cover, perennial and/or annual flower beds and well kept grassed areas and be approved by the permitting authority.

(3) For vegetation standards. See § 154.081(B).

(a) At least one shade tree at least five feet in height and at least one inch in diameter, shall be planted in each 1,000 square feet of required landscaped area; and at least one deciduous shrub or evergreen at least 18 inches above finished grade level, shall be planted for each 500 square feet of required landscaped area.

(b) A total of 25% of non-impervious surfaces must be landscaped with trees, shrubs, ground covers (including grasses) and/or flowers. All non-impervious surfaces must be covered with living plant material.

(c) Primarily wooded property shall be required to landscape 25 % of any cleared non-impervious surfaces.

(4) Landscaping may be waived by the Planning Board for fire, security or safety reasons upon a showing by the applicant of the need for such waivers.

(5) The landscape plan must include a description of how the landscaping will be maintained and preserved in good condition.

(C) *Landscaping of parking lots.* Landscaping around and within parking lots shall be designed to shade hot surfaces and visually "soften" the hard surface look of parking areas.

(1) Parking areas shall be designed and landscaped to create a pedestrian-friendly environment.

(2) A landscaped border shall be created around parking lots.

(3) Any parking lot containing ten or more parking spaces should include one or more landscaped islands within the interior of the lot. There should be at least one island for every 20 spaces.

(4) Landscaping should screen the parking lot from adjacent residential uses and from the street.

(D) *Landscaped roadside buffers.* Whenever the area between the street and the front of the building is used for parking or vehicle movement, a vegetated buffer strip should be established along the edge of the road right-of-way. This buffer strip should soften the appearance of the site from the road and should create defined points of access to and egress from the site.

(Ord. passed 1-3-2013)

§ 154.260 LOCATION OF OFF-STREET PARKING.

(A) Particularly within built-up areas, parking lots should be located to the side or rear of the building. Parking should not be located between the building and the street. The use of shared parking, shared access entrances and/or exits, and inter-connected parking lots is encouraged.

(B) Smaller buildings that may need public visibility from the street should be sited as close as possible to the street, provided that not more than one row of parking shall be allowed between the building and the street, with the balance of the parking located at the side and/or rear of the building. Larger scale uses and uses which do not require visibility from the road may be located further from the road with a landscaped buffer between the building and the road.

(Ord. passed 1-3-2013)

§ 154.261 SIDEWALKS.

(A) When developing adjacent to an existing sidewalk, an extension of the sidewalk across the front of the property may be required by the permitting authority. This is to allow for the ongoing continuation of sidewalks as a part of the overall plan for the village commercial district.

(B) When a public sidewalk is interrupted by a proposed project driveway, the sidewalk material shall continue to be maintained across the driveway, or the driveway shall *be* painted to distinguish it as a sidewalk. Further, if street trees exist on an adjacent property, street trees shall be planted, in a like manner, on the new site.

(C) In built-up areas, a widening of the sidewalk onto private property to encourage window shopping and an improved streetscape is encouraged. Benches, sculpture, planters and other street furniture are encouraged.

(Ord. passed 1-3-2013)

§ 154.262 DRIVE -THROUGH FACILITIES.

(A) *Minimize impact.* Any use that provides drive-through service shall be located and designed to minimize the impact on neighboring properties and traffic circulation.

(B) *Adjacent residential use.* Drive-through facilities shall be located and designed to minimize negative impacts (light, noise and traffic) on adjacent residential uses.

(C) *Communication systems.* Communication systems shall not be audible on adjacent residential properties.

(D) *Vehicular access.* Vehicular access to the drive through shall be through a separate lane that prevents vehicle queuing within normal parking areas. Adequate queuing space must be provided to prevent any vehicles from having to wait on a public street, within the entry from the street, or within designated parking areas.

(E) *Pedestrian ways.* The drive-through must not interfere with any sidewalk or bicycle path.
(Ord. passed 1-3-2013)

*APPEALS***§ 154.275 ESTABLISHMENT OF BOARD OF APPEALS.**

There shall be a Board of Appeals (also referred to herein as "the Board") of five members and two associates, appointed by the Town Council of the town, and established in accordance with provisions of 30-A M.R.S.A. § 2691, as amended. The associates shall be appointed annually and shall have all of the rights of a full member except such associate may vote only in the absence of a full member. Each full member shall serve a term of three years. Such terms shall be staggered so that they do not all expire the same year. Neither a Municipal Officer nor his spouse may be a member or associate member of the Board. The Board shall at all times be organized and act in accordance with State law and the provisions of this subchapter.

(Ord. passed 1-3-2013)

§ 154.276 JURISDICTION AND AUTHORITY.

For the purpose of this chapter, the Board of Appeals shall have the jurisdiction and authority:

(A) *Administrative appeals.* To hear and decide appeals where it is alleged that there is an error in any order, requirement, decision, or determination made by, or failure to act by, the Code Enforcement Officer or Town Planning Board in the enforcement or administration of this chapter.

(B) Variance appeals. To authorize variances upon appeal within the limitations set forth in this chapter.
(Ord. passed 1-3-2013)

154.277 PROCEDURE.

The following is the procedure to make an appeal:

(A) An administrative or variance appeal may be taken to the Town Board of Appeals by an aggrieved party from any decision of the Code Enforcement Officer or the Town Planning 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 on forms available from the Code Enforcement Officer 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 and proposed buildings and structures, contours at realistic intervals, and other physical features of the lot pertinent to the relief sought.

(3) The names and addresses of abutting property owners.

(4) Additional information deemed necessary by the Board of Appeals to make a fair and equitable decision, shall be supplied by the applicant upon request. The application must be signed by the applicant. All variances and Administrative Appeals by an aggrieved party shall be accompanied by a fee payable to the town as established by the Town Council.

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

(Ord. passed 1-3-2013)

§ 154.278 VARIANCE APPEALS.

(A) General limitations. Variances may be permitted only under the following conditions:

(1) Variances may be granted only from dimensional requirements including but not limited to, lot width, structure height, percent of lot coverage, and setback requirements except for minimum setbacks from a wetland or water body required within shoreland zones (see division (B).)

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

(3) The Board of Appeals shall not grant a variance unless it finds that:

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

(b) 1. The strict application of the terms of this chapter would result in undue hardship.

2. 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.

(4) The Town Board of Appeals shall limit any variances granted as strictly as possible in order to insure conformance with the purposes and provisions of this chapter 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. The Board of Appeals may grant a variance, with or without restrictions, only by a concurring vote of at least four members.

(B) *Additional restrictions in areas subject to §§ 154.125 through 154.140, Shoreland Zoning.*

(1) Variances from the minimum setback requirements may only be approved for a single-family dwelling which serves as the primary year-round residence of the petitioner and may not exceed 20% of the required setback. Variances of greater than 20% may only be approved by the Board of Appeals with the written consent of an affected abutting landowner.

(2) In the case of a variance requested from setbacks, the Board of Appeals shall not grant a variance unless it finds that "undue hardship", as defined in 30-A M.R.S.A. § 4353.4-B, would result from the strict application of the terms of the setback requirements of this chapter. In this specific instance only, *UNDUE HARDSHIP* means:

(a) The need for a variance is due to the unique circumstances of the property and not to the general condition of the neighborhood;

- (b) The granting of a variance will not alter the essential character of the locality;
- (c) The hardship is not the result of action taken by the applicant or a prior owner;
- (d) The granting of the variance will not substantially reduce or impair the use of the abutting property; and
- (e) The granting of a variance is based upon demonstrated need, not convenience, and no other feasible alternative is available.

(3) A copy of all variances granted under this division by the Town Board of Appeals shall be submitted to the Department of Environmental Protection within 14 days of the decision.

(C) Additional restrictions in areas subject to §§ 154.155 through 154.166, floodplain management.

(1) Variances shall not be granted within any designated regulatory floodway if any increase in flood levels during the base flood discharge would result.

(2) Variances shall be granted only upon 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.

(3) Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.

(4) Variances may be issued by a community for new construction, substantial improvements, or other development for the conduct of a functionally dependent use provided that:

- (a) Other criteria of this subchapter and §§ 154.155 through 154.166 are met; and
- (b) 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.

(5) Variances may be issued by a community for the repair, reconstruction, rehabilitation, or restoration of structures listed on the National Register of Historic Places or a state inventory of historic places, provided that 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.

(6) Any applicant who meets the criteria of division (A) above shall be notified by the Board of Appeals in writing that:

(a) 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;

(b) Such construction below the base flood level increases risks to life and property; and

(c) 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.

(7) The Board of Appeals shall submit to the Code Enforcement Officer a written report of all variance actions under this division, including justification for the granting of the variance and an authorization for the Code Enforcement Officer to issue a flood hazard development permit, which includes any conditions to be attached to said permit.

(Ord. passed 1-3-2013)

154.279 ADMINISTRATIVE APPEALS.

An administrative appeal lies from a determination made by the Code Enforcement Officer in enforcing this chapter or Planning Board in interpreting this chapter. Such determination may involve an interpretation of the provisions of this chapter or a finding of fact made by the Code Enforcement Officer or Planning Board. Whenever the applicant alleges error by the Code Enforcement Officer or Planning Board in making such determination, he or she may appeal to the Board of Appeals for relief. The Board of Appeals shall then hear and decide whether the Code Enforcement Officer or Planning Board has committed an error in any order, requirement, decision, determination, action or failure to act. In making its decision, the Board of Appeals shall look to the provisions and purposes of this chapter and to the facts as presented to them. The determination of the Code Enforcement Officer or Planning Board shall then be upheld, modified or reversed by the Board. Reversal or modification of the determination made by the Code Enforcement Officer or Planning Board shall be accomplished only by a concurring vote of at least four members of the Board.

(Ord. passed 1-3-2013)

§ 154.280 PUBLIC HEARING.

The Board of Appeals shall hold a public hearing for the purpose of reviewing and deciding applications to it. The Board shall notify the Code Enforcement Officer and abutting property owners at least seven days in advance, of the time and location of the public hearing.

(A) Notice.

(1) Notice of the public hearing shall be published in a newspaper of general local circulation and shall be posted in at least three public places in the town at least seven days in advance of the hearing.

(2) Failure of any property owner to receive such notice shall not necessitate another public hearing nor invalidate any action taken by the Board.

(B) Costs. The Board of Appeals shall assess all applicants for advertising and mailing costs related to the public hearing.

(C) Representation. The applicant or a legal representative shall be present at the public hearing and such applicant may be represented by an attorney. Upon request of the Board, the Code Enforcement Officer or agent shall be present at the hearing. The public hearing may be cancelled only by the Chairman of the Board of Appeals and only for good cause. If such postponement is at the request of the applicant, all costs related to the cancelled hearing shall be assessed to the applicant.
(Ord. passed 1-3-2013)

§ 154.281 DECISION BY BOARD OF APPEALS.

(A) Quorum. A majority of the Board including alternate members, 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) Burden of proof. The person filing the appeal shall have the burden of proof.

(C) Time limit. The Board shall decide all appeals within 30 days after the close of the hearing, and shall issue a written decision on all appeals.

(D) Written record. 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.

(Ord. passed 1-3-2013)

§ 154.282 PERMITS.

If the decision of the Board of Appeals is such that the applicant may thereafter rightfully secure building permits or certificates of occupancy, the Code Enforcement Officer shall issue such permits or certificates within five calendar days after notification of such decision.

(Ord. passed 1-3-2013)

§ 154.283 EXPIRATION DATE.

If the Board of Appeals decides to grant a variance, whether or not such variance has restrictions, the variance shall expire one year from date of the decision if the necessary permits are not issued during that one-year period.

(Ord. passed 1-3-2013)

§ 154.284 REAPPLICATION FOR APPEAL.

If the Board of Appeals shall deny an appeal, a second appeal affecting the same premises and requesting a similar result, shall not be brought before the Board within six months from the date of the denial by the Board of the first appeal, unless in the opinion of a majority of the Board, substantial new evidence shall be brought forward, or unless the Board finds, in its sole and exclusive judgment, that an error or mistake of law or misunderstanding of fact has been made.

(Ord. passed 1-3-2013)

§ 154.285 APPEAL TO SUPERIOR COURT.

An aggrieved party who participated as a party during the proceedings before the Town 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 Town Board of Appeals.

(Ord. passed 1-3-2013)

§ 154.999 PENALTY.

Any person being the owner or occupant of, or having control or use of any building, structure or premises, who violates a provision of this chapter, shall be guilty of a civil offense and upon conviction, shall be punished by a fine of not less than \$100 nor more than \$2,500 for each offense (30-A M.R.S.A. § 4452). Each day that such violation continues after notification shall constitute a separate offense. In the event that the CEO gives a violator a specific period of time in which to correct such offense, the number of offenses shall be calculated from the expiration of such time given.

(Ord. passed 1-3-2013)

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- I. AGREEMENTS; MUNICIPAL ASSISTANCE**
- II. MUNICIPAL BONDS**

TABLE I: AGREEMENTS; MUNICIPAL ASSISTANCE

<i>Ord. No.</i>	<i>Date Passed</i>	<i>Description</i>
-	11-4-2010	Adopting the Maine Municipal Assistance model Ord. GA appendices (A through C) for the period of 10-1-2010 to 10-1-2011; filed with the Department of Health and Human Services (DHHS) in compliance with 22 M.R.S.A. § 4305(4)

TABLE II: MUNICIPAL BONDS

<i>Ord. No.</i>	<i>Date Passed</i>	<i>Description</i>
	9-17-1997	Authorizing the issuance of bonds to extend public water and sewer service, in a principal amount not to exceed \$2,400,000, to serve Odlin/Coldbrook Road areas for commercial and industrial development

PARALLEL REFERENCES

**References to Maine Revised Statutes Annotated
References to Ordinances**

REFERENCES TO MAINE REVISED STATUTES ANNOTATED

M.R.S.A. Cites

Code Section

1 M.R.S.A. § 302 1	154.181, 154.206
M.R.S.A. § 440 7	154.155
M.R.S.A. Ch. 721 7	90.17
M.R.S.A. Ch. 725 7	90.03
M.R.S.A. § 3907 7	90.03
M.R.S.A. § 3948	90.03
7 M.R.S.A. §§ 4201-4209	154.067
8 M.R.S.A. § 27-A	91.04
12 M.R.S.A. §§ 4807 <i>et seq.</i>	53.007
12 M.R.S.A. § 13001	70.02
17 M.R.S.A. § 2807	154.067
17 M.R.S.A. § 2851	151.25
22 M.R.S.A. § 4305(4)	TSO Table I
23 M.R.S.A. Ch. 21	153.09
26 M.R.S.A. § 814(1)(A)	70.02
29-A M.R.S.A.	72.02
29-A M.R.S.A. § 521 29-	10.99
A M.R.S.A. § 523 29-A	10.99
M.R.S.A. § 2388 29-A	72.01
M.R.S.A. § 2395 29-A	72.01
M.R.S.A. § 2395(4) 29-A	72.04
M.R.S.A. § 2395(4-A) 30-	72.04
A M.R.S.A.	Charter § 9.02, 154.002, 154.207
30-A M.R.S.A. § 58.01	Charter § 8.13
30-A M.R.S.A. § 435	154.205
30-A M.R.S.A. § 1054	111.02
30-A M.R.S.A. § 2102(3)(b)(3)	Charter §§ 10.01, 10.02, 10.04
30-A M.R.S.A. § 2691	154.140, 154.275
30-A M.R.S.A. § 3001	30.01, 30.03, 31.02, 51.03, 52.01
30-A M.R.S.A. §§ 3001-3007	154.155
30-A M.R.S.A. § 3004	10.15

<i>M.R.S.A. Cites</i>	<i>Code Section</i>
30-A M.R.S.A. § 3008	110.02
30-A M.R.S.A. § 3009	10.99, 72.01
30-A M.R.S.A. §§ 3151 <i>et seq.</i>	31.02
30-A M.R.S.A. § 3153	31.02
30-A M.R.S.A. §§ 3153 <i>et seq.</i>	31.02
30-A M.R.S.A. §§ 4211 <i>et seq.</i>	51.03
30-A M.R.S.A. § 4215	51.04
30-A M.R.S.A. § 4352(8)	154.007
30-A M.R.S.A. § 4352(8)(C)	154.007
30-A M.R.S.A. § 4352(9)	154.007
30-A M.R.S.A. § 4352(10)	154.007
30-A M.R.S.A. §§ 4352-4401	154.155
30-A M.R.S.A. § 4353.4-B	154.278
30-A M.R.S.A. § 4358	154.009
30-A M.R.S.A. §§ 4401-4407	154.066, 154.252
30-A M.R.S.A. § 4401	154.207, 154.210
30-A M.R.S.A. § 4401, subsec. 4	154.009
30-A M.R.S.A. §§ 4401 <i>et seq.</i>	154.205
30-A M.R.S.A. § 4452	51.23, 53.008, 53.999, 154.008, 154.163, 154.209, 154.999
30-A M.R.S.A. § 4452, subsec F	154.185, 154.209
30-A M.R.S.A. § 4452(6)	154.091
30-A M.R.S.A. § 4452.3	151.20
30-A M.R.S.A. § 5603(2)(A)	30.01
30-A M.R.S.A. § 15006	30.01
32 M.R.S.A. § 1861	154.009
35-A M.R.S.A. § 102	154.009
35-A M.R.S.A. § 10103	54.04
35-A M.R.S.A. §§ 10151 <i>et seq.</i>	54.02
35-A M.R.S.A. § 10154(2)(A)(2)	54.18
35-A M.R.S.A. § 10154(2)(B)	54.18
36 M.R.S.A. § 1481(5)	70.02
36 M.R.S.A. § 1483-A	70.02
38 M.R.S.A. § 413	53.041
38 M.R.S.A. § 413, subsec. 1-A	154.009
38 M.R.S.A. § 414	154.009
38 M.R.S.A. § 349	53.999
38 M.R.S.A. Art. 4-A, subsec. 3	154.007
38 M.R.S.A. Art. 4-A, § 465-A	154.009
38 M.R.S.A. § 404	154.139

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38 M.R.S.A. §§ 435-449	154.126
38 M.R.S.A. § 438-A(5)	154.128
38 M.R.S.A. § 480-C	52.05, 154.138, 154.139, 154.210
38 M.R.S.A. § 480-C(9)	52.05
38 M.R.S.A. Ch. 13	50.01
38 M.R.S.A. Ch. 13, subch. 1	154.009
38 M.R.S.A. § 1303-C(15)	52.02
38 M.R.S.A. § 1303-C(27)	52.02
38 M.R.S.A. § 1303-C(34)	52.02
38 M.R.S.A. §§ 1303-C(40)-1306(2)	154.091
38 M.R.S.A. § 1304	50.02
38 M.R.S.A. § 1310	154.139
38 M.R.S.A. § 1310-U	52.01
38 M.R.S.A. § 1319-0	52.02
38 M.R.S.A. § 1319-T	53.008, 53.999, 154.008
38 M.R.S.A. § 2173	52.03

REFERENCES TO ORDINANCES

<i>Ord.No.</i>	<i>Date Passed</i>	<i>Code Section</i>
		31.03
		51.01-51.08, 51.20-51.24, 51.35-51.43
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		90.01-90.04, 90.15-90.22, 90.99
	—	92.01-92.04, 92.15-92.23, 92.35-92.42, 92.99
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	—	150.01-150.04
		153.01-153.09
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	9-12-1990	Ch. 71 Schd. I
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	9-23-1992	Ch. 71 Schd. I
	5-18-1994	53.001-53.010, 53.025-53.028, 53.040-53.050, 53.065, 53.066, 53.080-53.094, 53.105, 53.106, 53.120-53.127, 53.140-53.142, 53.155-53.157, 53.170-53.179, 53.999
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	9-18-1996	53.178, 53.179
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	4-15-1998	50.05, 50.56, 50.57
	4-21-1999	51.04
	9-6-2000	92.16
	8-1-2001	31.01
	6-12-2002	50.40-50.43
	5-3-2003	93.01-93.05, 93.20-93.24
	10-6-2005	151.01-151.06, 151.20-151.25, 151.40-151.42

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	5-17-2012	70.02
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